



Director
Advice and Investment Branch
Treasury
Langton Cres
Parkes ACT 2600

Dear Director

Treasury Laws Amendment (Delivering Better Financial Outcomes) Regulations 2024 (Cth) - Submission by the Institute of Public Accountants (IPA)

About the IPA

The IPA is one of the three professional accounting bodies in Australia, representing over 50,000 members and students in Australia and in over 100 countries. Approximately three-quarters of the IPA's members work in, or are advisers to, small business and small-to-medium enterprises. Its reason for being is to improve the quality of life of small businesses.

Submission on proposed changes to the Corporations Regulations 2001 (Cth)

Superannuation and Financial Services Guide

The IPA supports the amendments made to the Electronic Regulations 2020 (Cth) by Part 1 of Schedule 1 of the draft Treasury Laws Amendment (Delivering Better Financial Outcomes) Regulations 2024 (Cth) (**Draft Regulations**), which ensure that written information or documentation requirements under section 99FA of the *Superannuation Industry Supervision Act 1993* (Cth) (as repealed and replaced by item 2 of Schedule 1 to the Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 (Cth) (**Bill**)) can be satisfied electronically. As noted in our submission concerning the Bill, the IPA supports the ability of superannuation funds to pay adviser fees from a member's interest in the fund on the direction of the member but had concerns with the proposed subsections 99FA(1)(a), (b) and (d) of the *Corporations Act 2001* (Cth) (**Corporations Act**) and put forward suggested changes for these subsections.

The IPA supports the latest amendments to the Bill to remove the previously proposed subsections 99FA(1)(a) and (b) - noting these requirements are effectively already addressed by a superannuation fund trustee being required to comply with the sole purpose test and duty to act in the best financial interests of members - but remains concerned with the inclusion of subsection 99FA(1)(d). Our earlier submission in relation to the Bill set out why we consider this subsection should be removed. For ease of reference, we have restated this submission below.

In circumstances where advice is provided under an ongoing fee arrangement, preventing a superannuation fund trustee from charging against a member's interest in the fund the cost of advice provided unless the adviser has complied with the applicable requirements of Division 3 of Part 7.7A of the Corporations Act effectively requires the trustee to ensure that the adviser has complied with these provisions. Clearly, this would be a significant administrative burden for superannuation

trustees, as it arguably requires them to make an assessment of the validity of ongoing fee arrangements to which they are not a party, and would materially delay trustees releasing payments for advice, reducing the accessibility of advice. The exercise will also be very costly for the trustee and is likely to be a disincentive to offering members the ability to pay for advice this way. Other provisions of Division 3 of Part 7.7A already establish the requirement for the fund member to consent to the payment in order for the superannuation trustee, as an account holder, to deduct any advice fees.

The IPA also supports the amendments made at Part 3 of Schedule 1 of the Draft Regulations in relation to Part 7.7 of the Corporations Act, which make it easier for Australian financial services licensees or their authorised representatives to provide a Financial Services Guide (**FSG**) to retail clients by providing them with the ability to provide information that would be required to be in an FSG via their website.

The IPA supports the amendments made at Parts 1 and 3 of Schedule 1 of the Draft Regulations on the basis that they remove unnecessary red tape and provide greater flexibility for both advice providers and consumers, improving the ease with which financial advice can be provided while ensuring that adequate consumer protection mechanisms are maintained.

Ongoing fee arrangements and conflicted remuneration

The IPA supports the amendments made by Part 2 of Schedule 1 of the Draft Regulations to remove redundant provisions contained in the current Corporations Regulations 2001 relating to fee disclosure statements, and to update existing obligations to reflect the Corporations Act, as amended by the Bill.

The IPA also supports the repealing of exceptions to conflicted remuneration that are no longer needed due to the introduction of the new definition of conflicted remuneration contained in the Bill, which ensure that benefits given by a retail client to an AFS licensee or authorised representative are not conflicted remuneration.

The IPA has no further comments it wishes to make.

Please let us know if you would like to discuss or if you have any questions on this submission.

Yours sincerely

Institute of Public Accountants