



Submission to the
Financial Services Royal Commission
– Interim Report

October 2018

Combined Pensioners & Superannuants Association of NSW Inc (CPSA)

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CPSA receives funding support from the New South Wales and Australian Governments

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CPSA is a non-profit, non-party-political membership association founded in 1931 which serves pensioners of all ages, superannuants and low-income retirees. CPSA has 95 branches and affiliated organisations with a combined membership of over 23,000 people living throughout NSW. CPSA's aim is to improve the standard of living and well-being of its members and constituents. CPSA receives funding support from the NSW Government Departments of Family & Community Services and Health and the Australian Government Department of Social Service.

CPSA welcomes the opportunity to comment on the Financial Services Royal Commission's Interim Report. In this submission, CPSA will confine itself to commenting on issues related to the provision of financial advice. CPSA's comments are in response to the questions listed at the end of the financial advice section in the Commissioner's interim report. These comments are based on policy positions CPSA has held and advocated for throughout previous reviews of the financial advice industry and regulation.

1. How does a financial adviser's employer encourage provision of sound advice (including, where appropriate, telling the client to do nothing)?

A financial advice business should avoid putting its advisers in conflict with the interests of their clients and should pay the advisers it employs a salary only, avoiding any incentive programs based on volume or value of sales resulting from advice given. A financial advice business should not accept any fees or commissions from product manufacturers when its advisers recommend products to their clients. A financial advice business should fund its operations from advice fees only and these should be based exclusively on hours spent providing advice.

2. How do advice licensees encourage advisers aligned with the licensee to provide sound advice (including, where appropriate, telling the client to do nothing)?

If a financial advice business adheres to the principles under point 1 above, it should ensure that sole trader advisers and other advice businesses aligned with licensees source their revenue exclusively from hourly rates.

3. Can conflicts of interest and duty be managed?

The financial advice industry in Australia has its roots in financial product sales. Vertical integration of these two functions occurred intentionally to exploit conflicts of interest. Any continuation of sales and advice in an integrated structure will legitimise the intention at the basis of vertical integration of sales and advice and ensure that conflicts of interest will be managed to the advantage of the business rather than its clients. The function of providing financial advice has been embraced by providers of financial products precisely because it would enable them to advise their clients to buy their product and no one else's.

The question is not so much whether conflicts of interest and duty *can* be managed, but *why* they should be when it is far more effective to avoid them altogether by separating the sales and advice functions. It is clear that the appeasement approach taken by FOFA, which sought to accommodate the conflicts of interest by finding a mechanism to

manage them, has proved to be ineffective. There is no reason for this Royal Commission to recommend a reprise of the failed FOFA attempt.

4. How far can, and how far should, there be separation between providing financial advice and manufacture or sale of financial products?

Financial advice should only be provided independently from product manufacturers and sellers. There should be no contractual or any other commercial or proprietary links between the adviser and the manufacturer or seller to ensure the absence of a conflict of interest between.

5. Should financial product manufacturers be permitted to provide financial advice?

It follows from comments made under point 4 above that financial product manufacturers should be permitted to provide product information, but should not be permitted to offer any guidance as to what personal financial or economic circumstances should prompt a consumer to buy their product.

6. Should financial product sellers be permitted to provide financial advice?

It follows from comments made under points 4 and 5 above that financial product sellers should be permitted to provide and explain the manufacturer's product information to a prospective customer, but should not be permitted to offer any guidance as to what personal financial or economic circumstances should prompt that customer to buy the manufacturer's product.

7. Should an authorised representative be permitted to recommend a financial product manufactured or sold by the advice licensee (or a related entity of the licensee) with which the representative is associated?

It follows from comments made under points 4, 5 and 6 that an authorised representative should not be permitted to recommend a financial product manufactured or sold by the advice licensee (or a related entity of the licensee) with which the representative is associated.

8. Should any part of the remuneration of financial advisers be dependent on value or volume of sales?

A financial advice business should avoid putting its advisers in conflict with the interests of their clients and should pay the advisers it employs a salary only, avoiding any incentive programs based on volume or value of sales resulting from advice given.

9. *Should all financial advisers (including those who now act as authorised representatives of an advice licensee) be licensed by ASIC?*

It is clear that the ASIC licensing of financial services has not produced the desired outcomes in terms of quality of advice and governance of the financial planning industry. To extend the licensing arrangements to all individual financial advisers, including those working as representatives of advice licensees, would be unlikely to improve the performance and governance of the financial advice industry. Before the question of who should be licensed can be answered, both the current licensor and the licensing system operated by the licensor should be reviewed.

10. *Are current product and interests disclosure requirements sufficient to allow customers to make fully informed choices?*

CPSA's comments under this question will refer to product disclosure requirements only.

The simplicity/opacity of Product Disclosure Statements (PDSs) was an issue with which FOFA grappled. However, attempting to make PDSs for financial products comprehensible for the non-expert will by definition run into trouble, as it takes an expert to understand not only how a financial product works, but also to understand the even more important personal implications for the consumer should they purchase the product. A financial product PDS can never replace that expertise. It is for this reason that financial product PDSs should be pitched at the level of experts, not at clients of experts.

Arguably, the financial advice industry has been and continues to include persons with low qualifications and limited expertise, unable to fully understand and advise clients on financial product features and the implications of purchase for clients. The FOFA approach - to load up PDSs with more and more financial product information so that clients may understand product features and implications of purchase by themselves - was doomed to fail. It could also be considered an integral part of FOFA's attempt to accommodate the conflicts of interest and duty (see point 3 above): by giving clients 'all' the information about a financial product, they can't then complain they didn't or couldn't have known the features of the financial product they ended up purchasing. It also absolves the financial adviser from any lack of understanding and this environment of shared ignorance progresses the sale of financial product manufactured by licensees.