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The Treasury
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14 January 2009

Dear Sir/Madam,

Discussion paper on Prescribed Private Funds

The Financial Planning Association of Australia[1] (FPA) welcomes the opportunity to comment on the Treasury discussion paper *Improving the Integrity of Prescribed Private Funds*.

The FPA is very supportive of aims of the Prescribed Private Funds (PPFs) regime to encourage private philanthropy. The key benefits of PPFs are the fostering of a philanthropic culture in Australia along with the capital to support such philanthropy. As the professional body representing financial planners who may recommend their use, the FPA is interested to maintain the capacity of PPFs to meet such objectives.

We consider that the some aspects of the discussion paper proposals may undermine the effectiveness of PPFs. In particular, we are concerned that the proposal that all PPFs must distribute a minimum of 15% of their capital base each year may be short sighted. While it would increase funds flowing to deductible gift recipients in the near term, it could weaken PPFs ability to accumulate capital and potentially discourage donors from establishing PPFs in the future.

A 15% distribution minimum would require a greater level of liquid assets be held to meet the payments out of the fund. Thus PPFs would be required to increase the proportion of assets they keep in cash and fixed interest. Given these assets may be expected to provide a lower return than growth assets over the medium to long term, a 15% distribution rate may be expected to have a detrimental effect on the value of the fund. This would be the case in a growing market but the situation would be significantly worse in a weak or falling market environment. A falling market could result in the need to realise growth assets to meet payments, thus reducing the overall level of assets of the fund. This is a particular concern in the current market environment.

[1] The FPA is the peak professional organisation for the financial planning sector in Australia. With approximately 12,000 members organised through a network of 31 Chapters across Australia, the FPA represents qualified financial planners who manage the financial affairs of over five million Australians with a collective investment value of more than $630 billion.

We suggest that Treasury consider a more flexible distribution rate that would reflect the market conditions in which the fund operates. One option would be to link the rate to current and expected market returns. An alterative would be to mandate a minimum annual payment of 5% of closing investment capital at the end of the previous financial year. Whichever approach is adopted, we strongly urge that the current market environment be considered when developing policy on this issue.

If you would like further information on the issues raised in this submission, please contact me directly on 02 9220 4505 or gerard.fitzpatrick@fpa.asn.au.

Yours faithfully

Gerard Fitzpatrick

General Manager, Policy and Government Relations