



**FSC/FPA Industry Code of Practice on  
Alternative Forms of Remuneration in the Wealth Management Industry**

**July 2004**

**(amended Code issued in June 2006, and January 2010)**

- The wealth management industry pertains to all areas of the Financial Service Industry including the life and risk management industry.
- The FSC/FPA Industry Code of Practice on Alternative Forms of Remuneration (“the Alternative Remuneration Code”) applies to FSC and FPA members who operate within that industry, and sets an industry benchmark on how alternative forms of remuneration (previously known as “soft dollar benefits”) paid by third parties are managed and disclosed by givers and receivers, including:
  - product providers/funds managers/platforms;
  - licensees (a holder of an Australian Financial Services Licence under the *Corporations Act 2001*); and
  - financial advisers or financial planners (known for the purposes of this Code as “representatives”) as representatives of a licensee.
- The main features of this Code are to:
  - Specify the principles that relate to the payment and/or receipt of alternative forms of remuneration by FSC and FPA (principal and individual) members;
  - Standardise the practices and procedures of FSC and FPA members who **offer or receive** alternative forms of remuneration; and
  - Provide information to both clients and prospective clients as to the type and amounts of alternative forms of remuneration received by FSC and FPA members.
- The Code provides for obligations that are additional to the disclosure requirements and information required under the *Corporations Act 2001* (Corporations Act), as provided in members’ Product Disclosure Statements (PDS), Statements of Advice (SoA) and Financial Services Guides (FSG).

## 1 Title and Date and Issue

- 1.1 This document may be cited as the FSC/ FPA Industry Code of Practice (“the Alternative Remuneration Code”) on Alternative Forms of Remuneration.
- 1.2 Originally issued July 2004; additional guidance provided November 2004, June 2006 and January 2010.

## 2 Preamble

- 2.1 Under the Corporations Act, there is an obligation for product providers, licensees and representatives to disclose all fees, charges and benefits that may be perceived as influencing a particular sale (fully and transparently) to clients.<sup>1</sup>

Where these payments are known in advance they must be listed in a Product Disclosure Statement (PDS), Statement of Advice (SoA) and/ or a Financial Services Guide (FSG), in percentage and/or dollar terms. Upfront fees, which might include an initial commission, and management expenses and ratios, which might include a trail commission payable to a licensee, must also be disclosed.

- 2.3 The FSC’s Code of Conduct requires members to provide disclosures to customers and potential customers that are clear, concise and effective, including disclosures about any conflicts of interest and any fees and charges that are likely to be incurred. Further, the FPA Rules of Professional Conduct require members to disclose all forms of remuneration, fees, commissions or any other pecuniary or non-pecuniary benefits whether direct or indirect, received or receivable for the provision of financial planning services.
- 2.4 In addition to the legal and industry requirements for disclosure, the FPA and FSC have agreed on this Joint Code to specifically provide for the management and disclosure of **alternative forms of remuneration**.

## 3 Scope of the Alternative Remuneration Code

- 3.1 Alternative forms of remuneration are certain material benefits (other than the payment of commissions or service fees) provided or made available to a licensee, platform or representative from a third party<sup>2</sup>, that may influence, or be perceived to influence the choice and use of the product or service of the third party.
- 3.2 This Code sets the industry benchmark for FSC and FPA members on how alternative forms of remuneration paid by third parties are managed and disclosed by the givers and receivers of alternative forms of remuneration.
- 3.3 Under this Code, alternative forms of remuneration that are based on the volume of business are **prohibited in all circumstances**.

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<sup>1</sup> See generally, parts 7.7 and 7.9 of the Corporations Act.

<sup>2</sup> “Third party” is defined as any party (that is a member of FSC or the FPA) outside of the licensee/representative/client relationship such as a product manufacturer (fund manager and/or platform), product issuer, or research house.

- 3.4 This Code does not apply to any form of payment or remuneration that is covered by the FSC/FPA Industry Guide on Rebates & Related Payments in the Wealth Management Industry, which provides for disclosure (in addition to obligations under the Corporations Act) of “rebates & related payments” within the wealth management industry. This Guide has been adopted into Standards by FSC and the FPA.

#### **4 Some Clarifying Points on the Principles of this Code**

- 4.1 It is important that consumers are aware of the various influences on financial product recommendations, so they have the opportunity of properly evaluating financial advice and product offerings.
- 4.2 Disclosure of alternative forms of remuneration is, in most cases, the appropriate action to allow a consumer to make an informed decision. However some forms of alternative remuneration may be strongly perceived as reducing the integrity of the intermediation process and they are therefore prohibited under this Code.

#### **5 Some Clarifying Points on Influence**

- 5.1 A payment or transfer of value has the potential to influence the advice of the licensee or the licensee’s representative when selecting an investment option, product or platform - when all other factors (such as price and product features) are equal. A payment may be said to have been inappropriate if it might cause a licensee and/or its representatives to select one product over another when all other factors are equal.
- 5.2 Under Part 7.7 of the Corporations Act, licensees are required to ensure that financial services covered by their licence are provided ‘efficiently, honestly and fairly’. Moreover, information about the remuneration, commission and other benefits that a licensee and/or its representatives receive or reasonably expect to receive (and is expected to or may be capable of influencing the advice) needs to be ‘clearly, effectively and concisely’ disclosed. Under Part 7.7, licensees must also have in place adequate arrangements for the management of conflicts of interest.
- 5.3 In addition to disclosure requirements under the Corporations Act, this Alternative Remuneration Code aims to assist members of the FSC and FPA to apply best practice management of alternative forms of remuneration.
- 5.4 In relation to whether there is bias or undue influence, the Corporations Act then applies the ‘reasonable person’ test. This Code applies the same ‘reasonable person’ test in determining legitimate alternative forms of remuneration.
- 5.5 The application of the ‘reasonable person’ will include an examination of the nature of the relationship between the parties and the relevant personal characteristics of the client, such as the client’s relevant objectives, financial situation, and needs.<sup>3</sup>

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<sup>3</sup> ASIC Policy Statement 175: Licensing: Financial Product Advisers – Conduct and Disclosure, page 7, paragraphs 175.15 to 175.17, June 2003.

## **6 The Types of Alternative Remuneration**

- 6.1 The different types of alternative remuneration in the past have included the following arrangements:
- 6.1.1 Sponsorship by funds managers for the licensee or the licensee's representatives to attend an international or domestic conference;
  - 6.1.2 Sponsorship of licensee seminars and functions;
  - 6.1.3 Gifts;
  - 6.1.4 Payment for office rental;
  - 6.1.5 Accommodation and entertainment;
  - 6.1.6 Travel;
  - 6.1.7 Cash payments and/or goods;
  - 6.1.8 Computer hardware and software costs;
  - 6.1.9 Other payments (which may influence or have the perception of influencing advice).
- 6.2 These types of payments have usually been based on the attainment of certain sales goals and/or sales of the funds manager's and/or platform provider's product.

## **7 The Materiality Test**

- 7.1 Materiality is defined in terms of dollar value, or equivalent in dollar value. Alternative remuneration less than \$300 in value for any single item is not considered material. Any form of alternative remuneration that is \$300 or more in value, per transaction or item, is considered 'material' and is thereby subject to the Code. This provision applies to value passing to the licensee or their representatives, or a family member of the licensee or the licensee's representative, from a third party.
- 7.2 The materiality level of \$300 is the same as that which applies to Senators in the Australian Parliament who are required to disclose in the Register any gifts, sponsored travel or hospitality exceeding \$300, from third parties.
- 7.3 A third party is defined as any party outside of the licensee/representative/client relationship such as a product provider or product manufacturer (fund manager and/or platform), product issuer, or research house.
- 7.4 The Corporations Act requires all material forms of remuneration to be disclosed in the FSG and SoA. This Code further provides that some material alternative forms of remuneration are prohibited, while others will need to be disclosed on the publicly available register of the licensee, and/or representative and/or the third party providing the alternative form of remuneration.

## **8 Alternative remuneration for Professional Development**

- 8.1 Alternative forms of remuneration that are volume based are prohibited in all circumstances.
- 8.2 Professional Development is the foundation to providing high quality professional advice to clients. For example, the FPA has a formal CPD

policy which requires that all practitioner members undertake prescribed levels and types of continuing professional development and encourages CPD to be formally accredited to meet the expectations of the policy.

- 8.3 Subject to the provisions of section 8 of this Code, alternative remuneration to support financial planner professional development conducted in Australia that is non-volume based is excluded from the obligations of the Code. However, FSC and FPA members are encouraged to be vigilant about expenditure levels on alternative remuneration for professional development that may be perceived by the public to be unnecessary and excessive in the context of the provision of meaningful professional development.
- 8.4 Good governance processes should exist to ensure that the basis upon which alternative remuneration for professional development is offered is not aligned to volume. FSC and FPA members are required to maintain a record of:
- such professional development funded by them, or attended by them or their representatives;
  - the content and programs of such professional development; and
  - the decision basis for an individual's participation in a professional development program.

These records may be subject to review by the relevant bodies of FPA and FSC to ensure the quality of these governance processes.

- 8.5 The role of conferences, seminars and training in the delivery of professional development is supported by FSC and the FPA. For example, it is often via a conference program (due to the benefits of scale) that FSC and FPA members can gain access to certain expertise, information and training that would not otherwise be available.
- 8.6 Non-volume based alternative remuneration for conferences, seminars and training held in Australia relating to the professional development of representatives is excluded from the Code, to the extent there is a relevant connection with the current work-related activities of the recipient of the benefit.
- 8.7 The professional development referred to in section 8.6 must account for the **majority** of the time of each day (between 9.00am and 5.00pm) spent by a representative at a conference, seminar or training activity (this does not include lunches provided with the program).
- 8.8 Alternative remuneration for incidental costs (i.e. entertainment, flights and accommodation) associated with running and attending a conference held in Australia is excluded from the Code, where the requirements of sections 8.1-8.7 have been met.
- 8.9 Alternative remuneration for Professional Development held in Australia (including incidental costs) that does not meet the requirements of sections 8.1 - 8.7 is subject to the obligations of the Code.

- 8.10 Alternative remuneration for Professional Development held outside Australia (including incidental costs) is subject to the obligations of the Code.

## **9 Product discounts**

- 9.1 Product discounts that are available to representatives are considered to be alternative forms of remuneration and are subject to the provisions of this Code.

- 9.2 The *availability* of product and service discounts to representatives of a licensee (whether or not they are actually received by a representative) must be disclosed in the Financial Services Guide of the licensee. An illustrative example of this disclosure is as follows:

*“Employees and Authorised Representatives of ABC Financial Services Licensee are entitled to receive a range of benefits including potential discounts on products and services as a result of their relationship with XYZ.”*

- 9.3 Where a representative of a licensee currently receives a product discount and the representative recommends that same product to a client, the representative must disclose his or her receipt of the product discount in the Statement of Advice to the client.
- 9.4 All product discounts actually received by a representative of a licensee (and that are subject to the materiality test under this Code) must be disclosed on the representative’s Public Register.
- 9.5 All product discounts provided by a third party and actually received by a representative or representatives must also be disclosed on the Public Register of the third party that provided the discount.
- 9.6 For the purpose of disclosure of a product discount on the Public Register of a member of the FSC or FPA, the value of the discount should be expressed in dollar terms. Where that cannot be done or where such disclosure would have the potential to be misleading, then the discount must be expressed in percentages terms. Similarly, where that cannot be done or where such disclosure would have the potential to be misleading, then the discount must, at a minimum, be expressed as a range of percentages.
- 9.7 The FPA requires members to provide disclosure of these issues in writing to their clients upon providing a recommendation to the client.

## **10 The Alternative Remuneration Decision Tree**

Attachment 1 charts the sequence of decisions that one should consider in determining whether or not alternative forms of remuneration influence or have the potential to influence advice.

## **11 Categories of Alternative Remuneration Payable in Third Party Situations**

- 11.1 The transfer of value in third party situations covers three scenarios:

- 11.1.1 Product manufacturer/ platform to licensee
- 11.1.2 Product manufacturer to platform
- 11.1.3 Product manufacturer/ platform to representative.

11.2 The obligations of licensees and their representatives are the subject of separate professional and disclosure requirements and obligations under the law and/or embodied in relevant FPA guidelines.

11.3 The following “categories” will be used in the tables below to identify the obligations for certain types of alternative remuneration:

- Category 1:** No need to disclose on the Public Register. (However, disclosure may be required in the PDS, FSG or SoA, per the Corporations Act requirements)
- Category 2:** Public Register – for ‘material’ transactions (see earlier definitions)
- Category 3:** Ban – for ‘material’ transactions

11.4 Unless otherwise stated, reference to categories 2 and 3 in the tables (below) requires an FSC or FPA member to meet obligations in addition to those required of them for the purposes of disclosure under the Corporations Act.

11.5 For the purposes of the Code, the term "bundled" means components of a product or service offering, including software or other business tools/products/services not elsewhere covered by the Code, which are not separately available on a commercial basis from the vendor or a related entity. “Unbundled business tools” are components of a product offering which are available to be supplied separately on a commercial basis from the vendor or a related entity. Please note that the Code provisions do not apply to these business tools when sold individually i.e. as stand alone products or services unrelated to an investment product or platform.

11.6 The following table outlines the treatment of alternative forms of remuneration passing between third parties and licensees.

**Third party to Licensee**

Remuneration Type	Comments & Examples	Category	Rationale
Entertainment over \$300 per person	Lunches, movies etc	2	Relationship building but not substantial enough to influence product choice
Conferences, sponsorship, accommodation and travel – <b>volume based</b>	Inviting licensee principals or staff to a conference due to the volume sales of a manufacturer’s product	3	Volume related
Conferences, sponsorship, accommodation and travel – <b>not volume related</b>	Paying the Licensee a fixed amount to present at conferences, professional development days etc	2	Manufacturer paying for access to non-aligned distribution. Not volume related
Professional development that meets requirements of sections 8.1-8.7 of this Code.		1	The role of conferences, seminars and training in the delivery of professional development is supported by the FSC and FPA

Remuneration Type	Comments & Examples	Category	Rationale
Professional Development held in Australia (including incidental costs) that does not meet the requirements of sections 8.1 - 8.7		2	If the professional development does not account for the <b>majority</b> of the time spent by a representative at a conference, seminar or training activity, it must be disclosed on the Public Register.
Professional Development held outside Australia (including incidental costs)		2	To avoid the potential public perception of inappropriate and unnecessary expenditure on professional development.
Product discounts – where generally available to representatives of licensee		1	This Code notes that this arrangement must be disclosed in the licensee's FSG
Product discounts -actually received by a representative		1	<p>The licensee does not need to disclose on the licensee's register.</p> <p>However, the representative must disclose all product discounts actually received on the representative's Public Register.</p> <p>All product discounts provided by a third party and actually received by a representative or representatives must also be disclosed on the Public Register of the third party that provided the discount.</p>
Computer Hardware and office rental	Provision of computer hardware for work purposes and/ or office accommodation	3	May influence product selection
Business tools - bundled	Planning software etc linked to product offer	1	Generally priced into product offer
Business tools – unbundled	Commercially available software	3	May influence Licensee's decisions
Practice Management (and	Business coaching	2	Provides professional

Remuneration Type	Comments & Examples	Category	Rationale
Compliance Services)			development for licensees/ Authorised representatives
Technical services	Technical information provided by call centre like help areas	1	Enhances licensees /Authorised representatives ability to service clients
Cash / gifts over \$300	Any cash or gifts over the value of \$300	3	May influence Licensee's product selection

11.7 Additional guidance on acceptable Practice Management and Technical Services can be found in attachment 3.

11.8 The following table outlines the treatment of alternative forms of remuneration passing between product manufacturers to platforms.

### **Product Manufacturer to Platform**

<b>Remuneration Type</b>	<b>Comments and examples</b>	<b>Category</b>	<b>Rationale</b>
Entertainment over \$300 per person	Lunches, movies etc	2	Relationship building but not substantial enough to influence product choice
Conferences, sponsorship, accommodation and travel – <b>volume based</b>	Inviting platform staff to a conference due to the volume sales from that manufacturer	3	<b>Volume related</b>
Conferences, sponsorship, accommodation and travel – <b>not volume related</b>	Platform conferences for professional development	2	Not volume related
Professional development that meets requirements of sections 8.1-8.7 of this Code.		1	The role of conferences, seminars and training in the delivery of professional development is supported by the FSC and FPA.
Professional development held in Australia (including incidental costs) that does not meet the requirements of sections 8.1-8.7 of this Code.		2	If the professional development does not account for the majority of the time spent at a conference, seminar or training activity, it must be disclosed on the Public Register.
Professional development held outside Australia (including incidental costs).		2	To avoid the potential public perception of inappropriate and unnecessary expenditure on professional development.
Business tools – bundled	N/A	N/A	N/A
Business tools – unbundled	N/A	N/A	N/A
Practice Management (and Compliance Services)	Business coaching	2	Provides professional development for licensees/ Authorised representatives
Technical services	Technical information provided by call centre like help areas	1	Enhances ability to service clients
Cash / gifts over \$300	Any cash or gifts over the value of \$300	3	Would be treated as an inducement

11.9 The following table outlines the treatment of alternative forms of remuneration passing from third parties to representatives.

**Third party to Representative**

Remuneration Type	Comments and examples	Category	Rationale
Entertainment over \$300 per person	Lunches, movies etc	2	Relationship building but not substantial enough to influence product choice
Conferences, sponsorship, accommodation and travel – <b>volume based</b>		3	<b>Volume related</b>
Conferences, sponsorship, accommodation and travel – <b>not volume related</b>	Sponsoring activities of representatives	2	Not volume related
Professional development that meets requirements of sections 8.1-8.7 of this Code.		1	The role of conferences, seminars and training in the delivery of professional development is supported by the FSC and FPA.
Professional development held in Australia (including incidental costs) that does not meet the requirements of sections 8.1-8.7 of this Code.		2	If the professional development does not account for the majority of the time spent by a representative at a conference, seminar or training activity, it must be disclosed on the Public Register.
Professional development held outside Australia (including incidental costs).		2	To avoid the potential public perception of inappropriate and unnecessary expenditure on professional development.
Product discounts actually received by a licensee's representative		2	The representative must disclose all product discounts actually received on the representative's Public Register.  All product discounts provided by a third party and actually received by a representative or representatives must also be disclosed on the Public Register of the third party that provided the discount.  The licensee does not need to disclose on the licensee's public register.
Computer Hardware and office rental	Provision of hardware and office accommodation	3	May be designed to influence product selection
Business tools – bundled	Tools bundled into product offer	1	Priced into product

Remuneration Type	Comments and examples	Category	Rationale
Business tools – unbundled	Commercially available software	3	May be designed to influence product selection
Practice Management (and Compliance Services)	Business coaching	2	Provides professional support for licensees/ Authorised representatives
Technical services	Technical information provided by call centre like help areas	1	Enhances licensees /Authorised representatives ability to service clients
Cash / gifts over \$300	Any cash or gifts over the value of \$300	3	Designed to influence product choice

## 12 The Public Register

12.1 A public Register must be maintained by FSC and FPA members as outlined in this Code.

12.1.1 Representatives may agree with their licensee that the licensee maintains their public Register on their behalf.

12.2 In relation to those payments or transfers in value that are material and need to be disclosed in a public Register, the following provisions apply:

12.2.1 The Register will be maintained by both the givers and receivers of alternative forms of remuneration. In terms of receivers, the Register will be kept in relation to payments made to financial planning practitioners who are authorised to represent the licensee in the provision of personal advice to retail clients.

12.2.2 The Register will contain details of date, type of remuneration, the value of the alternative remuneration and the name of the giver/receiver as appropriate.

12.2.3 The Register will be available for inspection on request by members of the public. A copy of the Register is to be provided within 7 days of the date of the request.

12.2.4 The Register is to be updated at least quarterly.

12.2.5 A licensee does not need to consolidate the individual representative's Register into its own Register.

12.2.6 The licensee's Register should also be available from the representative's office (or the representative should contact the licensee to request a copy on the requester's behalf); and

12.2.7 Each organisation subject to this Code is to appoint a designated person/role within the organisation to update, ensure compliance and deal with requests for the Register.

### **13 Commencement and Transition arrangements**

- 13.1 The Code applies to all FSC and FPA members. Compliance with the Code is a mandatory condition of membership of the two Associations.
- 13.2 The Code will commence on 1 August 2004.
- 13.3 A transition period will apply until 31 December 2004.
- 13.4 The implementation date of the Code Register is 1 January 2005.
- 13.5 All new contracts (entered into by FSC and FPA members) after 1 August 2004 must comply with this Code.
- 13.6 Pre-existing contracts that do not comply with the Code have until 31 December 2005 to amend non-compliant provisions. Contract rolling will not be permitted.
- 13.7 Contracts that do not comply with the Code will be displayed in the non-complying contracts Register (see attachment 2). The Member will also need to provide a copy of the non-complying contract Register to their appropriate Association. (The Association will notify the Code of Practice Committee that these contracts are in place.) An action plan will also need to be submitted to the Code of Practice Committee or Association stating how this/these contracts will be wound up.
- 13.8 In relation to the amended Code issued on 31 January 2010, there will be a transition period until 1 July 2010. FSC and FPA members are strongly encouraged to comply with the amended Code from 31 January 2010, and they must comply with the amended Code from 1 July 2010.

### **14 Monitoring Compliance with the Code**

- 14.1 Monitoring of compliance with this Code by FSC and FPA members is undertaken by the FSC and FPA in accordance with their respective arrangements for member compliance.
- 14.2 The FSC and FPA may agree to convene a select Joint Committee to deal with a complaint under this Code against an organisation which is both a member of the FSC, and a principal member of the FPA. If the complaint is of a serious nature, the FSC and FPA may agree to invite a representative of ASIC to observe the deliberations of the Joint Committee.

A select Joint Committee shall comprise:

- one representative of the FSC Board;
- one representative of the FPA Board;
- the FSC CEO or a delegate; and
- the FPA CEO or a delegate.

The position of Chair of each select Joint Committee shall alternate between the FSC Board representative and the FPA Board representative.

- 14.3 A Joint Committee convened under these provisions shall report to the relevant disciplinary committees of the FSC and FPA concerning the outcomes of the Joint Committee's deliberations. The Report shall include any recommendations (if necessary) to ensure a consistent investigation and potential enforcement response by the FSC and FPA to an alleged breach of the Code. Once the Joint Committee has made its report, it shall be dissolved.
- 14.4 All FPA members shall be required to assess their compliance against the Code annually as part of the FPA's National Quality Assessment Program and may be subject to field review or compliance review in relation to it.
- 14.5 All FSC members shall be required to assess their compliance with the Code annually as part of FSC's regular annual compliance sign-off process.

## **15 Enforcement of the Code**

- 15.1 This Alternative Remuneration Code is promulgated as an FSC Standard. Breaches of the Code by FSC members shall be handled in accordance with FSC Standard No. 1, Code of Ethics and Code of Conduct. (See appendix B and C of FSC Standard No.1 for the process for handling alleged breaches of the Code.)
- 15.2 This Alternative Remuneration Code is promulgated as an FPA regulation and linked to the members' obligation to comply with Rule 7.20 or Rule 8.39 of the Rules of Professional Conduct. Alleged breaches of the Code will be handled pursuant to the FPA's disciplinary regulations and the FPA Constitution.
- 15.3 Complaints regarding alleged breaches of the Code shall be accepted from any individual or organisation by the secretariat of either Association for investigation and prosecution.
- 15.4 The FSC or the FPA may also raise a complaint against their respective members and may investigate such a complaint in accordance with their respective procedures – as noted in sections 15.1 and 15.2 of this Code.

## **16 Review of the Code**

- 16.1 The Committee shall formally review the Code after 18 months of its initial implementation.<sup>4</sup>

## **17 Additional Guidance Notes for Maintaining a Register**

- 17.1 The Register should be completed on an incidence basis.
- 17.2 A statement should be made in members' IDPSs, PDSs, FSGs and SoAs stating that there is an Alternative Form of Remuneration Register for FSC and FPA Members. It should explain that the:
- 17.2.1 Register outlines the Alternative Forms of Remuneration which are paid and received from givers and receivers.

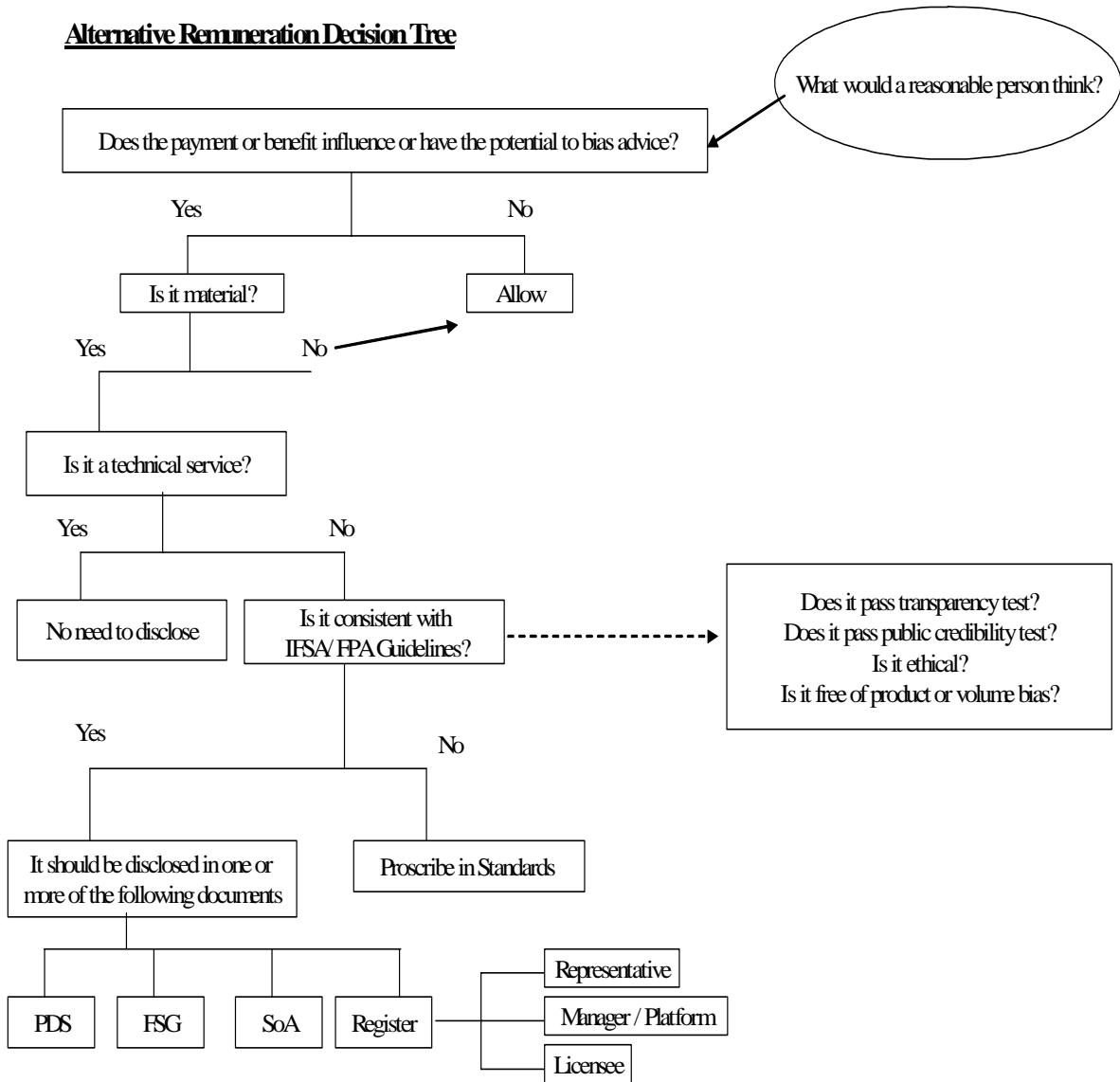
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<sup>4</sup> This is an historical reference to the former Joint Code Committee, which was a standing Committee of FSC and the FPA.

- 17.2.2 Registers are maintained by fund managers, IDPS (platform) providers, representatives and licensees.
- 17.2.3 Registers are publicly available and can be accessed as outlined in section 17.4.
- 17.3 The statement as required in 17.2 will be required to be in members' disclosure documentation by 1 July 2005.
- 17.4 Soft copies of the Registers can be made available on a website. However hard copies of the Register must also be made available to those that request the Register.
- 17.5 If no alternative forms of remuneration are given or received a register is not required.
- 17.6 Givers of alternative forms of remuneration should supply to the receiver the nominal value of the product or service supplied.

**Attachment 1**

**Alternative Remuneration Decision Tree**



## Attachment 2

### FSC/FPA Code on Alternative Remuneration

#### Example Register

- The Register will provide a list of all Licensees dealt with and will indicate which alternative forms of remuneration are provided. Both the quantum and what the expense relates to will be provided in the Register.

Example of reporting would be:

#### Third party to Licensee

<i>Fund Manager / Platform to:</i>	<i>Date</i>	<i>Amount</i>	<i>17.1.1 Type</i>	<i>Explanation</i>
<i>A Licensee</i>				
<i>B Licensee</i>				
<i>C Licensee</i>				
...				

#### Type Code

E = Entertainment  
S = Sponsorship  
M = Marketing Support  
O = Other

#### Product Manufacturer to Platform

<i>Fund Manager to:</i>	<i>Date</i>	<i>Amount</i>	<i>Type</i>	<i>Explanation</i>
<i>A Platform</i>				
<i>B Platform</i>				
<i>C Platform</i>				
...				

#### Type Code

E = Entertainment  
S = Sponsorship  
M = Marketing Support  
O = Other

#### Third party to Representative

<i>Fund Manager / Platform to:</i>	<i>Date</i>	<i>Amount</i>	<i>Type</i>	<i>Explanation</i>
<i>A Representative</i>				
<i>B Representative</i>				
<i>C Representative</i>				
...				

Type Code

E = Entertainment  
S = Sponsorship  
M = Marketing Support  
O = Other

**Licensee / from Fund Manager / Platform**

<b><i>Fund Manager to:</i></b>	<b><i>Date</i></b>	<b><i>Amount</i></b>	<b><i>Type</i></b>	<b><i>Explanation</i></b>
<b><i>A Platform</i></b>				
<b><i>B Platform</i></b>				
<b><i>C Fund Manager</i></b>				
<b><i>D Fund Manager</i></b>				
<b><i>...</i></b>				

Type Code

E = Entertainment  
S = Sponsorship  
M = Marketing Support  
O = Other

**Representative / from Fund Manager / Platform**

<b><i>Representative from:</i></b>	<b><i>Date</i></b>	<b><i>Amount</i></b>	<b><i>Type</i></b>	<b><i>Explanation</i></b>
<b><i>A Platform</i></b>				
<b><i>B Platform</i></b>				
<b><i>C Fund Manager</i></b>				
<b><i>D Fund Manager</i></b>				
<b><i>...</i></b>				

Type Code

E = Entertainment  
S = Sponsorship  
M = Marketing Support  
O = Other

**Non complying contracts Register**

<b><i>Fund Manager/ Platform/ Licensee/ Representative:</i></b>	<b><i>Date contract entered into</i></b>	<b><i>Type</i></b>	<b><i>Explanation</i></b>
<b><i>A Platform</i></b>			
<b><i>B Platform</i></b>			
<b><i>C Fund Manager</i></b>			
<b><i>D Fund Manager</i></b>			
<b><i>E Licensee</i></b>			
<b><i>F Representative</i></b>			
<b><i>...</i></b>			

Type Code

E = Entertainment  
S = Sponsorship

M = Marketing Support

O = Other

- The Licensee does not need to consolidate the individual representative's Register into its own Register.
- Each type of alternative remuneration should be clearly defined.
- The Register is to be updated at least on a quarterly basis.
- The Register will be available on request. On request means: The Register will be available within 7 days.
- The Licensee Register should also be available from the representative's office (or the representative's office should contact the Licensee to request a copy on the requester's behalf).

## **Attachment 3**

### **Practice Management and Technical Service – additional guidance**

#### **1. Practice Management (includes compliance services)**

Practice management services are those services that are aimed at improving the professional practices of financial planning practitioners and business owners. Practice management can include business coaching, business planning assistance, educational seminars or workshops, advice on business improvement, valuation, succession planning and associated issues such as human resource management and business systems.

Compliance services, for the purposes of the Code, are included in practice management rather than technical services as they are designed to improve business practices. They are provided wholly or predominantly for the purpose of assisting a licensee in relation to compliance with legal requirements applicable to it whereas technical services are provided wholly or predominantly for the purpose of assisting advisory personnel in relation to the provision of advice to client(s) (and only incidentally will it relate to the licensees' compliance practices).

Practice management services are generally delivered by professionals such as business advisers and management consultants.

These services are considered to be of value to any business, irrespective of the industry because of the potential business improvement that they deliver. However, they are treated as Category 2 requiring disclosure of material benefits because of the potential for influencing advice.

The provision of this type of service at a subsidised level or via a bundled delivery option requires disclosure under the Corporations Act on the part of the recipient. This disclosure may be required in the FSG, SOA and register dependent on the nature and quantum of the benefit received.

**Classification:** Practice management

**Disclosure requirements:**

- Code – Required if valued at over \$300.
- Corporations Act - Disclosure by the Adviser/Authorised Representative may be required in either or both, the FSG and SoA as the service provided by the Fund Manager is of commercial value.

#### **2. Technical Services**

Technical services are a support function aimed at improving the technical proficiency of financial planning practitioners by providing assistance on a specific aspect of the planning strategies they might recommend for clients, such as those associated with taxation, superannuation and social security law.

Technical services may take a variety of forms, including telephone assistance to individual advisers addressing particular client circumstances, written and website-located articles, brochures and booklets, financial models and presentations to groups of advisers.

Technical service providers do not provide advice (as defined in the Corporations Act) to underlying clients and do not bear the compliance risk associated with providing advice.

Technical services do not include compliance services which are classed as practice management.

Technical services are often sought by advisors as they are critical for client outcomes. However, each product provider has limited resources in this regard and the demand for these services far exceeds the available resources. Therefore, the allocation of technical services should be at the commercial discretion of the product provider.

These services are considered to be of value to any business, irrespective of the industry because of the potential improvement in the education levels of advisers and therefore the quality of advice that they ultimately deliver. For this reason, technical services are treated as Category 1, with no requirement to be disclosed on the Register.

**Classification:** Technical services

**Disclosure requirements:**

- Code – None.
- Corporations Act – Generally none but it may depend upon the circumstances.

## **Attachment 4**

### **Invite Only Conference – additional guidance**

In structuring conferences to comply with the requirements of the Code the following comments are provided as guidance.

- Conferences that are based on volume related qualification criteria **are prohibited** under the Code.
- Disclosure of alternative forms of remuneration for conferences that deliver professional development must be done in accordance with section 8 of this Code.
- Conferences can be “invitation” based, i.e. where there are no published qualifying criteria for attendees to meet. However the invitation list **must not** be determined on the basis of volume as this is contrary to the requirements of the Code. Members offering such conferences must be able to provide an explanation as to the manner in which the invitations were determined. The relevant FSC and FPA committees (as part of the responsibility of the FSC and FPA for oversight of compliance with the Code) may request to see this explanation.