FINANCIAL PLANNING
ASSOCIATION of AUSTRALIA

2nd April 2019

Kathy Neilson

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RE. CP308 – RG 97: Disclosing fees and cost in periodic statements and product disclosure statements

Dear Kathy Neilson

The Financial Planning Association of Australia (FPA) welcomes the opportunity to provide feedback to Consultation paper 308: *Disclosing fees and cost in periodic statements and product disclosure statements.*

Overall, the biggest challenge of advisers at present is the inconsistent approach by which product providers are disclosing their fees which inhibits financial advisers' ability to clearly compare costs of financial products. This consultation and review is the right step to rectifying this problem. However, it remains incumbent on ASIC to ensure product manufacturers always disclose fees and costs in a clear and consistent manner.

We would welcome the opportunity to discuss the matters raised in our submission with you further. If you have any queries or comments, please do not hesitate to contact me at policy@fpa.com.au or on 02 9220 4500.

Yours sincerely

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Head of Policy and Standards
Financial Planning Association of Australia[1]

1. The Financial Planning Association (FPA) has more than 14,000 members and affiliates of whom 11,000 are practising financial planners and 5,700 CFP professionals. The FPA has taken a leadership role in the financial planning profession in Australia and globally:

- Our first "policy pillar" is to act in the public interest at all times.
- In 2009 we announced a remuneration policy banning all commissions and conflicted remuneration on investments and superannuation for our members – years ahead of FOFA.
- We have an independent conduct review panel, chaired by Graham McDonald, dealing with investigations and complaints against our members for breaches of our professional rules.
- The first financial planning professional body in the world to have a full suite of professional regulations incorporating a set of ethical principles, practice standards and professional conduct rules that explain and underpin professional financial planning practices. This is being exported to 26 member countries and the 175,000 CFP practitioners that make up the FPSB globally.
- We have built a curriculum with 18 Australian Universities for degrees in financial planning. Since 1st July 2013 all new members of the FPA have been required to hold, or be working towards, as a minimum, an approved undergraduate degree.
- CFP certification is the pre-eminent certification in financial planning globally. The educational requirements and standards to attain CFP standing are equal to other professional bodies, eg CPA Australia.
- We are recognised as a professional body by the Tax Practitioners

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CP 308:

Disclosing fees and costs in periodic statements and product disclosure statement

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FINANCIAL PLANNING ASSOCIATION of AUSTRALIA

Introduction

Product disclosure statements are legal documents with a plethora of cost disclosure lines that align more with principles of transparency rather than aligned with consumers needs for meaningful product comparability. Further, it is more focused on protecting the fund than helping the members engage with their financial products. Members get excessive choice at the expense of less comparability, and even highly engaged and financially literate members struggle. Many would like more relevant and simpler information to help them find and compare products and, if necessary, switch.

Trustees need this information in order to benchmark their offerings and compete effectively with their peers. Regulators and policy makers need data to identify any practices contrary to members' best interests, and any impediments to the system maximising net returns, ensuring appropriate products are available to members and improving outcomes over time. Members (and their agents) need details about fees, returns, investment strategy, risks and insurance offerings to support selecting products that best fit their needs. Hence, improving disclosure of fees and costs will assist financial advisers in comparing products, assessing product suitability for consumers ultimately enabling advisers to comply with the best interest duty.

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Section B

Recommendations we propose to adopt that require amendments to Sch 10

B1 Changing the superannuation product 'Fees and costs template'

B1 We propose to:

(iii) Remove "advice fees" (intrafund advice costs) as a line item, and include this cost in the disclosure of administration fees; and

We propose to give effect to these by:

(iii) Inserting a definition of intrafund advice costs into cl 101 of Sch 10;

Removing "advice fee" line item

Contrary to McShane's observational commentary, the productivity commission inquiry report illustrates that 14 per cent of members (excluding SMSF members) contacted their fund or had been contacted by their fund (or both) for intrafund advice in the 12 months prior to the survey (Productivity Commission, pp251). The likelihood of contact is higher among members aged over 50, higher income and higher balance members, and choice members (tech. supp. 1).

However, due to the current environment from the Financial Service Royal Commission, transparency about advice fees is of big consumer concern and placing a line for intrafund advice fee and advice fees payable to financial advisers could alleviate consumers concerns about whether they are being charged for 'fees-for-no-service'.

Definition of advice fee

As proposed in the amended at cl101 of Sch10

"advice fee

(a) for a superannuation product—~~has the meaning given by subsection 29V(8) of the SIS Act~~ - is a fee that relates directly to costs (other than intrafund advice costs) incurred by the trustee, or the trustees, of a superannuation entity because of the provision of financial product advice to a member by:

(i) a trustee of the entity; or

(ii) another person acting as an employee of, or under an arrangement with, a trustee or trustees of the entity; and

those costs are not otherwise charged as administration fees or costs, investment fees or costs, transaction costs, a switching fee, an exit fee, an activity fee or an insurance fee; and

(b) for a collective investment product—means an amount that is:

(i) paid or payable to a financial adviser for financial product advice to a retail client or product holder about an investment; and

(ii) not included in a contribution fee, withdrawal fee, exit fee, establishment fee, or management fees and costs or transaction costs."

The advice fee definition clearly articulates that advice fees are different between superannuation and collective investment product. Specifically, one is payable to a financial adviser while the other is attributed to a financial product advice only. Considering consultation question C9 – it will be of

interest to have the two definitions as separate line items as “personal advice fee” and “intrafund advice fee” where applicable.

A definition adopted from Productivity Commission’s Superannuation inquiry report, as stated below, defines the parameters of intrafund advice based on its practical use.

> *“Intrafund advice:*
>
> *Provided the super fund holds an AFSL, it can advise members on switching between investment options, whether to make additional super contributions and the level of insurance cover held with the fund. Under this limited exemption, the fund cannot provide advice on switching super funds, or advice on financial products outside super, or advice on general retirement. Funds may collectively charge all members for certain types of intrafund advice (ASIC 2013c).”*

Therefore, more broadly, a clearer distinction is needed between financial advice (that takes account of a member’s individual circumstances) and information (that can help them to make their own decisions). All advice in relation to super is arguably personal, and the term ‘advice’ should not be used where members are only being provided with product information or marketing material (which we also recommended in our parallel inquiry).

This could be considered for consumer testing to understand how consumers may interpret ‘advice fees’ and whether they understand fees deducted for financial product advice as oppose to fees deducted for personal advice from financial advisers.

B3 Including ‘Cost of product information’

We propose to:

A) require ‘Cost of product information’ to be disclosed by:

(ii) basing the ‘Cost of product information’ on a $50,000 balance (we do not propose to extend this to other balance amounts)

B3Q1 Do you agree with our approach? If not, please explain why.

B3Q2 For the longer term, what alternative methods of providing fee examples may be helpful for consumers and practical to implement?

B3Q3: Do you believe that incorporating a $5,000 contribution on the last day of the year in the ‘Example of annual fees and costs’ and in the ‘Cost of product information’ for superannuation products will help consumers make investment decisions and compare products, given that:

(a) contributions are not taken into account when calculating fees and costs for disclosure (see cls 218(1) and (3) of Sch 10); and
(b) contribution fees are not permitted to be charged in relation to MySuper products under s29V of the Superannuation Industry (Supervision) Act 1993 (SIS Act)?

FPA RESPONSE

B3Q1

The FPA disagree only one figure of $50,000 should be the used as an example.

The FPA agree with Report 581 suggestion to use multiple figures. There is an argument that placing more information about every option will negate principles of simplicity and therefore inhibit

comparability. However, presenting multiple figures provide short-cut answers to more *accurate* answers, and providing the closest figure for consumers to decide which is more applicable to their circumstance thus assisting with their decisions.

Furthermore, additional figures will represent both the broader users of superannuation and the different stages members will engage with their superannuation. For example, a low figure of $25,000 will represent members of low balances such as younger members who are deciding on which fund to choose. Whilst a figure of $100,000 may represent a member considering their retirement needs, therefore require information about how different account size balances for continued investment growth. Hence, figures recommended from REP 581 such as $20,000, $50,000, $200,000 and $500,000 should be readily displayed to assist consumers to compare products.

There are broad changes to superannuation that encourage active engagement between consumers and superannuation. The FPA believe overtime, specific changes such as banning of exit fees, increased financial literacy, and technological innovation that reduce barriers to searching and switching, are fundamental reasons why consumers may increasingly rely on disclosure data. The changes to disclosure of fees and costs should consider this future landscape of more engaged superannuation users. Hence, the FPA is concerned the use of a single figure $50,000 in a "Cost of Product" template will not adequately represent future users of superannuation.

Therefore, despite concerns that additional information may clutter product disclosure statement, we believe additional comparative figures will play a vital role in driving product comparability and competition.

B3Q2

When considering longer term, alternative methods for fee examples could be more readily available to consumers in more digital formats. Ideally, "Cost of product information" in PDS can be calculated and adapted for consumers to quickly test different account balances in real-time. However, while this advancement may be for fintech industry, leading by example may ease the future process.

B3Q3

Even though MySuper products do not have a contribution fee applied, for the purpose of comparison, there should be consistency in disclosure across superannuation products and managed investment products. The FPA believe that a comparison with a $0 figure is more valuable than comparisons to a non-existent figure. That is, the absence of a quantitative figure makes the comparison for consumers harder as they juggle between quantitative and qualitative knowledge. To clarify, qualitative knowledge refers to the consumer's understanding that the contribution fee is not applicable to superannuation fees (for $5,000). Whereas quantitative knowledge is comparing the two contribution fee figures "$X" and "$0" will assist with product comparability more efficiently. Hence, we believe placing a $0 figure provides value for consumers when comparing across superannuation products and managed investment products.

However, we understand additional lines place emphasis on fees that may not be applicable. An alternative to replace the numerical figure with a statement such as "contribution fees are not applicable".

Section C

Changes we wish to adopt that does not include changes to Schedule C

Consumer testing some proposed changes

C1Q2 Do you believe the names 'Fees and costs summary' and 'Fees and costs details' (instead of 'Fees and costs template' and 'Additional explanation of fees and costs') will better help consumers understand information relating to fees and costs?

FPA RESPONSE

C1Q2

The FPA agree that there should be a more contrasting title for consumer testing. There should be a balance between consistencies of the headings vs difference for point of comparison. That is, the category "Fees and Costs..." is used repeatedly throughout templates and titles which create a monotonous continuum that is hard for comparison. To ease product comparisons, points of difference are required, and we are concerned that a repetition of the category will inhibit comparability.

We suggest a title such as 'Details of Fees and Costs' and 'Summary of fees and costs' would provide clearer points of comparison PDS readers. This format is consistent with the similar phrasing within the templates used throughout the guidance paper.

However, if consumer testing illustrates that separate titles "Fees and Costs summary" and "Fees and Costs Details" are more distinguishable headlines from both, each other and other template lines, then we agree they should be used.

Developing additional resources and information for consumers

C2Q1 Do you have any suggestions about how the importance and relevance of fees and costs can best be explained to consumers? Please provide details.

C2Q2 Do you have any suggestions about the types of tools that may help explain the relevance of fees and costs to consumers? Please provide details.

FPA RESPONSE

C2Q1

Outlining the "purposes", as referred to in section C4, of fees and costs will accentuate the fact that the changes to disclosure of fees and cost were consumer-centric and focused on product comparability.

C2Q2

The FPA agree with the *Productivity's Commission* recommendation in increase consumer engagement. That is, a range of consumer aids is required such as readily comparable information on products and services; easy access to the key metrics that matter in making decisions; and access to affordable and impartial advice.

Furthermore, as part of the statement of advice process, financial planners will run through a step-by-step process of explaining the importance of fees and costs in regards to different financial products.

Hence, financial planners are readily equipped to explain the relevance of fees and costs to consumers and.

Working with industry bodies on choice of product advice

C3Q1 Are you aware of any particular topics within fees and costs disclosure that advisers need guidance on? Please provide details.

C3Q2 Do you have any suggestions on what resources about fees and costs disclosure may be useful to advisers?

FPA RESPONSE

C3Q1

As the plethora of data visualisation techniques evolve, literacy of both data and financial products would be required to help assist planners and members make informed decisions. Product dashboard show potential to become the fundamental platform for product comparisons and further guidance on their use, metrics gathered and methodology will be valuable to all users of that data.

C3Q2

If all choice products will be mandated to include one-page dashboards, to ensure their adoption in a financial planning process, guidance will be required. Specifically, guidance on their accessibility and practicality will would help members make (and financial advisers inform) better decisions.

Explaining why fees and costs must be disclosed

C4Q2 Are there any other purposes of fees and costs disclosure that you believe should be included in our guidance?

FPA RESPONSE

C4Q2

The FPA believe an additional purpose of fees and cost should correlate to competition.

As best summarised in Productivity Commission's Superannuation inquiry report an additional purpose could include:

> *"Disclosure of (high quality) information is central to effective competition"*

Consistent presentation of fee information in the 'Fees and costs template'

C8Q1 Do you agree with our approach? If not, please explain why.

C8Q2 Do you believe further guidance is required?

C8Q3 Do you believe industry standards could be developed to improve levels of consistency?

C8Q7 How could we best work with industry to ensure fees and costs information is presented more consistently in the future?

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FPA RESPONSE

The FPA agree with your approach. We note that Paragraph 97.371 presents an opportunity to present best practices when considering which components of the fees and costs structure should be disclosed as a line item. If discretion is required it creates a risk of inconsistent disclosure practice which makes it difficult for financial planners to compare products and therefore, meet their best interest duty.

Either industry standards or surveillance may be required to prevent different components becoming excessively disclosed.

Developing and implementing a surveillance strategy

C11Q1 Do you have any suggestions on what areas the surveillance should focus on? Please provide details.

FPA RESPONSE

C11Q1

In terms of surveillance, a recent example below, extracted from a PDS dated January 2019, where an investment bond provider (subject to an internal tax rate of 30%) is advertising all fees net of tax (instead of gross of tax).

Extrapolated from the following example A, it is stated that their administration fee is 0.60% [i.e. 0.86 x (100 - 30%)] and the Vanguard fee is 0.20% [i.e. 0.29 x (100 - 30%)]. There is only partial disclosure in the small text under the table (providing the gross admin fee but *not* gross investment fee and no disclosure of the gross total fee).

Investment Option	[redacted] Net Management Fee (gross fee is 30% higher*)	External Manager Indirect Cost Ratio	Total Fee	Buy/sell margin		Performance fee
				Buy	Sell	
Cash and Fixed Interest Funds						
Pendal Enhanced Cash Fund	0.50%	0.18%	0.68%	0.03%	0.03%	n/a
Vanguard Australian Fixed Interest Index Fund	0.60%	0.17%	0.77%	0.10%	0.10%	n/a
BetaShares Australian Investment Grade Corporate Bond ETF	0.60%	0.15%	0.75%	0.10%	0.10%	n/a
Diversified Balanced Funds						
Vanguard Diversified Balanced Index Fund	0.60%	0.20%	0.80%	0.11%	0.11%	n/a
Russell Investments Balanced Fund	0.60%	0.61%	1.22%	0.17%	0.15%	n/a
MLC Wholesale Horizon 4 Balanced Portfolio	0.60%	0.68%	1.28%	0.10%	0.05%	n/a
Diversified Growth Funds						
Vanguard Diversified Growth Index Fund	0.60%	0.20%	0.80%	0.11%	0.11%	n/a
Russell Investments Growth Fund	0.60%	0.67%	1.27%	0.18%	0.16%	n/a
MLC Wholesale Horizon 5 Growth Portfolio	0.60%	0.71%	1.31%	0.10%	0.10%	n/a
Schroder Real Return CPI + 5% Fund	0.60%	0.42%	1.02%	0.20%	n/a	n/a

*The net management fee is the effective after-tax management fee that applies to an Investment Option. It is calculated by reducing the applicable pre-tax gross management fee by 30% to adjust for a tax deduction benefit allocated by [redacted] to the relevant Investment Option. For example, [redacted] charges the Vanguard Diversified Growth Index Fund a gross management fee of 0.86% p.a. but the cost of that fee to that Investment Option is reduced by a 30% tax deduction benefit allocated by [redacted] to that Investment Option, resulting in a net management fee of 0.60% p.a.

Example A; PDS from an investment bond provider

This appears to be in direct contravention of paragraph 172 of RG 97 (current version, March 2017) that states:

> *"The fees the trustee discloses must not be reduced by any income tax deduction the trustee may be able to claim. For example, if the fee is $100 (ignoring GST for illustrative purposes only), the amount the trustee must disclose is $100, rather than $85 (assuming the fund's income tax is 15% and the trustee is able to claim a sufficient deduction to reduce the tax to zero)"*

There is a similar reference at paragraph 407 of the draft RG 97 (January 2019) and paragraph 408 provides the supporting legislative reference. Similarly, example 12 of the draft update guides illustrate the same contravention. This practice require surveillance, arguably every super fund could apply the same approach.