



14 November 2022

Quality of Advice Review Secretariat  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [AdviceReview@treasury.gov.au](mailto:AdviceReview@treasury.gov.au)

Dear Ms Levy

### **Conflicted Remuneration**

AFMA welcomes the opportunity to respond to the Review's consultation paper on Conflicted Remuneration.

AFMA strongly endorses the recommendations to retain the exemptions for stamping fees and brokerage. These fees and charges play important roles in the economy and are appropriate for the work undertaken.

In line with the position we noted in our discussion at the roundtable we wish to raise a technical matter in relation to the proposed removal of the exemption provided under regulation 7.7A.12E of the Corporation Regulations.

We understand that some brokers who also provide advice rely on 7.7A.12E to be paid brokerage.

The concern is that the exemption provided under 7.7A.12D of the Act has a different purpose and application to that of 7.7A.12E of the Regulations.

In our view 7.7A.12E allows a market participant to pass on brokerage to its representatives who may be advice providers. In contrast 7.7A.12D of the Act does not appear to allow for the market participant to receive brokerage from a client, if it is also an advice entity, without considering the conflicted remuneration provisions.

The benefit of brokerage given by a client to a broker, especially volume-based brokerage, could reasonably be expected to influence advice given by the broker. In this regard we note that "full-service brokers" sometimes have an operating model where there is a single charge for a service that is the dealing and the associated advice.

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For this arrangement brokers might consider that the brokerage fee is partly a fee being given by a retail client in relation to financial advice given to the client (s.963B(1)(d)(ii)) and partly a fee for dealing in a financial product on behalf of the client (7.7A.12E). While this was likely not the intention of the FOFA reforms it does appear to be an outcome of the Act as drafted.

As such in our view retention of 7.7A.12E in the Regulations or an equivalent arrangement in any revised legislation remains appropriate.

We thank you for considering this matter.

Yours sincerely

A handwritten signature in black ink that reads "Damian Jeffree". The signature is written in a cursive style with a large initial 'D' and a long, sweeping underline.

Damian Jeffree

**Senior Director of Policy**