



6 December 2023

Retirement, Advice and Investment Division
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Re: Delivering Better Financial Outcomes – reducing red tape and other measures

Announcing the first tranche of the legislation for the government's Delivering Better Financial Outcomes package of reforms in November, Financial Services Minister Stephen Jones said these reforms would remove onerous red tape that adds to the cost of advice with no benefit to consumers.

"There should be a capacity for [advisers] to produce advice more efficiently. If it's more efficient, then there should be cost savings in that," Mr Jones said.

Despite the notable absence of statements of advice (SOAs) from this first tranche, he hinted that the ball is now in the advisers' court regarding possible cost reductions, with the government said to have delivered on its promise.

"Advisers have been saying for some time now, 'If you reduce the red tape, we'll be able to provide more affordable services'. We're going to reduce the red tape, over to you."

Minister Jones also said the following at an Industry meeting on Thursday 30th November. ***"Layer on layer of Govt regulation... is also protecting consumers from (accessing) good advice. Govt regulations are closing the door to gaining advice."***

Retail Financial Adviser Numbers Decimated

While this draft legislation may be well-intentioned, as proposed it will fail to reduce the legislative red tape that has slashed retail financial adviser numbers from 25,000 down to 15,000 within only three years of the full implementation of the Hayne Royal Commission Recommendations. At that time, I warned many Parliamentarians in writing about the risk of doing this, and looking back at my prior submissions, the decimation of adviser numbers occurred exactly as I had previously predicted.

Worse still, only 11,000 of these 15,000 advisers are now practicing. To indicate the seriousness of this situation, it is similar to forcing 123,000 teachers (out of [Australia's 307,000 teachers](#)) to leave; which would cause a massive outcry if this occurred.

Hayne RC Recommendations highly inflationary

Basic economics would indicate that full-service adviser fees would skyrocket following the implementation of the full Hayne RC recommendations (red tape). As a result, average adviser fees subsequently increased from \$3,300 p.a. to at least \$4,850 p.a. Excessive regulatory imposts (not fully removed in this draft legislation) have proven to be highly inflationary, forcing several million Australians to now suffer the lack of cost-effective advice that was more widely available over three years ago.

Adviser numbers have dropped because the cost to service these clients includes over \$100,000 pa in operating costs before any salaries are paid to adviser/s and their support staff. These costs include having to chase up pointless **annual** fee renewal forms that clients don't even want to be bothered with.

The latest figures according to an industry business broking consultant indicates that the average profitable financial planning practice in Australia will now have 130 clients paying \$4,850 pa, paying a total revenue of \$630,500. Little wonder that some top-end advisers are quite happy with the current regime of "annual reviews with an annual fee renewal consent form" red tape.

However, the aftermath of the legislation resulting from the Hayne Royal Commission recommendations has left several million Australians stranded without access to cost-affordable advice.

Intrafund Advice Expansion Anti-Competitive

During their final term of office, the former Labor Government passed legislation [[Superannuation Legislation Amendment \(Further MySuper and Transparency Measures\) Bill 2012](#)], permitting Super Funds to **collectively charge** for "Intra-Fund Advice" from the administration fees of public offer super funds, totally separate from the Future of Financial Advice (FOFA) legislation.

At least one major Industry Super Fund is now calling for the collectively charged "intrafund advice" (ongoing fees charged by Industry Super Funds without member consent at any point) [to be expanded to provide personal advice that is unrelated to their super fund](#).

However, under the proposed Draft Legislation, retail financial advisers will only be able to charge their client's super fund if "the financial product advice is personal advice and is wholly or partly about the member's interest in the fund".

So yet again, we have one set of legislation (Section 99F) being designed for Industry Super Funds, and another discriminatory set of legislation (Section 99FA) for retail financial advisers.

If retail advisers are to be punished with ongoing fee arrangements terminating without consent, the same should apply to members being charged for intra-fund advice (without member consent at any point). If this was any other industry, the ACCC would find that this legislation enables anti-competitive behaviour.

Commissioner Hayne questioned Collective Advice Fees

Given the current legislative review was grounded in the [Hayne Royal Commission findings](#), it is worth noting that Commissioner Hayne included in his Final Report:

It follows that the nature of the advice that may properly be paid for from a superannuation account is limited to advice about particular actual or intended superannuation investments. This may include such matters as consolidation of superannuation accounts, selection of superannuation funds or products, or asset allocations within a fund. It would not include broad advice on how the member might best provide for their retirement or maximise their wealth generally. Any practice by trustees of allowing fees for these latter kinds of financial advice to be deducted from superannuation accounts must end.

As (in my view) this is what the law already requires, no further amendment is necessary. But I would modify the general rule in respect of MySuper accounts, and permit no deduction for advice fees of any kind. The simpler the arrangements about MySuper, the better. It is difficult to imagine circumstances in which a member would require financial advice about their MySuper account. If a member wants financial advice, the cost of that advice should be charged to and paid by the member directly. (Page 240)

In other words, Commissioner Hayne's findings [clearly oppose](#) the extension of intrafund advice fees to retirement planning matters.

Super Consumers Australia concerned about Vertically Integrated Intrafund Advice

Super Consumers Australia (SCA) has also indicated concerns about the so-called "free" intrafund advice you can get from your super fund. SCA says that ["if the advice comes from the same company \(i.e. the super fund\) that provides the product, the consumer isn't going to get the best or more independent guidance on the right products for them"](#). SCA refers to this as ["vertical integration"](#), a problem also highlighted by the Hayne Royal Commission.

Bonuses and Subsidised Advice

Two examples from recently released Financial Services Guides includes paying "bonuses" of up to \$40,000 pay by UniSuper to their advisers ([UniSuper Fees & Costs Page 7](#), [UniSuper Personal Advice FSG Page 5](#)). The payment of these vertically integrated bonus payments was never investigated by the Hayne Royal Commission.

While bank staff have been banned from earning sales bonuses, many of these Industry Super fund staff and advisers have been permitted under the intra-fund system to earn "performance bonuses", in addition to receiving complimentary gym memberships. (LinkAdvice).

While intra-fund advisers deliver a certain level of compliance information for clients (i.e. Statements of Advice for rollovers), they do not have to comply with any other form of

Annual Fee Renewal Consent Forms (that do not exist in any other nation on earth), simply to get paid.

Instead, most of these staff are remunerated primarily from collective intra-fund administration fees automatically deducted from all fund members.

ASIC contradicts Hayne

Appearing before the Parliamentary Joint Committee on Corporations and Financial Services hearings in Sydney on Tuesday [19 November, 2019](#), the regulator confirmed that the law as it currently stood in terms of the *Superannuation Industry (Supervision) Act* allowed for the continuation of the cross-subsidy of Intra-fund advice.

The [transcript](#) (Pages 29-30) reads:

*Senator BRAGG: "... I might just move now to financial advice.... In the Hayne commission, Hayne's view about intrafund advice was: ... the provision of advice that is not personal advice, to members of a particular fund about their interest in the fund, where the cost of the advice is charged collectively to members of the fund in accordance with the SIS Act. He's saying that, effectively, there should not to be the ability to deduct advice fees from the MySuper product but there could be the ongoing use of intrafund advice. **He (Hayne) effectively says that intrafund advice is not personal advice. Is that ASIC's view?***

*Ms Press (ASIC Dep. Commissioner): "**Intrafund advice is personal advice, but it is actually undefined.** There is a section of the SIS Act that allows funds to cross-subsidise certain parts of advice. So it is personal advice in that it.."*

*Senator BRAGG: "**That's not what Hayne said.**"*

*Ms Press: "**By law it's personal advice.** It takes into consideration your personal circumstances, but it is allowed to be **cross subsidised** by the SIS Act under 99F."*

Senator BRAGG: "Obviously, this proposal within the Hayne commission to effectively stop the deduction of advice fees from superannuation accounts is partly based on his rationale that we've just discussed. Do you have any other perspectives on this? "

Ms Press: "No, I don't think so. I think at the end of the day it was a recommendation of Commissioner Hayne and it's a matter government. "

*Mr VAN MANEN: "The question that arises for me from this is, if there's a provision for cross subsidisation within particular funds for the provision of advice, so there will be certain members of the funds that seek advice **but then there are other members of the fund who don't seek advice, the reality is that they're still paying for advice they're not receiving. Why is that the case?** You allow that. That is allowed in certain funds, **yet we've just had a whole long discussion about the provision of fees for no advice.**"*

Ms Press: So section 99F of the SIS Act allows for certain types of personal advice to be

provided by superannuation funds and not charged **directly** to the member. That is the law, as the law currently stands.

Mr VAN MANEN: **It means every member in that fund effectively pays for advice even though they're not getting it.**

AFCA Complaints about Industry Super Funds growing

Commissioner Hayne's additional comment that *"it was not suggested that any misconduct arose from such (intra-fund) arrangements"* was made without any investigation by the Royal Commission into the operations of advice units within Industry Funds.

It beggar's belief that there has been no misconduct by industry funds, given that the highest numbers of complaints registered by the Australian Financial Complaints Authority (AFCA) in relation to superannuation products are now related to Industry Funds.

The latest AFCA [Datacube results of Superannuation Funds](#) show that the Industry Fund AustralianSuper has continued to register the most complaints overall.

Informed Consent

Commissioner Hayne's **recommendation 2.1** states that ongoing fee arrangements should be renewed annually, must record in writing each year the services that the client will be entitled to receive and the total of the fees that are to be charged; and may neither permit nor require payment of fees from any account held for or on behalf of the client **except on the client's express written authority to the entity** that conducts that account given at, or immediately after, the latest renewal of the ongoing fee arrangement. However, Commissioner Haynes made no comment about default super fund members giving authority to deduct those annual intra-fund advice fees from their funds.

In the [FASEA Code of Ethics](#), all financial advisers, including those directly remunerated by default super fund trustees, must comply with FASEA Standard 7, which states that the client must give free, prior and informed consent to all benefits you (the adviser) and your principal will receive in connection with acting for the client, including any fees for services that may be charged.

While default super funds are now required to advise their members via an FSG that they are being charge administration fees for intrafund advice, default fund members are charged that advice fee (that most never receive) without providing any level of informed consent for the intra-fund fees. They are compulsorily deducted from their fund, with no ability to cease paying those fees. "Why am I paying a fee (in my Industry Fund) for no service – By James Mitchell – IFA Magazine ([13 November 2019](#))

Default super fund members have no way of opting out of these compulsory advice fees, apart from switching to a low-cost retail index super fund.

Compulsory Student Union Fee Similarity

Historically, most Coalition MPs and Senators generally oppose student union fees (student services and amenities fees) that are **compulsorily charged** when attending University. Introduced by Labor, intra-fund advice fees are identical in nature to compulsory student union fees.

If individuals wish to join a Union, it should be voluntary, not compulsory. I have been a voluntary member of the Financial Services Union. However, my fees are not compulsorily collected, they are paid with my full informed consent.

The Government should not be further legislating compulsory collective intra-fund advice fees, without the member first giving the Trustee full informed consent and the ability to opt out.

A Broken Advice Model

Under the current (and proposed) legislation, we have a completely broken advice model, that permits millions of fund members to pay for advice from their MySuper accounts without their consent (otherwise known as “fees for no service”), alongside a top end of town service that only the very wealthy can afford.

Smart Phone Contract Style Advice Model

Rather than continue to leave millions of Australians without advice service support, we need instead to look at other service industries where their model works.

As an example, millions of Australians have access to the latest cost affordable mobile smart phones. They buy a phone on [a 36-month contract](#), which can often save consumers up to \$20 a month. It is the 12-month contract which is the most expensive.

Imagine signing up for a 36-month phone contract but being forced by the Federal Government to go into your Telco Shop every 12 months, to renew the contract via an “Annual Fee Renewal Consent Form”. There would be a riot. However, this is the flawed bureaucratic red tape that is now forcing up the cost of Financial Advice in Australia.

The layer upon layer of consent red tape that consumers don’t want and that many retail advisers refuse to engage with, has left over 5 million Australians stranded without access to cost affordable advice. Millions can easily get a mobile phone, but not financial advice!

For example, most Australians seeking advice would be happy to pay \$50 a month, but most cannot afford \$400 a month – which is an excessive advice fee for a member with only \$100,000 in super.

Let's say that under a 36 to 60 month fixed term, fixed fee contract, a financial planning firm can service 1050 clients paying \$600 pa, totalling \$630,000 in gross revenue, before fixed overheads and taxes. However, this may involve one full review, which is paid for over 36 to 60 months.

Under the current legislation, you can charge a one off fee of \$1,800, so what is the problem with providing a more reasonable advice fee arrangement of only \$50 a month over 3 years in lieu?

Furthermore, substantial IT work has been completed by the big super funds, most of which can now deduct fees with a specific end date beyond 12 months. I.e. this arrangement is not an open-ended ongoing fee, but rather is a fee service contract paid over a known period with a known end date. A three or five year service contract not only reduces unnecessary and time wasting red tape for consumers and advisers, it also reduces administration costs for Super Fund Trustees by at least 3 times the current time impost.

Nowhere does legislation require that busy working families must have an Annual Review. While regular reviews is not unusual for retirees with spare time on their hands, busy working families generally only have time for periodic meetings related to specific life events and changes to their work and personal lives.

Until new legislation breaks the nexus between the review process and the time period for payment of services received, such as provided within a 36 to 60 month fixed term service contract, with a one off authorisation form similar to a smartphone contract, there will always remain a massive gap in meeting the demand for cost affordable retail financial advice.

Australia leads the world in Financial Services Red Tape

The Ongoing Annual Fee Renewal Consent Form is a unique form of bureaucratic red tape that doesn't exist in any other comparable nation on earth. This Form does not exist in the UK, the USA, Canada, NZ, Japan or Switzerland. The AFRC Form Red tape only exists here, and since its inception Australia is the only marketplace that has seen a 40 percent reduction in financial advisers, impacting local consumers dramatically.

Now practising in Switzerland, high profile Australian financial adviser Patrick Canion reports that [Statements of Advice and Annual Fee Renewal Consent Form red tape don't exist in Switzerland, but his firm is still able to secure full Professional Indemnity cover regardless.](#)

Given the business of working families, plus the unreliability of junk email, the insistence of ongoing fees requiring an Annual Fee Renewal Consent Form means that only wealthy retirees can gain access to advice.

Proposed Termination Notification:

The period of 10 business days to send the client a termination notice with civil penalties is unnecessary and draconian in nature. If it is perfectly OK to take 150 days to issue an Ongoing Annual Fee Renewal Consent Form, it should also be OK to allow 150 days to issue a termination form – particularly if the adviser concerned is travelling overseas or is adversely impacted by illness etc.

Proposed Informed consent for certain insurance commissions:

This consent information as outlined in the Draft legislation is provided on the original insurance quotation at the time of the life insurance being issued, not to mention included in the Statement of Advice. Assuming the SoA was to be eliminated under future law, to replicate this consent is simply a duplication of the application/quotation the client already signs. This is not a reduction in red tape, and breaches/civil penalties will simply discourage even more new advisers at University from being involved with this industry.

CONCLUSION

If the draft legislation as proposed proceeds without amendment, this will in effect further formalise the two distinct types of financial product advice and two types of advisers that currently exist.

They are: Financial advice that is being provided to other fund members of that fund (without the informed consent of the members paying for advice they may not receive) and financial advice outside default Industry Super funds, where the member has provided informed consent for advice they do receive.

Advisers remunerated via collective mechanisms, not lumbered with massive regulatory red tape as other advisers, would be the beneficiaries of a major competitive advantage, which is fast developing into an **anti-competitive** and **industrial unfairness** issue.

In this submission I recommend that collectively charged fees should only be used by Super fund trustees to provide general factual information to fund members (ie address updates, changing nominated beneficiary details etc).

Even Commissioner Haynes in his report, commented that “It is difficult to imagine circumstances in which a member would require financial advice about their MySuper account”. HRC Vol 1. As there is no difference in law regarding providing financial product advice, his comments could be interpreted to suggest that there is no need to charge intra-fund fees to provide for financial advice.

Any other form of personal advice provided by any Super Fund should be charged directly to the member seeking advice, and not paid for by other members who are not receiving that

advice. All advisers employed by that Trustee, who are providing financial product advice should not be remunerated by other members in lieu.

Advisers under both SIS Action Section 99F and Section 99FA should be allowed to adopt the Smart Phone Adviser Service Support contract. How many years do consumers have to wait until the \$3.5 Trillion Superannuation industry finally catches up with the 21st Century?

Kind regards



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Mob 

SUBMISSION FOR DISTRIBUTION

REFERENCES

Teacher Staff numbers - ACARA

<https://www.acara.edu.au/reporting/national-report-on-schooling-in-australia/staff-numbers#:~:text=Key%20Facts,%25%20in%20non%20government%20schools.>

[Superannuation Legislation Amendment \(Further MySuper and Transparency Measures\) Bill 2012](#)

Aware Super seeks Treasury approval for 'health check' nudges

5 DECEMBER 2023 | By [Laura Dew](#) | [SUPERANNUATION](#) SUPER REVIEW

Aware Super is in discussion with Treasury as to how it can broaden its scope of member advice beyond the provision of intra-fund advice.

Super funds are being encouraged by the Minister for Financial Services Stephen Jones to provide financial advice to their members as part of the government's response to the Quality of Advice Review and further details were included in the first tranche of consultation under Delivering Better Financial Outcomes Bill.

Speaking at the ASFA conference in Adelaide, Jo Brennan, chief operating officer at Aware Super, said: "The boundaries of intra-fund advice are limiting and this is something we are trying to consult with Treasury on in the Delivering Better Financial Outcomes reforms. How do you get the cost down of producing advice?"

"We are strong advocates of a slight expansion of what you can do under a collective charging model, which is absolutely affordable for members and, for some members, it will be the only piece of advice they get in their lifetime. For us, the extension of that is including a couple or a household and having a conversation about their Centrelink and the age pension entitlement, diverging slightly away from only their interest in the fund as we find that limiting."

"This will dial up the volume of people we are able to help in a cost-effective way." She said the fund's digital advice offering My Retirement Planner has already received over 28,000 users since July and has produced over 11,000 statements of advice (SOA).

<https://www.superreview.com.au/news/superannuation/aware-super-seeks-treasury-approval-health-check-nudges?>

Final Report

Royal Commission into
Misconduct in the Banking,
Superannuation and
Financial Services Industry

Volume 1. 2.3 Dealings with members' funds

2.3.1 Deduction of advice fees from superannuation accounts

One of the key elements contributing to the charging of fees for no service was the **invisibility of the charges made**. In almost every case the fees were charged directly to the person's investment accounts – often enough to the person's superannuation account.

On its face, it may seem odd that such fees were being deducted from superannuation accounts at all. No doubt the trustee of the fund may resort to the funds held in order to reimburse the trustee for outgoings incurred in the course of performance of the trust. No doubt the trustee may resort to the funds held to meet fees owing by members to the trustee under the rules of the fund. Hence fees like administration fees are properly charged to members' accounts.

But ongoing service fees payable to an advice licensee or the authorised representative of an advice licensee are neither outgoings that the trustee incurs in performance of the trust nor fees charged to members under the rules of the fund. They are fees charged under a contract the member has made with the advice licensee or the authorised representative for provision of advice.

Page 239, volume 1

More often than not, trustees of RSEs have permitted payment out of a member's account of fees certified by either the advice licensee or the authorised representative to be fees for advice about the member's superannuation arrangements. But in many cases, the services to be provided by the adviser have been so loosely defined that the advice provided may, but need not, include advice about whether to alter the client's financial plans or arrangements about post-retirement income.

I consider that using superannuation money to pay for such broad financial advice is not consistent with the sole purpose test prescribed by section 62 of the SIS Act. That requires the trustee of an RSE to 'ensure that the fund is maintained solely' 64 for identified purposes. All of the core purposes specified hinge on the provision of benefits upon a member's death or retirement. So understood, it is not consistent with the sole purpose test for a trustee to apply funds held by the trustee in paying fees charged by an adviser to consider, or re-consider, how best the member may order his or her financial affairs generally or may best make provision for post-retirement income.

It follows that the nature of the advice that may properly be paid for from a superannuation account is limited to advice about particular actual or intended superannuation investments. **This may include such matters as consolidation of superannuation accounts, selection of superannuation funds or products, or asset allocations within a fund.** It would not include broad advice on how the member might best provide for their retirement or maximise their wealth generally. Any practice by trustees of allowing fees for these latter kinds of financial advice to be deducted from superannuation accounts must end.

As (in my view) this is what the law already requires, no further amendment is necessary. **But I would modify the general rule in respect of MySuper accounts, and permit no deduction for advice fees of any kind.** The simpler the arrangements about MySuper, the better. **It is difficult to imagine circumstances in which a member would require financial advice about their MySuper account.** If a

member wants financial advice, the cost of that advice should be charged to and paid by the member directly.

<https://www.royalcommission.gov.au/system/files/2020-09/fsrc-volume-1-final-report.pdf>

ASIC CONCEDES HAYNE ERROR ON PERSONAL ADVICE

The corporate regulator has told a government committee that intra-fund advice is regarded as personal advice, contrary to the views of commissioner Kenneth Hayne during the royal commission.

NEWS by **ADRIAN FLORES** - November 21, 2019 IFA MAGAZINE

<https://www.ifa.com.au/news/27386-asic-concedes-hayne-error-on-personal-advice>

SUPER CONSUMERS ASSOCIATION

'Intra-fund' advice isn't the answer

Diego reflects on the limitations of intra-fund advice – **this is, the free advice you can get from your super fund.**

"I'm reluctant to purchase a product or service from my bank or superannuation fund," he says. "Are they merely [recommending] the product due to sales quotas and the earn commission, or are they selling it because it is best for you?"

Only 42% of people surveyed agree that they felt themselves to be in a better financial position as a result of the advice or guidance they received from their fund.

'Limited help'

Chris also says that **the advice from the super fund only goes so far.**

"[Funds] only help you understand their product... that is of only limited help in planning your finances," he says.

Similarly, Terry found the advice from his super fund "very general in nature". Stevie says the worst thing about this advice is that it's "limited to [her super fund's] products", which don't meet her needs.

If the advice comes from the super fund that provides the product, the consumer isn't going to get the best or most independent guidance

This form of advice has some in-built limitations. Above all, if the advice comes from the same company (i.e. the super fund) that provides the product, the consumer isn't going to get the best or most independent guidance on the right products for them.

<https://www.choice.com.au/money/financial-planning-and-investing/superannuation/articles/financial-advice-survey>

SUPER CONSUMERS ASSOCIATION

The vertical integration problem

For a long time, 'vertical integration' was common in Australia's finance system. This arrangement involves a provider (such as a super fund or bank) offering a service or product and also advice.

The banking royal commission made clear that this arrangement often wasn't in the best interests of consumers.

The royal commission made clear that this arrangement often wasn't in the best interests of consumers

It may have been convenient to get your super and advice about super in one place. However, this model had an obvious conflict of interest as the product owner was biased towards their own products rather than the customer's best interests.

<https://www.choice.com.au/money/financial-planning-and-investing/superannuation/articles/one-stop-shop>

UniSuper Fees & Costs (PDF)

<https://www.unisuper.com.au/-/media/files/pds/ibr/fees-and-costs.pdf>

UniSuper Financial Services Guide – Personal Advice (PDF)

<https://www.unisuper.com.au/-/media/files/disclosures/financial-services-guide-personal-advice.pdf?rev=b92fc0c4c81d4597b58c4e58affcdf9e&hash=3D039FBBB2838A4DA0DF42D174879C66>

<https://www.unisuper.com.au/financial-advice/types-of-advice>

Senate – Parliamentary Joint Committee on Corporations and Financial Services

Oversight of ASIC & the Takeovers Panel Sydney, Tuesday 19 November 2019

<file:///G:/Industry%20Funds%20Research/IntraFund%20Advice%20Explained/Financial%20Services%20Royal%20Commission%20-%2028%20Feb%20consultation/Submission/Parliamentary%20Joint%20Committee%20on%20Corporations%20and%20Financial%20Services%202019%2011%2019%207364%20Official.pdf>

AFCA Datacube – Super fund complaint data – Nov 2023

<https://data.afca.org.au/superannuation>

<https://www.afca.org.au/news/latest-news/afca-updates-its-public-datacube>

“Why am I paying a fee (in my Industry Fund) for no service”

By James Mitchell – IFA Magazine ([13 November 2019](#))

<https://www.ifa.com.au/editorial/27361-why-am-i-paying-a-fee-for-no-service>

12-month vs. 24-month vs. 36-month phone contracts: How they compare

<https://www.whistleout.com.au/MobilePhones/Guides/12-vs-24-vs-36-month-contracts>

Former ipac adviser teams up with TWD to give advice without borders



Patrick Canion (left) and Troy MacMillan



[Simon Hoyle](#) September 14, 2023 | Professional Planner

Perth-based financial planning firm The Wealth Designers and former ipac adviser Patrick Canion have teamed up to offer cross-jurisdictional advice and investment services to TWD’s high net worth clients, and to provide Canion with a base to continue to service his Australian clients.

Canion left the ipac and AMP fold in 2019, and decamped to Switzerland where he became an independent financial adviser under Swiss law, establishing a private client advisory business. But he has maintained close links with his Australian clients, and the venture with TWD builds on a relationship that is more than 20 years old.

It will see Canion providing advice to his own clients and to clients of TWD who require expert guidance on investing offshore and dealing with taxation issues in multiple jurisdictions. For TWD, it represents a significant value-added service for its wealthiest family and individual private clients.

Canion crossed paths with TWD founder and chief executive officer Troy MacMillan in late 2002 when MacMillan joined the financial advice industry with a licensee owned by AXA. The advice newbie was urged to meet Canion to get the lay of the advice land.

“I remember it very, very clearly for me at least, because he was the first person I met in financial advice,” MacMillan tells *Professional Planner*.

“We had a great chat, but it wasn’t limited to that first chat, and what I will always be grateful for was that Patrick was very giving of his time.”

The was crucial to MacMillan who says that he now appreciates that business owners don’t have excess time.

“He gave me a lot of his time, talked through exactly what to expect, the challenges and hurdles, and, you know, try not to reinvent the wheel, and here’s some tips of the trade and some secrets I’ll share with you, and so on,” MacMillan says.

“To be really honest with you, he was the only person who actually gave me time. We did go to a few other practices, and others I found just didn’t have the time. They gave you a 30-minute chat but didn’t have the follow-up part.”

Back to the start

In 2009 MacMillan set up The Wealth Designers and by 2011 he was being named Australian adviser of the year by the Association of Financial Advisers; followed by advice practice of the year by the Financial Planning Association in 2012; and for best practice by *Professional Planner*, in conjunction with consulting firm Business Health, in 2013. TWD would go on to win a string of other awards.

MacMillan says Canion’s approach to work together came out of the blue but was something they were able to quickly agree had legs.

“We had some really great chats initially, talked very broadly around things, what was happening in Switzerland, what his thoughts were for the future,” MacMillan says.

“He said he was coming to Perth, and when he gets to Perth it would be great to have a bigger chat. And that’s when we really sat down face to face, and chatted through what are the opportunities, and what it could look like going forward.”

Canion says he learned through his own experience of moving to Switzerland that finding the right advice in a new country can be challenging, and through contact with an Australian expat client base that there was demand for services he and MacMillan could offer.

“Increasingly, in an affluent society, investors are looking beyond just the domestic situation and [asking] where’s a safe home for my capital?” he says.

“There’s sovereign risk and fiat risk involved in any investments, so what’s the most appropriate way of both protecting my assets and protecting against such risks?”

Canion built a network in Switzerland, amongst the Australian community living there and became licensed in Switzerland as a client adviser.

But Canion also recognised that he had a natural market of clients still in Australia and faced the issue of how to service them.

“To be active in Australia I both needed to be regulated but more importantly, I needed the infrastructure,” he says.

“I don’t want to do it all and re-create the wheel myself. I really was looking for a practice that I felt comfortable with, that I understood, but also operated in a similar area of market but with similar qualities to what we always tried to achieve at ipac.”

MacMillan says TWD has cultivated a high-value client base that often throws up complex financial issues and challenging advice tasks.

“What we can do now is say if there are any complexities there we do have someone over in Switzerland, who can take care of that for you, or who may know someone introduce you to,” MacMillan says.

“We’ve just got an extension now which, for us, is another value-add that we can actually do for these wealthy family groups that we’re looking after. It’s been well received already, just the fact that we’ve got someone there.

“For these high-need wealthy families, knowing that they’ve got someone overseas [and] they’ve got someone who understands how structuring issues are solved around the world and if not do it himself, he can certainly refer us to the right group to help our clients, it’s a real extension of what we’re offering here to his private clients in Australia.”

The main difference is the weather

Canion says being regulated as an adviser in two separate jurisdictions has not proven to be a barrier. He says there are thematic consistencies around issues such as disclosure and the need to act in the client’s best interests, but adds that “without being overly critical, they are much less paternalistic”.

“They basically take an attitude that as an adviser you have to have good systems and robust systems,” Canion says.

“You have to have PI [professional indemnity] insurance. There’s a complaints mechanism in place. You can earn a commission, but you have to disclose it. You can’t double-charge. But beyond that, you’re consenting adults.”

Canion says that like in Australia an adviser is required to undertake a client risk assessment and invest according to the client’s wishes. But Switzerland doesn’t have Statements of Advice.

“You basically have to give them annually a statement of their investment account which, on most systems, they can just log in and get anyway,” he says. “It’s much more light touch there.”

Canion adds that a significant difference between Switzerland and Australia is the role played by self-regulation.

“To be an investment manager or client adviser, you’re actually regulated by a co-operative self-regulatory organisation in the first instance,” he says.

“Only then the national regulator after that. You actually have practitioners overseeing and supervising other practitioners.”

<https://www.professionalplanner.com.au/2023/09/former-ipac-adviser-teams-up-with-twd-to-give-advice-without-borders/>

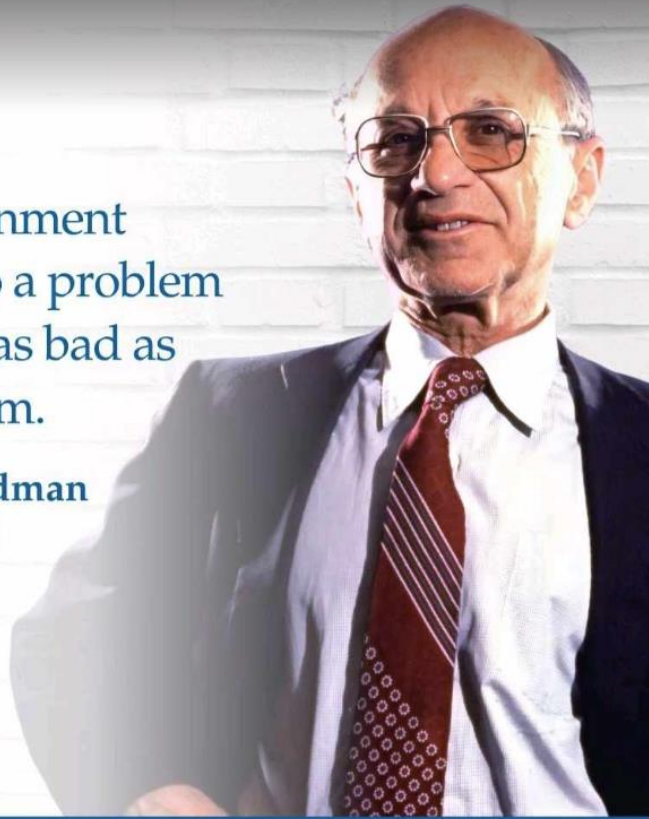
If central planners designed
your house:



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The government solution to a problem is usually as bad as the problem.

Milton Friedman



It is hard to imagine a more stupid or more dangerous way of making decisions than by putting those decisions in the hands of people who pay no price for being wrong.

~Thomas Sowell

