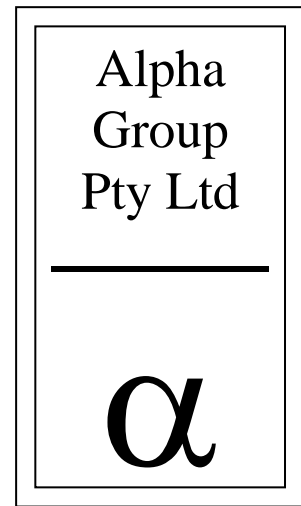


20 October 2011



General Manager
Retail Investor Division
The Treasury
PARKES ACT 2600

By E Mail: futureofadvice@treasury.gov.au

Dear Sir

Re: Submission on Proposed Changes to Financial Services Legislation

I write to you on behalf of the Alpha Group Pty Ltd a co-operative of 17 independently owned financial planning practices based in Melbourne and Geelong. This submission is a follow on from one made in December 2010 ahead of the FOFA announcements. Our purpose in writing on this occasion is to make a few points on the second round announcements, from the perspective of the members of our group as small business owners, as well as being licensees, and the services that we provide.

Our specific comments on the proposed legislation are in the areas of:

- Soft dollar arrangements.
- Offshore conferences.
- A Viable Alternative.

By way of background I wish to spell out the credentials of our group and to tell you what we see are potential negative impacts. Key to this is that we are primarily owned by the principals and in some instances by employees in the 17 practices. In short we are non-aligned financial planning businesses. Other significant metrics are:

- The group has in excess of 40,000 client units.
- We employ more than 130 Representatives.
- Total staff numbers are around 250, including the Representatives.
- The total Funds under Advice (FUA) exceed \$4 billion.
- Previously all members of the group were FPA members and abided by its rules of membership and Ethics. Due to the changes by the FPA to move to a Practitioner based body we are currently assessing how we will continue to ensure that quality advice and service is provided.
- The majority of the Dealer Principals have typically been engaged in the industry for 20 plus years and a handful for more than 30 years.

About the Author

I am the current Chairman of the group as well as being the Dealer Principal of one of the group members. My practice, founded by me in 1985, employs 10 people six of whom are financial planners.

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We are a fairly typical suburban financial planning practice as are most of the Alpha members. We are also an FPA Professional Practice having met the very stringent rules around this appointment.

I have a very broad industry experience other than just the 28 years in which I have been engaged in planning roles. For over a decade I was engaged in many senior roles in the Financial Planning Association at both a State and National level, the latter as an FPA Board Member and Vice President. In 1999 I was recognised as The Australian Financial Planner of the Year and in 2000 was awarded the FPA's Distinguished Service Award. In the early to mid-1990's I did extensive work as an FPA and ASIC appointed Loss Assessor in the National Mutual Property Fund fiasco. I was subsequently an Expert Witness in the National Mutual/Citicorp Federal Court case.

My current industry roles are as an FPA representative on the Financial Ombudsman Service FP Advisory Board and as a Member of the Future 2 Foundation Grants Selection Panel. At a practice level I Chair our Compliance and Research Committees and am an FPA Authorised CPD Assessor.

The Global Backdrop

Financial planning, and indeed the broad financial services sector, does not operate in a vacuum that excludes everywhere else other than Australia. Or even Australia and New Zealand as this Draft Legislation might lead us to believe.

Whilst the mineral resources boom sees Australia "hitting above its weight" from time to time the facts of the matter are that our success depends very much on what occurs globally, and especially amongst our global trading partners. Based around the resources success our Dollar is in the top five currencies traded every day around the globe. Our sharemarket still only accounts for about 2% of the global total so we remain a bit player in many respects.

The point that I want to make here is that financial planners must understand the big picture of the global economy, how it relates to Australia and in turn to our clients. It is critical that Australian financial planners have every opportunity to be as well educated as their global counterparts who operate much more closely to the daily hurly burly of the major markets such as Europe, the US and greater Asia because:

They are required to assess a client's risk profile including the risks of the full range of investments, including global shares, property and fixed interest.

They also decide on the asset allocation of portfolios and the mix between local and global; especially with shares and fixed interest investments.

They may also be managing tactical allocations in an endeavour to get that little bit of extra Beta. From a continuing professional development viewpoint ongoing education and development about the global marketplace is critical to a planner's decision making process. We believe that not to have this experience would potentially be a breach of both ASIC's and the FPA's rules on planner education.

As a general statement global managers are fairly well represented locally, but only by marketing staff. Some of the larger managers make irregular visits to update major institutional investors and planners. But it has to be said that all manager presentations are driven by marketing teams and as much as anything are driven by the need to protect their FUM; i.e. they can always find a bright ray of sunshine somewhere to support their position. The decision to stay with a fund, a strategy or in a particular market segment falls back to the client and their adviser because the fund manager invariably says that, "You engage us to run (for example) global shares so we will always be fully invested."

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The past decade, and especially the past five years, has seen a massive shift in the spread of wealth around the world. In just the past year China became the world's second biggest economy and many other "new world" countries are rapidly climbing the ladder at the expense of "old world" economies. We are seeing right now the massive damage being done in Europe as a result of poor economic planning and management over decades with several countries now technically bankrupt. It is almost daily news in the popular media and it is unsettling clients. These are all things that a planner needs and has to be across in his daily role of advising a wide range of clients if he is to meet his/her obligations at all levels.

There is no point talking about fiduciary duty if you deny planners to opportunity to educate themselves to the best possible standards.

Overseas Conferences

The Draft Legislation proposes to limit planner conferences to Australasia but there is no reason given for including New Zealand. This is illogical in our view as we fail to see how a New Zealand conference experience adds any value at all for an Australian planner. That country is only a fraction the size of our economy and its financial services/planning sector is relatively miniscule compared to ours. In our view the only reason that conferences have been held in New Zealand, and may continue to be, is either for the skiing in winter or the outstanding tourism opportunities it offers. New Zealand is a location that effectively demands that a conference organiser needs to bring all speakers in from Australia, or elsewhere, as there are none suitable there. This is clearly at odds with what this Paper is proposing surely?

There is no true Value Add for Australian planners to go to New Zealand especially when its broader legislation that revolves around financial planning has no relevance either. This is true of most other countries too. Any view that planners, travelling in either direction, get a tangible benefit from doing so is erroneous in our view.

Just for your reference there has been cross-border recognition of the Certified Financial Planner (CFP) designation amongst member countries since the late 1990's. The author in his capacity as a Dealer Principal has in fact employed one such individual, from South Africa, about 10 years ago and this person is still employed in the industry.

Financial planners provide a wide range of services to their clients and the end output of the engagement is usually investment in a wide range of instruments and markets. If we as planners do not cover off the wide range of areas required for our ongoing professional development we are deficient in our responsibility both to the law and our clients.

Why Ban Overseas Conferences?

Planners are not the only group in our society that need to have a sound knowledge of global economical and political happenings and outcomes. It seems illogical to us that the legislation seeks to ban overseas conferences, and we assume study tours, that have some element of third party funding whilst allowing virtually everyone but financial planners can continue to do so.

It is our view that the structure of a present day financial planning conference, where at least 70% qualifies for CPD accreditation, should not be restricted by geographical boundaries. We will concede that in the past there may have been some offshore conferences that have been little more than upmarket tours, but this is not so today.

By way of example let me provide some detail of the Alpha Groups 2012 Conference to be held on the West coast of the USA, the first time that we will have been out of Australasia in our 14 year history of annual conferences, apart from one visit to New Zealand about 10 years ago.

In deciding on the location for our first significant offshore conference we discussed vigorously about the relevant merits of:

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- Looking at the emerging Asian economies from Vietnam.
- See the big picture of China and Asia from the global financial hub of Hong Kong.
- Visiting the world's biggest economy and marketplace being the USA.

In the end we chose the US as it offers a far wider range of speaking talent. Yes we have fund managers sponsors but they will pay no more to participate in 2012 in the US than they would if we were in Darwin, or anywhere else in Australia. The planners or their practices are picking up the increased cost of being offshore. Frankly if the Government were serious about this proposed change they would ban any conference that wasn't held in Sydney or Melbourne.

The offshore conference experience is not just about speakers it is also about being in another country where you get the first hand feel of how the economy and its people are faring under the weight of the GFC and its fallout. We get to hear from local financial planners about their issues and how they are managing their clients. A couple of our potential speakers for 2012 include:

- The Joint Chief Investment Officer of PIMCO the world's largest fixed interest manager.
- The CEO of Vanguard Investments.
- Stephen Halmarick, Head of Investment Market Research, Colonial First State Global Asset Management.

Soft Dollar Proposals

In broad scope we support the proposals here which seem to be an extension of what currently exists in the industry. The \$300 limit probably needs to have some element of indexation or review associated with it so as to recognise increasing costs.

We see a contradiction in this proposal and that dealing with offshore meetings which is best exhibited by this example using an Alpha Group conference as a reference point.

An Alpha conference typically has about 90 adviser delegates and each fund manager sponsor pays a fee of \$11,000. This equates to an effective contact per adviser cost of \$122 per head. The sponsor nominee attending the conference has access to all advisers for a three day period. In addition they participate in a structured exercise where they formally present to small groups of planners at the conference and also participate in a formal, full day CPD event in March each year. Sponsors are also guaranteed at least one presentation at each practice.

It is little wonder that we have potential sponsors waitlisted each year because they see this as a very cost effective opportunity to meet with so many advisers. If they worked around some social activity as an alternate means of contact at a conservative cost of say \$250 per person they would only get to half the number of delegates with only a fraction of the time exposure.

The cost of individual meetings, just to visit the 17 practices and probably only have access to one or two advisers at each one, would run into several hundreds of dollars.

A Viable Alternative

Any financial planning business in this country that wants to remain profitable and continue in business must ensure that it provides the highest quality standard of service for its clients. At the core of this service level is the education of the planner and it should not be restricted by any ill conceived restrictions. Industry bodies such as the FPA have always led the way on education and CPD for its members, well in advance of any legislative requirement which has been pitched much closer to the lowest common denominator. Such a strategy does not provide for the best client outcomes.

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We have formed a view that our segment of the market, being the boutique and non-tied practices, will potentially be placed at a distinct disadvantage to the Big 5 (and maybe a few more with alignment to the major players) under the proposals. These groups now account for somewhere between 80 and 85% of the financial planning market today which not only provides them with massive pricing power but also with the financial muscle to provide much more cost effective adviser training. We fail to see how a Regulator will be able to effectively police compliance and offshore meetings and potential conflicts associated with them. Consider this as an example.

A Big 4 bank with multiple financial planning brands provides an offshore event for their planners. By far the majority of business written by these planners is placed with "own product". How will the regulator be able to discern how this event was funded? Was it paid for by the planning division? By the funds management group? Or the ultimate holding company? It almost certainly won't be by the planners themselves.

How on earth would the ultimate funder of such an exercise be discovered? Our group and most others in our space would see this as an unlevel playing field.

Rather than tie at least one hand behind our backs in this area of CPD we support extending, or enshrining, the current FPA rules around CPD into the regulations. This is one area of the law where we believe that Black & White regulation would work well. The nub of it would be that a set minimum of the program content, say 75%, would be formally assessed as qualifying CPD. Whilst we believe that a currently authorised CPD Assessor should be able to do this we wouldn't be adverse to a non-aligned assessor being required to conduct the assessment.

Dealers are now required to construct an annual training program for each Representative so as a further check an assessor/auditor could "spot audit" that document to see that the conference content is applicable to the individual. A less cumbersome method could be to have individual licensees or Compliance Managers sign off that the CPD is appropriate. Much of this would be done within the current CPD Registry system which is in turn subject to random audit in its three year cycle.

Client Perception

Finally we get down to the end arbiter, in our view, on this matter – our clients. They have an expectation that their planner and his practice will be fully informed about investment markets and if an adviser can't provide a reasonable response to a client enquiry he looks incompetent.

It is our view that clients do not care where advisers gather their research and professional education; in their offices, at a conference in The Whitsundays or at an appropriate offshore venue. They simply want to know that we are receiving quality education for their benefit.

Once again we are disappointed that the financial planning industry is being subjected to very restrictive conditions whilst other professions will have no limitations applied to them. Other elements of the financial services sector are not being limited to offshore education and we would include here fund managers, industry super funds (whose level of disclosure to Members is appalling), accountants and lawyers.

In summary we are disappointed to find that the Government wants to go down this path of delivery exclusions rather than focussing on the quality of the education which in the long term benefits our clients. We see these proposals as short-sighted and not in the best interests of those whom you so vigorously say you are trying to protect.

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The writer is available to make personal representations on behalf of the group if requested.

Yours sincerely

**Peter Dunn CFP FPA Fellow
Chairman, Alpha Group**

Contact Details:

T: 03 9374 1133 or 0419 201050

E: pdunn@moneyplan.com.au