



Financial advice reforms – latest information

27 April 2010

On Monday 26 April the Minister for Financial Services, Superannuation and Corporate Law, the Hon Chris Bowen MP, released the *Future of Financial Advice* statement outlining proposed reforms to adviser remuneration and other aspects of financial advice.

The statement represents the Government's response to the Ripoll recommendations (i.e. the recommendations arising out of the Parliamentary Joint Committee on Corporations and Financial Services' Inquiry into financial products and services in Australia).

[Click here](#) to view the whole 14 page report.

Alternatively, for your convenience please see below a snapshot of some of the key proposals.

- The reforms are proposed to commence from 1 July 2012. Proposals on advisers' remuneration and fiduciary duty will apply prospectively.
- Broadly, the reforms will apply to distribution and advice relating to retail financial products, including managed investment schemes, superannuation and margin loans. They will not apply to risk insurance initially: there will be further consultation on whether the reforms should be extended to risk insurance in due course.
- A statutory fiduciary duty will be imposed which essentially will require advisers to place their clients' interests before their own, subject to a 'reasonable steps' qualification. That is, advisers and authorised representatives must take 'reasonable steps' to discharge the duty but will not be expected to base their recommendations on an assessment of every single product available in the market.
- With the aim of ensuring charging structures for advice are product neutral, there will be a ban on "conflicted" remuneration structures including:
 - commission payments from any financial services business; and
 - payments from any financial services business which are based on volume or sales targets (including employee targets). Non-volume based access payments (e.g. certain shelf-space fees) that flow to and from a platform are permitted.
- All advice fees will be required to be agreed between the adviser and client and clearly disclosed. Ongoing advice fees (including payment by instalments) will only be able to be charged if a payment plan has been agreed with the client, or if the charge relates to the provision of an ongoing service. If an adviser is to provide an ongoing service, an annual renewal notice will need to be sent to the client. If the client does not renew the services, the adviser will not be able to continue to charge the client.



- The ban will not apply to soft dollar arrangements initially but the Government will take advice on how to extend it to soft dollar arrangements.
- Percentage-based fees will be prohibited on geared products or investment amounts.
- No comment has been made in relation to the Ripoll recommendations on tax deductibility of advice fees other than that the Government will be responding to the Henry report on Australia's Future Tax System this Sunday 2 May.
- The accountants' licensing exemption in relation to advice on establishing or closing an SMSF will be removed.
- The intra-fund advice regime will be extended to cover personal advice on new topics including transition to retirement, intra-pension advice, nomination of beneficiaries, superannuation and Centrelink payments and retirement planning.
- ASIC's powers in relation to the licensing and banning of individuals from the financial services industry will be increased.
- A separate Professional Standards Board will not be established. However, an expert advisory panel will be established to review professional standards of advisers (including conduct, competency and ethical standards, and consideration of soft dollar arrangements).
- There will be a review of appropriateness of the current method of classifying unsophisticated and sophisticated investors (i.e. retail and wholesale clients).
- There will be an examination of a statutory compensation scheme by Mr Richard St John.
- Financial Service Guides will be improved, so they are more effective at disclosing material restrictions on advice, any potential conflicts of interest and remuneration structures.
- The legislation will have the capacity to exclude or include payments if unintended consequences would otherwise occur.

No doubt there many questions on fundamental aspects of the reform proposals as well as matters of detail. While we may get answers to some of these in the near future no doubt many issues will take some months to resolve. We do not expect legislation to be introduced into Parliament to implement the reforms before the election.

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