

PROTECT
CONSUMERS &
DEVELOP A
TRULY
PROFESSIONAL
INDUSTRY

SUBMISSION TO THE PARLIAMENTARY
JOINT COMMITTEE ON CORPORATIONS
AND FINANCIAL SERVICES
INQUIRY INTO FINANCIAL PRODUCTS
AND SERVICES



FPA

FINANCIAL PLANNING
ASSOCIATION
of Australia Limited
PRINCIPAL MEMBER

9 June 2009



The Secretary
Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
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Parliament House
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Attention: Dr Shona Batge – Committee Secretary

Dear Dr Batge

**Submission: Parliamentary Joint Committee on Corporations & Financial Services –
Inquiry into Financial Products & Services**

Please find enclosed our submission to your Committee's Inquiry into Financial Products and Services.

Quantum Financial Services Australia Pty Limited ('**Quantum Financial**') holds an Australian Financial Services Licence (AFSL 239200) and is a nationally accredited Registered Training Organisation (RTO 90281).

Our advisors operate throughout Australia and our trainers and assessors provide a broad range of ASIC compliance requirements, financial training courses and CPD training nationally.

Quantum Financial has a strong view against any payments or benefits (including commissions) paid by product providers to financial planners.

We note the current major issues facing the financial services industry:

- ❑ Low current consumer opinion towards financial planners / financial advisors,
- ❑ Recurring examples of failures of financial institutions and rampant abuse of consumers,
- ❑ Lack of professionalism among many who hold themselves out as financial planners / financial advisors, and
- ❑ Positive attitude of government and regulators to reforming financial advising

It is with these themes in mind that we address our submission.

We believe the biggest challenge for the long term future of our industry is to restore trust in financial services which has been dented for too long. Your Inquiry gives all of us in the industry the opportunity to move to higher levels of competence and professionalism.

We congratulate you for establishing and running this Inquiry. We acknowledge the difficulty you undoubtedly face in dealing effectively with the many problems raised. We urge your Committee to act decisively to help protect Australian consumers and to help develop a professional, Australian advice industry.

Quantum Financial is prepared to assist you in any way that it can.

Yours sincerely

A handwritten signature in black ink, appearing to read "Bill Mackay".

Bill Mackay
Chief Executive Officer

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1. Executive summary

1.1. Our key objectives

In proposing our recommendations, we started with the following key objectives:

- ❑ To increase consumer trust and confidence in the financial planning industry
- ❑ To enable the public to easily identify qualified and ethical financial planners who are subject to, and comply with, professional standards.
- ❑ To recognise and regulate financial planning as a profession
- ❑ To increase baseline standards of competency and enforce a fiduciary standard of care for the delivery of financial planning services.

1.2. Our recommendations

Recommendation 1: Introduce regulatory changes to prohibit product providers from setting remuneration terms for intermediaries and require intermediaries to set their own remuneration arrangements with consumers.

Recommendation 2: Empower consumers by enabling them to stop paying financial planning advice related commission and/or fees at any time, at their discretion.

Recommendation 3: Introduce regulatory changes to ensure consumers can distinguish between independent investment advice and sales driven financial product sales.

Recommendation 4: Regulate and restrict the use of the titles 'financial planner' and 'financial advisor' (we use these two terms interchangeably).

Recommendation 5: Enforce and review existing disclosure rules regarding the term 'independent' and ensure the compulsory full and clear disclosure of all related parties.

Recommendation 6: Increase financial planning education and experience entry standards.

Recommendation 7: Establish a new, overarching Professional Standards Board, with similar powers to standards boards in other professions; membership of which is compulsory and a Code of Ethics.

These recommendations are discussed in more details in **Section 6**.

1.3. Consumer protection

We recognise that practitioners in the financial services industry have a special responsibility to serve the 'common good' because the community has given it the privileged position of managing Australia's wealth.

Our recommendations include the adoption of reforms to remuneration models, increased professional standards and clarity of services that we recommend would all lead to a relationship of greater trust between consumers and financial planners.

In turn, this increased trust should result in a lower requirement for costly and prescriptive legislation which will consequently lead to wider access by many more Australians to affordable independent advice.

1.4. Developing the profession

The adoption of reforms to remuneration models, increased professional standards and clarity of services that we recommend would also all lead to an increase in professionalism in the financial planning industry.

2. Introduction

2.1.1. Transparency and openness are essential

In preparing our submission for the Parliamentary Joint Committee ('PJC') we believed that it was important that we put aside our personal biases and our business's revenue focus to take a step back and remember the PJC's recommendations will have lasting impact on our industry.

Obviously we, like many of our colleagues in the industry, have business and revenue bases to protect. Many of our colleagues in 5, 10 or 15 years time will not still be active in the industry – instead hopefully enjoying well deserved retirement with grandkids and pursuits.

However, as most Quantum Wealth Advisors are members of the younger financial advice generation with 30+ years ahead of us in the industry, it would seem short sighted for us to just focus on current revenue protection. Industries evolve, as many have witnessed in the last 10-15 years.

Importantly, clients and potential clients are becoming more sophisticated and demanding – they want to see value for money in the advice they receive.

For full disclosure purposes, Quantum's business model currently allows/accepts commissions and we actively have argued in the past that clients should have the choice of commissions or fee for service.

However, today we believe that if we:

- ❑ Defend commissions,
- ❑ Argue that commissions should be phased gradually out,
- ❑ Argue that commissions should be grandfathered, or
- ❑ Argue that commissions should be legacied

then we are taking a lazy approach and we are not being pro-active in justifying to our clients and potential clients that our advice services are truly worth paying for.

We note that lawyers used to charge by the length of advice on a per word basis– and obviously clients could see it was in a lawyer's interest to write lengthy advice. The standard billing process is now hourly rates with accurate fee estimates. Large accounting and law firms provide fixed fee costs (based on estimate of time spent) and work to that budget (and take the hit if costs exceed the quote).

Our submission to the PJC is not focused on protecting our current revenue basis as we believe this would undermine the valid arguments we put forward. Rather we acknowledge our own existing biases and we are attempting to make a submission that is in the best interests of:

- ❑ The industry going forward, and
- ❑ Most importantly, consumers as a whole.

We believe that if a submission to the PJC does not acknowledge the author's (whether it be a organisation, association, individual etc) own existing biases then the position in those submissions taken must be viewed with a degree of caution - given it is understandable that a typical submission will defend the author's own bias.

For example, where an organisation accepts commissions or hidden payments on ANY financial product it is reasonable to assume (unless otherwise stated) that their submission will support the continued allowance of commissions or propose delaying tactics to protect commissions on those financial products for as long a period as possible.

We believe that it is crucially important that any final outcomes you decide upon are determined solely on the basis of industry improvement and consumer protection, and not with the aim of protecting or propping up existing business practices.

2.1.2. The need for financial advice

In an increasingly complex and uncertain financial environment, we believe that individuals need the guidance of trusted and competent advisors to help them manage their financial resources and make sound financial decisions in meeting life goals.

2.1.3. Poor industry standards

We believe there are several key financial planning industry problems which, when combined, indicate that the market for retail investment advice is not working efficiently.

These include:

- ❖ Confidence – there is a general feeling that financial planners are not acting in the consumers' best interests
- ❖ Complex products
- ❖ Over-reliance on adviser driven sales – investments are “sold and not bought”
- ❖ Continued risk of bias
- ❖ Cost of advice
- ❖ Loss of consumer trust in financial services industry and in financial services professionals
- ❖ Professionalism of advice

2.1.4. The trust is gone

The failures of financial institutions, rampant consumer abuse, and widespread investor anger against the financial planning industry have created a lack of public trust in our financial systems.

In recent years some of our fellow financial planners have done things that are unethical and wrong. As financial planners ourselves, this saddens and embarrasses us.

Many consumers were stung by the collapses of:

- ❖ Westpoint Property Group;
- ❖ Australian Capital Reserve;
- ❖ Fincorp;
- ❖ Opes Prime
- ❖ Storm Financial
- ❖ Timbercorp, and
- ❖ Great Southern

Unfortunately this list will undoubtedly lengthen in the coming years. When it comes to the question “Can you trust a financial planner?” the answer for most Australians, sadly, is not immediately clear.

Only the ability of Australians to identify and place their trust in competent, ethical and professional financial planners will re-build their confidence in our nation's markets, a key to economic recovery.

To achieve this, we need a financial services industry that acts more clearly in the best interests of consumers and treats them fairly.

2.1.5. We need to rebuild the trust

The establishment of qualifications and standards of conduct will allow consumers to identify competent and ethical financial planners which is critical to the individual and collective financial health of all Australians, regardless of their income or net worth.

We believe our proposed changes will establish the basis for a sustainable long-term future for financial planners. Most importantly of all, the public interest will be served by a trusted group of people who will be regarded as true professionals. Without these reforms, we believe the industry is consigned to an uncertain and highly regulated future.

The call for wholesale regulatory reform in financial services provides an historic opportunity to revise our outdated financial regulatory system and demand more protection and accountability for Australian consumers.

We applaud the approach of the PJC in its attempt to modernise financial service regulation and to restore flagging investor confidence. If we can further assist you in your efforts in any way, please let us know.

3. How our recommendations fit into the PJC's agenda

Below we list each of the 9 agenda items listed by the PJC on Corporations and Financial Services. Under each item we identify which of our recommendations address that agenda item.

1. The role of financial advisers

- ☐ **Recommendation 4:** Regulate and restrict the use of the titles 'financial planner' and 'financial advisor'

2. The general regulatory environment for these products and services

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

- ☐ **Recommendation 1:** ASIC should prohibit product providers from setting remuneration terms for intermediaries and require intermediaries to set their own remuneration arrangements with consumers.
- ☐ **Recommendation 2:** Empower consumers by enabling them to stop paying financial planning advice related commission and/or fees at any time, at their discretion.
- ☐ **Recommendation 3:** Introduce regulatory changes to ensure consumers can distinguish between independent investment advice and sales driven financial product sales.

4. The role played by marketing and advertising campaigns

- ☐ **Recommendation 5:** Enforce and review existing disclosure rules regarding the term 'independent' and ensure the compulsory full and clear disclosure of all related parties.

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

6. 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

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

- ☐ **Recommendation 6:** Increase financial planning education and experience entry standards.

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

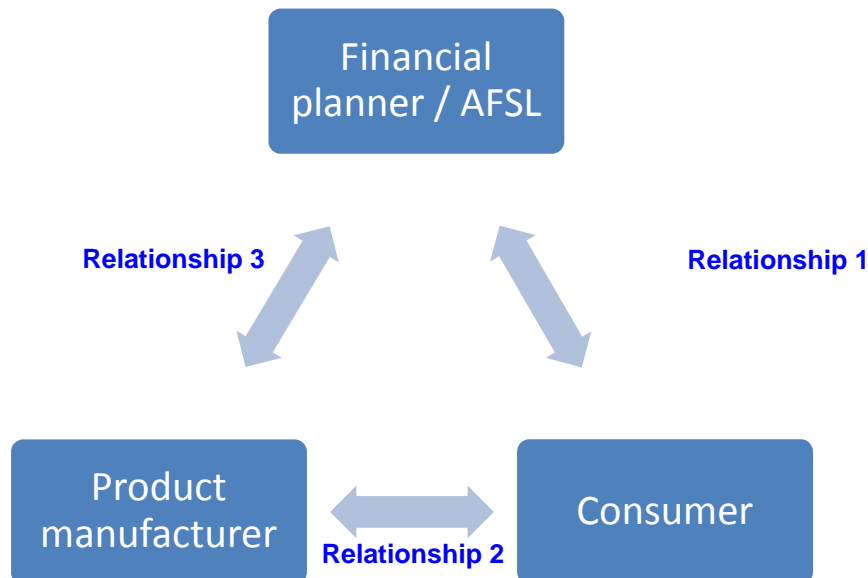
9. The need for any legislative or regulatory change.

- ☐ **Recommendation 7:** That ASIC set up a new, overarching Professional Standards Board, with similar powers to standards boards in other professions; membership of which should be compulsory.

4. A snapshot of the current financial advice industry

4.1.1. Key relationships in the advice industry

Below we show there are 3 key relationships in the financial advice industry:



4.1.2. Relationship 1: Between the consumer and the financial planner

This is the most important relationship in the entire financial advice industry. Ideally this sacrosanct relationship should be a standalone relationship but too often it is not because of the influence of the relationship between the financial planner and the product manufacturer (Relationship 2, see below).

From the clients' perspective they seek a financial planner whom they can trust who will give them financial advice that is in their best interests.

From the financial planners perspective they (should) have two key drivers:

1. To give the client financial advice that is in the clients' best interests. This relates to the financial planners' fiduciary duty'
2. To run a profitable business maximising their revenues and minimising costs. A profitably run professional financial planning business ensures clients will receive good advice on an ongoing basis.

4.1.3. Relationship 2: Between the consumer and the financial product manufacturer

This is the least important relationship in the entire financial advice process. Ideally the advice of the financial planner that directs the client to invest in a particular product provider should be based on, among other things, the clients' individual needs, key features of the product that meet those needs and fee minimisation.

From the clients' perspective, typically they trust the advice of the financial planner that the product that they are recommending is the best one for them. They should be able to rely on that advice, free from conflicts of interest.

From the product providers' perspective, obviously each new additional client to them increases their profits. However, the addition of a single new client to them is not, in any one instance, highly important. Far more important to them is the ongoing supply of many new clients provided by a distribution channel or sales team which is how they perceive financial planners. Thus product manufacturers have a powerful incentive to influence the advice of the financial planner.

4.1.4. Relationship 3: Between the financial product manufacturer and the financial planner

This is the relationship that completely taints the professional financial planning advice process and decreases consumer confidence in the whole industry.

From the clients' perspective, typically they trust the advice of the financial planner that the product that they are recommending is the best one for them. They should be able to rely on that advice, free of conflicts of interest that the relationship between the advice and product creates.

In our opinion, unfortunately this third relationship is too strong as product providers actively seek to influence financial planners to direct their clients into their products via the following strategies largely hidden to consumers.

- ❏ **Volume bonuses** – and other profit sharing arrangements such as platform rebates based on the volume of business a financial planner channels into a particular product provider. These are kickbacks paid to advisors and AFSLs in all but name, pure and simple. Obviously, the more business the financial planner channels into a product provider, the higher the volume bonus or platform rebates and shelf fees they receive.
- ❏ **Fee sharing arrangements** – These are a complex form of soft dollar influence not necessarily based on volume sales and therefore not banned under this code, but potentially worth millions of dollars.
- ❏ **Provision of soft dollar benefits** – This may include provision of research, lavish lunches, cheap personal financial products (eg mortgage, financing, etc), travel expenses, profit sharing arrangements, payment of conference fees and airfares.
- ❏ **Buyer of last resort** – An arrangement where a fund manager guarantees it will buy the financial planning practice when the planner decides to sell if there is no other buyer willing to pay the asking price. That price will multiply in line with business generated by the planner for that fund manager.
- ❏ **Ownership of financial planning firms by product providers** – the vast majority of financial planners in Australia work for AFS Licensees owned in part or in whole by product providers. Buying a financial planning firm as a sales force enables product providers to channel clients into their products. This is the easiest way for product providers to influence control the supposedly independent advice process. This can be done easily though staff targeted volume bonuses, approved product lists that make the firms products easier to invest in, providing research on own products, etc.

In one of the few public glimpses the public have been allowed to see regarding the large financial planning firms approach to channeling clients into their parent or associated company's products, ASIC reported the following:

*"Between January 2005 and October 2005, ninety three (93) percent of all new investment or superannuation business resulting from the advice of AMPFP Planners was invested in AMP products. **This is not atypical of dealers**"*
(ASIC Enforceable Undertaking of AMP)

The bold is our emphasis. We encourage you to take a minute to understand what ASIC is revealing in their above finding against AMP Financial Planning. They are funneling 93% of business into their own products – that is a staggeringly high figure and what's more, ASIC knows that it is not atypical of dealers! ASIC knows that most financial planners are advising the vast majority of their clients business into their own products.

We ask you 'Would a reasonable person call this advice or sales?'

We do not isolate our criticism to AMP, although AMP was specifically identified by ASIC. From the last sentence, it is obvious that ASIC knows that this behaviour is being perpetrated widely across the industry but it is largely hidden behind the scenes and not revealed to consumers.

According to the **Australian Investors Association**:

"Any consumer who uses a financial planner employed by, or associated with, an investment product provider (bank, insurance company or fund manager) is taking a huge risk with their future financial security. The risk and the reality is that they will be sold an associated product. (around 80% of 'financial planners' fall into this category)"

We think it would be a positive step that increases consumer protection if all advisers were required to disclose up front what percentage of their firm's advice results in clients being advised into their firms' (or associated firms) products.

We recognise that ownership of financial planning firms by product providers is a major structural issue that unfortunately cannot be removed.

However, this recommendation curtails the ability of the product provider parent or associated company to influence its financial planning arm by removing the ability to transfer cash or financial benefit to the financial planner.

All the other above insidious practices that lead to massive conflicts of interest in the financial planning industry should be stopped. Our recommendations effectively do this.

4.1.5. The final word on common, existing industry practices

We leave the final word on the matter to **Choice Magazine**:

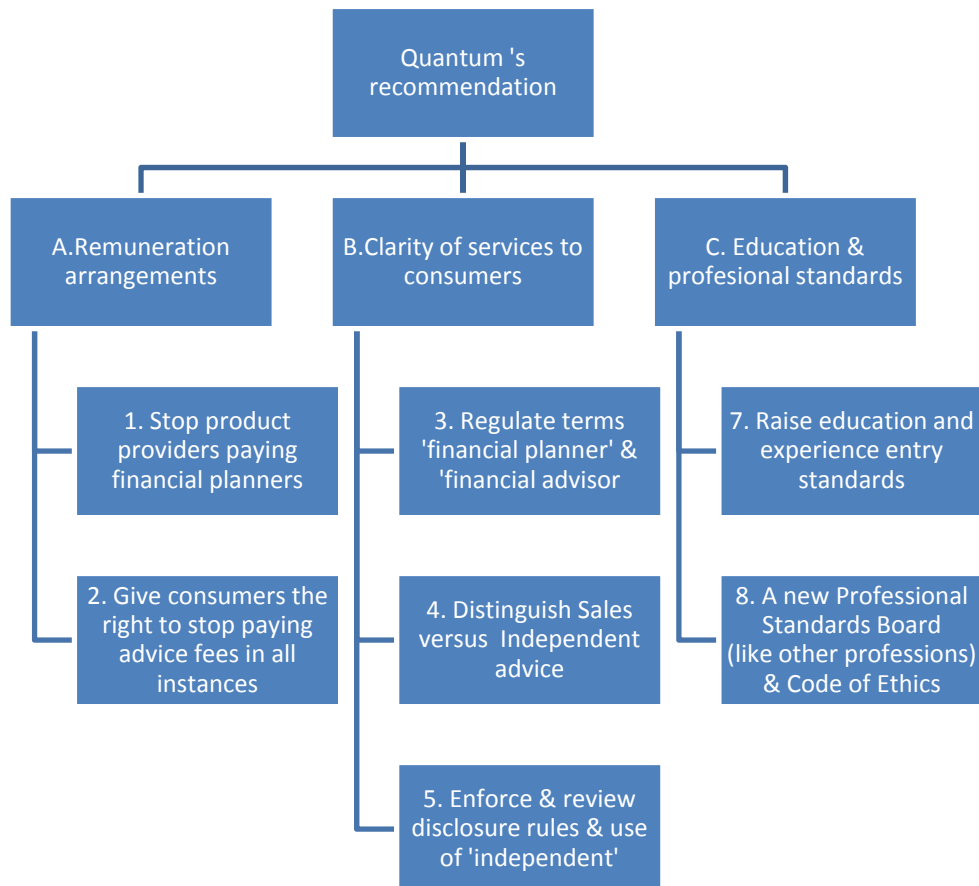
"Let's not beat around the bush as to what these payments and arrangements are for. They are bribes paid on top of the standard fees and commissions earned by financial planners. They are designed to build business for the fund manager by providing lucrative incentives for financial planners to recommend particular products."

*It's hardly the sort of arrangement consumers expect to be underpinning product recommendations being made by the planner. Disclosure isn't going to cure that sort of practice because it flies under the radar of consumer comprehension.
(source: Soft dollar commissions, published in The Age 1 Aug 2004)*

5. Overview of our recommendations

We categorise our recommendations into 3 main areas:

- A. **Remuneration arrangements:** Cleaning up the archaic and inappropriate existing remuneration practices of the financial planning industry;
- B. **Consumer protection:** Improving clarity of services to consumers; and
- C. **Education & professional standards:** Raise educational, ethical and professional standards of advisors in the financial services industry to enable them to develop into true professionals.



The following sections provide greater detail for each recommendation.

6. Recommendations

A. Remuneration Arrangements

6.1. Recommendation 1

Introduce regulatory changes to prohibit product providers from setting remuneration terms for intermediaries and require intermediaries to set their own remuneration arrangements with consumers.

We recommend the banning of commissions and any other type of financial arrangement between product providers and financial planners / AFSLs. These include commissions and other insidious hidden payments such as volume bonuses, platform rebates, sales bonuses, buyer of last resort, fee sharing arrangements, and soft dollar benefits, payment of conference fees and airfares.

6.1.1. Our rationale for this recommendation

There is a fundamental structural problem in the financial services industry, namely, the dominant remuneration models that rely upon the product manufacturers to pay the financial planner or financial planning firm rather than the client paying their advisor.

The sad reality is that in our industry 'He who pays me is my boss'. While so ever advisors are paid by product manufacturers then the advisor will be beholden to product manufacturers and not to their clients.

We believe that it has finally been recognised by industry practitioners that this model must cease. Until this occurs financial planning will not be recognised nor treated as a profession (due to irreconcilable conflicts of interest) and the public interest will not be served.

We note the following:

- ❏ Clients of the traditional professionals (eg doctors, lawyers, accountants) have always directly paid for services rendered.
- ❏ Financial planning is a relatively new profession, developing only over the past 20 years or so. It evolved from the insurance industry where the insurance salesperson's income was 100% reliant on the commission model.
- ❏ The professional bodies of the above mentioned traditional professions have never allowed the suppliers of goods and services to those professionals to **ever** set or pay for services rendered to consumers/clients.
 - For example – The Australian Medical Association forbids members from receiving payments from drug companies related to prescribing their drugs as this would create an obvious conflict of interest.
 - In financial planning, many financial planners receive payments from product manufacturers for advising clients into their products on an ongoing basis.

6.1.2. The current advice regime

In the current advice regime, industry competition is focused on the relationship between advisors and the product providers, with the end consumer only playing a bit part. This is a major flaw in the system.

Competition instead should be focused at the client level and the overly strong and conflicted relationship between the financial planner and the product manufacturer should be removed.



6.1.3. The steps required to implement this change

- ❏ **Step 1: Immediately** – Remove any product provider influence over all adviser remuneration and regulate that advisers and financial planning firms are required to set their own charges for advice and not product providers
 - This includes not only visible commissions but also the often hidden arrangements such as volume bonuses, profit sharing, volume overrides, etc
- ❏ **Step 2:** Recognise that in the short term providers will still need to pay remuneration to advisors due to legal and practical barriers at present.
- ❏ **Step 4: Interim Phase 1 From now until 2012** – Product providers will be permitted to facilitate payments to advisers through the customer's product or investment.
- ❏ **Step 5: Phase 2 By the end of 2012** – Any payment for advisory services made through the customer's product or investment must be funded directly by a matching deduction from that product or investment made at the same time as that payment.

In Step 1 above by 'all' adviser remuneration we deliberately include not only commissions but also volume based bonuses, contingent payments (eg buyer of last resort agreement, etc), travel expense, profit sharing agreements, etc.

There should be no cashflow (those disclosed or hidden) at all between the financial planner/financial planning firm and the product provider that the clients are not aware of and are not immediately debited from the clients account. The financial planner should not benefit personally because they have advised a client into a particular financial product.

Disclosure of these practices is simply not sufficient. In our opinion, the financial planning industry does not have to keep confessing its sins. It just has to stop committing them.

These reforms are already being implemented in the UK

The Financial Services Authority (FSA, equivalent to ASIC) in the UK has recently implemented the same reform described in Recommendation 1. We recommend their reforms to you and highlight the following FSA reform strategy:

"For independent advice to be perceived as truly independent, new requirements remove product provider influence over adviser remuneration and advisers are required to set their own charges for advice"
(Financial Services Authority, Retail Distribution Review)

It can be done! - this was a resulting press article after the FSA announced its changes:

'FSA sounds death knell for commission-based financial advice'

The chief City watchdog today announced a dramatic shake-up of the way investment products are sold, in a move which is set to deal a killer blow to commission-based financial advice.

In its Retail Distribution Review, published today, the Financial Services Authority proposed sweeping changes to the investment industry, which has been harmed by repeated episodes of commission-driven mis-selling.

The RDR proposes to end the existing set-up, where product providers, such as unit trusts and insurance companies, decide on what level of commission they pay advisers for their products, with the advisers then deciding which products to recommend to clients.

Critics have long argued that this resulted in a potential conflict of interest for advisers, who might be tempted, or appear to be tempted, into recommending products according to the commission they earn rather than what is suitable for the client.

Instead the RDR proposed that customers and advisers should first agree on the amount of payment without any outside influence from product providers.

Commission will not be totally outlawed, but if an adviser does recommend a product carrying commission, this will have to be made crystal clear to the client, who will have to be told that this money is coming directly out of his or her own pocket. The current lack of transparency over commission has left some consumers with the mistaken impression that commission-based advice is 'free'.

(source: The Times (UK))

6.1.4. The ideal advice regime after implementing the above reforms



In the proposed advice regime, competition is focused on the relationship between advisors and the client, with the product manufacturer only playing a bit part. The client can now have a higher expectation that the financial planner is giving them advice in their best interests.

6.1.5. Insurance is NOT a special case

We also include insurance products in this regime. Historically insurance products have been sold via the commission model and many financial planning practices and insurance broking business are dependent on the continual flow of commissions to sustain the value of their businesses.

In our opinion, this is not sufficient reason to exclude insurance products as supposedly a special case.

We frequently hear the excuse that Australians are 'underinsured' as the reason for insurance products to be excluded for any proposed industry changes. We do not accept this argument. Insurance is a product like any other – it is subject to the same forces of demand and supply.

For instance, we all know Australians should consume sufficient vitamins. If there is a perception that Australian's are not buying enough vitamins, we do not automatically conclude there is something wrong with the method we charge for them. Rather we typically conclude the price of vitamins is too high, the benefits are not being adequately explained or there is something wrong with the product.

Likewise with insurance – if there is indeed a 'underinsurance' problem in Australia, then surely it is more likely a result of too high insurance prices, too complex a product or due to the benefits of insurance not adequately being explained to consumers. It certainly is not the result of the need of some advisors to continue to be paid their existing commissions to support their businesses.

We believe that if you examine any submissions made to you that advocate exempting insurance from a ban on commissions you will typically find they are reliant on receiving ongoing commissions in their business. We do not criticise the authors of these submissions for this. Rather, we highlight their obvious bias and conflict of interest. We are sure you will not find any consumer related submissions advocating such an exemption.

For full disclosure purposes, currently Quantum receives commissions on insurance, largely as this is accepted standard industry practice. However, for the reasons stated above and as we do not believe that protecting the value of existing financial planning businesses is a valid argument when it comes to protecting consumers or developing our industry, we argue that commissions should be banned in all financial products, including insurance.

6.1.6. Commissions and the FPA

We support the initial public position of the FPA when it comes to banning commissions. However, we are a little concerned by a subsequent statement made by the CEO of the FPA to FPA members:

"We are not recommending banning commissions at all. We are recommending transitioning away from commission based advice from, say, 2012, and with regard to legacy products which will be grandfathered; life insurance products which will need further discussion with product providers and planners; and with sensitivity and attention to longstanding commission based businesses that cannot change their remuneration models at this stage."

(Source: Jo-Anne Bloch, CEO of FPA, email to FPA members 5th May 2008)

We disagree with this seemingly modified position of the Financial Planning Association on the matter of grandfathering or delaying the ceasing of commissions for as long as possible.

We can fully understand why the FPA takes this position. They seek to protect the value of their members' businesses which are dependent on insurance and other commissions. This is an understandable position for the FPA and such advisors to take.

However, we do not believe that protecting the value of existing financial planning businesses is a valid argument when it comes to protecting consumers or developing our industry.

Other submissions may also put forward arguments to stop or delay the cessation of commissions which we expect will include:

- ❏ Providing consumers with choice. We too advocated this argument until 6 months ago. The argument runs along these lines: Consumer should be allowed to choose the fee type that best suits them, fee-for-service or commissions. The problem with this argument is that it presupposes that consumers are fully informed of and understand how the various fee structures work. They are not. Typically they are reliant on the advisor who they trust to advise them which is the best charging method for them. They trust the advisor but the advisor is biased to advise a specific charging model – ie commissions.

- ❏ Hourly based fee for service charges lead to conflicts as well as an incentive for the advisor to take longer to complete work to earn higher fees. There is merit to this argument. However, other professions use this method despite its flaws and it works. No other profession relies on commissions or kickbacks as they truly are.
- ❏ As long as fees are disclosed advisors can do and charge what they like. This is the weakest of arguments. Disclosure is no protection for consumers who largely do not even understand the often deliberately confusing and complicated disclosures. Again, in our opinion, the financial planning industry does not have to keep confessing its sins. It just has to stop committing them.

6.1.7. How consumers benefit from this recommendation

We believe that the adoption of these reforms will encourage a relationship of greater trust between financial planners and their clients. This will lead to a much lower level of intrusive, prescriptive legislation, reducing costs for advice, which will provide many more Australians with affordable independent advice.

We also believe that those who advocate that 'disclosure and transparency' to consumers is all that is required to mitigate these conflicted transfers of payments between product providers and financial planners simply do not recognise the real and considerable public anger that exists towards financial planners receiving commissions and other such benefits.

6.1.8. Further references

You can view the similar UK changes that the FSA is implementing in this report here:

http://www.fsa.gov.uk/pubs/discussion/fs08_06.pdf

6.2. Recommendation 2

Empower consumers by enabling them, at their discretion, to stop paying financial planning advice related commission and/or fees at any time.

6.2.1. Our rationale for this recommendation

In Recommendation 1 we addressed stopping the ability of product providers from being involved in setting or paying payments to financial planners and financial planning companies.

Here we address an associated problem. Currently in some instances clients do not have the right to turn off advice related commission and fees that the product providers are paying to financial planners. This is the case even if clients are not happy with the advice service they are being provided or even if they are not receiving any advice service!

In this we would include the following:

- ❑ Insurance products
- ❑ Employer (Corporate) superannuation

In these and other instances, the product providers deliberately embed advice fees into the product which the end client pays and prohibit the client from stopping these fees, whether they want the advice or not. We believe this practice must be stopped.

In the case of insurance, commissions are embedded into premiums and clients can never turn these off. As financial planners retire these commission payments of existing clients are passed onto other financial planners who buy the 'book' of insurance clients from the retiring financial planner.

Clients should in all instances:

- ❑ Have the right to switch any such financial advice fees off at any time at their discretion (not financial product related fees); and
- ❑ Be credited with a corresponding amount to their account (ie the product provider should not be able to stop paying the fee to the financial planner and absorb it back into their profit margin)

If a financial planner is providing a quality value adding advice service to the client, then the client will not mind paying fees and will not switch off the fees. If the financial planner is not providing a value added service, then the client should be able to turn the fees off.

Quote from General **Manager of MLC Advice Solutions, Greg Miller:**

"Being able to stop paying the advice fee is also a critical principle - in no other industry would we question the right for a customer to stop paying for services if they no longer want them."

6.2.2. Case study example

We have a current client's employer super statement (a well known employer, well known product provider, we will not disclose these details). From this report we can see who the 'client adviser' is – he/she is named on every page. The client has never heard of or met this adviser.

We cannot tell from this statement:

- ❑ How much the client is paying this adviser (\$ or %) (I presume from this that fact that most clients will not even realise they are paying for his/her advice!)
- ❑ What service the client is getting for whatever amount they are paying this person
- ❑ How the client can get rid of this person's services from their super account and so reduce their fees.

At a Centrelink related presentation we gave recently, the most frequent and fully justified client complaints were:

- ❑ Clients simply couldn't turn the advice fees off they were paying in their super (commission, fees, etc) – they were not allowed to by their product provider. That is wrong in our opinion.
- ❑ They'd never met the advisor allocated to their account or had met the adviser years ago and never heard anything more from them.

The client should be able to turn advice fees off at any time they want, at their discretion. If this means they no longer receive advice, then so be it. If they perceive they are getting a good value added advice service, then they will opt in and won't turn it off. If a financial planner is providing a value added service to the client then they have little to lose.

We recognise that some financial planners may argue, say in the case of corporate super, that the work and effort they put into servicing all the members of the fund can only be provided if all members are forced to pay a small amount. We argue that it does not matter how much work a financial planner feels they are doing for fund members behind the scenes – if the client does not perceive they are getting value for their advice fees or if they do not want advice in their super then they should be able to turn the compulsory fees off and they should not have to pay for a service they do not want. It is the advisor's role to educate the client on the value of the service they are receiving. Again, if a financial planner is providing a value added service to the client then they have little to lose from this change.

Further, we argue that it also does not matter if that client's fees are supporting someone else in the funds' advice service (in fact as I believe in user pays I'd argue they shouldn't cross subsidise). This is not a valid argument that protects consumers or develops the industry. If individual clients want to turn off the advice fees they are being charged on their account then they should be able to.

Quote from a consumer:

"Ever since I retired 8 years ago I have not seen or been contacted by a Financial Planner. Being a self funded retiree I largely did all the 'work' myself but still went through an AMP planner. No I don't blame the planner for the disastrous performance that has resulted in a massive reduction of my allocated pension balance but I do feel grieved that I am being slugged to provide for trail commissions to the planner who for me has done nothing ie not even a letter or a phone call. I think that the govt should outlaw the payment of trail commissions and order they be reimbursed. Some of those trail commissions 'stolen' from my pension balance over the years would now come in handy."

Quote from the Australian newspaper 'Spanner in the financial planner's work' 13th May 2009

"As things stand, consumers pay indirectly for the advice they receive. A financial product manufacturer deducts money from an investor's account. It might be once a year, it might be twice a year, it might be at some other frequency; that is not strictly relevant."

All the FPA is proposing is that instead of the manufacturer deducting money and paying the planner, the client effectively pays the planner directly. What's the big deal?

But being asked to pay might come as a bit of a shock if a client does not properly understand what they're paying, or that they're paying at all, (because, for example, it has not been properly disclosed by the planner). Then a planner has to either demonstrate the value he's providing, and justify the cost of the services provided, or negotiate a cost that the client is happy with. And if an agreement can't be reached, the consumer can find another planner."

6.2.3. A challenging reform

We recognise that this will be a challenging reform for existing businesses to implement.

Many current financial planning firms are reliant on recurring commission revenues to support the value of their business. Allowing consumers to turn off advice fees at their discretion could destroy part of the whole value of their business.

We recognise that many financial planners will oppose this recommendation and our recommendation that product providers be prohibited from making payments or providing benefits to financial planners and financial planning companies.

However, to turn financial planning into a true profession we believe these difficult reforms are essential.

6.2.4. How consumers benefit from this recommendation

This recommendation simply empowers consumers. It allows them the control to pay for and receive an ongoing financial advice service or not if they do not want it. It takes that power from the product provider and gives it directly to the consumer.

B. Clarity of services to consumers

6.3. Recommendation 3

Regulate and restrict the use of the titles 'financial planner' and 'financial advisor'

6.3.1. Our rationale for this recommendation

"Anyone can call themselves a 'financial planner'"

Source: FPA 'The global symbol of excellence in financial planning Pathways to CFP® certification' page 2

The terms used to describe 'financial planners' and 'financial advisors' are highly confusing to consumers. Under existing regulations absolutely ANYONE can walk off the street, set up an office and call themselves a 'financial advisor' or 'financial planner'.

Further, anyone with one or more RG 146 qualifications obtained in as few as 8 days can not only call themselves a 'financial advisor' or 'financial planner' but they can also provide financial advice to retail clients.

We believe that it is important that the terms 'financial planners' and 'financial advisors' convey to consumers a signal of professionalism and that they inspire trust.

'Financial advisor' and 'financial planner' need to be regulated terms with restricted use immediately.

In the short term, as a minimum requirement to use the term 'financial planner' or 'financial advisor' we believe an individual must be a member of a government recognised professional organisation. This could include qualified members of the Financial Planning Association and members of the financial planning chapters of the Institute of Chartered Accountants and CPAs. We understand that there may be other relevant associations.

In the longer term, we believe that the new Professional Standards Board that we recommend in Recommendation 7 should be responsible for setting standards under which these terms can be used.

6.3.2. Widespread confusion over titles

It is easy to identify a doctor, solicitor, or other licensed professional by their title. Typically they hold a practicing certificate issued by their professional body. Today, however, tens of thousands of financial agents hold themselves out as financial planners or financial advisor (or other variations of the title) without meeting essential training or ethical requirements.

This often leads to narrowly focused advice based on product solutions instead of objective advice focused on the client's long-term financial goals.

Consumers must have the tools and support necessary to make smart financial decisions. Consumers seeking professional advice should be able to identify competent and ethical financial planners – those who have met basic standards of training, testing and experience, and who are required to proactively disclose all conflicts of interest and act solely in the client's best interests. Establishing clear qualifications and standards for financial planners will enable consumers to distinguish between fiduciary advisers and those who offer limited product solutions that may conflict with the clients' broad, long-term goals.

Some relevant quote from consumers:

"Unfortunately for the good ones... financial planners/advisors seem to have such a terrible name. If I mention the word to any of my friends or family the comments are always along the lines of -"scum", or "don't ever use them, you'll get ripped off!"

This has tainted the good, knowledgeable planners out there who don't just "sell" products.

Supposedly you can get the ASIC PS146 competencies with very minimal training and effort, even though the proper qualifications such as a grad.dip in financial planning would take at least a year.

I think we need some name changes here.... maybe, the product sellers should only be allowed to call themselves "brokers". And the people that have appropriate qualifications and are not commission-based would only be called "Financial Planners".

Until something is done to properly differentiate them somehow, the above perceptions of the public will continue."

6.3.3. How consumers benefit from this recommendation

Many consumers would benefit from financial advice. However many do not seek it as they simply do not trust the current financial advice on offer. They cannot tell which financial planners are suitably qualified and experienced.

If consumers had more confidence in and could rely upon the terms 'financial planner' and 'financial adviser' with more certainty then they would be better informed and could more confidently rely on financial advice.

6.3.4. Further references

- ❏ See also **Australian Investors Association Ltd** 'Submission on the Inquiry into Financial Products and Services' (Submission Number 34 on the PJC's register of submissions)
- ❏ In particular see their "Recommendation 5: There is a culture of 'selling' pervading much of the financial advisory services industry that pretends to be 'professional service providing'. It is crucial that we find a way of separating these two functions."

6.4. Recommendation 4

Introduce regulatory changes to ensure consumers can distinguish between independent investment advice and financial product sales.

6.4.1. Our rationale for this recommendation

Currently it is very difficult for consumers to identify whether they are dealing with a financial product salesperson or an independent advisor whose top priority is to do the very best for the client.

Very clearly financial product sales people seek to promote themselves in a manner that is meant to mislead and deceive clients into believing that they are independent (and non-conflicted), so as to make it easier to make a product sale.

In the interest of consumer transparency and protection, there should be a clear and obvious distinction made between independent advisors and financial product sales people.

As a result of the many recent financial collapses, we believe there are loud calls from consumers for making a clear distinction between 'advice' and 'sales', so that consumers are more aware of the extent to which services may be designed to sell them a product, in contrast to those that offer completely impartial advice.

We believe that independent advice should be truly independent and non-independent advice should be distinguishable for consumers from independent advice. This requires changes to ensure that independent advisers need to provide unbiased, unrestricted advice based on a comprehensive and fair analysis of relevant markets.

We recommend that the distinction should derive from making the nature and scope of services clear for consumers (with non-independent advisers making clear the limitations of their client propositions) and not from any differences in professional standards or remuneration practices.

In the UK they have introduced the term 'Professional Financial Advisor' ("PFA") which should exclusively be used for use by individuals operating as independent advisers. This could also be adopted in Australia.

6.4.2. Sales case study example

We know from the **Storm Financial website**:

Storm Financial has a number of badged index trust and superannuation products with Challenger Managed Investments Limited.

Part of the problem with Storm Financial was due to the fact that Storm Financial sought to channel consumers into their own products for which they received a higher level of fees. In effect the advisers were 'selling' these products, not providing clients with advice that matched their needs and requirements to products that matched those needs and requirements.

Quote from another Submission to the Inquiry into Financial Products and Services written on behalf of a number of ex-Storm clients:

"Storm advisers were under qualified on the whole but good sales people - trained by Emmanuel Cassimatis who had been an insurance salesman for MLC; and many of the Storm advisers were ex-MLC sales people. According to the Financial Planning Association only five were certified financial planners. When asked, advisers knew nothing about other avenues for investment and they seemed to have a poor understanding of bonds, annuities, tax issues, superannuation matters. They were sales people and every time clients did step ups (borrowed more to invest), Storm got paid."

Quote from Charles Hugh Bannister, Submission to the PJC Number 20:

"Clients should be able to clearly distinguish professional financial advisers from those who are product salesman wearing a financial planners disguise. Current ASIC licensing is a very good disguise that also acts to drive small, independent professional advisers into the arms of product sales organisations."

6.4.3. How consumers benefit from this recommendation

Obviously, the simplicity of having a clear distinction between sales and advice has broad appeal for many consumer representatives. This increases the ability to make better informed decision making.

6.5. Recommendation 5

Enforce and review existing disclosure rules regarding the term independent and ensure the compulsory full and clear disclosure of all related parties

6.5.1. Our rationale for this recommendation

Product providers seek to own financial planning firms as this guarantees them a captive distribution channel for their product. This vertical integration allows them to capture more of the value chain.

While we oppose product providers owning supposedly independent financial planning firms in principle, we recognise that in practice that this situation is not going to change. Product providers will continue to own financial planning firms and will seek to use this ownership to influence the advice financial planners provide to clients into their own products.

Product providers who did not adopt seek to influence their planners to advise clients into their own products would be negligent to their shareholders. They would also be foolish to ever publicly disclose to consumers or the regulator the key product distribution role their financial planning arms play. We would never accuse these product providers of being foolish.

However, while many product providers own financial planning firms, they go to great lengths to hide or obfuscate the relationship they hold. This confuses clients regarding their supposed ties and independence.

For example, while it is obvious AMP Financial Planning is part of the AMP Group, it is not so obvious that Hillross is also part of the AMP group. Many other examples exist such as:

- ❖ Garvan is owned by MLC which in turn is owned by National Australia Bank
- ❖ St Andrews is owned by the Commonwealth Bank
- ❖ Millenium3 is owned by ING
- ❖ Charter Financial Planning is owned by Axa

This is the view of ASIC on this issue. **According to a senior ASIC official:**

"The perception at present in many circles however is that fund managers do not own financial planning groups because they want to be in the advice business. They want to be in the distribution business."

ASIC Commissioner Bema Collier in 2003 in a presentation to the Australian Investors Association

"About 70% of financial planners have ownership links to product suppliers. Perhaps 95% accept commissions in some form from product suppliers. The perception at present in many circles however is that fund managers do not own financial planning groups because they want to be in the advice business, They want to be in the distribution business, If there is no difference between the two then I suggest that the criticism of this industry will continue."

We believe that while there are existing laws concerning disclosure of ultimate ownership that ASIC has not actively enforced these laws. The Corporations Act is clear - all representatives must fully and clearly disclose all issues that involve conflict of interest including the ultimate ownership of the licensee who they represent.

In reality, most clients have little idea who the parent company is whom their advisor represents.

Unfortunately, in many instances consumers believe they are dealing with independently owned firms when in fact they are dealing with institutionally owned firms.

From Roy Morgan research we know the following:

“...financial planner brands such as Hillcross (52%), Garvan (58%) and RetireInvest (58%), the majority of products obtained appear to be owned by respondents perceiving that planner to be an independent adviser.

Overall it would appear that there is still a great deal of confusion amongst consumers over the term “Independent Adviser” particularly when a brand other than the parent or group name is used. Consumers using advisers from ANZ Westpac, CBA and NAB are generally aware that they are dealing with a tied planner but there is a lot of uncertainty as to the status of most other brands”

6.5.2. The view of one eminent Australian – quote from Sir Anthony Mason

The most obvious example of conflict in the industry is the financial adviser who is a product seller deriving remuneration, whether by way of commission or otherwise, related to the product he sells. I stress the words “or otherwise” because commission based remuneration is not the only form of remuneration which gives rise to a conflict of interest. Our system of regulation proceeds on the footing that the adviser may be a product seller. Indeed, our system enables the product seller to adopt the disguise of a financial adviser and endows that disguise with the aura of legitimacy by calling him a “licensed” financial adviser. As such, he is required to disclose the conflict to the client. But how often is that disclosure meaningful? Often it is made as a small print item in a lengthy document expressed in impenetrable prolix prose to which the client’s attention is not directed. Detailed and dense disclosure is often the most effective form of concealment. Three years ago ASIC said that its Survey suggested that “disclosure . . . can only play a limited role in protecting consumers from inappropriate or conflicted advice.”

“All too often it is thought that disclosure is the answer to a conflict of interest. Disclosure must be full disclosure and it must be of such a kind that it is brought home to the client so that it is meaningful. And it is important to bear in mind that, in some cases, an adviser can come under a duty to advise a client to obtain independent advice. And the only satisfactory answer to some situations of conflict is to avoid them altogether.”

6.5.3. Some relevant comments

Quote from “Charles Hugh Bannister” Submission No 20

“Next, we researched and spoke to some smaller planning firms. We were surprised to learn how many were tied to big banks or other product providers, even though they might maintain a shopfront with a different name.... Other submissions to this Inquiry have pointed out that it is not clear which of the people and firms that call themselves financial planners and advisers are really nothing other than product salesmen. Indeed, it seems that the whole industry is consolidating towards being just a distribution channel for the banks and other large financial institutions. And they seem to have no trouble being ASIC compliant as they go about this conversion, The danger here is not that they will incubate disasters such as at Storm; their strategies will look reasonable despite being mass produced, The real danger is that customers will be herded into the parents' products and milked, slowly but systematically, under the illusion that the ASIC licence of their adviser is some sort of a guarantee of good, or at least adequate, advice that is in the customer's best interests.”

6.5.4. Benefits to consumers

Clear and consistent disclosure of all ownership links with parent and associated companies should be enforced to ensure consumers can make fully informed decisions when selecting their advisor.

C. Education & Professional Standards

6.6. Recommendation 6

Increase financial planning education and experience entry standards

6.6.1. Our rationale for this recommendation

As passionate believers in education and as qualified educators ourselves we believe increased education of industry participants is a crucial element to reforming the ills our industry.

Please note: Quantum is a Registered Training Organisation and the three authors of this document are qualified trainers and assessors in financial services.

In our opinion, if financial planning is to be a profession and, importantly to be regarded as a profession by consumers, then there needs to be a minimum:

- ❑ University degree entry requirement; and
- ❑ Specialist training and experience.

If financial planners are to be professionals, then they need to successfully complete tertiary education and training provided by a robust education program and certification. Given the complicated technical issues involved and the consumer trust placed in advisers, anything less results in loss of consumer protection and consumer confidence.

Unfortunately at the moment it is a sad indictment on the financial planning industry that many consumers who visit a financial adviser or talk with them actually know far more about stock selection and portfolio design than do qualified 'financial planners' in the industry. Raising educational standards combined with restricting the use of the terms 'financial planner' and 'financial advisor' (see Recommendation 3) will help fix this problem.

Quote from Victor Ainslie, Submission to the Inquiry into Financial Products and Services' (Submission Number 34 on the PJC's register of submissions):

"Just how qualified do financial advisers have to be in order to give financial advice to the public?" Up to now, we, the public, have always assumed that people that set themselves up as financial advisers are suitably qualified. I am now told that their qualifications fall well below those demanded of accountants? If this is so, we have a situation where so-called financial advisers operating out there that have little or no accountancy background or formal accountancy qualifications."

A quote from an investor:

"You can be certified as a financial planner in 8 days! There is a more than likely chance that you are more qualified than your "advisor". Sure there must be very good ones, but chances are you won't get one of them."

6.6.2. Phased in increased financial planning education entry standards

We recognise that it would be difficult to increase entry standards to the financial profession overnight. To address this, we recommend a phased in approach.

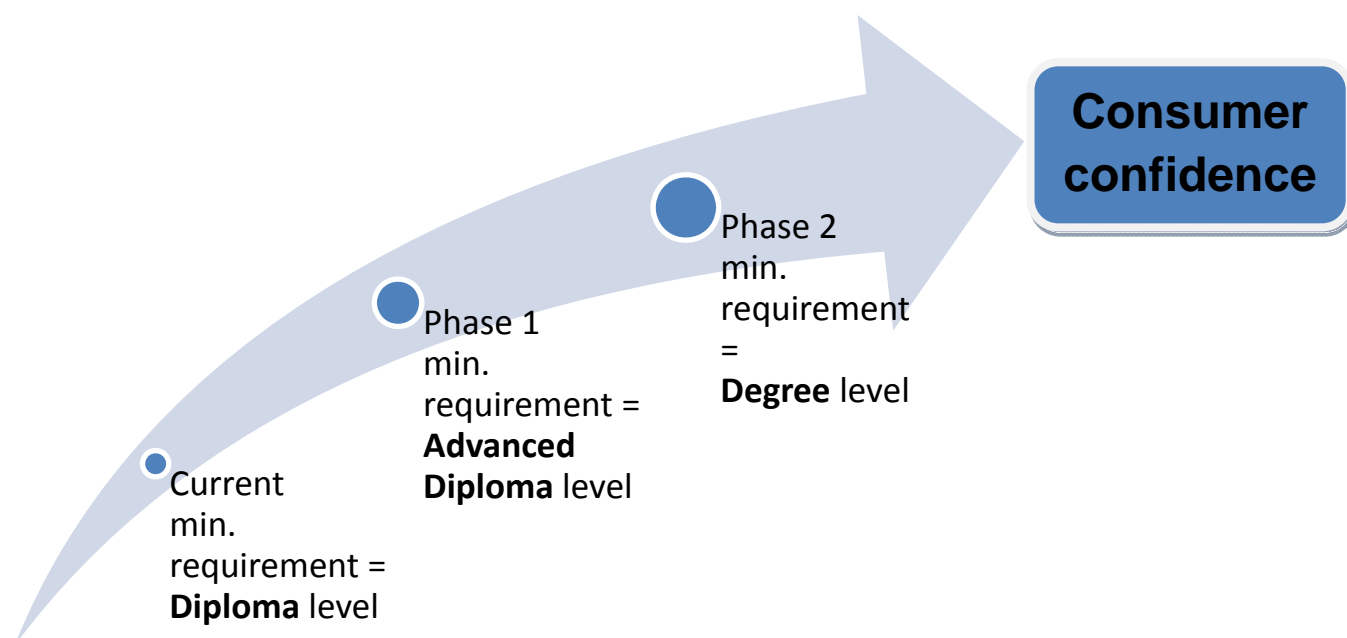
- ❑ Phase 1: Immediately increase the minimum ASIC RG 146 standard from Diploma level to Advanced Diploma level. This interim standard should apply until 31 December 2010.
- ❑ Phase 2: From 1 Jan 2011 increase the minimum ASIC RG 146 standard from Diploma level to Undergraduate Degree level.

We expect there will be significant opposition to this required increased in educational standards. The standard argument put forward is that such a move lifting 'entry level' mandatory educational requirements quickly could create a skills shortage and severely limit consumer access to financial planning services.

If this is true, we would argue consumers would much prefer to have limited access to fewer well educated and qualified advisers they can trust rather than have access to many more advisers of lower education levels that they currently do not trust.

6.6.3. Benefits to consumers

The largest benefit to consumers in raising educational standards is increased consumer confidence.



6.6.4. Introduce financial planning experience entry standards

Prior to financial planners providing advice to consumers, they should be required to undertake at least 1 year of professional experience. This would apply in a similar manner to the other professions detailed below.

6.6.5. Comparing financial planning with other professions

Prior to autonomous professional activity, the traditional professions demand the following education and work requirements of their prospective members:

1. Accountants (CPA & CA)
3 year related undergraduate university degree plus 2 year internship followed by plus 18 months work/course attendance.
2. Actuaries
3 year related undergraduate university degree typically plus an honours year followed by professional exams over a 2 year period.
3. Doctors
4 year related undergraduate university degree plus 3 year internship. Specialisation requires another 3-4 years (total 8 – 14 years).
4. Medical technicians
Radiographer – 4 year related undergraduate university degree plus a Professional Development Year (supervised training).
5. Solicitors
4-5 years related undergraduate university degree (typically involves a dual degree) plus 18 months work/course attendance.

We also highlight the minimum requirements in other traditional trades:

6. Hairdressing
2 year TAFE course (classroom and on-the job) plus two years of supervised work

7. Automotive Mechanical (Tyre Fitting Light)

12 month traineeship which has a nominal 212 hours (TAFE)

6.6.6. Financial planners

By way of comparison, we highlight the requirements to become a financial planner currently (as per ASIC RG 146 requirements):

- ❑ Under the Corporations Act as it currently stands, all individuals who provide incidental personal or general financial product advice to retail customers must meet the minimum training standards as outlined in ASIC Regulatory Guide 146
- ❑ For most new entrants to financial planning, this involves the successful completion of a Diploma level course
- ❑ Higher school education requirement – NONE
- ❑ Tertiary education requirement – NONE
- ❑ Work experience requirement – NONE
- ❑ Professional qualification / accreditation – NONE

6.6.7. Comparison of minimum entry requirements to the professions

Doctors

- 3 year internship; specialisation another 3-4 years
- Degree level & professional studies

Accountants

- 2 years work experience
- Degree level & 18 month professional studies

Solicitors

- 18 months work/course attendance
- Dual degree level & professional studies

Hairdressers

- Min 2 years work experience
- Certificate level

Financial planners

- No required work experience
- Min 8 day course at Diploma level

6.6.8. Certified Financial Planners

We acknowledge the positive steps the Financial Planning Association has taken in recent years in an attempt to increase professional standards in the financial planning profession:

- ❑ Certification as a Certified Financial Planner (CFP) requires both a undergraduate degree and 3 years work experience
- ❑ Unfortunately there are only a small number of CFPs in Australia (circa 5,500 including retired CFPs compared to a total circa 12,000 FPA members)

However we note the CFP is voluntary and not compulsory for all FPA members, let alone non FPA members.

We also note that there are significantly more people holding themselves out as 'financial planners' and financial 'advisors' who are not FPA members than who are members.

6.6.9. Case study examples

Below in the case studies we highlight how the financial education industry has 'evolved' to meet ASIC's minimum education requirements.

Case study 1

- ❑ Course provider = 'RG 146 Training Australia'
- ❑ Website: www.rg146courses.com.au
- ❑ Course: FNS50804 Diploma of Financial Services (Financial Planning)
- ❑ Course duration: Workshop (**9 Days total**)
- ❑ Description: ASIC RG146/PS146 Compliance Training
- ❑ Quote from website: "How long does the workshop training take? Individual workshop courses are 1 or 2 days in duration and are generally run from 8.30am to 4.30pm between Tuesday and Friday. You will also need to allow half a day for reading course material for each workshop day. Courses are generally scheduled every month so as to allow you to complete the Diploma of Financial Services (Financial Planning) over a three-week period.
- ❑ For example, the next diploma workshop program in Sydney will be facilitated in 4 or 5-day blocks
 - Financial Planning 20 to 22 Feb (Mon–Wed)
 - Insurance 23 to 24 Feb (Thu–Fri)
 - Superannuation 31 Jan –1 Feb (Tue–Wed)
 - Investment 2 – 3 Feb (Thu–Fri)"

Case study 2

- ❑ Course provider = International Institute of Technology
- ❑ Website: www.iit.edu.au
- ❑ Course: FNS50804 Diploma of Financial Services (Financial Planning)
- ❑ Course duration: Workshop (2 Days per module - **8 Days total**)
- ❑ Description: ASIC RG146/PS146 Compliance Training
- ❑ Quote from website: "Our accelerated learning option involves face-to-face workshops which create a friendly classroom environment to enable learning in a timely and structured way. It also allows you to 'bounce ideas around' with other participants - not to mention the networking opportunities! Facilitators are industry professionals with 'real world' experience and take the time to tell the 'war stories' which help explain the concepts. We limit class sizes to NO MORE than 10 students to ensure personalised service is provided."

6.6.10. Lessons from these case studies

- ❑ Existing ASIC RG 146 professional minimum educational standards were an acceptable stop gap measure when the Corporations Act was introduced in 2001.
- ❑ However, over time they have resulted in the financial planning industry plunging down to the minimum standards rather than aspiring to higher standards.
- ❑ Education providers have not helped this process by offering entry courses to the industry that can be completed within 8 or 9 days.
- ❑ No one in any industry should be able to hold themselves out as qualified professionals after simply completing an 8 or 9 day course with no other knowledge or experience or skills. That is the sad, existing current reality in the financial planning industry.
- ❑ This industry must evolve and increase the minimum educational entry standards.

The final words on this issue go to some current industry practitioners:

“Not in anybody’s imagination is PS 146 a measure of the profession.”

“In financial planning you do one or two courses, a few days with a dealer group, and you’re let loose on the public. Surely you should have a training period of two, three or four years before you can advise people ... not just a three-day training course and you become a licensed planner. That’s crazy! Would you go to a doctor who’s had a week’s training?”

6.6.11. How consumers benefit from this recommendation

If financial advisors have a higher level of education then this will increase the trust that consumers will place in the industry and in industry practitioners. This is a win/win outcome for consumers.

It also enables consumers to identify advisors who are adequately trained as professionals.

6.6.12. Further references

- See also Australian Investors Association Ltd ‘Submission on the Inquiry into Financial Products and Services’ (Submission Number 34 on the PJC’s register of submissions)
 - From this submission see: Recommendation 6: There are unacceptably low educational levels required of financial advisers, particularly those who’ve long been in the industry, and for whom entry level qualifications were almost non-existent.

6.7. Recommendation 7

Establish a Professional Standards Board and a compulsory Code of Ethics

6.7.1. Our rationale for this recommendation

We propose the establishment of an independent Professional Standards Board to oversee the development of professional standards and act as a guardian of the public interest.

The purpose of the Professional Standards Board is to provide a common framework for professional standards across all advice channels.

Such a body will enhance professionalism and help members be seen as true professionals by consumers.

Once established the Professional Standards Board should introduce a consistent, compulsory and visibly-enforced Code of Ethics.

This professionalism proposal, whilst requiring considerable effort from many industry participants, should raise standards and thereby increase the value of financial advice from the public's perspective. That is the prize for the truly professional adviser.

We recognise that establishing a regulatory oversight framework for financial planning will be unquestionably challenging, given the work involved and the powerful special interest groups likely to oppose components of our proposal.

6.7.2. Role of the FPA and a Professional Standards Board

We recognise the good work already done by the following diverse financial planning related professional groups:

- The Financial Planning Association (FPA)
- The Association of Financial Advisers (AFA)
- The Institute of Chartered Accountants - Financial Planning Chapter
- CPA Australia - Financial Planning Chapter

We especially highlight the key role in the development of financial planning in Australia played by the FPA. Here we will disclose that Quantum is a Principal Member of the FPA and that all authors of this submission are individual Certified Financial Planner members of the FPA.

In the mid 1980's the FPA played a crucial role in the genesis of the new profession of financial planning. Those involved operated in a vastly different regulatory environment from today. Their forward looking actions laid the groundwork for where we stand today.

There can be no doubt that the FPA has a proud heritage and can be quite rightly proud that it made a massive contribution to the development of financial planning as a profession in Australia. Over that time the FPA has also been at the forefront in lifting crucial minimum education and professional standards in financial planning.

Despite the above we believe that the FPA, which is often mentioned as a possible self-regulatory organisation for financial advisers, would be ill suited in its current form to oversee financial planners as a Professional standards Board. There are several reasons for our view:

1. FPA currently wears too many hats

The FPA has two key facets to its operations: member services and professional standards. Unfortunately these two roles inevitably conflict.

Example 1: Until recently the FPA actively and vocally defended the rights of its members to charge 7% up-front commissions. At the same time as doing so it was setting professional standards for members setting and monitoring those standards.

Example 2: Storm Financial was an active principal member of the FPA. When confronted with the fallout from its many failures, the FPA had to deal with two issues – supporting Storm Financial as a fee paying principal member of the FPA (with all the rights of a member) and dealing with the obvious and many issues unfairly placed on Storm Financial clients.

The public quite rightly deserves a Professional Standards Board that is independent and impartial and acts in the best interests of the profession.

At the same time FPA members deserve an industry association, as the FPA is, to lobby on their behalf and provide essential services.

While other professional bodies (eg accounting) can comfortably co-accommodate member services and professional standards, the key differences between them and the FPA are that:

- ❑ In the provision of accounting advice, their members' service offerings are not based on the provision of a product manufactured by a third party that then remunerates the accountant.
- ❑ The accounting bodies membership is only made up of individual qualified accountants. A dominant part of FPA membership is made up of large firms that are financial planning firms (eg AMP Financial Planning) owned by or closely aligned to financial product manufacturers (eg AMP).

2. Too broad a membership

The FPA (Financial Planning Association) is an industry association, not a professional body. Its membership is sourced from a hugely diverse number of businesses and occupations associated with financial planning and financial product providers, and not simply financial advisors. In our opinion it is unfortunate that it calls itself the Financial Planning Association (and represents employees of product manufacturers) and not the Financial Planner Association (and not solely representing financial planners).

3. Financial planning distribution arms of financial product manufacturers are dominant members of the FPA

In other professions membership of the professional body is limited to individual qualified professionals. In financial planning, the dominant membership of the peak body, the FPA is made up of principal member firms such as AMP, MLC and Axa. While individual financial planner members get a voice, typically these large firms have the staff and resources to dominate. These types of firms are also the largest financial supporters/sponsors of the FPA's annual conference, a major source of ongoing income for the FPA. We do not intend to imply that this is bad but rather seek to highlight it creates an obvious conflict of interest.

We recognise that the FPA has done good work in starting to develop professional standards for financial planning in Australia which is a foundation on which a community can begin to trust practitioners of any profession

For the FPA to develop and grow its services, we recommend it relinquish its professional standards setting role (which only currently covers FPA members) to an overarching Professional Standards Board that can compulsory require all those who hold themselves out as financial planners to be members and to adhere to the required universal professional standards. This would allow the FPA to retain its important role advocating the interest of its members.

6.7.3. Lessons from the UK & USA

We highlight that the FSA in the UK (equivalent to Australia's ASIC) has recently introduced a compulsory Professional Standards Board and a code of ethics for the finance industry.

We also highlight that in the USA the FPA (equivalent to the FPA in Australia) has advocated the following: “recognize financial planning as a distinct profession under the oversight of a national professional board”.

6.7.4. The steps required to set up a Professional Standards Board

- ❏ **Step 1:** Establish a professional standards-setting oversight board that would initially be subject to ASIC authority and oversight.
- ❏ **Step 2:** Require individuals (not firms) who provide financial planning advice to retail clients, or who hold themselves out as a financial planner or advisor (or similar title), to be subject to the Board’s oversight.
- ❏ **Step 4:** Once the Professional Standards Board is set up, ensure it is run on a self funding basis from member dues. This ensures it is revenue neutral from the Government’s perspective.
- ❏ **Step 3:** Direct the Board to establish standards of training, experience and competence in consultation with the financial planning profession and subject to ASIC review and approval.
- ❏ **Step 4:** Direct the board to establish rules to promote the delivery of financial planning advice at a bona fide fiduciary standard of care.
- ❏ **Step 5:** Authorise the board to enforce its rules and standards in cooperation with other financial services authorities (ASIC, APRA, FOS, etc).
- ❏ **Step 6:** Once it is up and running, transfer the responsibility for running the Professional Standards Board from ASIC to self autonomy, as is the case in other professions.

6.7.5. How consumers benefit from this recommendation

The introduction of such a Professional Standards Board would create a framework for professional oversight to help consumers easily identify qualified and ethical financial planners who are subject to professional standards.

7. About Quantum Financial Services

Quantum Financial Services Australia Pty Limited holds an Australian Financial Services Licence (AFSL 239200) and is a nationally accredited Registered Training Organisation (RTO 90281).

Our advisors operate throughout Australia and our trainers and assessors provide a broad range of ASIC compliance requirements, financial training courses and CPD training nationally.

Quantum is independently owned

This is an important strength of our business that we are proud of and helps to ensure our clients get the best advice. Quantum is not controlled or influenced by any fund manager, insurance company or bank. Further, no fund manager, bank or insurance company has ever owned a share in, nor provided loans to, Quantum. We are proud of this and will strive to retain our independent ownership.

Relationships

Quantum is focused on forging strong, long-term relationships with our clients. We enjoy working closely with each of our clients in long term relationships and we ensure a high client service level is maintained at all times.

Experience counts

Since 1994 Quantum has been providing its clients with strong, consistent and reliable financial advice. Over that time we have worked hand-in-hand with our clients through a range of economic cycles to build and protect their wealth and to build their financial knowledge and skills. In 2007 and 2008 we were proud to be listed among the Top 100 Australia-wide financial planning practices In Money Management's and IFA's annual Dealer Group Survey.

Integrity

At Quantum we deliberately set ourselves high, detailed standards and this flows through to the service we provide to all our clients.

Our advisors

Quantum advisors and trainers are highly trained, educated and experienced. Most have at least 1 degree in finance (undergraduate and masters level) and at least one professional qualification. They have a passion for finance and strive to work in partnership with their clients.

Benefiting from our training organisation, our advisors seek to educate their clients (in plain English terms) about how they can best manage their financial affairs.

8. About the authors

Bill Mackay

Bill has more than 30 years experience in the finance, banking and insurance industries. He has advised a broad range of individual and corporate clients since 1992 and has been awarded the designation of Certified Financial Planner (CFP®), the highest endorsement offered by the Financial Planning Association of Australia (FPA).

Qualifications	Professional memberships
Degree in Commerce (University of NSW)	Principal Member, Financial Planning Association of Australia
Masters Degree in Economics (University of Sydney)	Principal Member, Boutique Financial Planning Principal Group
Certified Financial Planner™ (CFP®)	
Degree in Theology (Rome)	
Advanced Diploma of Financial Services (Financial Planning)	
Certificate 4 in Workplace Training and Assessment	
Diploma of Training and Assessment Systems	

Claire Mackay

Claire has been advising a broad range of individual, corporate and financial institutions in the financial services industry since 2002. As a Certified Financial Planner™ and a Chartered Accountant – Financial Planning Specialist, Claire has been working with Quantum's clients since 2004. Claire is a Principal Wealth Advisor with specific responsibility for overall client relationship management. She has a wide range of experience across the financial services sector having previously advised clients in structured products and strategic tax management at both Macquarie Group Limited and PricewaterhouseCoopers

Qualifications	Professional memberships
Bachelors Degree in Commerce (Macquarie University)	Member, Institute of Chartered Accountants in Australia
Bachelors Degree in Law (Macquarie University)	Member, Financial Planning Chapter, Institute of Chartered Accountants in Australia
Masters Degree in Law (University of Sydney)	Certified Financial Planner Member™, Financial Planning Association of Australia (FPA)
Admitted as an Australian Lawyer in the Supreme Court of New South Wales	Member, Boutique Financial Planning Principals' Group
Chartered Accountant (CA)	Associate Member, Taxation Institute of Australia
Financial Planning Specialist, Institute of Chartered Accountants in Australia	
Certified Financial Planner™ (CFP®)	
Advanced Diploma of Financial Services (Financial Planning)	

Tim Mackay

Tim has been advising a broad range of global retail and institutional clients in the financial services industry since 1997. As a Certified Financial Planner™ and a Chartered Accountant - Financial Planning Specialist, Tim has been advising Quantum's financial planning clients since 2005.

Tim is a Principal Wealth Advisor with specific responsibility for Quantum Research. Tim has a wide range of experience across the financial services sector having advised clients in equities (Deutsche Bank London & New York; UBS London), funds management (Deutsche Bank Sydney), fixed income (Deutsche Bank London) and exotic derivatives (HSBC London). He has experience across the Australian, the UK, the European, and the US financial markets.

Qualifications	Professional memberships
Honours Degree in Economics (University of Sydney)	Member, Institute of Chartered Accountants in Australia
Masters in Business Administration (London Business School, exchange program at Columbia Business School NYC)	Member, Financial Planning Chapter, Institute of Chartered Accountants in Australia
Chartered Accountant (CA)	Certified Financial Planner Member™, Financial Planning Association of Australia (FPA)
Financial Planning Specialist, Institute of Chartered Accountants	Secretary, Sydney Chapter of the FPA
Advanced Diploma of Financial Services (Financial Planning)	Member, Self Managed Super Fund Professionals of Australia (SPAA)
Certificate 4 in Workplace Training and Assessment	Member, Financial Planning Association USA
Certified Financial Planner™ (CFP®)	Member, Boutique Financial Planning Principals' Group
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9. Contact us

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