

## Joint Submission in Support of *Professional Placement Agencies*

by

**Brookvine Pty Limited, Principle Advisory Services Pty Ltd and Shed Enterprises Pty Limited**

### **Preamble**

Our submission is to outline the positive role placement firms play in ensuring the efficiency and effectiveness of the superannuation system. In particular, we assert that placement agent fees do not impose additional costs on superannuation fund members and indeed, promote efficiency, streamline processes and reduce costs within the system. Investment managers choose the most efficient marketing function available to them and placement agents are engaged for this reason, amongst others. Professional placement firms make a strong positive contribution to the Australian financial services industry.

We also assert that the current regulatory regime governing proper placement firms is covered under the Australian Financial Services Licence (AFSL) regime and the Corporations Act. We believe that the current regulation is adequate for compliant firms and therefore special rules are not needed for placement agents.

This submission is made by three of Australia's leading placement firms, Brookvine Pty Limited, Principle Advisory Services Pty Ltd and Shed Enterprises Pty Limited. Each is independently owned, is focused on the business of placement and related services, and has been operating for a minimum of 9 years. Together our firms have played a significant role in the emergence of many new Australian managers and the introduction of important offshore managers into the Australian marketplace. Our focus has been on alternative investments such as private equity, infrastructure, property and hedge funds<sup>1</sup>.

This submission is structured under the following headings:

- Why Placement Agencies?
- What Do Placement Agents Do?
- The Positive Impact of Placement Agents
- Placement Agent Fees
- Regulatory Regimes Are Adequate

### **Why Placement Agencies?**

The Issues Document for the Review's second phase, dated October 16, asks at paragraph 9.3.8:

*"Do placement agent fees have a place in super? In this context, a placement agent refers to a person who locates capital for investment managers, generally by dealing with super funds and their asset consultants, in return for a commission payable by the investment manager. The cost of such commissions*

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<sup>1</sup> See Appendix for details on the three firms.

*is then embedded in the price paid by the fund for the investment, correspondingly reducing the long-term return to members. Are special rules needed regarding the use of placement agents?"*

Five initial comments form part of our reply to these questions.

1. The names *placement agent* and its alternative *third party marketer* (a term widely used in Australia) fail to capture the full range of our investment and other activities. A placement agent is essentially the outsourced marketing function of an alternative investment manager. In that respect we take on, at a minimum, the standard functions that an in-house marketing function undertakes.
2. Placement agent refers not to "a person" but to a managed and AFSL compliant *firm* of investment and other professionals.
3. We do far more than "locate capital" as we originate, conduct due diligence, qualify and efficiently deliver fund opportunities to institutional investors and their members.
4. That the cost is "embedded in the price" does not *prima facie* result in "reduce(ed) ...long-term return to members":
  - a) our fees are always paid by the fund manager and are not levied as an additional charge to investors;
  - b) the market for placement services is competitive and our fees reflect both the cost of outsourcing services that would otherwise be performed in-house and the value we create within each investment franchise. Indeed, if a fund manager could conduct the function at a lower cost and more efficiently they would;
  - c) if a placement agent brings an investment opportunity to a super fund that it would otherwise not have found, and if that investment performs well, it will increase long-term returns net of fees;
  - d) effective placement streamlines the process of investment decision-making for superannuation funds, for example, by making sure that structures and compliance regimes are appropriate, terms are in line with market requirements, information is at hand and the due diligence process can be handled effectively; and
  - e) placement firms increase competition in the market, which leads to long term benefits for the beneficiaries of the superannuation firms.
5. Placement-type services are provided by a range of institutions in Australia. It is not just the preserve of dedicated and independently owned firms such as Brookvine, Principle and Shed. Many large financial institutions, for example, also provide similar services to third party fund managers.

### **What Do Placement Agents Do?**

We play a broad-ranging role in the identification and vetting of new investment opportunities, the design and structuring of investment offers, the preparation of due diligence materials, the procurement of working capital and financing for new asset management firms, the raising of investment capital, and assisting in the on-going management of investor and consultant relationships.

Activities vary according to different businesses, but *inter alia* include:

1. Searching for, conducting due diligence, and bringing new investment strategies and opportunities, new investment knowledge and insight to Australia through managers that might not otherwise be here.
2. Providing a broad range of advisory, structuring, fund-raising and investor relations services, for example, through:
  - Adapting and structuring investment opportunities;
  - Consulting on the design of products to meet local regulatory, compliance, taxation, and reporting requirements;
  - Advising on local terms and conditions and fee structures;
  - Developing and executing marketing plans;
  - Advising on investors' needs, expectations, objectives, preferences, governance, and internal processes;
  - Supporting capital-raising;
  - Assisting in the negotiation phase through local knowledge and experience;
  - Providing on-the-ground expertise to funds in a common time zone; and
  - Assisting with the management and co-ordination of on-going investor relations.
3. Advocating the merits and opportunities of the Australian market to prospective new entrants which supports the Federal Government's policy of Australia becoming a financial services hub in the Asia-Pacific region.

### **The Positive Impact of Placement Agents**

Placement agents *improve* efficiency and effectiveness by:

1. Reducing barriers to entry for managers.

Australia's tyrannies of distance and time zone disadvantages, and the need to develop long term and relevant relationships makes placement agents a lower cost of entry for offshore managers to the Australian market, the fourth largest pension market globally. Alternative modes of entry such as setting up an office or making regular marketing trips are prohibitively costly or ineffective due to long lead times.

We also play a key role in the establishment of new Australian investment businesses. The marketplace is increasingly competitive, and emerging asset management firms typically lack the internal expertise and working capital to establish a fund and raise investment capital.

2. Creating more streamlined and efficient dealings for superannuation funds.

A placement agent's knowledge of the investment program and of the needs and aversions of institutional investors helps reduce the friction of fund managers directly contacting understaffed institutions dealing with a plethora of often unsuitable managers wishing to do business in Australia. Placement agents' filter the appropriate from the inappropriate opportunities for the institutional investor.

3. Introducing new investment strategies and opportunities, especially in the alternatives area.

In particular, we support first-time funds, emerging funds (not yet established franchises) and less conventional investment opportunities in spite of their greater capital-raising challenges. Our research and experience indicates that the investment performance and overall portfolio benefits of the best of these funds provide diversification and improve superannuation fund returns.

4. Increasing domestic superannuation funds' knowledge via contact with new offshore managers.

5. Generating research and market intelligence of use to superannuation funds, asset consultants and funds manager.

Consequentially, the industry has greater diversity of choice and enhanced competition. Australia's fund management industry might not have witnessed significant innovation and change had placement agent firms not played their intermediary role.

Around 1990 when the fund management industry was building momentum, large oligopolies developed with a few large players controlling and supplying the type, quantity and quality of products across traditional and non-traditional asset classes. This was an environment in which innovation and change were stifled. Professional placement agents that emerged in the mid 1990s brought new investment ideas that grew into institutionalised concepts. Examples include private equity and hedge funds. The introduction of international fund managers prompted re-investing in and re-energising of the market and stimulated competition that led to a more competitive market.

The investment world has become more complex as a result of size, globalisation, and innovation (especially in the US), a natural consequence of which is increased specialisation of knowledge. Placement agents continue to help superannuation funds manage this growing complexity and specialisation. Even the many large funds that are developing their own internal staff to do this continue to use placement agents to uncover investment opportunities and insights that help them make more informed decisions and discover best of breed managers and products.

Interestingly, and in reverse, Australian managers seeking to sell their products and strategies overseas willingly use (overseas) placement agencies to help them succeed.

### **Placement Agent Fees**

The fees charged by placement agent firms are fully borne by the fund manager and not the institutional investor. The ease with which managers can meet Australian placement agents ensures competitive pricing.

Fees vary depending on the services provided but are firmly limited by the fund manager ensuring they are fair compensation for the services provided. Placement firms are typically prepared to structure fees to accommodate the cash flow requirements of their fund manager clients, and to ensure that their costs do not impose too great a burden during formative years.

As a matter of principle, the fees we charge and the basis of their calculation are fully disclosed on request to prospective investors and their advisors.

The undersigned are united in their opposition to any and all inappropriate and unethical activities, like the so called 'pay-to-play' activities in the US. Pay-to-play is when people with responsibility for investment decision-making take payments from investment managers to influence those decisions. This is not the role of placement agents.

As professional and legitimate placement agent firms, we all adhere to a set of principles, including the following.

1. We maintain appropriate compliance and oversight regimes.
2. Fees are always paid by the manager and are not levied as an additional cost to investors.
3. Fees are fully disclosed on request to prospective investors and consultants.
4. Any sub-placement agent retained must be approved by any fund manager client, must be appropriately disclosed, must be appropriately licensed and must operate under an appropriate compliance and oversight regime.
5. We will not make or offer to make any payment or other consideration with a view to inducing a third party to influence investment decision making.
6. We will not engage in any form of unscrupulous behaviour to capitalise on relationships or influence for personal gain.

Moreover we will be guided by the code of conduct for placement agents issued by The Europe Private Equity & Venture Capital Association<sup>2</sup> in October 2009.

### **Regulatory Regimes Are Adequate**

We believe the existing regulatory regime governing our activities is adequate. The firms making this submission all hold an AFSL, and their activities are governed by the rules and regulations prescribed by the Corporations Act. It is entirely appropriate for placement agency firms to hold an AFSL and thus to be described as a financial services company.

Specifically, section 912A(1)(aa) of the Corporations Act imposes on licensees a statutory obligation to manage conflicts of interest, referred to as conflicts management obligation. ASIC has issued guidance on applying the requirement in RG 181, for licensees generally on controlling, avoiding and on disclosing conflicts of interest. Moreover, licensees also adhere to other legislative requirements (such as Chapters 2D, 2E and 5C of the Corporations Act), and regulations and common law relating to conflicts of interest.

The three entities have adhered to the obligations embodied in these requirements. We believe these laws are sufficient and mitigate the risk of any potential conflict of interest and, as such, we believe the existing regulatory regime covering our activities is adequate.

**10 December 2009**

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[http://www.evca.eu/uploadedFiles/Home/Toolbox/Industry\\_Standards/evca\\_code\\_of\\_conduct\\_2009\\_PA\\_suppl\\_final.pdf](http://www.evca.eu/uploadedFiles/Home/Toolbox/Industry_Standards/evca_code_of_conduct_2009_PA_suppl_final.pdf)

## Appendix

**Brookvine** ([www.brookvine.com](http://www.brookvine.com)) was established in 2001 and has since partnered with local and global asset managers to raise investment capital and manage investor relationships. Brookvine works with a range of investment groups, including private equity, credit, infrastructure, property, hedge funds and other more specialised investment strategies in traditional and alternative fields. Brookvine focuses on enduring relationships with both investors and managers.

Brookvine's services cover all aspects of fund raising from the initial development of the fund proposition through to a fund's final closing and the management of on-going investor relations programs.

**Principle Advisory Services** ([www.principleadvisory.com](http://www.principleadvisory.com)) was established by Les Fallick in 2001. The firm focuses on the private markets asset classes, with a particular focus on private equity, infrastructure and opportunistic property, and specialises in the development of investment offerings and capital raising.

Principle acts for Australian and international investment managers and advisors to help them establish and manage working relationships with Australasian institutional investors. Principle represents only a select number of managers each year and works with its clients on the basis of an ongoing partnership.

**Shed Enterprises** ([www.shed-ent.com.au](http://www.shed-ent.com.au)) was established in 1996 and specialises in the representation of predominantly off-shore, style-diversified fund managers to the wholesale Australian and New Zealand investment community.

Shed provides customised, innovative and cost effective marketing solutions to enable foreign based fund managers to take advantage of those opportunities and become key players in the Australian market. Shed establishes, develops and manages close business relationships between North American, European and Asian clients and a well established local network of institutional investors.