

Submission on discussion document: *Exposure draft: Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019*

Your name and organisation

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Organisation	Mortgage and Insurance Link

Responses to discussion document questions

1	<p>Will the proposed record-keeping requirement be workable in practice?</p> <p>Yes, for FAP's that have CRM systems. However, for FAP's that don't have a fully automated/electronic system, this could be cumbersome.</p>
2	<p>Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?</p> <p>Schedule 21A Part 2 clause 4</p> <p>1 (f)- limitations may not all be known at this stage, as some may only become apparent when information is gathered from the client (for example – limitations maybe because of a client's situation)</p> <p>We also question whether the intention is ALL limitations (which could be unlimited) or all MATERIAL limitations.</p>
3	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the nature and scope of the advice is known?</p> <p>Schedule 21A Part 2 clause 5</p> <p>1 (e) – at this stage it is unlikely an adviser will know what providers will be recommended. This is not determined until after the adviser has completed an analysis of the client's situation and completed research to determine a fit for purpose solution. We submit that this information should be provided at the time the advice is provided to the client – as the provider forms part of the advice, rather than the scope of service.</p> <p>However, if an adviser only has agreements with a minimal number of providers (between 1 and 3), or the client has specifically requested advice on products from a particular provider, we agree this should be disclosed at this stage.</p>
4	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?</p> <p>Schedule 21A Part 2 Clause 6:</p> <p>Clause 1E – an adviser may not always know at the time the advice is given that it is likely to</p>

give rise to a conflict of interest in the future; can this be amended to reasonably likely to know?

Clause 1H – an internal disputes resolution process is a standard condition of transitional licensing; the required disclosure in this section should not then state “if” the financial advice provider has an internal disputes resolution process

Clauses 1G-1I – this information has already been provided at initial disclosure; it is unclear why it needs to be repeated at step three. It seems to be even more unnecessary if the financial advice provider has this information publicly available on a website.

We feel that disclosure should be clear and concise, and providing the same information to clients on more than one occasion does not aid this. We do agree it should be provided at least once during the advice process, as well as when a complaint is made; having it available publicly would seem to be the most appropriate way to disclose this.

Clause 1J – we do not feel that inclusion of this generic information at this stage will aid a client’s understanding of the advice. This is making disclosure lengthier and less therefore likely to be read by clients – which is contrary to the intention of disclosure regulations. If this information does need to be communicated, we submit that it would be better to provide this at the initial stage and in publicly available information (ie – on a website).

We submit that the information provided at this stage should solely be focussed on information relevant to the advice that is being provided, to allow the client to make an informed decision based on clear, concise and relevant information.

5

Do you have any comments on the draft Regulations that will require the disclosure of a provider’s complaints handling and dispute resolution processes when a complaint is received?

No it is logical and appropriate to provide this information if a complaint is received.

6

Do you have any comments on the draft Regulations that set the manner in which information must be disclosed?

While there are benefits to providing disclosure in a format determined as appropriate by the Financial Advice Provider, this could cause more confusion for consumers.

If the terminology and presentation is different across FAP’s, how can consumers compare the services one provides against another. Some level of standardised format and wording would be more appropriate for the benefit of consumers being able to make informed decisions and comparing FAP’s providing the types of financial advice they are seeking.

7

Are there instances in your business when regulation 229D might apply to someone who is not the one to give advice to the client? Please give examples and provide any comments on how the draft Regulations apply in such scenarios.

No.

8

Do you have any further comments on new regulation 229A to 229H of the draft Regulations?

No

9

Do you have any further comments on new Schedule 21A in the draft Regulations?

Only as above; repeated information being disclosed to a client does not assist clear

disclosure. The disclosure regulations could create information overload and make financial advice perceived to be less accessible. We absolutely agree that the majority of the proposed information to be disclosed should be disclosed to a client, but having multi page disclosure documents due to including information that is not specific to the advice (eg – duties under legislation and disputes resolution processes), may not help the client any better to make an informed decision. We support progressive disclosure, focussed on information that is relevant to clients at that step.

10 What (if any) transitional provisions should be included in the regulations?

This would add a further layer of complexity and confusion for the clients; if there are transitional provisions, you could see different FAP's providing different disclosure information due to some using transitional provisions while others go straight to meeting all disclosure requirements. Provided final disclosure regulations are finalised with sufficient time before the new regime comes into effect, this should provide sufficient time for FAP's to have their disclosure statements and websites ready, without the need for potentially confusing transitional provisions.