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Dear Geraldine

CP 200 SUBMISSION ON BEHALF OF BFPPG (BFP)

Thank you for the opportunity to comment on the Consultation paper.

My business assists many small and medium sized AFSLs (including a growing number of single principal AFSLs) with licensing, compliance and risk management services.

Many of these AFSLs are members of the Boutique Financial Planning Principals Group (or BFPPG), on whose behalf I have prepared this submission.

ABOUT THE BFPPG

The Boutique Financial Planners Group (BFP) is a non-for-profit Association that supports privately owned Australian Financial Service Licence holders who provide financial advice and products in the best interest of clients.

The BFP was incorporated in April 2002 but has an informal history going back to 1996 and now has over 85 Principal members, with members in every State.

The full legal name of the association is The Boutique Financial Planning Principals Group Inc which, for practical purposes, is commonly referred to as the Boutique Financial Planners group (BFP).

The BFP is the only group which has been established to specifically represent the interests and high ideals of small, independent and independently-owned financial planning AFS licensees who provide tailored, regular and ongoing advice in the clients' best interests.

In this context, the term "independent" means that the Licensee business is privately owned and not subject to ownership influence from product providers; it also means the Licensee

has freedom of choice to choose from the full spectrum of products and services allowed under their Licence.

This submission is targeted at the ability of smaller businesses to achieve and maintain efficiencies using a business model based on the ASIC No Action letter dated 5/11/2004 (the regulated platform No Action letter).

WHAT SORT OF EFFICIENCIES DO I MEAN?

I mean efficiencies in the delivery of financial services. I mean efficiencies created by the capacity of an AFSL to agree with their clients on strategy and asset allocation then operate a portfolio in accordance with that asset allocation, without the need to continually seek client approval to every transaction required to maintain that asset allocation or the underlying strategy.

Client service does not suffer in fact the capacity to meet client service expectations (including not delaying urgent actions due to an inability to gain client transactional approval by way of ROA) is greatly enhanced.

The regulated platform No Action letter has enabled those who have used it to reduce the amount of time taken to effect transactions in pursuit of agreed strategy and asset allocation.

The removal of the need to obtain transaction-by-transaction approval (including via Records of Advice) has made a significant contribution to the ability of the smaller AFSLs to maintain and even grow their businesses.

Anecdotal evidence I have sought from each AFSL I have assisted with implementation of the regulated platform No Action letter model (what we call “Limited MDA”) indicates that clients already expect the sort of streamlined portfolio management that Limited MDA offers and are somewhat surprised that additional documentation (like a power of attorney and an MDA Contract) is really necessary.

In short the Limited MDA model enables smaller businesses to provide higher value service experiences to clients who wish to delegate transactional decision making. It also offers significant consumer protections: an MDA contract with a written investment strategy, written Powers of Attorney, non-conflicted and highly capitalised Custodian as well as all the administrative and reporting efficiencies offered by regulated platforms.

FEEDBACK ABOUT CP200 PROPOSALS AS THEY IMPACT LIMITED MDA BUSINESSES

B4Q1	An AFSL authorisation that specifically permits AFSLs to offer a limited form of MDA service (via a regulated platform) would be acceptable as we believe it is important to distinguish between the lower risk profile of this model and the higher risk profile of others. e.g. “MDA services limited to those provided via a Regulated Platform as

	described in ASIC Class Order [update of CO 04/194]."
B4Q2	The only significant cost we can see arising from this proposal (apart from any ASIC fee for an AFSL variation) would be time required of an AFSL to prepare its variation submission and deal with any subsequent ASIC enquiries however the test of relevant experience is critical to our submission. A test reliant upon "discretionary" experience – whatever that is – makes very little sense given the similarity between the limited MDA model and a traditional non-discretionary model. The only difference we can discern is the existence of a specific written contract including investment program and a written power of attorney as alternatives for a series of ROAs. In all other respects it appears the two models are identical. e.g. a non-discretionary advice model can as easily incorporate "model portfolios" as a limited MDA model. In practice most advisers have to some extent reduced their asset allocation propositions to a range of "models". The relevant experience therefore needs to reflect the fact that an RM of an AFSL with sufficient RG105 experience advising on and dealing as agent in IDPS, deposits, MIS and Shares should be sufficient. To do otherwise would make it almost impossible for anyone without specific experience under an MDA Operator licence (or someone using LMDA who has done so for less than 3 years, assuming ASIC would accept experience gained under an LMDA model as sufficient to meet the experience test) to prove relevant experience.
B5Q1	Subject to our point about relevant experience we think 2 years is sufficient.
B6Q1	Yes
B6Q2	The current no action letter does not require the AFSL to arrange additional PI insurance under RG179.59. Given the similarities between the limited MDA and traditional non-discretionary models we would argue that PI Insurance requirements should not be any more onerous for those who adopt a limited MDA model.
B6Q3	No comment.
B7Q1	Yes
C1Q1	No, this is an unduly onerous financial requirement when Limited MDA model already involves a licensed custodian with $5M NTA. The requirement to set aside capital is not explained in terms of the risk it mitigates. It will lead to a dramatic fall in use of the model for no noticeable regulatory return and a significant lessening in consumer choice. A Responsible Entity licensee, even one providing no custodial or depository

	services is an entirely different business to that of a limited MDA service provider. For example, the latter must at least annually review and update the client portfolio. The proposed NTA requirement would inevitably lead to either (i) operators leaving the market or (ii) those remaining simply shifting the additional costs onto their clients or reducing the amount of staff they have to help support the delivery of services. Neither outcome seems very consumer friendly.
C1Q2	No, not for limited MDA, the risk they carry is identical to that of an AFSL with a traditional non-discretionary model via platform. Advice risk remains via the IP and deal risk remains via the capacity to deal as agent for client, never as principal.
C1Q3	Yes, see above.
C1Q4	Yes, when an AFSL operates under a limited MDA model, refer above.
C2Q1	If our submission re NTA wins then this is a redundant question, otherwise, hard to disagree with.
C2Q2	See above cell.
C3Q1	Yes
C4Q1	Yes

CLOSING COMMENTS

The 5/11/2004 no action letter was borne of a need to enable efficient client service arrangements to co-exist with a new regulatory regime.

The proposals discussed above must be read in light of the over-arching parliamentary intent illustrated by section 760A of the Corporations Act.

The promotion of confident and informed decision making by consumers of financial products and service (such as MDA services) is a very worthy goal.

So is facilitating efficiency, flexibility and innovation in the provision of those products and services.

Restricting the capacity of AFSLs to offer such innovative services as those enabled by the 5/11/2004 No Action letter based solely upon a regressive NTA test or an unrealistic "relevant experience" hurdle will do very little to assist smaller players to survive let alone prosper in the FOFA world.

AFSL clients who have opted for the limited MDA service experience have been asked to comment on the service and have been enthusiastic in their support, if only on the basis that it enables them to "get on with their lives" without the need to consider transactional tasks outside of formal review meetings.

There have certainly been innovations in the market since 2004, including the growth in use of "model portfolios", however we would submit that this is largely a reflection of a formalisation of what many advisers have always done: i.e. assess clients as falling within

relatively discrete and generic asset allocation bands (tied to identified needs based upon objective and subjective criteria) and select financial products that suit that asset allocation.

Model portfolios are in general use in both discretionary and non-discretionary businesses. Discretionary businesses simply offer a more efficient way by which model portfolios can be managed: i.e. without having to get transaction by transaction approval from clients when time is of the essence (e.g. the GFC).

We look forward to discussing this submission with you as you develop your policy response.

Yours truly,

Brett Walker
For the Boutique Financial Planning Principals Group