

MEDIA RELEASE



www.fpa.asn.au

Date: 28 April 2005

FPA proposes Principles for managing conflicts of interest

The Financial Planning Association (FPA) has released draft principles designed to assist members in managing potential or perceived conflicts of interest. A six month consultation period has begun, with FPA members invited to comment by Friday 28 October 2005.

As a demonstration of its members' commitment to the interests of their clients, the FPA is engaged in a three phase process to improve the clarity and transparency of payment and remuneration practices in financial planning and to improve client understanding. The draft principles, which are the third phase of this program, have been developed by an FPA taskforce made up of Principal members (including boutique, medium and large AFS licensees).

The taskforce has adopted as the key principle that FPA members have a primary obligation to provide advice which is in the interest of the client.

"This restatement of every financial planner's fiduciary duty is the touchstone for all dealings with clients, especially when addressing any real and perceived conflicts of interest", Ms Kelly said.

"By helping members to manage potential or perceived conflicts of interest, we seek to improve the quality of advice FPA members provide to clients as well as clients' understanding of the advice and information that they receive. Australians will have greater confidence in seeking the help of financial planners and the value of their advice will be more widely recognised", said Ms Kelly.

Taskforce Member and FPA Director Sarah Brennan commented, "In line with the FPA's role as a member based association which sets high standards of professionalism for members, the taskforce has deliberately avoided a rules-based prescriptive approach. Given the dynamism of the financial services industry, such an approach may have quickly become outdated.

"FPA's work on managing conflicts of interest is part of a wider undertaking to improve the clarity and transparency of payment and remuneration practices in financial planning, and to improve client understanding", Ms Brennan added.

“We urge all FPA members – practitioners and Principals, whatever their size or business model - to examine the draft principles and provide feedback and comment that can be considered by their peers on the task force. We encourage members to consider what the principles may mean for the financial planning profession and for their businesses”, Ms Brennan said.

The consultation paper is attached

- Ends -

MEDIA CONTACT

Susan Grice, FPA Corporate Communications
(02) 9220 4508 susan.grice@fpa.asn.au

FINANCIAL PLANNING ASSOCIATION

DRAFT PRINCIPLES TO MANAGE CONFLICTS OF INTEREST

BACKGROUND

As a demonstration of its members' commitment to the interests of their clients, the FPA is engaged in a three phase process to improve the clarity and transparency of payment and remuneration practices in financial planning and to improve client understanding.

Phase 1 was completed 1 August 2004 with adoption of the Code of Practice on Alternative Remuneration in the Wealth Management Industry. Phase 2 is complete with the announced adoption of the Industry Guide on Rebates & Related Payments from 1 January 2005. Work is well developed on Phase 3, the establishment of principles to help members manage areas where potential or perceived conflicts of interest may exist.

It is recognised that financial planners have obligations under the Corporations Act to address conflicts of interest so that they can serve the interests of the clients. Policy Statement 181 sets out ASIC's guidance as to best practice in managing, disclosing and where necessary, avoiding conflicts of interest. As well, the purpose of many of the disclosure provisions in the FSR regime is to resolve conflicts of interest. FPA's intention is not to add another layer of regulation but to distill existing obligations into a number of principles which members could use to better help clients build and manage their wealth.

A FPA Taskforce made up of AFS licensee members (including boutique, medium and large operations) has developed a set of draft principles which is currently the subject of consultation across a range of FPA members.

In line with the FPA's role as a member based association which sets high standards of professionalism for members, the Taskforce has deliberately avoided a rules-based prescriptive approach. Given the dynamism of the financial services industry, such an approach would have quickly become outdated. The intention is that the principles, once finalised in light of the consultation process and adopted by the FPA, would provide guidance to its members on issues they should consider in the course of their financial planning businesses. Implementation of the principles would be subject to existing contractual relationships.

DRAFT PRINCIPLES

The Taskforce has adopted as the Key Principle that FPA members have a primary obligation to provide advice which is in the interest of and to the benefit of the client.

The Taskforce believes that this restatement of a financial planner's fiduciary duty to their client provides direction to FPA members in all aspects of their client relationships, as well as guiding them when addressing real and perceived conflicts of interest. Consequently, the Taskforce has developed seven **Subsidiary Principles** to follow in applying this Key Principle:

- 1) A financial planner will provide a client with clear, concise and comprehensive information so that the client will understand the advice and service being offered and its cost.
- 2) Financial planning advice should be independent from and not tied to product recommendations.
- 3) Where it is appropriate to recommend a product to a client, all FPA members should only offer products which suit the needs of the client and do not bring the industry into disrepute.
- 4) No FPA member shall receive or reward any remuneration or benefits which are biased against or may not be in the interests of the client.
- 5) A financial planner must disclose to a client any existing or potential financial interest (such as shareholdings or equity entitlements) they, or an entity in which they have an interest, have in the products or platforms they use and/or in their AFS licensee or related entity.
- 6) There should be separate corporate governance in place between an AFS licensee and related fund managers and product/platform manufacturers within the same group.
- 7) FPA members have a responsibility to abide by the FPA Principles to address any real or perceived conflict/s of interest.

The attachment contains suggestions and thoughts as to potential consequences which may result from the Principles.

The FPA emphasises that the draft Principles document is a basis for consultation. Although FPA Taskforce members are in general broadly comfortable with its direction, the document is not an agreed text where each provision has been endorsed by every Taskforce member and not every task force member agrees with every principle. In particular, attention needs to be given to the implications of each principle for advice concerning investment and financial protection products.

The feedback from the current consultations will be used as a base for further discussion and consultation by the FPA and the Taskforce. As a number of matters dealt with in the draft Principles are beyond the responsibility of financial planners, discussions are being held with IFSA to explore the potential for a co-operative approach on issues of common concern.

Financial Planning Association of Australia
April 2005

DRAFT KEY PRINCIPLE

FPA members have a primary obligation to provide advice which is in the interest of and to the benefit of the client.

The expectation would be that application of the draft Key Principle would result in:

- a perceptible shift in savings adequacy and financial protection coverage - attributable to ‘advice’ and FPA member involvement
- enhanced client understanding of FPA members’ advice and information on fees
- recognition of FPA members as respected professionals with their advisory services valued in their own right

APPLICATION OF DRAFT KEY PRINCIPLE THROUGH THE SUBSIDIARY DRAFT PRINCIPLES

1) A FINANCIAL PLANNER WILL PROVIDE A CLIENT WITH CLEAR, CONCISE AND COMPREHENSIVE INFORMATION SO THAT THE CLIENT WILL UNDERSTAND THE ADVICE AND SERVICE BEING OFFERED AND ITS COST.

This subsidiary principle builds upon the disclosure provisions of the Corporations Act and the requirements of the FPA/IFSA Code on Alternative Remuneration and the FPA/IFSA Rebates and Related Payments Guide.

Examples of changes in practice which may result from application of this draft Subsidiary Principle are:

- a) Advice fees divided into initial and ongoing and explicitly disclosed rather than implicitly disclosed.
- b) A one page fee template.
- c) Consumer guidelines about which services are provided from product, platform and advice providers and the fees they charge.
- d) Creation of standard industry terms.
- e) Standardised disclosure format with consistent use of industry terms.

Examples of outcomes for consumers which may flow from application of this draft Subsidiary Principle are:

- 1) Simple consumer information using plain English.
- 2) Consumer knows total cost and “who gets what” in terms of the division between advice and product manufacture.
- 3) Consumers can readily understand advice from FPA members and compare information on service being offered and cost.

2) FINANCIAL PLANNING ADVICE SHOULD BE INDEPENDENT FROM AND NOT TIED TO PRODUCT RECOMMENDATIONS.

This draft Subsidiary Principle emphasises that financial planning advice is economically valuable in its own right. It suggests that fees should be unbundled to identify separately those relating to advice and product manufacture.

Examples of changes in practice which may result from application of this draft Subsidiary Principle are:

- a) Advice unbundled from manufacturing
- b) The advice fee is still able to be collected via the product or platform. Any advice fee collected via product or platform would be disclosed as such at both adviser disclosure and product disclosure documents.
- c) In line with a) and b) above, trail commissions would be known, identified (disclosed – initial and ongoing) and recognised as service remuneration for ongoing advice.

Examples of outcomes for consumers which may flow from application of this draft Subsidiary Principle are:

- 1) Financial advice is valued by customers.
- 2) Service is clearly articulated and customer agrees with financial planner to pay an appropriate fee for the advice provided.
- 3) Products become recognised as implementation vehicles (advice is purchased by the client – products are used).
- 4) What the client is paying for is better understood.

3) WHERE IT IS APPROPRIATE TO RECOMMEND A PRODUCT TO A CLIENT, ALL FPA MEMBERS SHOULD ONLY OFFER PRODUCTS WHICH SUIT THE NEEDS OF THE CLIENT AND DO NOT BRING THE INDUSTRY INTO DISREPUTE.

This Subsidiary Principle focuses attention on the long term interests of the client and the financial planning sector. It is intended to provide guidance to FPA members. It may be that in light of implementation of the Principles, members may reach a consensus to take collective action not to recommend a particular product or class of product.

4) NO FPA MEMBER SHALL RECEIVE OR REWARD ANY REMUNERATION OR BENEFITS WHICH ARE BIAISED AGAINST OR MAY NOT BE IN THE INTERESTS OF THE CLIENT.

This Subsidiary Principle recognises that the AFS licensee (FPA Principal Member) is the gatekeeper of all remuneration and addresses the potential for arrangements between the Licensee and the adviser to influence the recommendations made.

Changes in practice which may flow from application of this Subsidiary Principle:

- An AFS licensee (FPA Principal Member) would not reward its financial planners in any way that could (or could be perceived to) ‘bias’ advice to one product manufacturer over another. Examples of arrangements where this may occur include dealer splits, BOLR and equity schemes where preference is given to internal product; and
- All volume-related ‘soft \$s’ eliminated in line with Code on Alternative Remuneration.

Outcomes for consumers which could be expected to flow from application of this Subsidiary Principle:

- Consumers receive product recommendations appropriate to their circumstances.

5) A FINANCIAL PLANNER MUST DISCLOSE TO A CLIENT ANY EXISTING OR POTENTIAL FINANCIAL INTEREST (SUCH AS SHAREHOLDINGS OR EQUITY ENTITLEMENTS) THEY, OR AN ENTITY IN WHICH THEY HAVE AN INTEREST, HAVE IN THE PRODUCTS OR PLATFORMS THEY USE AND/OR IN THEIR AFS LICENSEE OR RELATED ENTITY.

This Subsidiary Principle would require disclosure to the consumer if a financial planner were dealing in an entity in which they had an interest, either directly or indirectly.

Examples of changes in practice which may result from application of this draft Subsidiary Principle are:

- a) Full disclosure in FSG/SOA of any interests that an adviser has in the products or services they use.

6) THERE SHOULD BE SEPARATE CORPORATE GOVERNANCE IN PLACE BETWEEN AN AFS LICENSEE AND RELATED FUND MANAGERS AND PRODUCT/PLATFORM MANUFACTURERS WITHIN THE SAME GROUP.

Implementation of this draft Subsidiary Principle would protect the client's interests from possible conflicts with those of the AFS licensee's shareholders.

Examples of changes in practice which may result from application of this draft Subsidiary Principle are:

- a) The corporate governance structure for the AFS licensee would need to have as one of its objectives that its financial planners have a primary obligation to provide advice which is in the client's interests – similar to Managed Investments Act requirements of "acting in the interest of unit holders".

An example of outcomes for consumers which may flow from application of this draft Subsidiary Principle is:

- 1) Consumers will be able to confidently make more informed choices in the knowledge that the financial planner is acting in their interests.

7) FPA MEMBERS HAVE A RESPONSIBILITY TO ABIDE BY THE FPA PRINCIPLES TO ADDRESS ANY REAL OR PERCEIVED CONFLICT/S OF INTEREST.

Examples of changes in practice which may result from application of this draft Subsidiary Principle are:

- a) FPA members agree to adopt a principle based approach to conflicts of interest.
- b) Elevation in consumer perception of the financial advice profession.