

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

## Your name and organisation

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|---------------------|---------------------|
| <b>Name</b>         | Jack Lynskey        |
| <b>Organisation</b> | Wealthpoint Limited |

## Responses to discussion document questions

1 Will the proposed record-keeping requirement be workable in practice?

The intent from the Exposure Draft and the draft regulations appears to be for providers to keep a copy of every disclosure made rather than a register detailing all disclosures made. Can MBIE clarify the intent of the use of the word 'record'?

The record keeping requirement will mean financial advice providers have to hold a record of disclosures made to all prospective clients for 7 years. This places an unnecessary compliance burden on financial advice providers including placing additional volume pressures on their IT systems and adds to the risks of breaching privacy law obligations.

192A states '*(P) must keep a record of each disclosure...*'

In practice a financial adviser engaged by P may be providing the disclosure to clients (rather than P providing the disclosure to the client). It should be acceptable that an adviser hold the record of the disclosure rather than P.

Otherwise there will be situations where advisers will be sending records of disclosures that were made to prospective clients (who never became clients) to the relevant P purely for the purposes of compliance with these regulations.

It should be up to P to ensure correct disclosures are being made by their advisers.

2 Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?

Part 2 section 4 (1) (j) (ii) requires a brief explanation from advisers as to how conflicts of interest are managed where commissions are given.

As many advisers across the financial services industry receive commissions where financial products are purchased, it is not clear what sort of an explanation to manage the conflict of interest would be considered acceptable by MBIE.

3

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?

The idea of 'when the nature and scope of the financial advice is known' is confusing and in practice hard to pin down to a point in time. For example, a client may know they need a home loan and so obtain financial advice. In the course of being provided that advice it may become clear the client is also interested in life insurance and so may require some advice on life insurance.

If the drafting is to remain in place, advisers will send clients the information in section 5 as soon as a client makes contact which will increase the compliance burden for advisers with questionable benefit for clients.

Part 2 section 5 (2) (f) (iv) requires a brief explanation from advisers as to how conflicts of interest are managed where commissions are given.

As many advisers across the financial services industry receive commissions where financial products are purchased, it is not clear what sort of an explanation to manage the conflict of interest would be considered acceptable by MBIE.

4

Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?

Part 2 section 6 (1) (f) (v) requires a brief explanation from advisers as to how conflicts of interest are managed where commissions are given.

As many advisers across the financial services industry receive commissions where financial products are purchased, it is not clear what sort of an explanation to manage the conflict of interest would be considered acceptable by MBIE.

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?

6

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

Under 229C it is not clear why information must be both publicly available i) as a hard copy or an electronic copy and ii) on an internet site (if P has one).

If P has a website, why would an electronic copy also be required?

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.

8

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

There is a statement 'This regulation is guide only' in 229A which appears to be an error.

9

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

The example on page 13 states 'value of the policy'. Should this read, 'value of the premium'?

10

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

The requirements will require significant process changes and IT development in a very short amount of time following the publishing of these regulations. This is on top of other significant regulatory change which the industry is required to deal with. Any transitional relief would be welcomed.