

# Recommendations

## **Recommendation 1**

3.64 The committee recommends that subsection 962F(3) of the Corporations Amendment (Future of Financial Advice) Bill 2011 be reviewed with a view to providing access to recourse for consumers who have had fees wrongfully deducted.

## **Recommendation 2**

3.65 The committee recommends that 'minimum disclosure' guidelines be included in the regulations of the Corporations Amendment (Future of Financial Advice) Bill 2011 for fee disclosure and opt-in notices, stipulating a standard for communication between financial advisers and their retail clients.

## **Recommendation 3**

3.66 The committee recommends that the Explanatory Memorandum to the Corporations Amendment (Future of Financial Advice) Bill 2011 be amended to better explain the annual fee disclosure obligations for existing retail clients.

## **Recommendation 4**

4.70 The committee recommends a revised Explanatory Memorandum to the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 be issued such that the final sentence in paragraph 1.33 of the Explanatory Memorandum reads:

'In identifying the advice that has in effect been sought by the client (including advice implicitly sought by the client), the provider must take into account the client's relevant circumstances.'

## **Recommendation 5**

5.37 The committee recommends that regulations pertaining to paragraph 964A(3) of the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 be drafted to include a materiality threshold to determine when a benefit is not presumed to be a volume-based shelf-space fee. The regulations should specify that full disclosure is required for the payment and receipt of these benefits.

## **Recommendation 6**

5.38 The committee recommends that the Australian Securities and Investments Commission (ASIC) issue guidance material for platform operators who seek to substantiate a claim that a volume-based payment demonstrates a reasonable fee for service or a genuine value of scale efficiencies.

### **Recommendation 7**

5.65 The committee recommends that the Australian Securities and Investments Commission (ASIC) conduct shadow shopping exercises on advice pertaining to life risk insurance outside superannuation post implementation of the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011. ASIC should report its findings back to this committee within two years of the date the Bill commences.

### **Recommendation 8**

5.80 The committee recommends that post-implementation, Treasury work with the Australian Securities and Investments Commission (ASIC) to monitor closely the quality of advice on the sale of risk insurance inside and outside superannuation and any market distortions that may occur.

### **Recommendation 9**

6.35 The committee recommends that further material be provided in the Explanatory Memorandum to the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 to outline examples of legitimate training, such as practice management or client relationship skills. Legitimate forms of training should also be provided in the regulations.

### **Recommendation 10**

6.39 The committee recommends that the Explanatory Memorandum for the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 be amended to provide clarity on the application of the \$300 limit for soft-dollar benefits. Further, the committee recommends that examples of what is and is not deemed to be 'frequent or regular' should be stated in the Explanatory Memorandum and the regulations.

### **Recommendation 11**

6.45 The committee recommends that the proposed consultations on the regulations for the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 include consideration of the potential impact of restricting soft-dollar benefits of professional development to within Australia and New Zealand.

6.46 The committee recommends that no geographical restriction be placed on professional development where it is professional development focussed on education and training.

### **Recommendation 12**

7.17 The committee recommends that the Australian Securities and Investments Commission (ASIC) provide regulatory guidance material on how Australian Authorised Deposit-taking Institutions (ADIs) can prove that remuneration does not 'reasonably influence' advice.

### **Recommendation 13**

7.50 The committee recommends that the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011 be amended so that the Timeshare industry is precluded from the bans on conflicted remuneration.

### **Recommendation 14**

9.17 The committee recommends that the government should amend the footnote references to Rice Warner estimates in the regulation impact statements of the Explanatory Memorandums to both bills. The new footnote should be updated to reflect Rice Warner's revised estimate of the employment impact of the Future of Financial Advice reforms.

### **Recommendation 15**

10.45 The committee recommends that there should be an independent review of the application of the Future of Financial Advice (FOFA) legislation. The review should be timed to comment constructively on how stakeholders have complied with, and interpreted the FOFA provisions. To this end, the committee recommends that an initial report should be given to government by the end of 2013 and a further report by the end of 2014.

