

# TREASURY EXECUTIVE MINUTE

Minute No. 20110477

18 February 2011

Assistant Treasurer and Minister for Financial Services and Superannuation      cc: Deputy Prime Minister and Treasurer

## POTENTIAL BAN ON RISK INSURANCE COMMISSIONS

**Timing:** At your discretion

**Recommendation/Issue:**

- That you note this briefing on the outcome of Treasury’s peak consultation group meeting on risk insurance issues, and Treasury’s current thinking on the issue of commissions.

**Noted**

Signature: ...../...../2011

## KEY POINTS

- The Future of Financial Advice (FOFA) Peak Consultation Group (PCG) convened on 24 January to discuss the application of the FOFA reforms to risk insurance. The meeting focused on the contentious issue of life insurance commissions. A summary of the discussion at the meeting is at Attachment A.

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Manager  
Financial Services Taskforce Unit

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## ADDITIONAL INFORMATION

### Application of reforms to risk insurance

- On 26 April 2010, your predecessor announced the *Future of Financial Advice* reforms. This was in response to the Parliamentary Joint Committee on Corporations and Financial Services *Inquiry into financial products and services in Australia* (the Ripoll Report), which was released in November 2009.

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- To date, all consultations on FOFA have been focused on the advice and distribution of investment and superannuation products. Consideration of risk insurance, in particular the issue of whether commissions on risk insurance should be prohibited, was intentionally postponed until 2011.

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- On 24 January Treasury held the fourth PCG meeting to consult on the application of the FOFA reforms to risk insurance. The key reforms discussed included the ban on commissions, the imposition of a bests interests duty and the compulsory annual renewal requirement (opt-in). The relevance of Cooper Recommendations on insurance commissions to FOFA reforms was also discussed.

### *Ban on life insurance commissions – current thinking*

- The FOFA reforms include a proposed prospective ban on conflicted remuneration structures including commissions and volume-based payments in relation to the distribution and advice of retail investment products.

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*Best interests duty – current thinking*

- A key announced FOFA reform is the introduction of a best interests duty where financial advisers must act in the best interests of their clients, and to place the best interests of their clients ahead of their own when providing personal advice to retail clients.
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- s47C We will engage in more detailed discussion with industry on the precise formulation of the duty once drafting has commenced.

*Application of annual renewal notice (opt-in)*

- The FOFA reforms include the proposed introduction of a new adviser charging regime, involving a requirement for retail clients to agree to advice fees and annually renew (by opting in) to an adviser’s continued services.
  - The opt-in policy was designed to ensure that if clients are paying ongoing fees, that these fees relate to the provision of an ongoing service. This was designed to prevent ‘set and forget’ arrangements, particularly where asset-based fees on investible amounts are used.

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*Interplay with MySuper recommendations*

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  - MySuper recommended banning commissions in relation to all insurance products within superannuation, including Self Managed Super Funds (SMSFs), regardless of the regulation of commissions outside of superannuation.
  - The Government accepted this recommendation only in relation to group insurance policies within MySuper products. As part of the FOFA consultation process, we will need to consider whether insurance commissions in relation to non-MySuper group policies (for example, insurance within Choice products or SMSFs) should also be banned.

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**ATTACHMENT A****Peak Consultation Group Meeting on Insurance**

On 24 January Treasury met with representatives of the Peak Consultation Group to discuss the application of the Future of Financial Advice Reforms to risk insurance. The key focus of the meeting was on commissions, but issues around the best interests duty, opt-in and the insurance-related recommendations in the Cooper Review were also discussed.

***Potential ban on life insurance commissions***

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Interestingly, commissions paid by insurance companies do not differentiate between brokers/advisers/distributors that provide personal advice versus general or no advice – the commission is paid regardless.

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The Financial Ombudsman Service (FOS) corroborated this by saying that while there were complaints against insurers and advisers, these were only a small percentage.

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*Interplay with relevant Cooper Recommendations*

Cooper made a number of recommendations in regard to risk insurance in the context of MySuper and Choice products (recommendations 1.11, 1.14, 1.24, 1.26 and 5.12).

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