

3 June 2022

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

By email: AdviceReview@treasury.gov.au

Dear Sir / Madam,

RE QUALITY OF ADVICE REVIEW - LICENSEE JOINT SUBMISSION

We welcome the opportunity to make a joint submission to Treasury as part of the Quality of Advice Review (“the Review”). We support the objective of the Review to ensure Australian retail consumers have access to high quality, accessible and affordable financial advice.

We recognise the importance of also ensuring that consumers have both the choice to access advice in the manner they want and that they must have adequate protections in place to have trust and confidence in that advice. We seek to assist the Review fulfill its terms of reference, in particular, in the areas of:

1. Opportunities to streamline and simplify regulatory and compliance obligations to reduce cost and duplication;
2. Adopting a more principles-based approach to replace rules-based regulation;
3. Simplifying documentation and disclosure requirements; and
4. Minimising unintended consequences.

About the Licensees

The Australian Financial Services Licensees (“Licensees”) making this submission are each members of the Licensee Leadership Forum. The Licensees making this submission comprise of:

- AMP Group Limited
- Australian Unity Personal Financial Services
- Diverger Limited

- Fitzpatrick's Private Wealth
- Fortnum Private Wealth Limited
- Infocus Wealth Management Limited
- Otivo
- WT Financial Group Limited

Collectively we manage 21 Australian Financial Services Licensees which include 2,690 Authorised Representatives, 187 employed representatives and one digital advice platform. We provide financial advice to circa 433,000 retail consumers.

Good financial advice provides a significant benefit to consumers and their families. Consumers who have advisers have increased financial confidence and security to meet their future needs and protect their dependents. Research shows a strong link between financial wellbeing and a consumer's mental and physical health¹. Advisers help clients improve their financial wellbeing both at specific points in time and over time, in diverse ways including helping them stay on track and acting as advocates for their clients when insurance claims are necessary or when major life events occur.

Licensees play a major role in protecting consumers, ensuring that the advice provided meets the requirements of Financial Services law, bring the requisite capacity, capital adequacy and resource capability to the advice firms across Australia. The advice market is comprised of mostly small-to-medium businesses with a large majority operating below the scale required to implement systems, process and governance to fulfil their statutory obligations.

Licensees provide a wide range of business and quasi-regulatory services to enable them to do so in a cost-effective manner including:

- Verification of adviser qualifications and experience;
- robust, objective governance and incident management;
- change management and support to apply regulatory change into process;
- ongoing compliance monitoring, professional development programs and supervision;
- oversight, tools and support with advice production;
- research, investment expertise, product provider research and quality assurance;
- access to product and solutions at scale;
- practice management support and business and succession planning;
- marketing, client recruitment, client education, client engagement tools;
- complaints handling (internal and external dispute resolution);

¹ IOOF & CoreData. December 2020. The True Value of Advice.

- Professional Indemnity Insurance coverage and claims handling; and
- Incident, breach and systemic remediation management.

Licensees work collaboratively with Government, ASIC, AFCA, professional bodies to ensure implementation of policy. Licensees play a key role, for example, in reporting and removing misconduct from the market to promote stability, consumer confidence and trust.

The intent of regulatory reform

The industry has been the subject of more than 20 years of continual reform. From Financial Services Reform in 2002 (“FSR”) through to the Future of Financial Advice reforms, (“FOFA”). The banning of conflicted remuneration, the introduction of the Best Interest Duty (“BID”), Life Insurance Framework Reform (“LIF Reform”), the raising of professional standards and the Code of Ethics have driven major structural transformation across the industry.

We believe that the end goal of these reforms is to achieve a vision where there is:

- confidence and protection for all consumers accessing advice;
- access to affordable advice for more consumers in the way they choose to receive it;
- a trusted profession that holds itself to a higher standard; and
- more principles-based self-regulation with greater collaboration across professional bodies, practitioners and ASIC, all working together to continually improve quality and access to advice.

However, there have been some unintended consequences as a result of the volume of change over the years post FOFA, that have resulted in:

- a major reduction in the access to advice for consumers across Australia (particularly those who have lower amounts of wealth and the older and more vulnerable segments);
- the exit of experienced advisers (including a significant number of life risk specialists) from the market with insufficient entrants joining the industry;
- layers of (often duplicate) regulation, legislation, codes of conduct and guides that have been in many cases, inconsistent, ambiguous and open to interpretation contributing significantly to rising costs of advice.

Access to advice has reduced significantly

The demand for advice remains higher than ever with an estimated 12.6 million Australians having unmet advice needs. An estimated 3.2 million consumers are open to seeking advice over the next two years. The COVID Pandemic has driven many Australians to think more about financial advice and the need for financial security. 40% of Australians that had unmet advice

needs cited that they cannot afford advice. High costs and a lack of investable funds are the main barriers to seeking advice.²

The market is facing a significant and growing gap between the demand for advice and the ability of the market to supply it due to:

- Costs of advice to consumers rising significantly;
- An inability for consumers to access general advice or limited advice;
- A growing number of former clients with smaller asset bases and less complex needs (or personal risk insurance-only clients) now disengaged by advisers due to the inability to service them in a profitable manner;
- Consistent year on year falls in insurance advice; and
- A fall in the number of financial advisers remaining in the market with insufficient new entrants to replace them.

Financial adviser and adviser wellbeing

Financial adviser numbers have fallen from a peak of 28,000 in 2018 to 16,783³. In the last 3 and a half years, advisers have had a compressed timeframe to prepare, sit and pass the financial adviser exam to ensure they can preserve their livelihoods whilst servicing their existing clients through a pandemic, managing an extraordinarily large volume of regulatory uplifts and keeping on top of changes in markets, platforms and insurance products.

At the same time, the consequences for adverse compliance audits and the potential for banning and similar orders have increased which can result in reputational damage and the potential end of the adviser's livelihood.

There has been a high human cost with advisers and their staff reporting an overall fall in health and wellbeing, suffering stress, exiting from the industry early. 73% of advisers have been experiencing high levels of burnout from work with 67% experiencing some level of depression. 82% of advisers reported the daily compliance and regulatory demands have been highly to very highly stressful⁴. Unfortunately, financial adviser suicides in 2019 were reported at 3.25 times the national average with these numbers estimated to have risen since⁵.

Major structural shifts and disruption in Licensing

The effect of changes since FOFA, LIF Reform, the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry ("Royal Commission") and the

² Professional Planner. 3 Nov 2021. "Number of advised dropping 100K per year: Investment Trends" - quoting Investment Trends 2021 Financial Advice Report. Australia

³ Adviser Ratings. 26 May 2022. The weekly report.

⁴ The E-Lab and Deakin University. 2021. The Wellbeing of Financial Advisers in Australia Report. Sydney Australia

⁵ Based on 2019 reported 19 Financial adviser suicides versus the ABS 2017 national statistical average of 13 people per 100,000.

introduction of a new professional standards regime continue to reverberate through the advice landscape.

As many larger institutions have exited wealth and costs have continued to rise, this has resulted in the migration of many advisers towards mid-sized and smaller licensees. Some 234 advice licensees ceased in 2021⁶. There has also been an increase in advisers considering self-licensing as an alternative.

These structural shifts must be carefully managed to ensure consumers receive adequate protections. Licensees must demonstrate they have the governance, capacity, capability and capital in place to stand behind the advice that is provided under their license. Ensuring that governance and breach reporting and management obligations of a licensee can be robustly met requires adequate separation of duties between advice and governance roles.

The structure of our submission is in two parts:

1. The transformation of the industry and key challenges the market currently faces; and
2. The recommendations that will address the challenges above.

Our recommendations

In light of the above, we make the following recommendations to the Review:

1. Enable consumers the control and choice to access financial advice (factual information, general advice, limited and holistic advice) at more affordable price points in the form they choose it to be (face to face, virtual, digital or phone). This can be achieved by:
 - 1.1 better defining general advice in the Law and regulatory guidance to allow for the provision of more strategic and educational help and guidance to consumers;
 - 1.2 eliminating conflicts between the professional code of ethics and the law (for example standards 3 and 6 and its interaction with the steps of the safe harbour) to reduce ambiguity on the client's ability to limit the scope of advice;
 - 1.3 facilitate access to digital platforms, service and technology solutions that can help advisers to provide lower cost / more efficient ongoing service to their client base;
 - 1.4 enabling the costs of up front and ongoing advice to be tax deductible or tax rebatable; and
 - 1.5 subsidising the cost of advice and making it easier to advise segments who are not easily able to access advice (such as younger consumers, those with smaller investable funds who are nearing retirement or in retirement).

⁶ IFA. Apr 26 2022. "Over 2000 more advisers predicted to exit the industry in 2022" – quoting Adviser Ratings. 2022. Financial Advice Landscape Report.

2. Address the reducing numbers of financial advisers in Australia by:
 - 2.1 providing exemptions for experienced financial advisers from having to obtain an approved graduate degree by recognising their prior education and years of experience as sufficient;
 - 2.2 Reviewing the structure of the professional year to enable the provisional advisers the ability to provide advice to clients as soon as they enter the workforce with appropriate supervision; and
 - 2.3 Consider exploring other initiatives designed to assist employers (many of whom are small business owners) to economically afford to employ and retain new advisers in their professional year.
3. Retain the Best Interest Duty Safe Harbour provisions, however, remove the ambiguous “catch-all” provision S.961B(2)(g) and eliminate conflicts in the wording of the code of ethics with the Safe Harbour steps.
4. Enable the simplification of the advice documentation by replacing the existing Statement of Advice and Record of Advice with a more concise and flexible advice document (“Advice Document”). We note some segments of the industry have termed this a “Letter of Advice” or similar). The Advice Document should be:
 - 4.1 able to be used to document initial or ongoing advice;
 - 4.2 less prescriptive and more principles-based on what the document should contain depending on the nature of the advice interaction; and
 - 4.3 able to be delivered to clients via paper, verbally or via electronic methods.
5. Address the significant decline in consumer access to personal risk insurance advice by:
 - 5.1 halting any reduction of life insurance commissions or plans to remove their exemption from the definition of conflicted remuneration; and
 - 5.2 reviewing the caps imposed on commissions, given the costs incurred by the advice provider up front and ongoing, to ensure sustainability in the market.
6. Reduce cost, regulatory overlap and improve affordability of advice by:
 - 6.1 Removing financial adviser involvement from assessing the Target Market Determination and reporting to manufacturers on non-conformance with DDO completely;
 - 6.2 Removing the need to provide clients with a Fee Disclosure Statement (“FDS”) as the new annual fee consent and Superannuation trustee consents achieve the same effect;

- 6.3 Standardising all annual consents from Superannuation Trustees and product providers. Require the dates to align to the date already agreed to by the client in an adviser service agreement.
 - 6.4 Supporting the ability for financial advisers to access to data quickly in standard formats that can aid the provision of advice including MyGov Australian Taxation Office portals and supporting the introduction of an Open Finance bill.
 - 6.5 Eliminating inconsistencies between the law and the code of conduct (particularly Standards 3 and 6). Give consideration to retaining the professional code of conduct but removing the code from legislation in line with other professions.
 - 6.6 Review and amend the Breach Reporting obligations to align with quality of advice and client outcomes. The Deemed Significant definition could be amended to remove many immaterial items.
7. Ensure consumers are protected by maintaining the current Australian Financial Services Licensing regime to ensure all licensees have adequate governance, capacity, capability and capital is in place to discharge the obligations of holding a license.
8. Facilitate a program of continuous ongoing engagement between Treasury, ASIC and a panel of industry participants such as Professional bodies and Licensees to ensure that the community of financial advice continues to head in the right direction and that current and future regulation and legislation meets its intent.

More information about the recommendations above and the rationale for them is contained in the following pages. The recommendations will address the decline in the number of advised consumers and meet the imperative of providing access to affordable advice for consumers in the way they want to access it, as well as ensuring a sustainable and trusted marketplace for consumers to access the advice affordably.

Please do not hesitate to contact us below we can assist the Review further.

Yours sincerely

Joint Licensee Submission to
the Quality Advice Review

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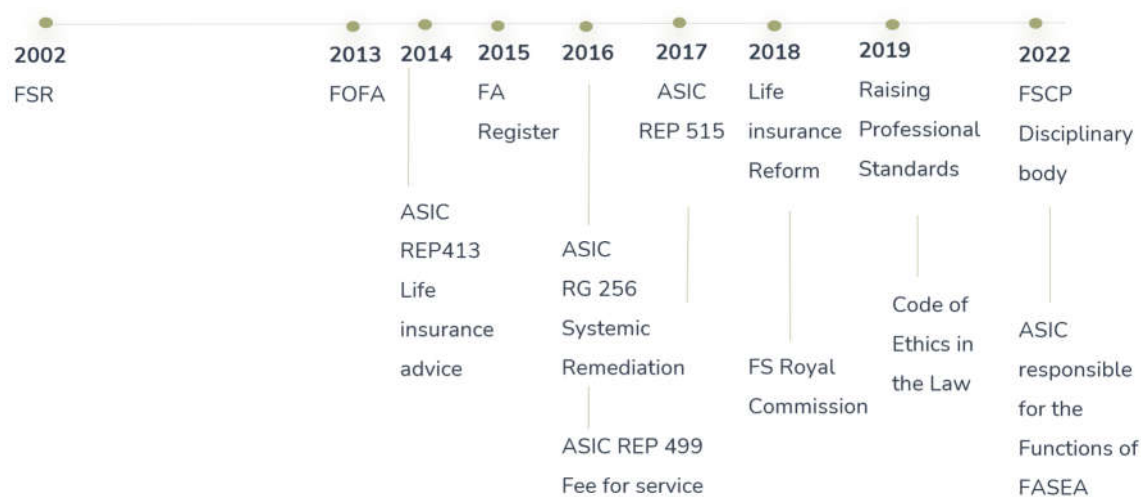
Keith Cullen
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1. Transformation of the industry, key themes and challenges

1.1 The industry has transformed significantly since its formation in the 1980s

The current industry evolved from a heritage of tied life insurance agents, accountants and stockbrokers. Structural changes have been driven by multiple regulatory reforms and market events over the past 20 years:

Figure 1.1 An overview of reform since 2002⁷



The removal of product based cross subsidisation of advice as part of FOFA caused a major restructure of adviser and licensee business models to remove other forms of remuneration not core to advice and to redesign their value propositions to the market. The aftermath of the Royal Commission drove a major exit from wealth of many large institutional players with remaining licensees raising prices to reflect rising costs of compliance and supervision - or withdrawing from the market.

Where once the industry was dominated by large institutions, many related party arrangements and opaque remuneration, the industry (including the remaining institutional Licensees) today have changed towards much more transparent licensee structures and adviser firms focused on advice revenue.

As subsidised models of advice unwound and life insurance commissions fell, the full costs began to be reflected in advice costs. Throughout the period, uplifts from ASIC, AFCA determinations and licensee risk management controls have been incorporated into advice processes and documents, adding to costs.

⁷ Source: Strategie3

Q3. Have previous regulatory changes improved the quality of advice (for example the best interests duty and the Safe Harbour)?

The reforms were aimed at increasing quality of advice, ensuring advisers acted in their client's best interests, removing structural conflicts and increasing accountability for advisers as advice givers. Safe harbour acted as a roadmap to provide advisers with better certainty that a good advice process was more likely to lead to a quality advice outcomes. However, S.961B(2)(g) reintroduced ambiguity with a "catch-all" provision that reduced the clarity that the Safe Harbour sought to provide for advisers and Licensees.

The catch all provision has given complainants (and litigants) impetus to lodge often unfounded claims. With the minimum level of costs that must be incurred to defend a matter at AFCA, Licensees and advisers have naturally responded by increasing documentation and prescription to avoid rising Professional Indemnity ("PI") insurance premiums.

The enshrining of the code of ethics in the Law has caused further ambiguity as advisers have found the broad nature of the standards causes practical difficulty in application and inconsistencies between the BID and other sections of the law.

The balance has swung too far from focusing on the quality of the advice under BID, towards demonstrating the weight of documentary compliance proofs on file to the BID safe harbour steps (as interpreted by each Licensee and by ASIC) - in many cases doubling the time it has taken on average for an adviser to complete an advice interaction with a client.

ASIC projects sampling files tend to examine BID compliance through seeking documentary compliance, rather than through the perspective of the client engagement process and the client's likely advice outcomes. Advisers have been subjected to adverse enforcement outcomes even in cases where the clients have been left better off by the advice and services, and have actively participated in the engagement process, including agreeing to service scope and terms with their adviser.

1.2 Declining adviser numbers and adviser wellbeing

Whilst thousands of advisers met the requirements and completed their studies in the required time, a number of events occurred at the same time driving an extraordinary amount of workload and pressure on to advisers. They had to complete their education and examination requirements after hours whilst also needing to:

- ensure they continued to service their clients;
- reassure clients through numerous natural disasters, the Pandemic and volatility that followed;
- structurally transform their businesses to ensure they had clear value propositions, and sustainable pricing (this tended to become focused on less clients that were more profitable);

- Implement processes to ensure annual reviews and fee consents occurred in a new prescribed manner that did not create a good client experience;
- perform the required changes to compliance documentation, disclosures and file maintenance to complete a piece of advice; and
- be on top of the changes in investment markets, platform migrations, life insurance sustainability changes, federal budgets.

The lateness of clarity from FASEA on the education requirements, examination format, structure and timing and the lack of available time for existing advisers to sit / resit the exams plus the risk that the adviser could lose their livelihood had a major impact on adviser numbers declining, high instances of poor mental health and wellbeing and unfortunately a number of cases of suicide.

In Research conducted by the E-lab and Deakin University in 2021⁴, a survey of more than 700 advisers examined the mental health and wellbeing against those in other industries and found real concerns about the sustainability of the profession including:

- 73% of advisers experiencing high levels of burnout from work.
- 33% were seeking medical care to manage the health symptoms caused by stress.
- 67% of advisers experienced some level of depression however 17% of advisers reported depression most or all of the time.
- Compared to the average Australian, advisers have a 51% higher chance of being a high mental health risk group.
- As a result, 42% were considering leaving the profession due to stress; and
- 82% of advisers reporting the biggest stress on their daily work is the regulatory and compliance demands.

As experienced adviser numbers continue to fall a widening gap of supply has emerged with insufficient new entrants joining the industry. There continues to be significant numbers of very experienced advisers yet to exit due to the requirement to complete further tertiary studies. We support proposals to provide better recognition of previous education and experience in this area. This in no way diminishes our view that appropriate educational standards are required for new entrants in the industry.

1.3 The growing gap between demand and supply of advice

Financial advice helps consumers navigate the inherent complexity that exists within:

- Superannuation
- Centrelink
- Taxation Legislation
- Investment markets
- Insurance (life, disability, income protection and trauma)

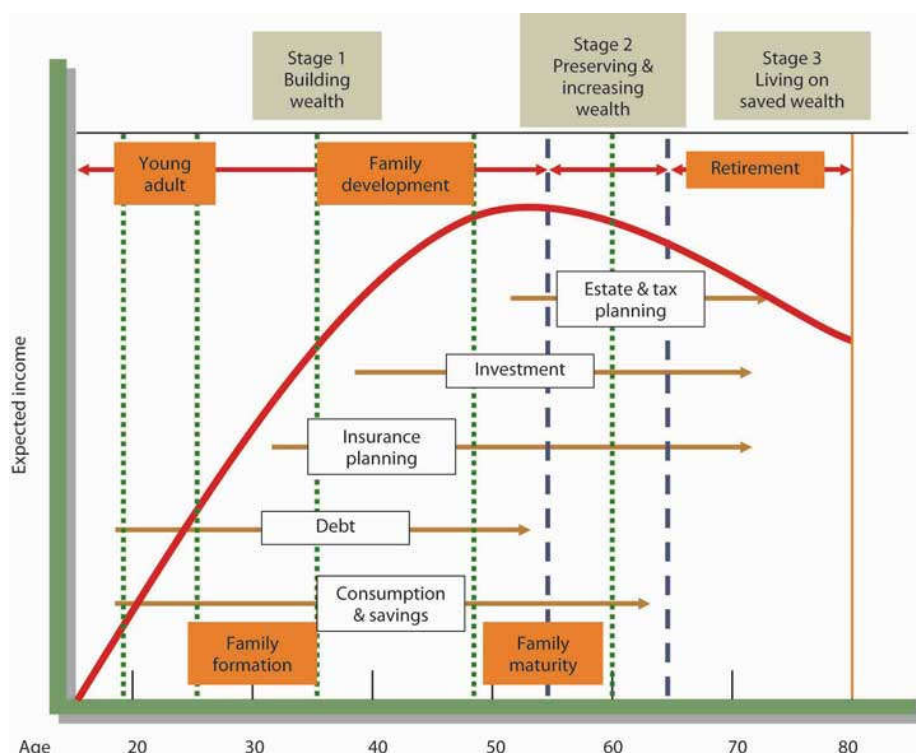
- Platforms and other services; and
- Estate and succession planning.

Financial advice helps consumers improve their overall financial wellbeing (which includes being financially secure and confident to meet future needs). A key part of ensuring consumers feel financially secure is to ensure that they have plans in place and are adequately insured against risks that they and their families may face.

The demand for advice remains higher than ever with an estimated 12.6 million Australians having unmet advice needs. An estimated 3.2 million consumers are open to seeking advice over the next two years. The COVID Pandemic has driven many Australians to think more about financial advice and the need for financial security. 40% of Australians that had unmet advice needs cited that they cannot afford advice. High costs and a lack of investable funds are the main barriers to seeking advice.⁸

The need for advice occurs across a consumer's lifetime and can be driven by both small and short-term matters that they need help on through to life stages and particular events (marriage, divorce, retirement, redundancy) that trigger the need for more complex (often strategic and / or holistic) advice.

Figure 1.2 Financial planning across life stages⁹



⁸ Professional Planner. 3 Nov 2021. "Number of advised dropping 100K per year: Investment Trends" - quoting Investment Trends 2021 Financial Advice Report. Australia

⁹ Dr Karen Collins, 2012, Pennsylvania USA. An introduction to Business

There has been an increasing gap between the demand for advice and the ability to meet it in the industry:

- approximately 1.8 million individuals access advice via an adviser today;⁸
- as at the week ending 26 May 2022, 16,783 advisers remain in the industry from a peak of 28,000 in 2018;³
- average client numbers per adviser have fallen to below 100;⁶
- in the past year approximately 100,000 clients have been disengaged by advisers or ceased advice; and ⁶
- 234 AFSLs ceased in 2021.⁶

1.4 Rising costs of advice

Q6. What are the cost drivers of providing financial advice?

Q8. How much is the cost of meeting the regulatory requirements as a result of what the law requires and how much is a result of the processes and requirements of an AFS Licensee, Superannuation trustee, Platform operator or ASIC.

Advice costs have been steadily rising over the years driven by a removal of subsidies as a result of FOFA's banning of conflicted remuneration and LIF reform resulting in the need for advisers and Licensees to shift of those costs to consumers through pricing their remuneration into the cost of advice.

In addition, the advice process, duplicate layers of compliance and complexity within an already complex and lengthy advice process have seen the cost of advice for consumers increase.

Advisers are subject to many overlapping requirements above what is required by the Corporations Law including:

- Anti-Money Laundering verifications;
- Superannuation Law;
- Privacy requirements;
- ASIC Regulatory Guidance and Information sheets;
- Licensee Professional Standards;
- Product Provider, Trustee and Responsible Entity consent requirements;
- DDO Target Market Determination ("TMD") assessment and reporting obligations

The advice process itself is inherently complex and cost intensive to administer due to multiple data points for collection, multiple systems, tools and processes involved and parties involved in construction and implementation of advice. Consumers often find the process too difficult, and many drop out of the process before implementation.

An example of the advice process, the many moving parts and systems in an initial advice process are set out in appendix 1 of this submission.

Regulatory uncertainty results in inconsistent interpretation of the law from ASIC, Licensees and AFCA. This all drives up the costs of advice however it is difficult to precisely attribute what proportion to each party. Drivers of cost are:

- The time taken to investigate client circumstances, needs and objectives (legal requirement);
- The time taken after the advice meeting to file note every interaction (compliance requirement);
- The length and cost of producing a SOA;
- The additional steps undertaken to document research and model multiple like for like product replacement scenarios as a result of ASIC's guidance in REP 515 causing licensees to be more prescriptive on documentation;
- Resources required to project manage and monitor the implementation of advice across multiple suppliers; and
- Scheduling client review meetings and administering reschedules.
- The increased volume to operate within the new Breach reporting obligations. More specifically, the Deemed Significant definition requires reporting of many matters that are administrative / file maintenance in nature, and certainly not material on the quality of advice nor client outcomes. This is driving up complexity and time and hence cost.

Whilst the cost of initial advice via a SOA is high, most advisers spend more time in a year maintaining and servicing 100 ongoing advice clients. Advisers generally provide a minimum of an annual review to these clients, spend significant time on the administration of regular and ad hoc client requests. Significant work can arise in addition to an annual review as a result of changes in clients' personal situation, markets or regulatory change. Each interaction may result in either additional advice given via a Record of Advice or a new SOA. Where changes to financial products may be required there is significant time and cost to ensure these transactions are implemented. As a result, their capacity to onboard new clients is significantly constrained.

Anecdotally advisers have noted an increase of circa 50% of time taken to complete an advice interaction as a result of the implications of compliance uplifts severely limiting their capacity to serve clients for normal day to day interactions.

In addition, Licensees have been subject to ever increasing supervision, monitoring and breach reporting requirements from ASIC. Each requirement requires Licensees to increase resources (for example ASIC's view on the Licensee's responsibilities for cybersecurity of its Corporate Authorised Representatives). These increases in costs are ultimately borne by the consumer.

Q.16 How could advice be more accessible

Q.32 Do you think that limited scope advice can be valuable for consumers

1.5 Consumers seek help, guidance and advice across multiple channels

Consumers seek help, guidance and advice on financial matters, most do not understand the distinctions at law between factual information, general, limited scope and holistic advice. Ultimately some consumers will want to educate themselves and seek enough general information that is relevant to them, their needs and situation so that they can make their own informed decisions or fix the need for themselves. Others will want to attend to components of the solution themselves while others will want to delegate the entire process to a financial adviser.

Consumers expect a continuum of advice from accessing information only to general advice (including calculators and self-service tools), to limited then holistic advice.

Our view is that in order to make advice accessible:

- more needs to be done to facilitate the provision of educational and strategic advice to consumers via general advice;
- general advice should be better defined at law and should allow some form of limited tailoring to a client's needs / objectives and circumstances without go as far as making a personal recommendation on financial products;
- facilitating greater access to advice involves both encouraging and enabling the provision of advice via digital means, across multiple technology channels including social media, chat and digital advice platforms.
- Financial advice can also be made more affordable via the enablement of financial advice fees or subscriptions to be tax deductible; and
- The Government could give consideration to a program of subsidies for advice fees to assist consumers who cannot access advice due to the cost (such as younger consumers and those clients approaching retirement or in retirement who have less wealth or who need insurance).

Consumer surveys from Investment Trends on financial advice over many years have shown that one of the largest areas of demand from consumers is in limited scope or "episodic" advice. Limited advice can be provided at lower cost to consumers as long as the advice provider:

- does not need to spend unnecessary costs and time fact finding and investigating the whole of the client's circumstances; and
- has regulatory certainty they can proceed to agree the scope of the advice and scale the extent of their inquiries with client consent.

As costs have continued to rise to supply advice and capacity to serve has fallen due to the increased documentation burden, financial advisers have responded by segmenting their client

bases and focusing their business offerings and time on a smaller number of more profitable ongoing clients willing to pay higher advice fees.

Many advisers disengaged from clients with lower funds, closed scaled advice offerings and disengaged from personal risk insurance clients who are unable or unwilling to pay the minimum ongoing advice fees required to service them.

This growing pool of “orphan clients” has meant that financial advice is generally available to those who can afford the premium price with fewer avenues for consumers to seek advice affordably and a decline in the amounts of insurance advice provided across the industry.

As a result of the factors above there has been an increasing gap between the demand for financial advice and the industry’s ability to supply it in the manner and at the price point the consumer wants.

1.6 Barriers to providing access

Q.15 What are the barriers to people who need or want financial advice accessing it?
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ASIC REP 224 released in 2010 shows the barriers to accessing advice remain the same 12 years after the report were released. However a few more recent barriers have emerged.

Barriers to demand from consumers include:

- High costs of advice;
- low levels of financial literacy resulting in a lack of awareness of their need for advice and understanding of the benefits;
- a lack of trust and confidence as to who to seek advice from;
- consumer perceptions that they cannot afford advice / do not need advice;
- complexity of the process and numerous forms involved; and
- Low levels of engagement with consumers over longer-term savings and superannuation the further they are away from retirement.

Barriers to supply include:

- The lack of availability of general advice and limited scope advice due to regulatory uncertainty;
- Suppliers exiting the provision of general advice due to the risk of litigation or regulatory penalties, leaving personal advice as the default option for the consumer.
- The costs of maintaining systems, documentation, training, supervision and monitoring in place rising in the face of declining revenue;
- Reduction in revenue sources (personal risk insurance commissions, corporate superannuation servicing) resulting in many consumers who were formerly advised now being disengaged from their advisers as it is no longer economical to service them; and
- Insufficient qualified advisers entering and remaining in the market.

Q.27 How does applying and considering the distinction between general and personal advice add to the cost of providing advice

1.7 Factual information, General and Personal advice

In real world situations, consumer conversations rarely stay within the bounds of just factual information, general or personal advice. Conversations ebb and flow between them. Consumers may volunteer additional information at times that may indicate they have existing insurance in their superannuation or have more complex needs.

Whilst general advice costs are low, should the conversation stray into personal advice, onerous best interest duty and advice documentation regimes are too readily triggered. A provider of general advice has the capacity to serve a thousand consumers whereas a provider of personal advice can serve on average up to 100 in a given year.

For this reason, direct to consumer wealth businesses and general advice businesses have scripts in place that immediately disqualify a consumer from general advice if they mention particular key words. The high rate of these consumers being disqualified adds to waste as consumers are left with their problem unsolved and they are unwilling or unable to pay the full costs of personal advice for a relatively simple problem.

Consider the Scenario where a consumer calls an insurance call centre for help obtaining life insurance that is a requirement of their new role as a mining employee. The consumer needs help to solve an immediate need and finds financial matters quite complex.

Figure 1.3 – General advice case Study

Call centre: Good afternoon welcome to ABC life insurance. You're speaking with Tom. How may we help you today?

Consumer: Hi. I need some help with obtaining a quote on life insurance and trauma cover as part of my new job.

Call centre: Sure. We can help you with that. Just before we begin, please note that I am only authorised to give you general advice and factual information only. I cannot make any personal recommendation to you. Do you know how much cover you are looking for in life and trauma?

Consumer: No, my boss just told me I had to get some in place and mentioned a lot of miners use ABC Life.

Call centre: Of course. We have some options, I can give you some general ideas as to how much our policyholders generally ask for however what you need may be higher or lower depending on your situation. If you would like a personal recommendation, I can send your details on to a financial adviser who can then give you a tailored plan. What would you like to do?

Consumer: No that's too expensive, I just want to know how much I need and get a quote.

Call centre: (talks about the general levels covered by different policies sold by ABC).

Please be aware that this is an estimate only and you may need to consider if you need a different amount based on your personal circumstances

Consumer: OK. A coverage of \$AAA sounds good. What's the cost to cover \$AAA?

Call centre: We have 3 policy options that can be used to cover \$AAA. Do you know which one you want?

Consumer: What's difference between each? What does it cover?

Call centre: (Provides general differences in features and the indicative costs of each)

Consumer: So which one is better? Should I get the cheapest one?

Call centre: I'm sorry, you will need to decide what is suitable for you. I can only tell you what the different features are, but I can send you to a Financial Adviser if you would like more assistance?

Consumer: I just wanted someone to help me – this is getting too hard (Hangs up in frustration)

In the end the consumer is left frustrated without quite enough information to solve the problem themselves and a lack of trust as the call centre did not answer their questions directly.

Ideally the client could have sought more information and received more guidance from an advice provider under general advice but the issue is personal advice is too wide a definition leaving general advice a very narrow range to work in. Moreover, recent judicial developments (notably, the High Court's decision in ASIC v Westpac in December 2019) have blurred the distinction between "general" and "personal" advice as those concepts are currently expressed in the legislation, which has increased client engagement risk, particularly in those cases where

the adviser holds or is provided with some form of information about the client's circumstances or objectives.

To allow more to be achieved in the space of general advice and more help to be given to a consumer the law, the Review should examine whether more can be done in the realm of general advice to allow some degree of tailoring of the information to a client without going as far as to make a specific recommendation to the client.

2 Our recommendations

Given the economic and social imperative of facilitating access of quality advice to more consumers at affordable prices, reducing the unintended consequences of legislation and regulation and continuing to build trust and confidence for consumers, the Licensees make the following recommendations to the review:

2.1 Facilitating access to advice for more consumers

Recommendation 1

1. Enable consumers the control and choice to access financial advice (factual information, general advice, limited and holistic advice) at more affordable price points in the form they choose it to be (face to face, virtual, digital or phone). This can be achieved by:
 - 1.1. better defining general advice in the Law and regulatory guidance to allow for the provision of more strategic and educational help and guidance to consumers;
 - 1.2. eliminating conflicts between the professional code of ethics and the law (for example standards 3 and 6 and its interaction with the steps of the safe harbour) to reduce ambiguity on the client's ability to limit the scope of advice;
 - 1.3. facilitate access to digital platforms, service and technology solutions that can help advisers to provide lower cost / more efficient ongoing service to their client base;
 - 1.4. enabling the costs of up front and ongoing advice to be tax deductible or tax rebatable; and
 - 1.5. subsidising the cost of advice and making it easier to advise segments who are not easily able to access advice (such as younger consumers, those with smaller investable funds who are nearing retirement or in retirement).

Reasons for the recommendations

- Enabling general advice provides a great deal of opportunity for advice providers to:
 1. Conduct general strategic advice and educational conversations about asset classes, types of features that could be more suitable for particular consumer needs, objectives or circumstances without making specific recommendations on products tailored to the client's needs, objectives and circumstances.

2. Consumers can now receive more assistance to reach a decision point for themselves whereas the current regime falls far short of helping outside personal advice;
 3. General advice providers have no requirement to document their advice and can charge a lower cost or provide the service for free.
 4. Advice providers still need to be licensed, competent in the areas of advice and subject to duties of professional care and skill to provide general advice.
 5. Personal advice providers could continue to serve more clients on a general advice basis, reducing the decline in the number of advised consumers.
- S.766B of the law defines general advice effectively as any financial product advice that is not personal advice.
 - The definition of personal advice is very broad. It only requires the consideration of one need, objective or circumstance to be deemed personal. In addition, the reasonable person test applies to whether the advice provider ought to have considered the client's needs objectives or circumstances.
 - General advice does not require a comprehensive investigation into the client circumstances, does not attract BID and does not require an SOA or ROA. As a result, it is a much lower cost process and can be performed quickly. General advice providers still need to be licensed, be competent in the areas of advice and subject to exercising due professional care and skill when providing general advice.
 - Limited advice today is hampered by the effect of Standard 6 on the agreed subject matter of the advice. We believe this is causing advisers confusion and driving unnecessary time and cost analysing and documenting why the scope should not be holistic. Other professions can simply issue a verbal warning and proceed to advice.
 - The changes above would enable a greater degree of freedom for advice providers, digital advice tools, calculators, policy providers and superannuation trustees to provide educational and engage consumers in conceptual discussions occurring about asset classes without recommendations to purchase a specific product or interest in a specific product. Consumers who then seek specific tailored recommendations from an adviser can then engage with them appropriately.
 - Personal advice via an adviser requires significant time and cost to provide for each individual. Digital platforms and other service providers exist in the market that can enable the provision of more efficient service, reaching more clients at a lower cost. The Government should facilitate the use of these services and consult with participants to reduce any barriers to these solutions. This can increase the capacity and reach of an adviser to far more than 100 consumers.
 - A prudent measure to offset the rising costs of advice is to make the cost managing financial affairs similar to the cost of managing tax affairs. Fully tax deductible. This would facilitate access to personal advice for much more of the population and is easier to implement quickly.

- The reduction in access to advice particularly impacts segments of society who have less wealth, younger consumers, consumers on lower earnings and many approaching retirement / in retirement who do not have sufficient funds to invest or who can afford the advice. The Government should consider subsidies for advice for these segments who need advice but cannot access it due to the cost.

2.2 Address the significant decline in adviser numbers

Recommendation 2

2. Address the reducing numbers of financial advisers in Australia by:
 - 2.1 providing exemptions for experienced financial advisers from having to obtain an approved graduate degree by recognising their prior education and years of experience as sufficient;
 - 2.2 Reviewing the structure of the professional year to enable the provisional advisers the ability to provide advice to clients as soon as they enter the workforce with appropriate supervision; and
 - 2.3 Consider exploring other initiatives designed to assist employers (many of who are small business owners) to economically afford to employ and retain new advisers in their professional year.

- An unintended consequence of the raising of professional standards has been the larger than expected exit of experienced financial advisers worsening the issue of a lack of access to advice for consumers;
- Greater recognition of an adviser's past education and actual work experience as an adviser should be made in order to retain experienced advisers in the industry;
- We do not advocate for new advisers to be exempt from the tertiary requirement;
- The professional year only enables provisional advisers to provide advice under their own names after spending almost three quarters of the year performing support duties and shadowing an experienced adviser. This doubles the cost of resources providing a piece of advice.
- Provisional advisers should be able to provide advice with appropriate supervision when they enter the workforce.
- The Profession, ASIC, Licensees and education providers should consult on how the non-client facing and administration activities could be incorporated into the tertiary qualification for a new adviser similar to a work experience / cadetship part of a degree to be a financial adviser.
- To train and supervise a provisional adviser is a significant investment in time and funds for an employer. The risk to the employer is that the investment is immediately lost when the adviser completes their professional year as other employers prefer to recruit

qualified advisers and not have to train and supervise a resource which is not revenue generating.

- Employer incentives will foster the training and create a potential barrier to the “cherry-picking” by other firms of the new adviser when they complete the professional year

2.3 Retain the BID safe harbour but remove the catch all provision

Q.43 Do you consider that the statutory safe harbour for BID provides any benefit to consumers or advisers and would there be any prejudice if it was removed?

Q.44. If at all, how does complying with the safe harbour add to the cost of the advice and to what extent?

Q.45 If safe harbour was removed, what would change about how you would provide personal advice or how you would require your representatives to provide personal advice?

Q.46 To what extent can the best interest obligations be streamlined to remove duplication?

Recommendation 3

3. Retain the Best Interest Duty Safe Harbour provisions, however remove the ambiguous “catch-all” provision S.961B(2)(g) and eliminate conflicts in the wording of the code of ethics with the Safe Harbour steps.

Reasons for the recommendation

- BID codified what was generally in an advice process today. Advisers needed certainty as the concern was that without a safe harbour the cost of litigation and claims would result in an uncontrolled escalation of costs;
- Consumers were beneficiaries of a more robust advice process as we believe good advice process would make it more likely that this leads to quality advice outcomes;
- In the absence of Safe Harbour, advisers would seek Licensee and ASIC guidance to ensure the advice process they follow today could result in BID fulfillment;
- Without the Safe Harbour, increasing regulatory uncertainty may result in Licensees and advisers choosing to increase process and prescription to manage the risk of litigation and claims;
- Removing the “catch all” in S.961B(2)(g) will reduce regulatory uncertainty which leads to cost and unnecessary risk aversion. The remaining steps better align with the advice process advisers are trained and competent in today;
- The introduction of the professional code of ethics at law has caused regulatory overlap with the catch all provision. The code is much wider in application and thus the catch all is no longer required. Consideration should be given to removing the code from the law as with other professions; and

- Consulting with the profession on the wording of standards to eliminate conflicts between the code and the law (most notably Standards 3 and 6) will assist to reduce the current inconsistencies and confusion advisers face today.

2.4 Simplify advice documentation

Q63. How successful have SOAs been in addressing information asymmetry?

Q65. To what extent can the content requirements of the SOAs and ROAs be streamlined, simplified or made more principles-based while still ensuring consumers that they have the information they need to make an informed decision?

Q.66 To what extent is the length of the disclosure requirements driven by regulatory requirements or existing practices and attitudes towards risk and compliance adopted within industry

Q.67 How could the regulatory regime be amended to facilitate the delivery of disclosure documents? If so – why?

Recommendation 4

4. Enable the simplification of the advice documentation by replacing the existing Statement of Advice and Record of Advice with a more concise and flexible advice document (“Advice Document”). We note some segments of the industry have termed this a “Letter of Advice” or similar). The Advice Document should be:
 - 4.1. able to be used to document initial or ongoing advice;
 - 4.2. less prescriptive and more principles-based on what the document should contain depending on the nature of the advice interaction; and
 - 4.3. able to be delivered to clients via paper, verbally or via electronic methods

Reasons for the recommendation

- SOAs have not helped address information asymmetry. Clients find SOAs overly complex, disclosures confusing, and many do not read the documents. Whilst the initial provisions of the law around Statements of Advice and Records of Advice appeared logical and simple, they have been growing in complexity, becoming lengthier and overloaded with disclosures, legal disclaimers and warnings. Whilst in principle these documents needed to be clear, concise and effective, they are often the opposite.
- Documents have become very costly to produce with an SOA being produced by external paraplanning services costing between \$400 for a simple plan to \$1,000 for a complex plan (on a wholesale basis). This does not include the time taken by an adviser

and / or an associate adviser to model the strategies and research the scenarios that go into the SOA and to review the documents which would at least double the cost.

- Information asymmetry may not be able to be practically addressed over the course of a single advice document. Clients who have longer term relationships with advisers have had the benefit of years of engagement and education on key concepts. The role of the adviser in educating a client over time needs to be enabled and recognised through the ability to deliver advice verbally and the freedom to prepare concept illustrations, diagrams and presentations that do not require codification in the law. In other words, advisers should be able to adapt or tailor their advice documents having regard to the nature of the interaction and the relationship that has been established over time.
- Whilst advisers prefer to use ROA instead of an SOA, a lot of unnecessary debate arises as to whether an ROA is allowed to be used in an advice interaction as the client may have had a significant change in circumstances requiring an SOA instead. We should replace both documents with a single Advice Document (some in the industry are referring to a “Letter of Advice”) whose content should be scalable for the size and complexity of the interaction with the client. A simple withdrawal advice should be very short relative to a complex estate planning strategy.
- It is important to note that many of the requirements introduced for advice documentation and disclosure as part of FSR in 2002 were introduced in a time when the industry had not been operating under systems, structure and documentation and conflicted remuneration arrangements were prevalent.
- Post FOFA, the banning of conflicted remuneration has eliminated virtually all of the structures that may have given rise to the need for extensive disclosure. In addition, the Code of ethics standards 3, 5 and 7 add the additional requirements to ensure the adviser does not act against the interests of the client.
- The disclosure regime should be reviewed. The intent of the law was for advisers to disclose those benefits and associations that were at the time less clear to clients so that clients could make a free and informed decision to consent to advisers receiving any benefits beyond the advice fee paid. The effectiveness of disclosure has been overtaken by the volume of information provided under the current regime.
- There would be a significant amount of capacity freed within the advice process on the education of the client on the advice itself and not on producing a volume of documents that the client does not value.
- Standard 5 of the Code of ethics would be better met where the adviser is now more able to have the freedom to provide educational advice and discussions in the advice meeting rather than take the client through a confusing legal document.
- An advice document would still be required for the adviser to maintain compliance with the law however it does not force the legal document to become the primary tool we educate clients with.

- Retaining the ability to give the client the advice verbally and have the document sent to the client upon request would maintain a key benefit of the Record of advice today. In practice most advisers summarise key points in an email to clients after the meeting;
- Allow greater incorporation by reference for the minutiae that a client doesn't need to make an informed decision; and
- The document should be able to be provided in multiple formats from paper to verbal to any digital or electronic format (video, chat, hyperlinks) as required.

2.5 Address the growing gap in insurance advice for consumers

Q.51 What would be the implications for consumers if the exemptions from the ban of conflicted remuneration were removed?

Q52. Are there alternatives to removing the exemptions to adjust adviser incentives, reduce conflicts of interest and promote better insurance outcomes

Q.53 Has the capping of life insurance commission led to a reduction in the level of insurance coverage or contributed to underinsurance? (provide data)

Q.55 What other countervailing factors should the Review have regard to?

Recommendation 5

5. Address the significant decline in consumer access to personal risk insurance advice by:

- 5.1. halting any reduction of life insurance commissions or plans to remove their exemption from the definition of conflicted remuneration; and
- 5.2. reviewing the caps imposed on commissions, given the costs incurred by the advice provider up front and ongoing, to ensure sustainability in the market.

Reasons for the recommendation

- Commissions provide an essential mechanism for choice of consumers as to how they want to access advice. Commission funded, hybrid to fee for service should be options a consumer can choose to fund insurance advice.
- Advisers incur significant costs up front when advising on insurance. Commission caps have to be reviewed in light of the falling access to advice and their impacts on consumer underinsurance levels.
- There are broad consumer and community benefits from mechanisms such as life insurance that protect individuals and families from financial hardship associated with adverse life risk events.

- ANZ banking research into financial wellbeing found a major driver found to impact consumer wellbeing was whether someone has experienced a disruptive health event. While 8% of Australians had experienced an illness in the last 12 months which disrupted their ability to work, this rose to 10% of people getting by and 22% of people who were struggling¹⁰
- A Research report by NMG Consulting into the Australia Life Insurance market conducted modelling of the difference between current insurance holdings vs. a conservative community standard for each cohort of the population by age and type of policy. The results revealed significant gaps in intermediate level policy placement affecting lower to middle income demographics and gaps key life stage changes (buying a home, starting a family, and transitioning to retirement).¹¹
- The implementation of the Life Insurance Framework (LIF) and specifically the capping of commissions at 60/20 (along with the shift to open-APLs) has resulted in a reduction in specialist life risk adviser numbers to just under 1,210 at the end of 2021.¹²
- The final recommendations for the Review of Retail Life Insurance Advice by John Trowbridge acknowledged that there were significant costs incurred by financial advisers upfront when recommending risk protection advice and the role that initial commissions would play to partially recover that cost. Trowbridge noted the industry was not ready to move purely to fee for service and the removal of commissions would likely result in more than half of advisers ceasing to offer life insurance advice. He noted that the diminished supply of such advice would likely exacerbate greatly the underinsurance problem in Australia.
- The withdrawal of so many advisers from the market would most likely have the greatest effect on supply of advice to lower and middle income families and businesses rather than to higher income earners.¹³
- Trowbridge's predictions have been accurate as new business placement of risk advice has shown falls of \$763m in 2013 to \$335m 2021
- Advisers are actively disengaging with life insurance only former clients as they focus on holistic advice offers and hybrid fee for service plus commission models to higher net worth clients which are more economically sustainable.
- Whilst advisers with holistic propositions and higher net worth clients are actively introducing hybrid and pure fee for service models in the market, commissions allow access to advice for the middle and low income earning consumers who do not seek an ongoing advice relationship with clients and just prefer assistance for a point in time. Already with the withdrawal of supply of risk specialist advisers and rising minimum fees to be an ongoing advice client, this cohort of the community is being disadvantaged.

2.6 Other measures to reduce cost and compliance burden

¹⁰ ANZ Banking Group. 2021. Melbourne Australia. A survey of Financial Wellbeing in Australia

¹¹ NMG Consulting. June 2020. Australia. Australian Life Insurance Market Research Report

¹² Adviser Ratings 2022. The financial advice landscape report.

¹³ John Trowbridge. March 2015. Review of Retail Life Insurance Advice – Final Report

Q.47 Do you consider that financial advisers should be required to consider the target market determination for a financial product before providing personal advice about the product?

Q.56 Are consent requirements for charging non-ongoing fees to superannuation accounts working effectively? How could these requirements be streamlined or improved?

Q.57 To what extent can the requirements around the ongoing fee arrangements be streamlined, simplified or made more principles-based to reduce compliance costs?

Recommendation 6

6. Reduce cost, regulatory overlap and improve affordability of advice by:

- 6.1. Removing financial adviser involvement from assessing the Target Market Determination and reporting to manufacturers of non-conformance with DDO completely;
- 6.2. Removing the need to provide clients with a Fee Disclosure Statement (“FDS”) as the new annual fee consent and Superannuation trustee consents achieve the same effect;
- 6.3. Standardising all annual consents from Superannuation Trustees and product providers. Require the dates to align to the date already agreed to by the client in an adviser service agreement.
- 6.4. Supporting the ability for financial advisers to access to data quickly in standard formats that can aid the provision of advice including MyGov Australian Taxation Office portals and supporting the introduction of an Open Finance bill.
- 6.5. Eliminating inconsistencies between the law and the code of conduct (particularly Standards 3 and 6). Give consideration to retaining the professional code of conduct but removing the code from legislation in line with other professions.
- 6.6. Review and amend the Breach Reporting obligations to reduce the burden of reporting a volume of procedural non-conformance issues rather than actual client detriment or quality of advice breaches. The deemed significant definition could be amended to remove many immaterial items.

Reasons for the recommendation

- The Royal Commission imposed a range of additional supervision and oversight obligations on multiple parties – ASIC, Trustees, REs etc. Each interpreted their duties inconsistently – resulting in overlap and more admin burden and confusion.
- DDO was aimed at product manufacturers with advice given under a personal advice framework however an ASIC information sheet (INFO 264) imposed an obligation for

advisers to consider a TMD and report to product providers any complaints or instances of significant non-conformance. This was not the intent of the legislation and given the number of overlapping obligations we recommend that advisers be completely removed from any requirements in this respect.

- FDS are a duplication given that advisers already obtain annual consent from clients every 12 months. In addition, Trustees and other platforms also require annual consent. Clients not currently in a super fund or platform will still be subject to the adviser's requirement for an annual consent.
- Fee consents by Trustees and platforms are confusing for clients as the amounts involved do not reconcile to the total fee an adviser has agreed in their service agreement with the client. The adviser sees the entirety of the client situation however each superannuation account and each platform account require their own consent and only sees their portion of the client funds. Advisers spend significant times reconciling and reporting these amounts to provide the client a consolidated view.
- A number of Trustees and platform providers have provided differing rules on when the annual review date begins from (many due to their own administration system limitations). As a result, each consent form has different requirements and inconsistent dates that do not align with the actual date the client consents to the adviser collection of the fees (documented on the adviser client service agreement).
- This difference in dates results in unnecessary administrative burden as advice staff now need to manage and reconcile dates to ensure the client comes in for their annual review, signs the annual consent for adviser fees and then signs each superannuation and platform consent renewal. If a date does not align, fees get turned off and then a new process is required to re-establish them resulting in additional administration burden and business disruption for an adviser.
- A significant driver of cost and waste in the advice process is the time taken to research consumer data. Enabling advisers access to ATO and MyGov data plus ensuring a secure standardised transfer of data from super trustees and other product providers under an Open Finance bill will greatly aid the process.
- The professional code of conduct has been adopted by the profession. However we are the only profession where it appears as a code enshrined at law. The interpretation of standards 3 and 6 have caused conflict with other parts of the law and we suggest that consideration be given to rewording the code, retaining it but taking it out of the Law.
- The obligations on licensees in the new Breach Reporting regime include many "deemed significant" items that are administrative or procedural in nature, and do not reflect the overall risks to quality of the advice or client detriment. The volume of matters now required to be reported has increased (anecdotally) by circa 3 to 4 times. This requires significant time and resources for each Licensee to assess a high volume of incidents as to whether they may potentially be a breach and if so, are they significant or "deemed significant". This distracts highly skilled resources by creating a volume of ongoing administration and there is a risk the volume may distract focus on breaches

indicating client detriment. These costs again are ultimately passed on to consumers through licensing fees for advisers.

2.7 Ensuring consumers are protected and there is confidence and trust in advice

Q26. How should alternative advice providers, such as financial coaches or influencers, be regulated, if at all?

Recommendation 7

7. Ensure consumers are protected by maintaining the current Australian Financial Services Licensing regime to ensure all licensees have adequate governance, capacity, capability and capital is in place to discharge the obligations of holding a license.

Reasons for the recommendation

- The role of a Licensee was created out of FSR as an accountable entity that would help bring trust stability and organisation to the market. Holding a license is a privilege and comes with significant duties and obligations.
- Australian Financial Services Licensees (“Licensees”) play a major role in protecting consumers, ensuring that the advice provided meets the requirements of Financial Services Law, bring the requisite capacity, capital adequacy and resource capability to the advice firms across Australia. The advice market is still relatively young with many small businesses operating below scale needing help with systems, process and governance. Licensees provide a wide range of services including:
 - verification of qualifications and experience;
 - robust, objective governance and incident management;
 - change management and support to apply regulatory change into process;
 - ongoing compliance monitoring, professional development programs and supervision;
 - oversight, tools and support with advice production;
 - research investment expertise, product provider research and quality assurance;
 - access to product and solutions at scale;
 - practice management support and business and succession planning;
 - marketing, client recruitment, client education, client engagement tools;
 - complaints handling (internal and external dispute resolution);
 - Professional Indemnity Insurance coverage and claims handling; and
 - Incident, breach and systemic remediation management.

- Licensees work collaboratively with Government, ASIC, AFCA, professional bodies to ensure implementation of policy. Licensees to jointly report and remove misconduct from the market and promote stability, confidence and trust for all consumers
- Alternative providers should be licensed to provide advice. The importance of ensuring that they can demonstrate the governance, capability, capital adequacy and resource to discharge the duties of a licensee are important to ensuring consumers are protected.
- Smaller businesses have greater challenges to ensuring they have appropriate segregation of duties as many perform multiple roles by necessity. This can result in situations where the inherent interest of management of a smaller business can give rise to a conflict with self-reporting requirements under a license and the appropriate overall level of governance needed.
- The exit of large institutional licensees with significant balance sheets and capital adequacy places pressure on the market to ensure that licensees with adequate capital, resources and expertise ensure consumers have access to appropriate internal dispute resolution processes and can remediate misconduct without declaring bankruptcy and relying on a compensation scheme of last resort.
- We would not support the creation of unlevel playing fields by not regulating financial influencers or other limited license vehicles that cannot demonstrate the required capital adequacy, resources or expertise to discharge their obligations under the license.
- The same obligations must be consistently applied to those moving to smaller and self-licensing to ensure that they can demonstrate they meet the requirements and understand the privilege of holding an Australian Financial Services License.
- An individual adviser certificate of practice can still be maintained alongside an AFSL system where the adviser has personal accountability whilst an AFSL supports, supervises, trains and monitors the adviser and ensures appropriate governance.

2.8 Facilitate ongoing engagement with Treasury, ASIC and Market Participants

Recommendation 8

8. Facilitate an ongoing engagement program between Treasury, Regulators and market participants working together to continually improve quality and access to consumers

Reasons for the recommendation

- Reforms ongoing for the last 20 years indicate the problems need complex long-term solutions beyond this review.
- Financial advice is a relatively young profession relative to others like legal and accounting who have had much longer time to respond and assess changes and mature via case law and professional supervision.

- For the Advice profession, it is critical that there is appropriate time to digest and respond to changes and the profession needs to be able to work with Treasury, Professional Bodies and consumer stakeholders on an ongoing basis to ensure the impacts of regulation are achieving their intent and reducing unintended consequences of legislation.
- Setting an ongoing engagement program with an agreed set of terms of reference, representative membership and a common framework to measure the impact of changes to advice regulation on quality of advice, access and sustainability of the industry would ensure that we can measure progress over time, encourage innovation and be agile where changes did not have the intended effect.

Submission ends.

Attachments: Appendix 1: An overview of the initial advice process

THE INITIAL ADVICE PROCESS

