**Wayne Swan MP** MEMBER FOR LILLEY

21st July 2011

GRANGE QLD 4051

Thank you for your letter supporting the views of the Boutique Financial Planning Principals Group (BFPPG) in relation to the Future of Financial Advice (FOFA) reforms. I sincerely apologise for the delay in responding.

I appreciate you taking the time to outline your concerns and for bringing them to my attention.

I would like to address some of the key points raised in the BFPPG submission. In relation to volume payments, the Government announced on 28 April 2011 that it would be implementing a wide ban on volume payments. This will prohibit any payments from platforms to dealer groups of any size based on the volume of product on the platform. This is consistent with the views expressed by the BFPPG.

The Government has decided not to go as far as proposing a law against product issuers' cross-subsidising the advice aspect of their businesses. The only way such a law could be effectively implemented would be by forcing either the operational or structural separation of many financial institutions in Australia. Such a requirement would be extremely costly and disruptive for industry and may require the Government to pay compensation to companies affected in order for the law to be constitutionally valid. In recognition of the possible conflicts of interests that could arise in situations where the licensee is also a product issuer, the proposed best interests duty will require licensees to have in place adequate arrangements in order to ensure that their representatives can comply with their obligations under the best interests duty.

In relation to the comments on the Government's ban on commissions on risk insurance within superannuation, I note that it was only after very careful consideration and extensive consultation that the Government decided to ban up-front and trailing commissions and like payments for both individual and group risk within superannuation from 1 July 2013.

The Government's position is consistent with the recommendation of the Cooper Review that insurance commissions within superannuation be prohibited as they have the potential to affect the quality of advice and the findings of ASIC shadow shopping surveys that illustrate that in the case of poor advice, over half involved poor life insurance advice. Given the above factors, the Government up to now is persuaded that banning commissions within superannuation is in the best interests of consumers. The quality of advice will improve as conflicted remuneration structures will be removed and consumers will have the freedom to pay for insurance advice, but will not be charged for services they do not receive.

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I note that accessing insurance through superannuation will remain attractive as preferential tax arrangements will stay in place. Those consumers who want alternative payment arrangements have the choice and flexibility of doing so outside the superannuation environment, including via a commission structure.

In relation to the comments about opt-in, the Government considers this proposal to be necessary in order to ensure clients understand ongoing fees and to give them an opportunity to consider whether they are receiving value for money. As you are aware, the Government has decided to amend the opt-in policy, so that retail clients will have to agree (by opting in) to ongoing advice fees every two years from 1 July 2012.

A two-year opt-in means advisers are in regular contact with clients, but provides some flexibility regarding implementation. This will be supplemented by an intervening annual disclosure notice to be provided to the client detailing fee and service information for the previous and forthcoming year, informing the client of their right to 'opt-out' at any point in time from ongoing advice.

Finally, I note it is the strong preference of the BFPPG to restrict the term 'financial planner' to those genuinely providing financial planning advice and not just 'one-off' product advice. The Government has received numerous representations on this issue from interested stakeholders including the Financial Planning Association. As outlined in the 28 April 2011 announcement, the Government has asked Treasury to provide advice on this issue over the coming months. This will allow the Government to give further consideration to this proposal.

The Government believes it has struck the correct balance with the FOFA between improving the integrity of financial advice and ensuring that financial advice providers do not face unreasonable costs.

Again, I thank you for the time you have taken to write and the interest that you take in these important reforms. Please do not hesitate to contact my office at Nundah on (07) 3266 8244 should you require any further assistance.

Yours sincerely,

**Wayne Swan MP**
Federal Member for Lilley