



**FSC / FPA Industry Guide on
Rebates & Related Payments in the Wealth Management Industry
(‘the Guide’)**

November 2004

The Financial Planning Association (FPA) and the Financial Services Council (FSC) have collaborated to develop this Industry Guide on Rebates and Related Payments in the Wealth Management Industry.

The main features of the Guide are:

- Standard definitions of the terms ‘Rebates, Commissions and Payments’;
- Standard and clearer terminology to improve transparency and consumer understanding of rebates and related payments (whether or not the payment has the potential to impact advice); and
- Disclosure guidelines for rebates and related payments.

The Guide forms one part of an ongoing review being conducted by the FSC and FPA of all alternative forms of remuneration used by FSC and FPA members. Some benefits are dealt with in other policy documents that include the:

- FSC/FPA Industry Code of Practice on Alternative Forms of Remuneration (‘the Code’);
- FPA Business Tool 3 - Disclosure of Financial Advice Benefits; and
- FSC and FPA position being developed on Conflicts of Interest.

The Guide outlines obligations that are additional to (and not a substitute for) the disclosure requirements and other information required under the *Corporations Act 2001* (Corporations Act) as articulated in members’ Product Disclosure Statements (PDS), Investor Directed Portfolio Service Guides (IDPS), Statements of Advice (SoA) and Financial Services Guides (FSG). For the purposes of this Guide Superannuation PDSs and Master Trust arrangements fall under the same disclosure requirements as IDPSs.

1. Objectives

- 1.1 The Guide has the main objective of introducing clearer standard definitions assisting in the disclosure of “rebates” at all levels within the financial planning and funds management industry. It identifies who carries the disclosure responsibility for rebates as well how they should be disclosed. The Guide aims to ensure that investors understand what a rebate is and how it relates to the products in and through which they invest. To enhance consumer confidence the Guide seeks to increase the transparency of payments in the wealth management industry whether or not the payment has the actual or perceived potential to impact advice.

2. Background

- 2.1 The existence of rebates and related payments between fund managers, platforms, Australian Financial Services Licence (AFSL) holders (Licensees), financial planners (known for the purposes of this guide as “representatives”) and consumers results in either a remuneration benefit within the industry or a benefit to consumers by way of decreased fees.
- 2.2 FPA Rules of Professional Conduct and the FSC Standard on the ASIC Fee Template already require members to fully disclose all forms of remuneration, fees, commissions or any other pecuniary or non-pecuniary benefit, whether direct or indirect, received or receivable for the provision of financial planning services.
- 2.3 Nevertheless, while rebates are disclosed by the industry in line with the law, ASIC guidelines and industry codes, the FPA and FSC believe a higher standard of disclosure - one that more clearly defines and describes rebates and other related payments - will improve investors’ understanding and provide increased transparency.
- 2.4 The definition of rebates is complex because the methodology and participants vary widely across the industry. As a result of the complex remuneration structures in the industry, fees and charges are not always understood by consumers.
- 2.5 The use of standard terminology, the right language, and consistent practices will help to overcome these issues. It is particularly necessary where a payment may influence the promotion of a particular product or service.
- 2.6 This Guide summarises the most common rebate practices and the resultant disclosures at the different levels of participation. It then sets standard terminology that more accurately describes these payments for clients.

3. Principles adopted by both the FSC & FPA

- 3.1 Several principles guide the FSC & FPA in their efforts to improve consumer understanding of financial planning and product fees and commissions:
 - 3.1.1 Consumers should know the total fee that they are required to pay, as well as understand the fees that might influence product and service recommendations so they have the opportunity to evaluate the financial advice and product offerings with all relevant information. This information should translate to a dollar term or percentage rate disclosure.
 - 3.1.2 Participants in the market must act in the best interests of investors. To do otherwise is to breach the fiduciary obligations that underpin the delivery of financial service products and services.

3.1.3 All costs of investing in a product should be disclosed and clearly referenced to the different services provided to the consumer including cross referencing in the different disclosure documents to allow that to occur (refer Diagram in section 6 of this report).

3.2 Disclosure of rebates and other related payments is occurring at various levels across the industry. However, the disclosure is not consistent and consumer understanding is poor. These issues will be improved through the standardisation of practices and terminology.

4. Specific principles in relation to rebates and related payments

4.1 The following principles are to apply to the disclosure of rebates and related payments depending on who pays, and who receives the benefits:

4.1.1 Investors should know what discounts they are receiving when paying for advice and/or investments and which service they relate to. Therefore, only discounts that are passed through to the consumer should be called 'rebates'.

4.1.2 Investors need to be aware of the revenue received by representatives and licensees in relation to recommending the usage by a client of a platform or product. Therefore, any payment which is received by a representative or licensee from a platform or fund manager, which is implicit in the price and not passed straight through to the consumer, should be disclosed to the consumer as 'commission'.

4.1.3 Investors should know the total amount they are paying for investment and administration of their assets. If fees are paid by the fund manager to a platform/licensee, consumers should know that there are 'Fund Manager Payments that may be rebated or that may be retained by the platform/licensee as a commission and are expressed as 'up to x %'.

4.1.4 Investors should know the total amount they are paying for investment and administration of their assets. If fees are paid by the platform provider to a licensee, consumers should know that there are 'Platform Payments that may be rebated or that may be retained by the licensee as a commission and are expressed as 'up to x %'.

5. Standard definitions of key terminology

There are generally three types of "rebate" payments that may occur in the market:

5.1 Payments passed through to customers

A **Rebate** is a discount on the administration or investment fee that is passed (whether by reduced fees or directly paid) through to the customer. Rebates may be paid from any of the service providers whether it is a 'platform rebate', 'commission rebate' or 'fund manager rebate'. If a Rebate is passed through to the client then disclosure of the Rebate as a dollar and/or percentage amount is optional in the IDPS Guide, PDS, SoA or FSG. (Not all rebates will be known at the time these documents are issued). Neither the Guide nor the Corporations Act requires disclosure of rebates.

5.2 Payments made to licensees and representatives

A **Commission** is a fee paid by the fund manager or the platform (directly attributable to usage of the platform or funds placed by a representative) to the licensee or the

representative and is included in the pricing of the platform or product. It is not passed through to the client. This includes such payments that were previously referred to as marketing allowances, volume bonuses, volume discounts or 'platform rebate' (now known as fund manager payments or platform payments) received by the representative or licensee. Dollar and/or percentage disclosure is required. An appropriate payment expressed as "up to x%" should be disclosed in the FSG, SoA, PDS and IDPS Guide, if applicable.

5.3 **Payments made between fund managers and platforms**

5.3.1 **Product Access Payment**

An annual or one-off dollar based fee collected by the platform from the fund manager. Disclosure expressed as "up to \$fixed dollar amount" is required in the PDS or IDPS Guide, if applicable.

5.3.2 **Fund Manager Payment** (that may be rebated or that may be retained by the platform / licensee as a commission.)

Payments made by the fund manager to the platform, which may or may not be based on volume placed with the fund manager. It should be noted that the fund manager and platform may have numerous and diverse arrangements in place which are commercial. An appropriate payment expressed as "up to x%" should be disclosed in the PDS, IDPS Guide and FSG, if applicable. The actual amount will be displayed in the SoA (if known) unless the payment is fully passed onto the investor. In this latter case disclosure is optional.

5.3.3 **Platform Payment** (that may be rebated or that may be retained by the licensee as a commission.)

Payments made by a platform provider to a licensee, which may or may not be based on volume placed with the platform. It should be noted that the platform provider and the licensee may have numerous and diverse arrangements in place which are commercial. An appropriate payment expressed as "up to x%" should be disclosed in the FSG and IDPS Guide, if applicable. The actual amount will be displayed in the SoA (if known) unless the payment is fully passed onto the investor as a rebate. In this latter case disclosure is optional.

5.4 Example of “old” terminology and Draft Guide terminology

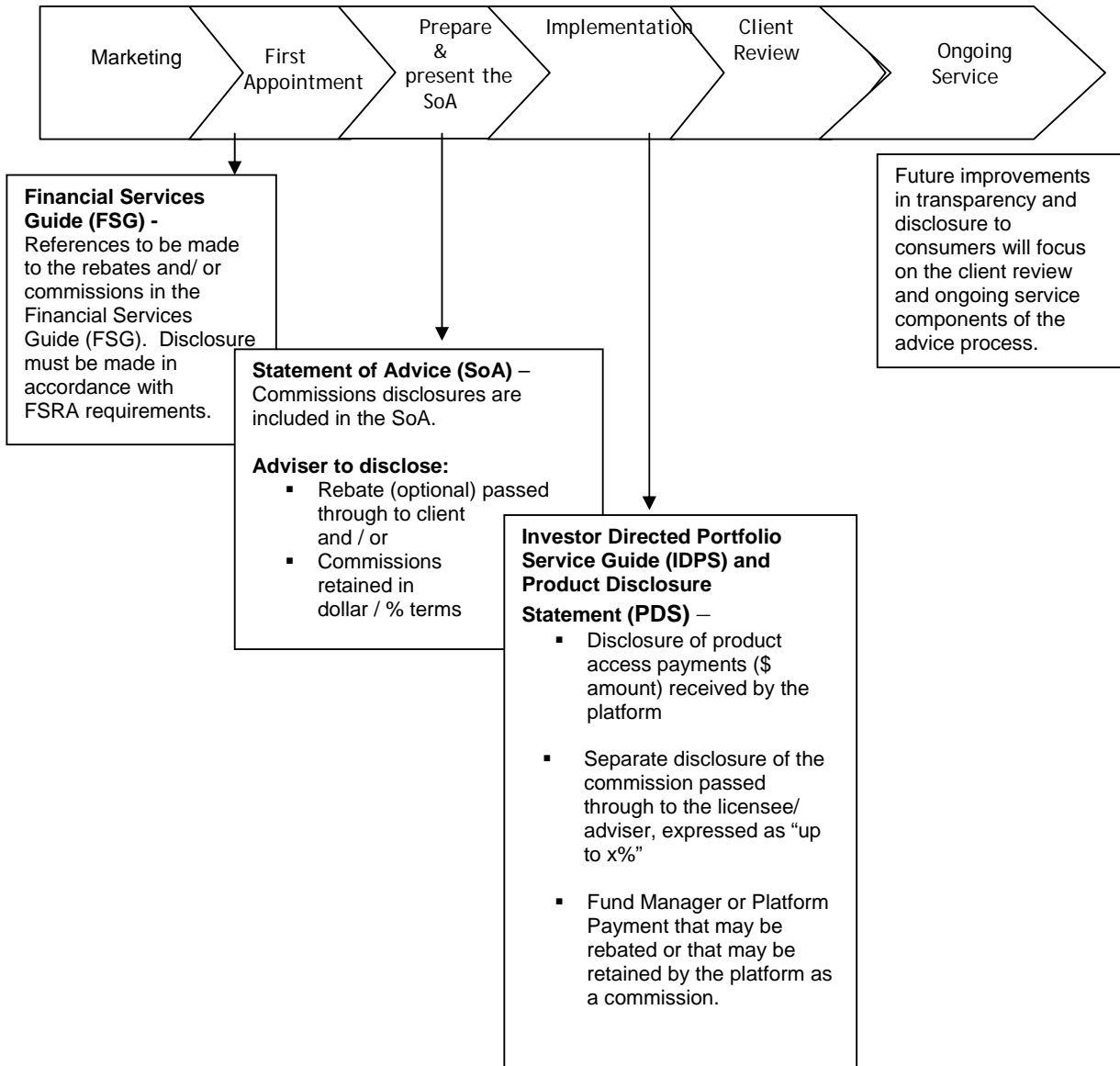
For the purposes of this Guide Superannuation PDSs / Master Trust arrangements fall under the same disclosure requirements as IDPSs.

Old Terminology	New Terminology	Required Disclosure			
		S o A	F S G	I D P S	P D S
Client					
Rebates (to the client)	Rebates	Optional			
Adviser / Representative					
Marketing allowance, volume bonus, platform/ fund manager rebates	Commission	Y	Y	Y	Y
Dealer/ Licensee					
Marketing allowance, volume bonus, platform/ fund manager rebates	Commission	Y	Y	Y	Y
Platform / IDPS / WRAP / Master Trust					
Fund manager fee paid to platform, known as shelf space payment (Flat \$dollar amount)	Product Access Payment	N	N	Y	Y
Fund manager marketing allowance, volume bonus, rebates Note: Where retained by a representative or licensee to be disclosed in the Financial Services Guide (FSG) and Statement of Advice (SoA) as commission	Fund Manager Payment that may be rebated or that may be retained by the platform / licensee as a commission.	Y	Y	Y	Y
Platform rebate paid to licensee based on volume (eg marketing allowance, volume bonus, rebates) Note: Where retained by a representative or licensee to be disclosed in the Financial Services Guide (FSG) and Statement of Advice (SoA) as commission	Platform Payment that may be rebated or that may be retained by the licensee as a commission.	Y	Y	Y	N
Fund Manager					
Fund manager rebate paid to platform, known as shelf space (Flat \$dollar amount)	Product Access Payment	N	N	Y	Y
Fund manager rebate paid to platform based on volume (eg marketing allowance, volume bonus, rebates)	Fund Manager Payment that may be rebated or that may be retained by the platform / licensee as a commission.	Y	Y	Y	Y
Fund manager fee rebates paid to licensee or advisers (eg marketing allowance, volume bonus, rebates)	Fund Manager Payment that may be rebated or that may be retained by the licensee as a commission.	Y	Y	Y	Y
Fund manager rebate paid to Client	Rebate	Optional			

6. Disclosure requirements

6.1 Disclosure of fees and commissions to the consumer takes place through the advice process and is managed by the consumer's representatives. Therefore, each of the disclosures has been referenced to the advice process to provide enhanced clarity and transparency.

6.2 The attached diagram illustrates how this will work in disclosure documentation, along with draft disclosure wording which is also attached.



6.3 Associated Entities

- 6.3.1 The Corporations Act requires disclosure of certain conflicts of interest that affect an 'associate' of the representative or the licensee.
- 6.3.2 In particular where the platform is an associate of the licensee, a benefit received by the platform may need to be disclosed:
- In the FSG if it is attributable to the advice
 - In the SoA if it has the potential to influence advice.
- 6.3.3 A percentage based benefit to a platform from an underlying fund manager may fit both categories.

7. Commencement and Transition arrangements

- 7.1 The Guide applies to all FSC and FPA members. Compliance with the Code is a mandatory condition of membership of each association.
- 7.2 The Guide will commence on 1 January 2005.
- 7.3 A transition period will apply until 1 July 2005.
- 7.4 Compliance with the Guide will be proactively enforced by both the FSC and FPA Secretariats.
- 7.5 In addition, all FPA members shall be required to assess their compliance against the Guide 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.
- 7.6 All FSC members are required to assess their compliance with the Guide annually as part of the FSC's regular annual compliance sign-off process. A member's Board is required to pass a resolution each year stating that, to the best of the member's knowledge the member has complied with mandatory FSC Standards for the relevant period. (See FSC Standard No. 1, Code of Ethics and Code of Conduct - Appendix B - Monitoring of Compliance section B2).

8. Enforcement of the Guide

- 8.1 The Guide shall be promulgated as an FSC Standard. Breaches of the Guide 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 FSC Standards.)
- 8.2 The Guide shall be promulgated as an FPA regulation and linked to the members' obligation to comply with Rule 106 of the FPA's Code of Ethics and Rules of Professional Conduct. Alleged breaches of the Guide will be handled pursuant to the FPA's disciplinary regulations and the FPA Constitution.
- 8.3 Complaints regarding alleged breaches of the Guide shall be accepted from any individual or organisation by the secretariat of either Association for investigation and disciplinary action.