3 June 2022

Quality of Advice Review Secretariat
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Secretariat

Submission to Quality of Advice Review

The Actuaries Institute ('the Institute') welcomes the opportunity to comment on the issues raised in Quality of Advice Review Issues Paper. The Institute is the sole professional body for actuaries in Australia. Many of our members work in the financial services industry supporting product providers, employers and superannuation funds to provide products and services to consumers. Some of our members work directly with consumers as financial advisers.

Our submission focuses on:

1. How quality financial advice could be provided in the future to meet the needs of consumers in a cost-efficient and accessible way, particularly for superannuation fund members;
2. An example from the Individual Disability Income Insurance industry that demonstrates the need for quality financial advice that considers the long-term interests of policy holders; and
3. A recommendation to exempt actuaries from the advice requirements in the limited circumstances where they are providing actuarial advice to a large employer or the trustee of a superannuation fund[1].

We hope that our contribution assists with the design of a regulatory system for advice that not only supports consumers make informed decisions but also facilitates providers to more cost effectively and efficiently assist those consumers who need help.

Key recommendations in respect of the future state of advice include:

1. Adopt principles-based regulation to be consistently applied to all advice (complex and simple), guidance and information which both ensures a culture to act in the best interests of consumers and reduces the compliance cost.
2. Introduce a new category of help for consumers called guidance. Guidance should be regulated differently from advice - allow guidance to be provided in a more tailored and personalised way without it being regulated as personal advice when no recommendation is being made.

[1] Currently superannuation fund trustees with under $10 million in fund assets are classified as retail clients.

3. Continue to limit the delivery of advice that includes personal recommendations to licensed financial advisers but allow guidance to be provided by a broader range of professionals (including superannuation trustees) subject to adhering to appropriate rules and standards that will need to be developed. The introduction of the Retirement income covenant and rollout of the Consumer Data Right are both important opportunities in this regard.
4. When detailed regulation and compliance requirements are necessary, advice should be categorised based on both the level and the scope of help, and different regulation and compliance requirements imposed. This should materially reduce the compliance costs for simple advice. Due consideration should always be given to any long-term implications of the advice.
5. Envision situations where providers (such as superannuation funds) can provide online, personalised progress and adequacy guidance to their members, without a recommendation and the heavy burden of personal advice regulation. Allow for progressive disclosure of data and goals through digital engagement between providers and their customers.
6. Embrace digitalisation - change legislation, regulations and compliance requirements to encourage digitalisation of the fact-finding and advice process by increasing data visibility and transferability along the spectrum of 'help' consumers receive.

Please find attached our submission.

The Institute would be pleased to discuss this submission. If you would like to do so, please contact Chief Executive Officer of the Actuaries Institute.

Yours sincerely,

President

Submission to Quality of Advice Review: Financial advice with focus on superannuation funds

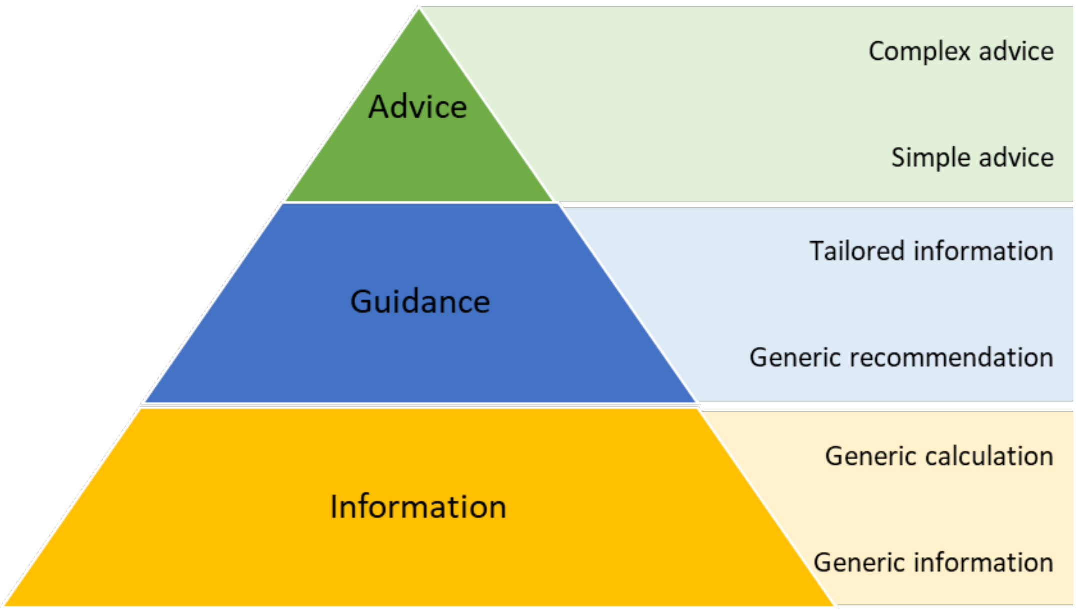
1. What do people need and want?

Many consumers need and want help on their financial matters. *Help* here is very broad and advice is sitting at the top of the full spectrum of help that can be provided.

Level of help

In today's world, financial product advice is governed by legislation that includes detailed requirements on all aspects of its delivery. Advice includes both general advice and personal advice. In the chart below we illustrate a proposed future state structure of help which consists of Advice, Guidance and Information. These categories differ in terms of the level of help they would provide and how frequently they would be provided.

The provision of Information would be the most common form of help at the basic level to assist people making their decisions. In contrast, Advice would sit at the highest level and would be required less frequently. We provide clear definitions in the next section for each term used.



Most consumers deal with some financial decisions by themselves and may only need help on other decisions. Also, different financial issues arise at different stages of life, so it is rare for help to be required on the full range of financial issues simultaneously.

2. What should the desired future state look like?

Consumers do not need complex financial advice on all decisions that they have to make across their lifetimes. Some advice needs are limited in scope and typically involve only one simple and specific topic at a point in time (e.g. choosing an investment, purchasing insurance, increasing superannuation contributions). In addition, many consumers would prefer to be assisted to make their own decisions rather than having solutions provided to them[2].

Recognising this, the ideal future state should be one in which consumers should be able to access help, to the right level for them, on the financial matters that they request (but which alerts them to the broader impacts of those decisions) with good quality at an affordable cost. Providers should be permitted to proactively offer information and guidance to assist consumers making their financial decisions.

[2] Refer recent survey of 3,500 superannuation members by Frontier Advisers in April 2022, Understanding member retirement needs, which indicated over 70% of members would like to choose a retirement income solution themselves (with assistance) rather than being recommended a suitable product for them. Of these, most would prefer some assistance in making their own choice.

The following table illustrates the above desired future state.

Table 1: Help – Proposed Definitions and Future State

<table>
<tr><th>Category</th><th>Definition</th><th>Sub-category</th><th>Description</th><th>Examples</th></tr>
<tr><td rowspan="5">Advice</td><td rowspan="5">A recommendation that is (or could reasonably be regarded as being) intended to influence a financial product decision and that has considered one or more of the person's (individual’s/household’s) objectives, financial situation (including fact-find of assets and income outside superannuation) and needs</td><td rowspan="2">Complex advice</td><td rowspan="2">Considered multiple topics, including topics not raised by the client but that could reasonably be considered relevant to their situation</td><td>Face-to-face advice provided by an independent financial adviser</td></tr>
<tr><td>Most face-to-face advice provided by superannuation funds</td></tr>
<tr><td rowspan="3">Simple advice</td><td rowspan="3">Focussed on a single topic</td><td>Intra-fund advice that is personal advice in nature[3]</td></tr>
<tr><td>Robo advice that is personal advice in nature</td></tr>
<tr><td>Calculators and tools with a recommendation</td></tr>
</table>

[3] Intra-fund advice under the current legislation is not a type of advice, it refers to a cross-charging mechanism, which can apply to both general and personal advice.

Guidance	One of the following two: a. Information or a financial calculation or projection that is (or could reasonably be regarded as being) intended to inform a financial product decision and which has considered one or more of the person's (individual's/household's) objectives, financial situation (including asset and income outside superannuation) and needs b. A recommendation that is (or could reasonably be regarded as being) intended to influence a financial product decision that has not considered any of the person's objectives, financial situation and needs	**Tailored information, financial calculations and projections**	Has been filtered or tailored to be more relevant to client Has considered one or more of the person's (individual's/household's) objectives, financial situation (including assets and income outside superannuation) and needs but does not contain a recommendation	Information and marketing materials based on a person's life stage (or other characteristics in a cohort e.g. sample members/cameos) with a statement of opinion but not a recommendation that are designed to inform the decision making, such as YourSuper comparison tool
				Financial calculators and tools with a statement of opinion but not a recommendation that are intended to inform the decision making, such as superannuation forecasts
		Generic recommendation	There is a recommendation, but it is general in nature	General advice in the current form (e.g. intra-fund advice and robo advice that is general in nature)

Information	Factual information or calculations based on generic information and assumptions, **without** a **recommendation** or a **statement of opinion**, and **does not** consider one or more of the **person's** objectives, financial situation and needs	**Generic calculation**	Financial calculation and projection performed based on generic member scenario that has not been tailored to be more relevant to the client. No recommendation or statement of opinion is given.	Average or example member case studies and calculations based on one or more 'typical' member scenarios on specific topics E.g. an average member contributing $X p.a. is going to retire with $Y
		Generic information	Factual information that has not been filtered or tailored to be more relevant to client. No recommendation or statement of opinion is given	Product Disclosure Statements, fact sheets

Consumers may choose to make a decision based on a combination of information, guidance and advice through multiple channels. Hybrid models that combine digital tools with face-to-face guidance or advice may prove popular with consumers. If regulated carefully, hybrid approaches can provide a valued experience for the consumer and enable information, guidance or advice to be provided more efficiently.

3. What is the problem and why does the problem exist?

Comparing to the desired future state, the financial advice industry today is not able to supply services that are affordable and accessible to a wide range of consumers with good quality, which indicates a supply side problem. This supply problem is being exacerbated by financial advisers leaving the industry.

Quality of advice

The Issues Paper highlights that the financial advice industry has not always acted in the best interests of consumers and noted some policy reforms in recent years aimed to address this issue. While the misalignment of financial interests noted in the Issues Paper is certainly an important example of this, acting in the best interest of consumers could be broader than just financial interests. An over-reliance on prescriptive legislation rather than on principles can cause problems, and shift the focus of legal responsibility from consumers to the regulator.

For example, the current industry practice of providing investment recommendations is that the outcome from a risk profiling questionnaire will normally inform the asset allocation of the consumer (i.e. the proportion of growth assets for the client to invest in). While risk appetite (as listed in ASIC RG 175.319 d and e, tolerance for the risk of capital loss and variations in the final outcomes) is an important factor to consider, it should not be the only factor. For example, the financial objectives and cashflows of the person are also relevant. The driver of the current industry practice is largely because it provides the 'safest' approach for the advice provider from a compliance perspective[4]. It appears that the existing regulatory regime, combined with advice providers' compliance standards (in a prescribed way) have collectively created a perception that the current industry practice will ensure the compliance box is ticked. However, the safest compliance approach is not always in the best interests of the consumer.

Another example of industry practice falling short is with the tools used to estimate a consumer's lifespan[5] and to deal with uncertainty. Knowing how much to save during your working career is directly linked to how long those savings must last in retirement. If the 'lens' through which we view retirement is inaccurate, then incorrect conclusions will be drawn about retirement strategies and products. The Institute wrote to all financial software firms in 2019 to suggest more accurate methodologies in this area but to our knowledge previous poor practice still persists. Similar problems exist with how risk and uncertainty is dealt with[6].

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[4] Refer paper by De Ravin, J. Hennington, J., Orford, D. and Scully, P. *We asked how 2,500 planners formulate retirement income advice*, presented at Actuaries Institute Financial Services Forum 2018.
[5] Refer *Financial planner life expectancy tools putting retirees at risk*, Actuaries Digital, 2020.
[6] Refer *Good Practice Principles: Superannuation and retirement models*, Actuaries Digital, 2022.

Affordability

The Issues Paper highlights the huge gap between the willingness to pay by consumers (hundreds of dollars) and the cost of providing financial advice (thousands of dollars). There are four main reasons for the high cost of providing advice.

1. The first is the compliance cost. For example, the (non-exhaustive) list in RG 175.319 of client circumstances that ASIC considers may be relevant financial circumstances in relation to the provision of advice on financial products with an investment component requires a substantial investment in time and results in the adviser taking on a significant level of responsibility. Our understanding of the current regulatory regime is that once the definition of financial product advice in section 766B of the Corporations Act applies, the law effectively passes nearly all responsibility from the consumer onto the adviser. This is largely irrespective of both the level and scope of the help that consumers need. The adviser must also document their considerations in detail. It is therefore understandable that this comes with a prohibitive cost for many consumers. Our understanding is that the broader superannuation industry (outside of financial advisers) is reluctant to assist consumers in ways that might constitute personal advice in terms of section 766B. The implication of this is that the regulatory regime and compliance requirements collectively are forcing consumers, by increasing the cost of supply, to pay for a higher level of help across a broader scope of issues that they do not always need.
2. The second is the fact-finding cost. If Government were willing to extend the Consumer Data Right to require government authorities (particularly the ATO and Medicare) to provide data held in respect of an individual to a third party, when authorised by that individual, then the cost of the fact-finding (and hence of financial advice) could be materially reduced. Ideally, the relevant statutory authorities would develop a standardised format for presenting the relevant data. By these means the advice process could become quicker, more automated and less costly.
3. The third is that the forms of advice that do not require a statement of advice are very narrow, i.e. limited (in the superannuation context) to superannuation calculators and retirement estimates in narrowly prescribed circumstances. They also require that a consumer proactively seeks that advice. There is no way for a superannuation fund trustee to provide a progress or adequacy communication proactively to consumers based on their goals, even where no recommendation is made, without it requiring a statement of advice.
4. Finally, the cost of professional indemnity insurance provides a hurdle that must be recovered from consumers.

There is a great opportunity for the Quality of Advice Review to address this supply side problem because changes to the current legislation, regulations and compliance requirements will have a material impact on the supply side.

5. Recommendations - How can we fix it?

The Institute suggests the current situation of ‘all or nothing’ (i.e. all responsibility stays with the consumer if they do not take advice or all of it transfers to the adviser if they do) may not match what all consumers need. We envisage a spectrum of help (information, guidance and advice) that could be offered to consumers – perhaps in the form of a 'menu' where each option has a commensurate regulatory burden depending on how much responsibility is being transferred from the consumer to the help provider.

Key recommendations in respect of the future state of advice include:

1. Adopt principles-based regulation to be consistently applied to all advice (complex and simple), guidance and information which both ensures a culture to act in the best interests of consumers and reduces the compliance cost.
2. Introduce a new category of help for consumers called guidance. Guidance should be regulated differently from advice - allow guidance, which may be intended to influence, to be provided in a more tailored and personalised way without it being regulated as personal advice when no recommendation is being made.
3. Continue to limit the delivery of advice that includes personal recommendations to licensed financial advisers but allow guidance to be provided by a broader range of professionals (including superannuation trustees) subject to adhering to appropriate rules and standards that will need to be developed. The introduction of the Retirement income covenant and rollout of the Consumer Data Right are both important opportunities in this regard.
4. When detailed regulation and compliance requirements are necessary, advice should be categorised based on both the level and the scope of help, and different regulation and compliance requirements imposed. This should materially reduce the compliance costs for simple advice. Due consideration should always be given to any long-term implications of the advice.
5. Envision situations where providers (such as superannuation funds) can provide online, personalised progress and adequacy guidance to their consumers, without a recommendation and the heavy burden of personal advice regulation. Allow for progressive disclosure of data and goals through digital engagement between providers and their customers.
6. Embrace digitalisation - change legislation, regulations and compliance requirements to encourage digitalisation of the fact-finding and advice process by increasing data visibility and transferability along the spectrum of 'help' consumers are getting.

While the above recommendations focus on improving the affordability and accessibility, they do not necessarily come at the cost of compromised quality of advice. Intra-fund advice given by superannuation funds is a great example because as a trustee there is already a best financial interest duty applying to all business activities undertaken by the trustee. This sits on top of the best interest duty of an advice provider and also covers all the non-advice information and guidance provided by superannuation funds.

6. What would a large superannuation fund's ideal advice offering be if not constrained by current legislation?

We illustrate what the future state should look like, consistently with the above recommendations, using a large superannuation fund's ideal advice offering as an example, acknowledging that it could also be applicable to other financial service industries.

Information

This layer of help is largely uncontroversial in the sense that superannuation funds can and do provide information at a reasonable cost, and usually at no additional cost to the consumer. This information includes but is not limited to PDS, fact sheets, and member case studies on specific topics such as voluntary contributions and early release withdrawals.

Guidance

This layer of help is currently largely missing in practice, particularly the tailored information, financial calculations and projections outlined in Table 1: Help. The reason is that this help is now either being classified as personal advice under the current legislation which suffers from the supply side hurdles or can be easily perceived as personal advice so superannuation funds are very reluctant to provide this type of help.

Research shows there is a common difficulty for consumers to apply general information to their own circumstances. Ideally, to assist members make informed financial decisions superannuation funds should be able to proactively provide guidance, based on a person's circumstances, without such guidance being classified as personal advice as long as it does not contain any recommendation, although it would often be intended to influence the person. This will allow funds to better act in the interest of members.

This guidance can be made consumer-friendly and relevant to members through the incorporation of personal information and a consumer's financial situation, which will help members navigate through the difficulty of filtering generic information that can be overwhelming to them. Personal information and financial situation include the consumer's spouse details and asset and income outside superannuation collected as part of the fact-finding process for providing guidance with better estimation of Age Pension entitlements. This is not providing any recommendation on how they should deal with those assets and income outside superannuation.

This guidance could include information about the financial position or activities of the peers of the member (e.g. cameos) and/or the projected long-term consequences of the financial decisions that the member is considering.

For example, when consumers are considering an investment switch, superannuation funds could provide:

1. The typical investment option that other members in a similar situation (e.g. filtering for members of the same gender, similar age and similar account balances) are investing in ('tailored information' in Table 1); and
2. An interactive superannuation forecast (balance at retirement and retirement income) where the results would reflect the implications of changing the investment option (which takes into account both expected returns and risk). This will not involve a recommendation, but would be intended to influence, by showing the projected financial consequence of the decision ('tailored financial calculation and projection' in Table 1).

This will improve the member outcomes for many of those who make investment switches during periods of market volatility. Many of these members make the decision on impulse due to the behavioural obstacles that are well documented in the behavioural finance literature.

For example, many members switched their investment options out of the default balanced/MySuper Option to a more defensive portfolio (often cash) during the Global Financial Crisis and the recent March 2020 market fall, and remained there for the long term[7]. This switching will very likely have a negative and material impact on their retirement outcomes. The guidance can be provided through all possible channels such as phone call, online member portal or an app ('tailoring the distribution'). This example could also apply to other financial decisions that a member can make through his/her superannuation lifecycle, including but not limited to choosing insurance cover, making voluntary contributions, whether to roll over from accumulation phase to pension phase and what retirement solution or product to choose.

Where members have engaged with their fund and provided information about their retirement goals, the fund should also be permitted to offer a progress-tracking feature that allows for these goals. The fund can inform the member if they are on track or straying from their goal, and to have the member re-validate the goal from time to time.

Simple advice

Superannuation funds should be able to provide simple advice, whether as intra-fund advice or otherwise ('simple advice' in Table 1) in a more digitalised way and at a much lower cost than currently.

Many superannuation members only need personal advice on a simple topic (simple advice). Superannuation funds should be able to provide simple advice (including intra-fund advice) focused narrowly on the topic requested by the client. This means it must be clear that superannuation funds should not need to cover all possible available financial products in the market and the member's full personal circumstances, given that the client acknowledges that he or she is receiving limited scope advice.

Principles-based regulation should be applied as much as possible to regulate simple advice. A minimal level of detailed regulation and compliance requirements (such as safe harbour steps) should be applied to greatly reduce the cost of offering intra-fund advice. And when they do, the level of regulation and compliance requirements should be much less than complex advice.

As long as permission is given by the member, superannuation funds should be allowed to utilise personal information about the member (such as tax return information at MyGov if permitted by the Consumer Data Right) and the member's household when the advice topic requires a household view. Superannuation funds should also be allowed to do this in a digitalised and automated way which may require funds to store this information for future use in the same channel or cross channel in dealing with this member.

This will require funds to have appropriate data governance and systems in place as well as robust business rules to assess the integrity and expiry of certain data provided by members. This will ensure one consistent enriched view of members while substantially reducing the fact-

[7] Refer Butt, A., Khemka, G., Lim, W., Warren, G. and Wu, S. (2021) *Changes in Investment Switching Behaviour Due to Covid-19 Amongst Superannuation Fund Members*. Presented at the 29th Colloquium on Pensions and Retirement Research, Sydney.

finding process which would then help drive the cost down to provide intra-fund advice (as well as potential comprehensive advice).

Complex advice

This layer of help is the highest level of help and often covers a wide range of scope. Some superannuation funds are in a position to offer this but not all funds do. When it is offered, the provider should act in the interest of the members (not the interest of the fund) and assist the members to decide the *scope* of the advice and make *personal recommendations* to help the member achieve their financial goals.

The cost of providing complex advice should also be lower with our recommendations listed at the start of this letter.

7. Example from Individual Disability Income Insurance industry

The need for quality advice to consider the long-term is a focus for the Institute. This is relevant in many areas of actuarial specialisation. The issue has been raised above in the context of managing longevity risk in retirement. Another example is in the Individual Disability Income Insurance (IDII) industry.

IDII provides critical protection for many members of the community. Over recent years, there have been concerns about the sustainability for both consumers and insurers of the IDII industry. This resulted in APRA's unprecedented intervention to address many of the issues in the industry.

The quality of financial advice is an important part of the IDII industry due to the highly intermediated nature of the industry. The Institute considers that the long-term costs of providing product features and guarantees for policy holders should be considered as part of the financial advice process, consistent with APRA's concerns regarding sustainability and products being contrary to the long-term interests of policy holders.

While financial advice is subject to the best interest duty which includes consideration of price versus features, there are no useful examples provided to financial advisers in the Regulatory Guidance material in relation to Life Insurance (e.g. ASIC RG 175). The Institute considers this omission to be an important factor in how currently the best interest duty is implemented in practice in relation to IDII. The Institute would support the inclusion of clear worked examples in those materials on how to present balanced and quality advice recommendations within the best interest duty regime.

8. Actuarial Advice to Employer Sponsors and Superannuation Fund Trustees

Currently actuarial advice to employer sponsors of superannuation funds and the trustees of small APRA regulated superannuation funds (less than $10 million in assets) is generally treated as personal financial product advice to a retail client and must comply with the associated financial advice requirements. The Institute recommends that actuaries be exempt from these requirements in the limited circumstances where they are providing actuarial advice relating to their superannuation fund to these clients.

This could be done by changing the definition of Retail Client, which we acknowledge is beyond the Review's scope[8]. It could also be done in other ways, such as exempting actuaries from the advice requirements in limited prescribed circumstances[9].

Actuaries provide professional actuarial advice about superannuation to employers and trustees of smaller APRA regulated funds. Some of this specialist superannuation actuarial advice is required by legislation to be provided by an actuary, including various defined benefit matters and advice on certain tax matters. Other advice is not required by legislation to be provided by an actuary but can only practically be provided by someone with an actuarial background. This includes advice to employers and to trustees of smaller APRA regulated funds on:

- Defined benefit superannuation obligations;
- Defined benefit surplus reversion and defined benefit conversions;
- Superannuation self-insurance funding and risks; and
- Superannuation benefit design changes, including associated insurance in superannuation arrangements.

Currently actuaries providing specialist actuarial advice to these clients must meet the financial advice requirements, including being registered with ASIC. The Institute considers this to be a disproportionately onerous requirement because the educational requirements of financial advisers are largely not relevant to the provision of this specialist advice. The Institute's educational requirements, along with its Code of Conduct, Disciplinary Scheme and Professional Standards and guidance are in place to ensure the specialist advice actuaries provide is appropriate.

There are only a small number of actuaries on the ASIC Financial Advisers Register and we expect this number to reduce over time. The time and cost barriers for further actuaries meeting the educational and other requirements to be added to the ASIC register are significant and the Institute is concerned few will choose to pursue this path because the study is largely not relevant to their work and the advice to these clients is only a small part of their work. Employers and trustees of smaller superannuation funds may soon be unable to obtain the advice they require if the current legislation remains in place.

Our answers to selected questions from the Issues Paper, that reference this letter, are in the Appendix.

[8] Please also refer to the Institute's submission to the Australian Law Reform Commission dated 23 February 2022.

[9] Refer Institute submission to Treasury on its consultation on the Education Standards for Advisers Policy Paper dated 31 January 2022.

APPENDIX – Responses to selected questions

Section 3: Framework for Review	
2. What are the characteristics of quality advice for consumers?	Please refer to our submission, in particular the sections “What do people need and want?” and “Recommendations – How can we fix it?”.
3. Have previous regulatory changes improved the quality of advice (for example the best interests duty and the safe harbour (see section 4.2))?	Probably not. As set out in our submission the financial advice industry is not able to supply services that are affordable and accessible to consumers with good quality. Justice Rares[10] called for “urgent reconsideration” of the prescriptive approach inherent in the current process: *“The Parliament gave the quietus to the elegantly simple s 52(1) of the Trade Practices Act 1974 (Cth) that prohibited a corporation from engaging in conduct, in trade or commerce, that was misleading or deceptive or likely to mislead or deceive. One is now confronted with several Acts prohibiting such conduct.”* The Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry[11] makes similar arguments, although Commissioner Hayne points out that the process of simplification will be difficult and time consuming. It needs to set out the “fundamental norms” and should not attempt to legislate for all details.
6. What are the cost drivers of providing financial advice?	Please refer to the text on “Affordability” in the section “What is the problem and why does the problem exist?”

[10] Rares S., J (2014) ‘Competition, Fairness and the Courts’ Commercial Law Quarterly: The Journal of the Commercial Law Association of Australia 17.
[11] Hayne, K. (2019) Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Commonwealth of Australia.

11. Could financial technology (fintech) reduce the cost of providing advice?	Yes. The use of financial technology (fintech) could reduce the cost of providing advice. As per our submission this would require changing legislation, regulations and compliance requirements to encourage digitalisation of the fact-finding and advice process and increase data visibility and transferability along the spectrum of “help” members are getting. This would allow tailored financial information, financial calculations and projections and simple advice to be provided to consumers via fintech solutions more easily than currently. The cost can be further reduced with the availability of Consumer Data Right rolling out economy wide, see Institute submission to Treasury on the Strategic Assessment of Implementation of economy-wide Consumer Data Right and implications for the Superannuation Sector and submission by Anthony Asher and John De Ravin to the Senate Select Committee on Financial Technology and Regulatory Technology. https://www.aph.gov.au/DocumentStore.ashx?id=2203b0a0-e14a-4ab9-abb9-0580387cc43d&subId=699715
12. Are there regulatory impediments to adopting technological solutions to assist in providing advice?	Yes. The current regulatory framework of personal and general advice creates compliance uncertainty for potential personalised advice based on fintech. Personal information can only currently be used in technological solutions in prescribed circumstances, and it is difficult to provide simple advice or guidance, without meeting the full legislative requirements for personal financial product advice. Please see the suggestions in our submission for “What should the desired future state look like?”. See also Actuaries Institute submission to ASIC on Consultation Paper 351: Superannuation forecasts https://www.actuaries.asn.au/Library/Submissions/2022/20220128SubmissionASIC.pdf
13. How should we measure demand for financial advice?	Demand for financial advice is not straightforward in the sense that there is ambiguity in what consumers are demanding. For this reason, we think demand should be measured separately in several categories recognising the differences in the level of help and the scope of help. Please see the suggestions in our submission for “What should the desired future state look like?”.

14. In what circumstances do people need financial advice but might not be seeking it?	Multiple circumstances: a. People do not realise they need advice b. People do realise they need advice but do not know where to get c. People do realise and know where to get advice but cannot afford or think the benefits are less than the cost d. People do not trust the advice industry.
15. What are the barriers to people who need or want financial advice accessing it?	The financial advice industry is not able to supply services that are affordable and accessible to consumers with good quality. Please refer to the section of our submission entitled "What is the problem and why does the problem exist?"
16. How could advice be more accessible?	Please refer to the section of our submission entitled "What should the desired future state look like?" and our recommendations at the start of the letter.
17. Are there circumstances in which advice or certain types of advice could be provided other than by a financial adviser and, if so, what?	We refer to the section of our submission entitled "What should the desired future state look like?" Guidance and Information should not need to be provided by a financial adviser. Also, where advice is provided by calculators it is not necessary for a financial adviser to be involved each time advice is provided. Many actuaries provide professional actuarial advice to employers and trustees of smaller APRA regulated funds. Some of this specialist superannuation actuarial advice is required by legislation to be provided by an actuary, including various defined benefit matters and advice on certain tax matters. For the reasons set out in the submission we recommend that actuaries be exempt from the advice requirements in the limited circumstances where they are providing actuarial advice to a large employer or the trustee of a superannuation fund.
18. Could financial advisers and consumers benefit from advisers using fintech solutions to assist with compliance and the preparation of advice?	Yes: see answer to 11 above and our submission
19. What is preventing new entrants into the industry with innovative, digital-first business models?	Please see response to 12.

Section 4: Regulatory Framework	
22. What types of financial advice should be regulated and to what extent?	We believe it is important to map out the spectrum of information, guidance and advice offered to members and make sure there are consistent oversights to avoid any disjoined experience for consumers. We strongly support principles-based regulation considering the Best Interests Duty. Please refer to the section of our submission entitled "What should the desired future state look like?".
23. Should there be different categories of financial advice and financial product advice and if so for what purpose?	Yes, please refer to the section of our submission entitled "What should the desired future state look like?".
24. How should the different categories of advice be labelled?	Please refer to the section of our submission entitled "What should the desired future state look like?".
28. Should the scope of intra-fund advice be expanded? If so, in what way?	Please refer to the section of our submission entitled "What should the desired future state look like?".
29. Should superannuation trustees be encouraged or required to provide intra-fund advice to members?	Yes. Not everyone needs complex financial advice on all financial decisions. Most people can deal with some decisions by themselves and may only need simple advice or guidance on a single topic at a particular life stage. Superannuation trustees are well placed to do this acting in members' best financial interest.
30. Are any other changes to the regulatory framework necessary to assist superannuation trustees to provide intra-fund advice or to more actively engage with their members particularly in relation to retirement issues?	Please refer to the recommendations in our submission.
31. To what extent does the provision of intra-fund advice affect competition in the financial advice market?	We anticipate that our recommendations in our cover letter will help reduce the cost to supply financial advice which ultimately will increase the competition in the market and deliver better outcomes to consumers.

32. Do you think that limited scope advice can be valuable for consumers?	Yes. Most people can deal with some decisions by themselves and may only need simple advice or guidance on a single topic at a particular life stage. Please refer to our submission entitled "What should the desired future state look like?".
33. What legislative changes are necessary to facilitate the delivery of limited scope advice?	Please refer to our submission, in particular our recommendations and the section entitled "What should the desired future state look like."
35. Do you agree that digital advice can make financial advice more accessible and affordable?	Yes. Please see our answer to 11.
36. Are there any types of advice that might be better suited to digital advice than other types of advice, for example limited scope advice about specific topics?	Yes. As per our submission, simple advice focused on a single topic is better suited to digital advice. In addition, tailored information, financial calculation and projections can also be delivered through digital solutions.
38. Should different forms of advice be regulated differently, e.g. advice provided by a digital advice tool from advice provided by a financial adviser?	Different forms of advice should have different levels of requirements in terms of prescribed regulations, but they should be regulated consistently on a principles basis to ensure a smooth experience as members move along the spectrum of information/guidance/advice as outlined in our submission.
39. Are you concerned that the quality of advice might be compromised by digital advice?	Yes, if not appropriately regulated.
40. Are any changes to the regulatory framework necessary to facilitate digital advice?	Yes. Again see the submission referred to in 12. We believe it needs to be principles based and properly supervised.
41. If technology is part of the solution to making advice more accessible, who should be responsible for the advice provided (for example, an AFS licensee)?	Licensed financial institutions and AFS licensees. The party may depend upon whether information, guidance or advice is being provided as per the definitions in our submission.

42. In what ways can digital advice complement human-provided advice and when should it be a substitute?	It is for consumers to decide. It is both needs based and preference based. Digital advice can complement and substitute certain human-provided advice, which would generally be tailored guidance or simple advice as defined in our submission. For example, there are certain topics that can be substituted, but the ultimate differentiation is the complexity of the member's circumstances and whether digital advice is sufficient.
43. Do you consider that the statutory safe harbour for the best interests duty provides any benefit to consumers or advisers and would there be any prejudice to either of them if it was removed?	We support removal of the statutory safe harbour. This is an example of prescribed regulation which now is creating unintended consequences. This results in over compliance and is not in the interest of consumers.
65. To what extent can the content requirements for SOAs and ROAs be streamlined, simplified or made more principles-based to reduce compliance costs while still ensuring that consumers have the information they need to make an informed decision?	We support the adoption of principles-based legislation and requirements that are appropriate for whether information, guidance or advice (simple or complex) is being provided as per our submission.
68. Are there particular types of advice that are better suited to reduced disclosure documents? If so, why?	Yes, we believe simple advice should be better suited to reduced disclosure documents which can help reduce cost of compliance. It is important to call out the importance of highlighting key information that a member should know in the reduced level of disclosure. Please see our suggestions in Table 1: Help of our submission.

71. Should accountants be able to provide financial advice on superannuation products outside of the existing AFSL regime and without needing to meet the education requirements imposed on other professionals wanting to provide financial advice? If so, why?	Yes, limited in scope to the fields of the accountant's expertise. Eg. tax advice. We recommend that actuaries be exempted from the advice requirements in the limited circumstances where they are providing actuarial advice to a large employer or the trustee of a superannuation fund. Please see the section of our submission entitled "Actuarial Advice to Employer Sponsors and Superannuation Fund Trustees".
76. Should there be a requirement for a client to agree with the adviser in writing to being classified as a wholesale client?	Our answer to this question is in the narrow context of actuarial advice to the Trustees of large APRA regulated superannuation funds. Such Trustees are wholesale clients. It is inappropriate for these clients to need to agree with the actuary to be classified as a wholesale client. Often the tasks completed for the Trustees are required by legislation and/or the superannuation fund Trust Deeds and must be obtained by the Trustee.
Section 5: Other measures to improve the quality, affordability and accessibility of advice	
80. What steps have professional associations taken to improve the quality, accessibility and affordability of advice? How have these steps affected the quality, accessibility and affordability of advice?	Where actuarial practice overlaps with the advice requirements, the Actuaries Institute Code of Conduct, Disciplinary Scheme and Professional Standards and guidance are in place to ensure the specialist actuarial advice provided is appropriate. As well as traditional areas of actuarial practice there is particular overlap with advice in the area of retirement benefit projections. The Institute has put in place PG499.02 on Projected Retirement Benefit Illustrations and an Information Note on Good Practice Principles for Retirement Modelling. There is also an Information Note on Preparing Retirement Estimates Using ASIC Class Order CO 11/1227.