June 10, 2022

Quality of Advice Secretariat
Financial System Division
The Treasury
Langton Cresent
PARKES ACT 2000

Email:AdviceReview@treasury.gov.au

Submission: Quality of Advice Review Issues Paper

Thank you for the opportunity to provide our perspective on this important review.

Bombora Advice Pty Ltd (Bombora) is an AFSL, focussed on the support of practices that exclusively or predominately specialise in the provision of Life Insurance Advice.

The objective of this submission is to provide Treasury with comments and observations from Bombora as a Licensee, and from Advisers and other members of Advice Practices within our community.

We wish to bring to the attention of Treasury the negative human impact of some of the 'reforms' of recent years, and the commensurate negative impact for all Australians.

Our position in the sector:

- Bombora represents 22 Specialist Life Insurance Practices, which includes 65 advisers.
- Our business model is primarily a 'collaborative advice model' – Professional Service Firms (PSFs), such as Accountants, Lawyers, Financial Planners & General Insurance Brokers, refer their clients to us for specialist advice and claims management.
- Many advisers provide pro-bono claims support to clients of those PSFs (often succeeding, by employing their specialist knowledge and experience, after others have failed).
- We collectively manage insurance portfolios for over 35,000 Australians, amounting to premium portfolio of over $250m.
- We have collectively and successfully managed claims of over $200m for our clients.
- Industry data provided by consultants 'nmg' indicate that Bombora are the 3rd largest provider of Life Insurance Advice in the Australian market.

We wish to discuss the impact of the regulatory impositions of the past several years on all stakeholders. However, we have restricted our comments and observations to areas directly related to the provision of Life Insurance advice.

As working members of a community of very proud Life Insurance Advisers, we wish to contribute to the discussion. Our focus is on the human and financial impact of the 'reforms' of recent years, in the context of Life Insurance Advice. We say proud, because ultimately our work provides our clients, Australian consumers, with the greatest of all benefits:

- the protection of their hard-earned wealth, and their chosen lifestyles, and
- the certainty and dignity of choice through financial security at the time of their greatest need.

You will receive many submissions that provide data relating to the fall in adviser numbers and activities, the reduction in new business activity and the numbers of consumers who are either not insured or are under-insured.

The reforms have failed to benefit anyone

The Explanatory Memorandum for the LIF Bill and media releases by the then Minister for Financial Services, Kelly O'Dwyer, indicated that 'reforms' (the improvements to the sector that were intended to improve it) were needed. They were intended to return

- ''significant benefits for consumers", by creating a
- ''better alignment of interest'', which was to create
- "improved quality of advice".

Despite requests at the time, no details of any specific anticipated benefits were provided. Minister O'Dwyer alluded to an expectation of premium reductions, but insurers had no obligations under the reforms, thereby making advisers responsible for outcomes only insurers could deliver.

Bombora, and many other commentators at the time, expressed great concern that the reforms could result in a LOSS for all key stakeholders, and argued why this would happen.
In general terms, the case we made was that advisers were being wrongly demonised, and that regulators were looking to 'shoot the messenger' when the real problems were elsewhere. We asked questions that no one was required to answer.

We argued that, if the wrong problem was solved, the industry ills (seen as industry profitability at the time) would perpetuate and even worsen. Sadly, this has proven to be the case.

We argue that, while these reform failures may have been 'unintended consequences' for the regulators and decision makers, they are consequences that were predictable and forewarned by many.

Bombora made significant representation in the debates around what problem the reforms should be solving, and the predictions of negative consequences of the mooted 'reforms'.
The documents written to explore the issues, cast a broader search for the causes of the perceived problems, and substantiate our commentary at that time have been listed at the end of this paper. They are available on request.

The obligations and impositions of the later FASEA process has had a limited positive impact on the industry, but have also been significantly detrimental to many.

Recommendations

We recommend this Review considers what 'Quality of Advice' is, and what the significant regulatory changes over the past 10 years were intended to bring.

What is the intended benefit to consumers first and foremost, and to all stakeholders in general?

At a time where we should be encouraging more independent, well trained and mentored advisers to bridge the huge gap of underinsurance, these reforms have done just the opposite. We make the following recommendations, and follow with comments relating to our experiences, insights and observations of the negative consequences of these reforms.

80%/20% commission rates

We suggest that the Government should address the cost problems outlined in the section 'Advisers are Losers' by returning to the 80% upfront/20% ongoing commission hybrid products that existed before the LIF reforms. 2014 ASIC research that resulted in their Report 413 assessed the quality and compliance standard of advice was assessed as high (93% compliance) for advice provided at this commission rate.
This rate addresses the perceived 'conflict of interest' in an 'upfront' commission model while providing a better aligned remuneration for adviser effort both at client onboarding stage, and during the life of the policy and helping the adviser build a sustainable business.

Change Clawback provisions

We suggest the clawback provisions should be reconsidered and reduced if not abolished unless there is evidence that the cancellation was the result of unwarranted adviser 'churn'. Clawback of 100% of commission in year 1, and 60% in year 2, regardless of the reason for the policy stopping, is unfairly blaming advisers for consumer decisions, particularly in the context of the prevailing economic conditions. Refer to request for APRA data collection in the section 'Industry participation in improving costs, analysis and outcomes' that follows.

FASEA

FASEA should offer proper recognition of adviser prior learning, experience and training. We require deeper, unambiguous clarity around all aspects of the Code.

Treasury should conduct some first hand research about the value of insurance cover

Speak with insurance claimants about the difference having an insurance benefit made to support a recovery, or family outcomes when there is a death, especially of a breadwinner.

Then talk to some of the clients of charities, such like the Salvation Army about the outcomes of their clients, who find themselves in severe financial need, sometimes even homeless, because of loss of income through death or medical incapacity.

Also talk to those charities about the number of Australian who are forced to become their clients even though the event that brought them there was an insurable one. Ask those charities what difference it would make to other clients if the otherwise insurable catastrophes didn't need to be served.

This question should also be raised within Centrelink as a matter of priority, and ongoing data gathered and evaluated against data collected by APRA regarding industry activities.

Industry participation in improving costs, analysis and outcomes

Recognition and autonomous designation of a Life Insurance Specialist.
A generic Personal Statement to streamline an application process.
Improved use of technology to support adviser practices in all aspects of application, and client and policy support over time.

APRA to require a better collection and interpretation of industry data with a view to improve product and consumer outcomes, not just profitability and sustainability. Arguably these go hand in hand anyway.

APRA to collect data across the industry tracking policy cancellations and where it occurs, policy replacements, AND the reason for them. They must have access to data across the industry to see this. Only then will they be able to assess the potential impact of the product 'arms race' where insurers add 'bells and whistles' to attract re-written business, or draw other conclusions about the 'churn' activity. Advisers, with their 'Client Best Interest' duty may be caught in a damned if they do and damned if they don't scenario. Is the client better off staying in an inferior product or not?

ASIC and Treasury

Changes to SoA requirements, less enforced disclosures and justifications meant only to substantiate 'professionalism'.

Consider tax deductibility of Advice fees.

Demonstrate a greater trust in the quality of Australian advisers and the infrastructure that supports them (licensees who are also bound by obligations and are 'responsible' for the advice provided under their AFSL anyway)

Public support of advisers and the work they do for all Australians in the growth and the protection of wealth and lifestyle.

The advisers who have weathered this regulatory onslaught deserve support and appreciation, and recognition that advisers were not always to blame and other remedies are needed to get the Financial Services sector thriving again.

Our Experiences, Observations and Insights

Consumers are losers

- Fewer advisers available to help make hard decisions.
- Premiums continue to increase, causing consumers to decrease or cancel cover.
- Chronic under-insurance, resulting in no benefit or inadequate benefit for insurable events.
- Less certainty and dignity at a time of great financial need: the need to turn to family, charity, church, community crowd-funding or Centrelink, to help get by.
- Potential loss or reduction in life choices.
- Obliged to interpret and sign off on understanding complicated, lengthy documents when they just want to trust their chosen professional adviser
- Reforms did not address an uninformed dependence on insurance available within industry funds.
- Reforms did not address confused consumer groups sending mixed messages about on-line life insurance 'robo-advice' and Direct products. Those consumer groups themselves do not understand the benefit to consumers in the tailoring of product to consumer needs and objectives, and quality and pricing of comparable retail products.

- Consumer groups did not address problems for consumers at claim time when there is no adviser support for cover purchased through on-line channels or inside superannuation.
- Reforms did not address inaccurate industry 'commentators' misleading consumers about the value of certain insurances. Influencers are permitted to making generalisations about product value (usually stating there is no value) without taking into account consumer circumstances or properly informing them.
- Consumers still don't know the difference between a Financial Adviser or a Financial Planner, and whether either of these will ensure a specialist standard of knowledge in Life Insurance advice.
- Confusion and mistrust about misdeeds in the sector. The Royal Commission into Misconduct in the banking, Superannuation and Financial Services Industry did not provide clarity to consumers as to who was directly and indirectly responsible for the misconduct.
- Australians in general miss out on the benefits to the public purse of a thriving economy.
- Loss of job opportunities. The financial services sector has seen a huge growth in out-sourcing work otherwise done by Australians to off-shore businesses to save costs.
- If Life Insurance Commissions are removed, consumers must face the need to pay for all adviser services. This includes fees for advice, fees for insurance applications, fees for claims and fees for ongoing portfolio and policy maintenance ON TOP OF insurance premiums.
- Consumers need advisers that can look across the industry to find the best product and product provider to meet their needs (similar to Mortgage Brokers). Increasing costs to be able to comprehensively evaluate all the products in the market could result in some advisers limiting their insurer pool to maybe only 2 or 3 to contain costs.

Advisers are losers

- Many good people - competent and honest advisers - with many, many years of compliant service to their clients have left the sector because they were deemed no longer competent. So deemed, not because they hadn't met all the ASIC requirements to operate as a Specialist Risk adviser (and often more), AND met all Compliance Audits requirements and CPD obligations, but because they failed to complete FASEA obligations. Obligations which, rather than being a test of applied knowledge in their area of service and related topics, were presented as an arduous test of exam techniques. Prior experience was not accepted or considered.
- Resentment because advisers were being used as a scapegoat, being blamed for failures in the sector they had no control over. Complaints about life insurance to formal bodies were about claims not being paid, <u>not</u> adviser behaviours.
- Resentment of continual impositions on advisers when questionable insurer behaviours go unchallenged (e.g. premium hikes - especially level premiums, and conditional premium discounting).
- Resentment of insurers being able to use a moving feast of 'bells and whistles' to manipulate Research House ratings and rankings to influence recommendations in 'advice', perpetuating a vicious 'arms race'.
- Resentment of a raft of continual 'reforms' over many years, all focussed on impositions on advisers that did not, and have still not, considered insurer behaviours as the cause of industry problems. In a presentation dated August 18, 2018, following an exercise of 'stress testing' the life insurance industry, member of

APRA Geoff Summerhayes stated *"Insurers should … ask the more uncomfortable question: "what if we are at the heart of the problem?".*

- Resentment of lack of scrutiny and any obligation on insurers to find ways to help advisers with the cost of onboarding and ongoing support of clients through generic Personal Statements or technology to support digital policy maintenance, voice or digital authorities, and policy data uploads configured to align with industry CRMs.
- Some advisers have left the sector altogether because it got too hard; they felt maligned and disrespected.
- Significant mental health issues for advisers and their employees, caused by the stress of unpredictable change and perceived unfair accusations and imposts. Some commentators cite adviser suicides as directly related to these 'reforms'.
- Some advisers have abandoned Life Insurance advice (as a service or left the industry altogether) as the risk of litigation because of unintended compliance 'failures' is too high.
- A reducing pool of Professional Indemnity (PI) insurance providers is significantly **increasing PI premiums and Claim Excesses**.
- **Increasing AFSL Fees -** Additional compliance monitoring costs passed on by Licensees.
- **Higher internal cost of compliance,** the price of increased complexity in providing advice.
- **ASIC Fees.**
- Increasing **Education and CDP costs.**
- **Compensation Scheme of Last Resort** costs.
- Resentment, after all this time, of the lack of clarity around some of the regulatory requirements, particularly relating to the FASEA Code.
- Resentment of a 'professional' burden over and above any other profession: Lawyers are required to do **10** hours per year of Continuing Professional Development (CPD), advisers are required to do **40**!
- Resentment of the disrespect shown to advisers who are now qualified as a 'professional' but are not permitted to use their 'professional judgement' in the way other professionals are. For example, doctors are not required to provide patients with a 20-page disclosure document about the medication they are prescribing and how it might compare to others in the market.
- Resentment of 'reformists' who insisted that commissions were bad and Fee for Service was the only way a 'professional' could be remunerated – despite the research that showed consumers were either not willing to pay a fee on top of the required premium, or only willing to pay a fee that was well below the cost of providing advice.
- Additional burden of the need to filter potential clients on the basis of their ability to pay/cover costs. See reference to resultant negative impact on insurance premium pools in section 'Insurers are Losers'.
- Need to specialise to contain costs within business.
- Without a recognisable designation or label', specialised advisers, like Life Risk Specialists, cannot be readily recognised by clients.
- Advisers are forced to accept a risky, fixed price return for effort, potentially at a rate below cost, regardless of where they are at in their business growth plan. Risky because there is no guarantee of a return - some advice does not result in new business or new business commissions, or applications may fail at underwriting.
- High costs and low remuneration are a disincentive to grow advice businesses. Advisers often need to shed staff and adopt off-shore arrangements to save costs.

- High costs and low remuneration are an impediment to attracting new advisers to the sector, creating a huge concern for its medium to long term future.

Insurers are losers

- New Business flows have fallen significantly. NMG figures illustrate plummeting new business activity over the past 5 years.
- Less lives covered and those not covered will be mostly the younger and easier (faster and less expensive) lives to underwrite.
- Less younger, healthier lives available to bolster the insurance pools (profitability).
- Less profits through less new business AND poorer retention rates of existing clients.
- Decreased retention, shrinking pools quickly become unprofitable because premium increases are forcing existing clients to reduce or cancel cover.
- Advisers are being forced to select clients based on an ability to pay and cover the cost of advice, thus turning back potential clients. Older lives will challenge the product pool because the more profitable, younger consumers (younger and healthier policy holders) are not getting a chance to be part of the pool (they cannot access advice).
- Increasing pressure to support adviser communities with limited methods of doing so.
- Increased adviser resentment to clawback provisions, particularly when the adviser has no way to prevent a policy from ceasing.
- Increasing challenges and costs in getting their product 'to market'. Without advisers, insurers will have to resort to other methods ('direct' (online) and via Group cover). These modes of delivery also have questionable profitability.
- Less experienced, competent advisers means more cost to the insurer. Insurers are aware that the best quality applications, and those to have a variation to non-standard terms accepted, are more likely to come from Advisers who are experienced and competent in this area.

Government loses at many levels

Economically

- NMG figures illustrate plummeting new business activity over the past 5 years. This translates to thousands of Australians not getting advice or the insurance cover they need.
- This effectively transfers the cost and obligation of taking care of Australians in need from the private purse to the public purse.
- Significantly reduced activity in the sector means major institutions, like insurer businesses, and advice and allied support small businesses, are not turning over the revenues and profits. Less business turnover and profits mean less tax revenue.

Politically

- A loss of face. Despite attention by a string of governments since 2013, the public knows they still haven't got it right! To the public, no one has worked out what the real problem is and how the sector can be turned around.

Socially

- Less consumer trust in a sector that should be returning significant economic value to the economy
- More and more Australians will be denied the opportunity to protect themselves financially and will suffer the indignity of a Centrelink queue, or going to crowd-funding, or charities, or church groups, or friends or families.

Conclusion

In the context of our submission, we have focused on Life Insurance Advice.

We have clearly demonstrated the negative impact of what have been widely regarded as 'blunt instrument' 'reforms' on all stakeholders. While these impacts may arguably be regarded as 'unintended consequences', it could not be argued that these were not predictable outcomes.

We would argue the greater good in this debate is getting good quality insurance advice to all Australians so they can survive the financial impact of a medical catastrophe.

The claims payments made by the industry to insured Australians is an incredible story.
Why aren't we celebrating and telling everyone that they have access to this, too?
This is money the government doesn't have to find to take care of our own, and this buys security, dignity and choice for the families in need.

Surely, this is one of the greatest good any Australian profession can bring to Australians!
Why aren't we celebrating this and finding ways to encourage more advisers to see more Australians to make sure they also get these benefits at the time of their greatest need?

Insurers provide a great product. It is readily available to consumers through super funds and direct – yet Australians are massively under-insured. Why? Because, as FoFA pointed out way back in 2013, insurance is a complex legal contract that can't just be purchased off the shelf by everyone. **Insurance is fundamentally different to other financial products**. There are many working parts to understand, and most consumers, whilst they know they need it, simply put it off. They need advice. That best outcome is renewed trust in the sector by working co-operatively for solutions to get more appropriate life insurance cover for more Australians, and rebuild buoyant small advice businesses.
We need to demonstrate to all Australians that we recognise mistakes have been made and we will be working together to correct them because that is what all the stakeholders deserve.

A thriving democratic, free market society relies on mutual respect and service and value to all stakeholders in all of the value chains.

- **Consumers WIN** – better, more affordable advice and insurance cover, providing dignity, certainty and choice at a time of need.
- **Advisers WIN** – great businesses that are proud to provide a great service to Australians (licensees win in this too), and bring quality insurance products to market (Insurers win in this too).
- **Insurers WIN** – greater profitability and sustainability.
- **Government WINS** –
  - ECONOMICALLY: obligation and cost of supporting Australians in need is transferred from public to private purse; more profits mean a more vibrant economy and more taxes, and
  - SOCIALLY: greater wellbeing in the community (dignity and choice), limiting the ripple effect of poverty and hardship amongst the population.

Thank you for the opportunity to make this contribution.

For any enquiries please contact

Wayne Handley
Managing Director, Bombora Advice Pty Ltd

wayne.handley@bomboraadvice.com.au
0412 183 002

Bombora has made detailed submissions to all enquiries and calls for feedback during the LIF process.

Some of the supporting documents include:

Evaluation of LIF Proposal	Oct-15
The Vicious Cycle - The Product Arms Race	Nov-15
LIF Bill Debate-Policy Versus Politics	Jan-16
LIF in FOFA Context	Feb-16
LIF Bill Summary - What problem are we trying to fix?	Mar-16
Corrected view of Distribution Model (Life Insurance)	May-16
Corrected Distribution Model: Consumer Outcomes	May-16
Life Insurance for Australians: Do Consumer Groups know what they really want?	May-16
Industry Super Australia (ISA) Challenge - What problem do you want to solve?	May-16
Life Insurance in Australia: A Competitive Market	May-16
FSC Timeline - Creating an Us versus Them Environment	Jul-16
Scandals in the Life Insurance Industry - Please explain	Jul-16
Questioning the Upfront Commission encourages Poor Advice proposition	Jul-16
APRA shows need for Productivity Commission	Sep-16
A Lesson in Life from New Zealand	Sep-16
Commentary on APRA Findings 2011-2016	Aug-17

Copies of documents are available upon request.