

Introduction

The Review was a response to the ASIC report on retail life insurance advice of October 2014. The Review and its recommendations were released in March 2015. The ASIC report was an invitation to the industry and the Government to do something to overcome the problems identified by ASIC, especially in relation to quality of advice, misaligned incentives and conflicts of interest.

The essential goals of the recommendations emerging from the Review were -

- to minimise conflicts of interest for advisers;
- to make the customer rather than the adviser the centre of interest for insurers and advisers; and
- to encourage behaviour changes and business practices within insurers and licensees, so as to streamline the advice process, lift standards, facilitate advisers delivering on 'best interests' and create a more competitive and efficient insurance industry and advice industry.

The suite of recommendations was to be seen as a package that will not only alter the structure of commissions and incentives, and reduce conflicts of interest, but also lift standards regarding underwriting, claims and administration. Cultural change and indeed transformation is needed and cannot be achieved simply by a few rule changes. All the recommendations taken together represent a holistic approach to modifying both industry practices and structures on the one hand and the behaviour and incentives of insurers and advisers on the other hand.

Some parts of the recommendations were resisted by segments of the life insurance industry on the grounds that insurer systems would have difficulty coping with them. When structural reform is the agenda, such objections are short term in nature and tend to represent a resistance to change rather than a genuine belief that the industry should not change.

The very process of holding the Review has already had some effect on the industry. The LIF (life insurance framework) legislation and its implications is a common topic of discussion within insurers and adviser groups. In the knowledge that some reforms are coming, insurers and advisers are looking more closely at best interest duty, conflicted remuneration for licensees, underwriting and claims practices, approved product lists and more. In other words, there is evidence that behavioural change is already occurring. It will surely be accelerated by the imminent release of the Life Insurance Code of Practice and the passing of the impending legislation by the Parliament, assuming that that comes to pass.

Progress has been slower than hoped. Those advisers who are accustomed to high front end commissions of 120%/10% or thereabouts are generally remaining on those commissions rather than moving towards hybrid at 80%/20%. It is evident then that advisers who have made the choice not to go from 120%/10% to 80%/20% have not been influenced by the debate that has occurred in the two years since the ASIC report was released. It could be contended that their attitudes towards remuneration and conflicts of interest simply emphasise the need for change.

In my view priorities for future reform should be –

- further pressure on commissions and encouragement for fee-for-service, especially for larger policies;

- abandonment of clawback in favour of the five year rule;
- moving from per policy to per customer initial payments: taking this step would have a significant impact on customer centricity and hence on product design and competition; and
- Review of business models of advisers and adviser groups. Instead of adviser groups investing in resisting remuneration reductions, they should be reassessing their business models including technological opportunities to develop more effective businesses.

The overall stocktake on developments towards reform, as set out below, are very encouraging and indicate important and positive change is already happening, in just 18 months since completion of the Review. The legislation is essential, however, to make the critical initial steps on remuneration that should generate the first stage of real reform of remuneration and diminution of conflicts of interest.

Policy Recommendations	Outcome	Trowbridge Comment
<p><u>Policy Recommendation 1:</u> That the Reform Model for adviser remuneration, being a system of level commissions supplemented by a client-based Initial Advice Payment available at a client's first policy inception and then no more often than once every five years, be adopted by the life insurance industry with progressive application through a transition period.</p>	<p>Life Remuneration Arrangement – Bill/Regulation ASIC instrument</p> <ul style="list-style-type: none"> • Legislation to be reintroduced into parliament with a 1 January 2018 start date. • Regulations expected to be finalised in 2016. • ASIC instrument to expect to be finalised in 2016. <p>The final package:</p>	<p>The commission reductions are welcome and, interestingly, from the end of the transition period, the initial commissions will actually be lower than the payments recommended for all premiums up to \$3000pa when considered on a per policy basis. Future reforms should consider again capped adviser payments made on a per customer basis with no clawback and no further initial payment until five years have passed.</p> <p><i>Good first step, but absence of the customer payments will limit innovation and customer orientation while perpetuating conflicts of interest, especially for replacement policies</i></p>
<p><u>Policy Recommendation 2:</u> That there be a three year transition period where the five year rule is applied on a best endeavours basis immediately and, from a suitable date in 2016 for a period of 2 years, the industry operates according to the current hybrid commission arrangements with a cap on initial commissions.</p>	<ul style="list-style-type: none"> • Reduces upfront commissions progressively over 3 years to a maximum of 60 per cent upfront by 2020 (2018 – maximum 80% upfront; 2019 maximum 70% upfront). Ongoing commission capped at a maximum of 20% next year. Level commission models uncapped. • 2 year clawback introduced from 2018. 100% in year 1, 60% in year 2. • Covers personal and general advice (i.e. captures direct and advised). • Extends conflicted remuneration provisions across life insurance. • Review expected of reforms to ensure they have achieved outcomes, with Government commitment to go further if review finds issues are still prevalent. 	<p>The three-year transition is a suitable time period in the nature of the transition is similar to that recommend. It is disappointing that the start date has had to be deferred to 1 January 2018.</p> <p><i>The transition arrangements are sensible and fair, having regard to the position to be arrived at. When the transition is complete.</i></p>
<p><u>Policy Recommendation 3:</u> That licensees be prohibited from receiving benefits from insurers that might influence recommended product choices or the advice given by the licensees' advisers.</p>		<p>The FoFA rules are to apply to licensees. It is consistent with the review recommendation. It remains to be seen whether the absence of any licensee commission payment will influence industry structure, including preserving the ability of independent licensees and adviser groups to survive.</p> <p><i>The reform should be effective in removing conflicts of interest for licensees and adviser groups. That is good outcome. That should remove one compartment of the current conflicts of interest.</i></p>
<p><u>Policy Recommendation 4:</u> Ensure competitive access and choice for all advisers and their clients to available life insurance products by means of every licensee including on its Approved Product List (APL) at least half of the authorised retail life insurance providers.</p>	<p>ABC developing APL standard</p> <ul style="list-style-type: none"> • The FSC has established a working group to produce a draft standard covering these issues in order to promote choice on APLs. • Work is ongoing. 	<p>The existence and the progress of the FSC working group indicate that all advisers giving personal advice can expect to have ready access in due course to several product providers. This recommendation appears to be in the course of implementation on a self-regulatory basis.</p> <p><i>This initiative led by the FSC demonstrates clear intent to</i></p>

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		<i>implement the recommendation.</i>
<p>Policy Recommendation 5: That all licensees, in conjunction with their advisers, re-examine their culture, behaviours and practices regarding the advice process with the aim of raising consumer understanding of life insurance, ensuring informed consent from clients and reducing the administrative burden on advisers.</p>	<p>FSC Developing Statement of Advice (SOA) principles and Sample SOA</p> <ul style="list-style-type: none"> • In preparation for ASIC's SOA review a first version has been developed and well received by industry bodies and the regulator. • Stakeholder feedback being considered. • The FSC would like to bring this piece of work into ASIC's SOA review. <p>ASIC Review of SOA</p> <ul style="list-style-type: none"> • ASIC is developing their own sample Statement of Advice. • This work is currently on hold. 	<p>Initiatives by the FSC and ASIC on statements of advice, are welcome in developing a valuable tool for advisers and also a catalyst to reassessing the advice process. The effect on the industry of well-publicised claims disputes and the attention on industry practices through the review, the forthcoming legislation and the in imminent code of practice are generating conditions that may lead to the recommended changes in culture, behaviours and practices.</p> <p><i>The conditions for effective implementation of this recommendation are in place. It will now be a matter of leadership and management along with competition as to how effectively each insurer follows through.</i></p>
<p>Policy Recommendation 6: That a Life Insurance Code of Practice be developed that is modelled on the General Insurance Code of Practice and aimed at setting standards of best practice for life insurers, licensees and advisers for the delivery of effective life insurance outcomes for consumers.</p>	<p>FSC Life Insurance Code of Practice</p> <ul style="list-style-type: none"> • Code of Practice commencement by 1 October 2016. • Compulsory application of Life Code of Practice by 1 July 2017. 	<p>The FSC has worked quickly to implement this recommendation. The first version of the code is sound and gives the means to hold insurers accountable for meeting industrywide standards, many of which are stringent in the interests of consumers.</p> <p><i>The first version of the code is excellent and perhaps stronger than might have been perhaps more robust than might have been expected of the industry. The challenge is for the industry, the compliance committee and indeed advisers to make effective use of the code.</i></p>