moneyplan
AUSTRALIA [MP] PTY LTD
ABN 34 006 385 137

PO Box 164
Level 2/80 Keilor Road
Essendon North VIC 3041

[03] 9374 1133
[03] 9374 1655
finance@moneyplan.com.au
www.moneyplan.com.au

15th April 2013

Ms Geraldine Lamont
Retail Investors Policy Officer, Financial Advisers
Australian Securities & Investments Commission
Level 5, 100 Market Street
SYDNEY NSW 2000

Dear Ms Lamont

Re: Consultation Paper 200 – MDA's Submission

We wish to make a submission on one Proposal only as outlined in this document, that being the Proposal B4. By way of background I indicate that we have held an AFSL (or various earlier forms) since March 1985 and during this time have experienced a very wide range of licensing changes, most of which we have agreed with. We have some serious difficulty dealing with the changes proposed here particularly in respect of the Proposal at B4 which is the only we expect would impact us.

Generally speaking we can see the issues that you want to address and the seemingly increased protection that it might offer to planner's clients. We agree with your statement that the number of practices using the cover of the no-action letter does appear to have grown substantially. That said where is the evidence of abuse, or loss of client funds, where advisers are so engaged? There have certainly been no "headline" cases indicated by ASIC or in reports from either FOS or the FPA. If this statement is true your proposed actions would appear to be a case of legislative overkill.

Feedback B4Q1

Our best response to this is to give the example of how we, and many other practices we believe, manage client model portfolios, which in our case are typically used for retail and generally unsophisticated clients on a platform with a major institution. It is appropriate to make the point here that existing clients are already complaining about the volume of paperwork which they receive, pre-FOFA, so this would be yet another layer of complexity for them. Complexity is not good for our aged clients who are often unable to grasp the need for much of the information we are obliged to provide to them now. ASIC needs to consider the impact of any such changes on all clients.

Before the Statement of Advice is prepared the client completes a Risk Profile questionnaire which determines which of the six models best suits their profile. This model portfolio, exclusively managed funds with no direct shares, is then fully described in the SOA, including the allocation range within each asset class; e.g. Australian shares range from 15% to 30%. Then there is the explanation of how changes can and will be made.

In our process the rules are explained as follows.

1. The client provides us with an authority to act on their behalf in respect to the model portfolio.
2. Our actions are limited to –
   a. No change can have the effect of moving a client from the present model to another as this implies a different risk profile without having completed a new risk questionnaire.
   b. Any change of the asset allocation range in any asset class must be within the stated range; e.g. outside the stated range of say 15% to 30%. Both this and a. would require a new SOA or ROA.
   c. Changing of fund manager(s) for any valid reason such as poor performance, loss of key investment personnel or poor administration and service.

2.

d. Clients will receive either quarterly or six monthly reports (depending on portfolio size and client service agreement) where such changes would be discussed. Historically we have made such changes at the report time so as there is prompt notice to the client.

We say that these are very tight constraints and do not warrant the imposition of any further regulatory impediments that will impact the quality of our service to clients which will be greatly impacted by having us move to, or comply with a higher level of disclosure and compliance, of a full MDA license.

Feedback B4Q2

On our assessment we note that there will be very significant increased costs at both the initial and ongoing stages of any change proposed here. The probable impacts can be summarised thus:

1. Initially we expect that we would have to provide a fresh SOA, or at least extensive ROA, for several hundred model portfolio clients as there will be a substantial change in the licensing rules and how we operate within them for the client. If we assess a SOA prime labour cost at $750 each, remembering that each has to be individualized, the total cost for 300-400 clients could be as high as $300,000. The report preparation hours probably average at least three hours each and for 400 this is 1,200 man hours; or full-time work for a single plan writer of over 30 weeks. In the meantime they would have not been able to do any other work in the practice. Frankly we could not undertake this level of work internally and would need to contract out to a paraplanning service; but how we would pay for it is problematic.
2. In addition to the above comments we then have to find the time to deal with client questions either face to face or by phone. Having gone through a platform change for 450 clients some 18 months ago we know that the client contact will be necessary in the circumstances outlined above. Even if advisers had to only deal with one in four clients, say 100 all up, for an average of 15 minutes each this runs to 25 hours with a typical time cost of say $7,000.
3. As for ongoing costs there are higher professional indemnity insurance premiums which our broker is unable to quantify for us but says they will be significant. There will be increased accounting and audit compliance costs but neither of our current providers can give any guidance about the level of cost increases as they don't have any knowledge of the requirements.
4. The ongoing licence and audit compliance costs are unknown but are presently contracted to an outside specialist so we would expect to pay several thousand dollars more than currently.
5. The financial requirements are not especially clear to us but would appear to involve us in providing a higher level of "cover" than under our current AFSL.

Summary

There is a very distinct difference in the two styles of practices that ASIC would appear to be targeting with this proposal. In the first instance you have a full discretionary service with few restrictions and generally an active shares service. The other style is what we described as our practice with managed funds operating within tight bands both by asset allocation and risk profile. Undoubtedly there are some "hybrid styles" out there too and we say that they should be covered under the proposal.

It is our view that our business style does not warrant the imposition of a "full" set of MDA licence conditions that would:

a. Not provide any material benefit to our clients as legislation, in whatever form, is unlikely to provide any better level of protection than the current professional indemnity cover does.
b. Increase costs to our practice, via higher PI premium and compliance costs which we would need to pass onto clients, at least on a cost recovery basis.

c. Cause us to cease the use of model portfolios, allowing us to remain under the current AFSL conditions which undoubtedly will create a far higher workload internally and would definitely cause an increase in client fees.
d. Create workload and financial mayhem for us if we did go down the proposed MDA route due to the costs of fresh Statements of Advice and associated matters.
e. Result in practices like ours reviewing the need or desire to remain self-licensed. The impact of transitioning to operating under an institutional style licence by any practice operating in this space will reduce competition and further limit the service options for clients.

Perhaps there is a way for platform providers to modify their offer that allows planners to continue to manage their clients' model portfolios as we currently do. With such services outlined in a registered PDS, and spelt out in an SOA, clients will certainly be even more aware of the "rules" that apply to their portfolio management. It is important to make the distinction here about what we do and what a platform provider is doing or may do. We are sourcing our fund options from a very diverse range of options across all asset classes, numbering in the hundreds. At the other extreme you have Australia's largest company, the Commonwealth Bank, via its Colonial Funds Management operation, with a keenly priced platform that appears to offer a wide range of product choices. We do in fact use one of their platforms for smaller investment value clients where frequent servicing is not a high priority for the client. But at issue here is that by far the great majority of managed fund and cash/term deposit options are all in-house products. Or in some instances CFS has a marketing arrangement with external providers.

We don't have any visibility of commercial arrangements, such as shelf or volume fees that CFS may earn through such arrangements. But of even more concern to us is the ability (and it has been done on numerous occasions) to summarily remove a fund from the platform without reference to either us or the client. Our current platform providers do not unilaterally remove product from the shelf always providing adequate warning of any such pending action and are usually willing to listen to requests for new funds to be added.

So whilst we would like to see product providers given the opportunity to develop a platform structure that would allow us to continue to act as we do presently we cannot be totally confident that the situation described above may continue to occur and impact on our service levels. We would not like to see a situation arise from these proposals where platform providers were allowed to develop a form of discretionary account that met with ASIC's approval and that also allowed them to dictate the tenure of a product without referral to the client and planner.

If the spirit of FOFA is for a better outcome for clients from those changes it is our firm view that the changes proposed here by ASIC have the potential to dilute client service standards immediately. We don't do not see how either our practice or our client base is better served with the introduction of the legislation as proposed.

Yours sincerely

Peter Dunn CFP FPA Fellow
Practice Manager