10 June 2022

Ms Michelle Levy

Secretariat, Quality of Advice Review
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

By email: AdviceReview@treasury.gov.au

Dear Ms Levy,

RE: Quality of Advice Review

The Government's Quality of Advice Review is an important and timely step towards supporting the provision of quality, accessible and affordable advice. BT Financial Group (BT) welcomes the opportunity to provide feedback on the Issues Paper released by the Treasury on 25 March 2022.

Advice is important for many Australians as part of planning for a dignified retirement and in recent years the industry has seen both a significant fall in adviser numbers and increased cost of advice.

Recently, BT has created a new purpose for the organisation. Our singular purpose is to enable quality financial advice to thrive. We are supportive of a strong, vibrant and growing advice profession with quality, accessible and affordable advice at its core.

BT has had a key role in Australia's wealth management sector for over 50 years. Today BT provides financial advisers with specialist platform solutions to manage their clients' superannuation, retirement income and investment needs. BT is the market leader in platforms with total funds under administration of $155.18B and a market share of 18.3% (excluding corporate super)[1]. BT Panorama is one of the leading contemporary platforms in Australia with more than $100B in funds under administration, used by over 6,000 financial advisers and with 235,000 active accounts.

We have had the opportunity to review the Financial Services Council (FSC) submission which we broadly support. We also have some additional comments on certain aspects of the Issues Paper which form the basis of our submission.

Our submission is based on the following key principles:

- BT supports quality, accessible and affordable financial advice.
- BT supports a review of the existing advice documentation approach.

[1] Plan For Life, December 2021, includes all BT platforms and FUA share of 18.3% (excluding retail corporate super basis)

- BT believes product providers and platforms should be able to facilitate the delivery and implementation of an adviser's recommendations

In support of our principles, BT makes the following recommendations for reform:

1. Quality financial advice should be viewed as advice that is clear, concise, effective and meets the needs of the client.
2. The cost of obtaining upfront financial advice should be tax deductible.
3. The Review should focus on issues of accessibility and affordability that do not then detract from the already increased quality of advice.
4. The information required to be contained within an advice document (eg SoA) should be limited to that which is relevant to the advice being provided.
5. The Corporations Act should be amended to allow advisers the option to provide strategic advice (with reduce disclosure obligations) separate to product fulfilment advice.
6. The Corporations Act should be amended to allow platform and product providers to develop technical solutions to facilitate the delivery of product fulfilment advice that meets the minimum disclosure requirements for advisers and AFSLs.

Further detail behind BT's recommendations can be found in the Appendix.

If you have any questions in relation to the content of this submission, please contact Bryan Ashenden, Head of Financial Literacy & Advocacy, at bryan.ashenden@btfinancialgroup.com.

Yours sincerely,

Matt Rady

CEO, BT Financial Group

Kathy Vincent

Chief Strategy and Product Officer, BT Financial Group

BT Financial Group

Appendix

BT supports quality, accessible and affordable financial advice

Quality advice

BT is supportive of the Review undertaking a focus on the means to enhance the provision of quality, accessible and affordable advice. As is noted in the Issues Paper, these terms can be hard to define and, there may be a perceived trade-off between these goals (for example, does more affordable advice come with a loss of quality).

The Review seeks to gain views on what the characteristics of quality advice may be, both from a provider and a consumer perspective (*Issues Paper questions 1 and 2*). When considering what quality advice means, from the perspective both the provider and the consumer of that advice, it is advice that meets the needs of the client. In this respect, it is advice that puts the client in a better position and meets the best interests duty obligation under section 961B of the Corporations Act and the best interests obligations under the Financial Advisers and Planners Code of Ethics (Code of Ethics). The advice should be able to be understood – it should be clear, concise and effective.

Recommendation
1. Quality advice should be viewed as advice that is clear, concise, effective and meets the needs of the client.

No measure of quality could or should be attributed to the length of disclosure documents (such as a Statement of Advice (SoA)) that a financial adviser provides to their clients. Indeed, the contents of such documents and, in particular the SoA, has progressed to a point that arguably detracts from the quality of the advice provided – in that it makes it difficult to easily identify what the advice is for the recipient.

There are multiple factors that have driven the content of a SoA to its current complexity. Some have been driven via regulatory and legislative change, and others have come from the perspective of advice providers (whether the adviser themselves or from the Australian Financial Services Licensee (AFSL) they operate under) wanting to ensure they over-disclose and over-disclaim to avoid potential breaches of their regulatory requirements.

Accessible and affordable advice

A client should expect that the advice has been provided to them by a professional. Regulatory and legislative changes in previous years (*Issues Paper question 3*), particularly the introduction of the Financial Adviser Standards framework have significantly lifted the professionalism of advisers, both individually and as a collective. In particular, the requirements to achieve and maintain higher levels of formal education, the requirement to complete the Financial Adviser Exam, and the introduction of the Code of Ethics have advanced the professional standing of financial advisers. The introduction of the Financial Advisers Standards has however, come at a cost. Whilst they are achieving their aim to raise standards of the advice professions, advisers and advice business have borne considerable costs in meeting these Standards and there has also, as noted in the Issues Paper, been a large decline in the number of advisers practicing and joining the profession.

Most Australians will need some form of financial advice throughout their lives however measuring demand is difficult. Some consumers may have a demand for advice but don't seek it out either because they don't realise they have a need, they cannot afford advice, or they would rather self-serve.

The cost of financial advice is prohibitive for many Australians (*Issues Paper question 15*). As identified in a recent KPMG report, the cost of preparing and obtaining financial advice has risen substantially. Red tape, duplication and increased regulatory compliance has been a driver in this rise. ASIC Report 627 highlighted that 64% of all the online survey participants agreed that financial advisers were too expensive[2].

BT believes that making the cost of upfront financial advice tax deductible will aid in easing the cost burden of obtaining advice (Issues Paper question 16). While we acknowledge this would require legislative change, advised clients are in a better financial position than those who chose not to obtain financial advice. ASIC Report 627 states that the group of respondents who had recently received advice felt confident in their decision making, focused on the future and being aware of the financial demands of different stages of life[3]. In fact, 89% of this group intended to obtain further financial advice in the future.

Recommendation

2. The cost of obtaining upfront financial advice should be tax deductible.

Given accessibility and affordability of financial advice is, and will remain, an issue for many Australians, and arguably is out of reach for those who would benefit most from it, BT believes the focus of the Review and any recommendations made should be focussed on the issues of accessibility and affordability, without any detriment to the advances that have been made to the increased quality of the advice that exists today.

Recommendation

3. The Review should focus on issues of accessibility and affordability that do not then detract from the already increased quality of advice.

Advice could be more accessible to more Australians if delivery modes are more consumer centric. Financial technology was embraced during the COVID-19 pandemic and has changed the way many people work. This technology could be adopted in the financial advice market to better service consumers. Using financial technology creates time savings, cost savings and enable consumers to access services at a time convenient to them. They can also provide better record keeping for compliance obligations and enable advice to be prepared digitally. The deterrent in adopting the use of financial technology may be the concerns over whether the digital delivery meets the required expectations of the law and regulators. We will expand below on our views on how changes could be made to the delivery of advice that has the potential to improve accessibility and affordability.

[2] https://download.asic.gov.au/media/5243978/rep627-published-26-august-2019.pdf (page 31)
[3] https://download.asic.gov.au/media/5243978/rep627-published-26-august-2019.pdf (page 13)

BT supports a review of the existing advice documentation approach

One of the largest areas of concerns, for both adviser and clients, is the SoA. In general, the SoA has become an unwieldy document that no longer fulfils its purpose of providing a written record of personal advice recommendations to clients in a clear, concise and effective manner.

BT notes the FSC has proposed a new concept of a Letter of Advice to replace the SoA which would be a shorter and more concise document, with less regulatory requirements. We are supportive of this approach. In our view, the existing SoA can be improved in a number of key areas (*Issues Paper questions 65, 66 and 67*).

Reduction in the level of information required

A large portion of the SoA is initially consumed by setting out the client's current situation, which the adviser has largely captured through the completion of a financial planning questionnaire by the client at the commencement of the advice process. Whilst this information does state the initial basis on which the advice is to be provided, it serves no significant purpose in advice recommendations. BT believes the majority of this information can be succinctly summarised, for example to only those assets, liabilities, income, or expenses that are directly relevant to the advice provided, with all other information available to be provided to the client upon request. Under Standard 8 of the Code of Ethics, the adviser is required to ensure they maintain complete and accurate client records, so this information would be available when required.

Many licensees require advisers to include alternative strategies within the body of an SoA to show that they have considered a range of options before deciding on their final recommendation to a client. We question the value this provides to the client, as ultimately, they are seeking the services of an adviser for a recommendation on what they should do, not for the range of options on what they could do. Again, advisers should be considering the range of potential options available before deciding on a final recommendation and including those considerations in their file notes, which could be provided to a client upon request.

Finally, consideration should be given to the level of disclaimers and disclosures that are required to be included in the SoA. For example, the SoA should disclose the total level of fees that are to be paid for the advice, and can talk to whether those fees are paid from a client's superannuation accounts (and nominating the fund) or investment account (nominating, for example, the platform on which those investments are held), but do not need to speak to the break-up of those fees and which underlying investments those fees are to be drawn from.

Recommendation

4. The information required to be contained within an advice document (eg SoA) should be limited to that which is relevant to the advice being provided.

Given the Code of Ethics requires, under Standard 3, that an adviser must not provide advice if they have a conflict of interest that prevents providing advice in their client's best interest, it is questionable whether any value is served by further disclosing where additional fees may be paid from (eg from product providers) where those fees have been included in the total fees payable by the client.

Potential conflicts are already disclosed in the Financial Services Guide, and it is incumbent on the adviser to comply with their requirements under the Code of Ethics in providing their advice. Advisers are required to document their relevant processes and considerations. Further disclosure of this to the client as part of the SoA would not change the fee paid, nor the advice to be recommended, and only serves to unnecessarily lengthen the SoA itself.

Separation of strategic advice and product fulfilment advice

The personal advice process contains two distinct elements – strategic advice and product fulfilment advice. Currently both elements are contained within the SoA which add to its length and complexity.

In many instances, we believe advisers would like to provide and consumers would like to receive, strategic advice separate to the product fulfilment advice (*Issues Paper question 20*), but the current regulatory regime makes this difficult to achieve as the strategic advice component may contain recommendations around classes of products (eg superannuation, a self-managed superannuation fund, Australian shares, fixed interest etc). Even though a specific product may not be mentioned, the reference to different classes of products, contributions to superannuation etc has led to a view that this form of advice can only be presented in a Statement of Advice. If this is correct, it then necessitates the inclusion of all current disclosures and disclaimers that are included in an SoA, adding length to the document, even though there are no end products being recommended.

Currently, strategic advice of this nature may be provided by lawyers or registered tax agents outside of the existing financial services legislation (due to an exemption contained in section 766B(5) of the Corporations Act). This means no SoA or similar document is required, nor does the Code of Ethics apply in such situations.

We don't believe a similar exemption is required for financial advisers, nor should such strategic advice be provided outside of the existing AFSL regime. However, we believe that strategic advice that does not contain any final (specific) product recommendation should be able to be provided in a less structured and regulated format than the existing SoA.

With no product recommendations, it should arguably be easier for an adviser to charge for strategic advice separately. For clients only seeking strategic advice, it should be cheaper than the advice for a full SoA with product recommendations. The level of disclosure required should be reduced (*Issues Paper question 68*).

BT supports advisers having a choice in this regard, to provide advice to suit their clients' needs. If advisers wish to continue to provide their advice in the one document (such as the current SoA) that covers both strategic and product recommendations, they should be free to do so. However, for advisers who wish to separate the two elements and provide them separately, the law should be amended to facilitate this in a clear and efficient manner that remains focussed on the client.

Recommendation
5. The Corporations Act should be amended to allow advisers the option to provide strategic advice (with reduced disclosure obligations) separate to product fulfilment advice.

If a client chooses to proceed with the strategic recommendations, the adviser could then proceed to provide product fulfilment advice. This could be in a separate document that may more closely resemble the SoA or possibly a Record of Advice. References could be made to the strategic advice document, without the need to reproduce information. There would be no need to restate the client's existing position or strategic recommendations. As a result, this document should be quicker and cheaper to produce, and much shorter in length, all of which aid in making the advice more affordable and accessible, but without reducing the quality.

We note that there is a risk that clients may seek strategic advice and once provided, seek to undertake the final product fulfilment themselves, especially given the advancements in technology allowing clients to undertake more transactions personally. Whilst we don't support this approach, and believe the adviser is best placed to assist, this should ultimately be a decision for the client.

BT believes product providers and platforms should be able to facilitate the delivery and implementation of an adviser's recommendations

There is no doubt that the adoption of technological solutions and automated advice solutions should make the delivery of advice cheaper, faster, and therefore more accessible (*Issues paper question 11*). However, BT remain concerned about the use of a fully automated digital advice solution that removes the need for an adviser. The personal interaction between an adviser and their client allows for the needs of a client to be fully explored and documented. It allows for an adviser to confirm, in line with Standard 5 of the Code of Ethics, that the client understands the advice they are being provided before that advice is implemented. It caters for an adviser to use their experience, knowledge, and professional judgement in identifying and resolving ethical dilemmas that an automated advice process could not currently achieve.

However, we strongly believe that the adoption of technology can assist in the advice delivery process. There is a role that platforms, superannuation funds and product providers could play that would assist in the delivery of advice.

Building upon our recommendations to separate strategic advice from product fulfilment advice, where the strategic advice is to be implemented via investment on a platform or in a superannuation fund, the platform or fund could facilitate the implementation of the product fulfilment aspect with the digital production of the relevant advice document. The adviser would still facilitate this by entering all relevant information to the platform or fund's "advice tool", but that advice tool could then produce an industry standardised digital document for the client which sets out the adviser's recommendations. Implementation could then be as simple as the client clicking "agree" on a digital form.

In order to achieve this, the advice tool would need to be able to operate to cater for the regulatory and legislative minimum requirements. However, if supported by relevant changes to legislation to support this mode of advice delivery, we believe many AFSLs would be more willing to allow their advisers to use such technological solutions.

Recommendation

6. The Corporations Act should be amended to allow platform and product providers to develop technical solutions to facilitate the delivery of product fulfilment advice that meets the minimum disclosure requirements for advisers and AFSLs.

We also believe that technological solutions could be further developed to aid in the delivery of limited or scaled advice solutions (*Issues Paper question 36*). For example, advice on insurance to be held in a superannuation fund, or advice on converting an existing superannuation accumulation balance to an income stream in retirement. Again, we believe the role of the adviser in providing the relevant information, strategic solutions and product recommendations is vital and cannot be replaced by a fully automated process. However, the use of appropriate and relevant technological solutions could and should assist in advice becoming more accessible and affordable.

Ends