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Govt releases FOFA draft

Opt-in required every two years

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Treasury expects more Australians to seek financial advice on the back of its Future of Financial Advice legislation (FoFA), for which it released draft legislation today.

"It is a concern that only one in five Australians access financial advice," Minister for Financial Services and Superannuation, Bill Shorten.

"These reforms will restore trust and confidence in the sector following collapses such as Storm, Westpoint and Trio. They also remove the red tape that has prevented low-cost, good quality advice being delivered to millions of Australians," he said.

"These reforms are in fact a growth strategy for the financial planning industry," Shorten said.

The reforms are now open for public consultation.

The first tranche of the draft bill covers a number of key components of the FoFA reforms, including opt-in, the best interest duty and the increase in ASIC's powers to enforce the new elements of these reforms.

"The second tranche, which I expect to release for public consultation shortly, will include the ban on conflicted remuneration (covering commissions and volume payments), the ban on 'soft dollar' benefits, the ban on asset-based fees (where there is gearing), and the definition of intra-fund advice," Shorten said.

"I will also be announcing at that time my decision on the replacement of the accountants' exemption," Shorten said.

The best interest duty requires financial planners and advisers to act in the best interests of the client, and to give priority to the interests of the client in the event of conflict between the interests of the client and the interests of the individual providing the advice, or their employer.

The opt-in measure requires a financial adviser or planner to send a renewal notice every two years to new clients, as well as an annual fee disclosure statement to all clients.

There will be significant flexibility in terms of how advisers are able to discharge the

opt-in obligation.

Treasury said research by Rice Warner indicates the cost of opt-in to be around \$11 per client.

This includes set-up costs and the cost of chasing up clients who are charged on-going fees but who advisers may not be in regular contact with.

"Opt-in won't create a significant new impost for advisers who are in regular contact with their clients," Shorten said

But research by Investment Trends released last week still indicated that financial planners estimated the opt-in requirement would cost \$250 per client.

The extension of ASIC's powers will give the regulator the capacity to act at an earlier stage if it has concerns about individuals or a licensee.

It enables the commission to ban a person who is not of good fame and character or not adequately trained or competent to provide financial services.

The ban on risk insurance commissions will apply to commissions on group life insurance in all superannuation products, and to commissions on any life insurance policies in a default or MySuper product from 1 July 2013.

"These reforms will mean that MySuper will be commission-free," Shorten said.

"With broad agreement among stakeholders that the ban on soft dollar benefits should include life insurance outside superannuation I have decided to extend the ban in order to provide increased consumer protection and certainty for business," he said.

The ban on conflicted remuneration, including the ban on commissions, will not apply to existing contractual rights of an adviser to receive ongoing product commissions.

This means that, in relation to trail commissions on individual products or accounts, any existing contract where the adviser has a right to receive a trail commission will continue after 1 July 2012, or in the case of certain risk insurance policies in superannuation, 1 July 2013.

Treasury will release a public consultation paper by the end of the year on restricting the term 'financial planner' in the Corporations Act 2001.