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: Leculier Financial Services

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, I agree with one significant exception. The exception being that the same obligation should apply to all Relevant Providers when providing personal advice. Arguably, the skills and education that befit a Relevant Provider should hold that advice provided will be of 'good advice'. I strongly believe that regulations should seek to ensure operational fairness throughout the financial services industry by ensuring everyone providing personal advice, including the proposed new definition of Relevant Provider, provide advice that is 'good advice'. For this to occur an amendment will need to be made to the Financial Planners and Advisers Code of Ethics 2019 to remove the existing Best Interests Duty bestowed on Relevant Providers. The argument that consumers are at greater risk from receiving advice from Relevant Providers compared to Banks, Superannuation Trustees and Insurance companies is a flawed argument and outcomes for consumers shouldn't be any different simply based on who is charging the fee but rather based on the quality of the advice owing to education, training and experience of the advice provider. Corporations have powerful economies of scale and therefore the same opportunities should be afforded to smaller financial services firms to ensure advice can be offered by all advice providers at more affordable costs.

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) This will reduce regulatory uncertainty for financial institutions and not relevant providers.
b) This will greatly enhance the ability for personal advice to be provided by financial institutions and less so by relevant providers
c) Yes, and at the same time create inequity in obligations across the marketplace.

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?**

Yes, there exists sufficient safeguards under general consumer protections and therefore the same definition should apply to all advice providers including relevant providers. Without aligning the new obligation across the entire industry, you create unnecessary confusion and an advantage to corporations over small business.

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?

a) The question, when considering what is being proposed, is irrelevant to individual financial advisers or licensees receiving fees from consumers as arguably the same amount of work would be necessary to prove satisfactorily that the Best Interest Duty has been met.

b) More work will be expected of relevant providers compared with Banks, Insurance Companies and Superannuation Funds because they will still have a best interest duty. This makes the proposed changes less effective for consumers receiving advice from a relevant provider. This must be changed to ensure that each stakeholder in the industry operates from an equal starting point.

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)?

a) Not for advisers and greatly for institutions.

b) No, for advisers. Yes, for institutions.

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

a) **limited advice?**

b) **digital advice?**

a) Apply the same rules fairly across the industry without placing greater responsibility on one segment of the market over the other.

b) The same response as per 6a

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?**

a) There will be no change in the quality of financial advice because relevant providers hold the necessary education and skills to continue providing sound financial advice to consumers.
b) There will remain significant costs associated with providing advice because the same degree of work and record keeping will be necessary to support the Best Interest Duty which goes above and beyond what is being proposed adequate for Banks, Superannuation Funds, and Insurance Companies to provide.

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?**

I would suggest that advice providers and employees of advice providers meet the professional standards under the Financial Planners and Advisers Code of Ethics 2019 to ensure the same or similar level of outcomes can be achieved for consumers regardless of whether they speak to an institution or a Financial Adviser.

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?**

a) Yes absolutely
b) Yes, it will make it cheaper for them to access advice from a superannuation trustee because of the easing of legal obligations compared to that of a Financial Adviser. There may be some doubt about the integrity of the advice provided given it is being issued by an employee of a product provider. Therefore, it is worth considering holding the same standard across the entire industry including education standards of employees.

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?

a) Yes, although minimally.
b) Consumers are constantly being reminded of fees being charged which I'm happy to continue doing. However, a better arrangement would be for the relevant provider to seek a consumer's permission to opt out rather than opt in. This would significantly reduce time spent chasing signed documents and make it the responsibility of the consumer to inform us only if or when they would like services terminated.

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?

a) This will depend on Professional Indemnity Insurance providers and what their expectation is when it comes to ensuring Best Interest Duty obligations are being met.
b) Having different rules for different market participants will create confusion to the consumer who may expect that the same set of legal obligations are being met by their product provider to that of a Financial Adviser. Perhaps it could be a requirement that a product provider issues an advice warning to the consumer stating that they are not meeting the Best Interest Duty and that they should seek advice from a suitably qualified Financial Adviser.

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?

a) Yes, if the record keeping obligations are removed this would reduce administration time spent on collecting and storing data.
b) Consumers should be made aware of the FSG and its whereabouts.

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?**

a) Very little change
b) Very little change

Transition and enforcement

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

A 24-month transition period should adequately support the implementation of proposed changes.

General

15. Do you have any other comments or feedback?

I believe this is a great opportunity to reshape the financial services industry moving forward however, it should be done fairly and with the least amount of confusion to consumers. I welcome the idea of simplification for all stakeholders involved, including existing advice practices who have shown over recent times that they are capable of reform whilst consistently providing for the needs of their clients. Furthermore, existing clients of Financial Advisers would appreciate the same flexibility offered by the proposed change to 'provide good advice', so that their needs can be met more efficiently and at a lower cost.