Australian Government
The Treasury

TSY/AU

Quality of Advice Review

Template for response

August 2022

Consultation process

Request for feedback and comments

Interested parties are invited to provide feedback on the proposals for reform listed in the Quality of Advice Review Proposals Paper using the template in Appendix 1. Consultation will close on Friday 23 September 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All of the information (including the author's name and address) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

View our submission guidelines for further information.

Closing date for submissions: 23 September 2022

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Appendix 1: Consultation template

Name/Organisation:

Questions
Intended outcomes
1. Do you agree that advisers and product issuers should be able to provide to personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?
Yes
What should be regulated?
2. In your view, are the proposed changes to the definition of 'personal advice' likely to: **a) reduce regulatory uncertainty?** **b) facilitate the provision of more personal advice to consumers?** **c) improve the ability of financial institutions to help their clients?**
a) No **b)** Yes **c)** Yes

But will this be at the risk of quality of that advice, we have spent a lot of time to improve the strength of the financial services industry and this proposal may look to compromise that.

3. In relation to the proposed de-regulation of 'general advice' - are the general consumer protections (such as the prohibition against engaging in misleading or deceptive conduct) a sufficient safeguard for consumers?

a) If not, what additional safeguards do you think would be required?

No, advice still needs to be in the best interests to the consumer. The proposal suggest that providing advice by a financial adviser would need to be in the best interests of clients but a call centre staff member of a super fund would not…. This will result in a range of issues in the future once it is realised that bad advice has been provided and also leads to an uneven playing field in that not all participants in the industry are required to abide by the code of ethics.

How should personal advice be regulated?

4. In your view, what impact does the replacement of the best interest obligations with the obligation to provide 'good advice' have on:

a) the quality of financial advice provided to consumers?

b) the time and cost required to produce advice?

It is a great change to now focus on the content of the advice, rather than the process. However I think the definition should state that the advice is reasonably likely to benefit the client, <u>after having regard to the client's needs & objectives</u>. These set the context for advice, and place power back in the hands of the consumer, as advisers will be forced to consider their needs in the formulation of advice. For example, I can justify any platform based upon service levels, and the client will arguably be better off. However, if their need is lower cost, and not high service, my advice needs to change.

5. Does the replacement of the best interest obligations with the obligation to provide 'good advice' make it easier for advisers and institutions to:

a) provide limited advice to consumers?

b) provide advice to consumers using technological solutions (e.g. digital advice)?

My issue with the best interests obligation is that advisers can only consider client interests. For example, I can not say that I am recommending a particular platform because it will lower my cost to serve, which I can pass on to the consumer. This is considered adviser-centric and not client based. No other industry imposes that burden on its participants. Best interests has to go, but I gather it will remain for relevant providers. Surely it is already enough to say that under the Code of Ethics, if we have a conflict of interest, then we must stop?

And now the chasm will open. Banks & super funds (the institutions) don't have to worry about best interests. But relevant providers (financial advisers) can not make a recommendation that lowers their costs to the clients' indirect benefit.

6. What else (if anything) is required to better facilitate the provision of:

a) limited advice?

b) digital advice?

7. In your view, what impact will the proposed changes to the application of the professional standards (the requirement to be a relevant provider) have on:

a) the quality of financial advice?

b) the affordability and accessibility of financial advice?

I am concerned that now anyone can provide financial advice. The only test that applies is that this advice must be to their benefit. Previously you had to be qualified & registered. Does this then allow real estate agents, accountants, general insurance brokers, lawyers & budget coaches to all be giving advice on Superannuation? Or on building a share portfolio? And provided they don't charge a fee, they are not subject to any regulation other than the requirement for it to be "good advice".

If the focus is on allowing industry super funds to give product advice, can we not structure the industry as follows:

- employees of super funds, life insurers & banks can advice in relation to their in house financial products, and
- all other advice is to be provided by relevant providers whom are subject to the code of ethics

Does the code of ethics provide sufficient structure to regulate the activities of relevant providers? Do we not still have financial advisers recommending their own in house product through SMAs in a conflict of interest? Or cases of accountants that recommend SMSFs as financial advice, then provide a service to set them up, then compliance on an annual basis, then financial advice to go in to an unlisted property syndicate which locks up the member for 10 years plus?

8. In the absence of the professional standards, are the licensing obligations which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers?

a) If not, what additional requirements should apply to providers of personal advice who are not required to be relevant providers?

Yes

Superannuation funds and intra-fund advice

9. Will the proposed changes to superannuation trustee obligations (including the removal of the restriction on collective charging):

a) make it easier for superannuation trustees to provide personal advice to their members?

b) make it easier for members to access the advice they need at the time they need it?

Yes

Disclosure documents
10. Do the streamlined disclosure requirements for ongoing fee arrangements: **a) reduce regulatory burden and the cost of providing advice, and if so, to what extent?** **b) negatively impact consumers, and if so, how and to what extent?**
Yes, no negative impact – annual opt in protects them.
11. Will removing the requirement to give clients a statement of advice: **a) reduce the cost of providing advice, and if so, to what extent?** **b) negatively impact consumers, and if so, to what extent?**
Yes and No. • For initial engagements, financial advisers will still have to develop a meaningful disclosure document that sets out the client need & their basis for advice. This will be in the interest of full disclosure to the consumer. So no real cost reduction here. • For subsequent advice, I see much more flexibility for the adviser & the client, which is totally appropriate. Once there is a position of trust, the client generally acts on verbal instruction and has no need for disclosure documents which are rarely read by them. So big saving here. • This is also a positive change for ad hoc requests from members of the public that want some direction but do want to incur the cost of a full financial plan. An adviser can say now give them say a financial model to show them what they are capable of achieving, without having to document every detail.

12. In your view, will the proposed change for giving a financial services guide:

a) reduce regulatory burden for advisers and licensees, and if so, to what extent?

b) negatively impact consumers, and if so, to what extent?

Minimal/ to zero benefit to advisers and no negative impact

Design and distribution obligations

13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:

a) the design and development of financial products?

b) target market determinations?

Transition and enforcement

14. What transitional arrangements are necessary to implement these reforms?

General

15. Do you have any other comments or feedback?

- The industry needs to continue to move forward and become recognised as a trusted profession
- These reforms compromise this important objective in a number of ways
- The reforms also create an uneven playing field in the industry, professional renumerated advisers have a much higher standard than someone operating out of a superfund call centre and not being renumerated, this needs to be addressed
- Changes around SOA has some cost saving merit but will no doubt lead to financial cost in time for those receiving questionable advice.
- FDS changes have some cost saving merit also