



29 August 2019

Stephen Powell  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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Dear Mr Powell,

### **SMSF ASSOCIATION SUBMISSION ON ENDING GRANDFATHERED CONFLICTED REMUNERATION**

The SMSF Association (SMSFA) welcomes the opportunity to make a submission on the Treasury Laws Amendment (Ending Grandfathered Conflicted Remuneration) Regulations 2019.

We support the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry's recommendation 2.4 that grandfathering arrangements for conflicted remuneration in relation to financial advice provided to retail clients should be removed as soon as reasonably practicable. Conflicted remuneration is an inappropriate conflict of interest that has the ability to create misaligned incentives and lead to poor advice.

The SMSFA agrees with the Government's announced date of 1 January 2021 as the most practicable nearest date to end grandfathered conflicted remuneration.

The Association supports the ability to allow advisers to rebate amounts as outlined in the Regulations. This is essential to a practical application of the Royal Commission recommendation. This is because it may be complex, costly and detrimental to the industry if there isn't an appropriate process which allows product issuers to convert commission structures to capture value for consumers. Therefore, rebates can ensure individuals are not placed in a detrimental position due to the removal of grandfathered commissions.

We disagree with the premise that allowing product issuers to establish rebate schemes entrenches the incentive for advisers to recommend that clients stay in existing, often poor performing and expensive, products. In fact, if an adviser was to recommend a client stayed in a product described as above it would clearly breach the best interest's duty required by law. It is rebates that will allow advisers to continue offering legacy rebate products to their clients in the overall best interest when considering the implications of capital gains tax events, Centrelink grandfathering, exit costs and other related transition issues.

Furthermore, as individuals with products that have rebates liquidate their investment over time the prevalence of rebates will phase out. In this sense, it is a transitional piece of regulation.

Noting that rebates must be rebated in a just and equitable, we encourage the Australian Securities Investment Commission (ASIC) to review and determine standardised best practice processes that



will be implemented by industry. This should form part of the ASIC review which is reviewing the transition towards ending grandfathered remuneration for financial advice announced on Wednesday 21 August.

We believe the task of managing the rebating process should first rest with the product issuers who have the capability to restructure their processes and systems on an overarching level and then co-operate with the relevant financial services licensee. The financial services licensee will then be responsible for keeping certain records and monitoring their compliance as described in the Regulations.

*Issue relating to taxation treatment*

The SMSFA also seeks clarity on how rebates from advisers will be treated by the taxpayer, for example, an SMSF. It is our understanding that a previous ruling identified the commission refunds as assessable income to the investor.

If you have any questions about our submission please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink that reads 'John L. Maroney'.

John Maroney  
CEO  
SMSF Association

**ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing SMSF sector which is comprised of over 1.1 million SMSF members who have more than \$750 billion of funds under management and a diverse range of financial professionals servicing SMSFs. The SMSF Association continues to build integrity through professional and education standards for advisors and education standards for trustees. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial planners and other professionals such as tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them access to independent education materials to assist them in the running of their SMSF.