



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: Retail Employees Superannuation Trust (Rest Super)

Questions

Intended outcomes

1. Do you agree that advisers and product issuers should be able to provide personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?

Rest members, on average, are younger, have lower balances, and often less complex financial advice needs. They therefore need access to simple and affordable advice options. Importantly, they need the ability to obtain advice on a single-issue, as well as the option to easily access somewhat more complex advice options over time as their needs change. Having easily understood and relevant information available, as well as access to useful calculators and digital advice options is paramount. It is important to our members that we are able to provide advice that is affordable to many who would not be able to access appropriate advice elsewhere. We believe the proposals largely align with Rest members' advice delivery expectations and would allow Rest to provide guidance and advice to more Australians, which we know results in better retirement outcomes for those members

Rest is therefore supportive of the proposals and **welcomes the increased flexibility** available to superannuation funds to provide affordable and accessible advice. The proposals would reduce some regulatory uncertainty which we expect would create opportunity for innovation and development of Rest's advice offering, particularly our digital advice, and would align well with our retirement income strategy.

Rest acknowledges that if these reforms progress to legislation, licensees will need to enhance internal governance frameworks to manage risks associated with the broadening of the personal advice definition and associated reforms; and is keen to understand ASIC's expectations in this regard.

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) Yes. Rest has consistently advocated for superannuation specific regulator guidance to clearly outline the intent and limitations of advice laws; and has called for such guidance to consider the recent Westpac Federal and High Court decisions regarding general vs. personal advice. The proposals largely address these concerns and provide greater clarity to our advice business.
- b) Yes. Rest's advice model aims to support members to receive the right advice, at the right time, delivered in the right way. The proposals align with our approach and **would allow Rest to assist members to move more seamlessly through our advice offerings** and meet their advice needs at a particular time – for example, a member could more easily progress from using a calculator to obtaining digital advice. Importantly, the broader definition and relevant provider changes may also allow Rest to better support members with accessibility limitations, such as members with disabilities related to communication or low financial literacy.
- c) Yes. Rest expects that regulatory certainty will provide increased confidence which should encourage further innovation and development of advice service offerings – particularly around digital advice services and retirement income strategies. The proposals would enable Rest to offer members more personalised and targeted advice in the lead up to their retirement as part of our retirement income strategy ultimately resulting in better retirement outcomes for more of our members. Rest is encouraged by the opportunities the proposals present which we anticipate would allow us to help more Australians receive advice to suit their needs and at the right time.

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?**

Rest believes general **consumer protections are sufficient** for situations where member engagement is not classified as 'personal advice'. For large superannuation funds like Rest, with resulting large call centres, it is imperative we clearly re-define the personal advice guardrails. Therefore, it would be beneficial for ASIC to work with the industry to provide principles-based guidance, with practical examples, to clarify what information a superannuation fund can provide without being considered 'personal advice'. In particular, superannuation funds would appreciate some further discussion on seminar or education activities, and how these can

continue to provide valuable information, without entering into personal advice, while maintaining effective protection for consumers. Further information regarding our concerns and request for clarity are outlined in our response to question 15.

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) Quality advice, regardless of advice type, should be clear and easy to understand. This allows the recipient to make an informed decision to improve their financial position and/or achieve peace of mind and confidence. Rest believes 'good advice' and therefore the resulting quality of advice is measured by the advice outcome. **We do not believe the change to 'good advice' will adversely impact the advice outcomes of our members** and therefore quality advice will continue to be provided.

We anticipate that there is considerable discussion yet to be held on a definition and scope of 'good advice' and we believe that this will provide some greater certainty for providers on how possible risks can be managed. The reforms as proposed appear to establish a position that Rest supports, which is that the regulation and management of conduct of providers should be separate to the regulation and management of the delivery of the service of advice. The shift from the best interest obligations to 'good advice' provision may therefore require examination of the current regulation of conduct, to ensure that there are no 'gaps' in the safety net of providing consumers with high quality advice.

b) Rest has been able to effectively define and tailor our advice model due to understanding how our members wish to receive advice, and what areas they generally need advice on. This has allowed Rest to create an efficient advice model that allows us to optimise our offering and reduce associated costs and time taken to deliver advice. Rest began introducing digital tools to our advice offering in July 2017, and currently offers three digital intra-fund advice services: investment choice, insurance needs, and contribution optimisation.

Although Rest expects to benefit from further reductions from the 'good advice' proposal, due to the optimisation of our model already, **we are not expecting the cost and time saving to be as significant as it would be if we were providing advice in a more traditional or less technology aligned manner.** Importantly

once the definition and scope of 'good advice' is known, Rest may look to expand our current digital advice offering which could further reduce costs and associated time to deliver advice.

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) Yes – where the advice is not provided by a relevant provider the proposed change to 'good advice' is likely to be easier to provide. For a relevant provider, the change to 'good advice' would be a step towards making it easier to provide limited advice, noting that Standard 6 in the Code of Ethics would still apply. Standard 6 requires a relevant provider to '*consider future considerations that may impact advice provided today*', which may need some clarity in the case of limited advice. Rest supports the continued application of the Code of Ethics – and in this case Standard 6 - however, to ensure industry uptake for scaled advice occurs (as needed), clear guidance may be necessary on how Standard 6 interacts with the provision of scaled or limited advice.
- b) The introduction of the best interest obligations introduced a challenge for the advice industry to confidently be able to scale and scope advice. To date, this has limited the advice Rest has been able to offer our members through our digital advice channel. The change to 'good advice' in theory would make scoping and scaling digital advice simpler. Should 'good advice' become law, **Rest would consider expanding the scope of our digital advice journeys to provide more advice digitally to our members** – which is in high demand. Rest has experienced a sustained increase of our digital advice in the past three financial years, for example, Rest Online advice was 51% of all advice provided in FY19, 76% in FY20 and 77% in FY21. Additionally, the less onerous compliance requirements would result in refined fact finding, scoping, and scaling practices which we would expect to enhance digital user experience and engagement with the advice process.

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

- a) limited advice?**
- b) digital advice?**

- a) Consumers would get value from additional regulator guidance to providers that includes practical and realistic examples of 'good' limited advice - particularly around scaling and scoping advice. Due to the nature of the financial services industry that takes seriously its responsibilities to manage risk, **the industry needs**

a level of certainty to be able to confidently offer limited advice. If this is not achieved, then the risk is that providers will continue to maintain a conservative approach to the provision of limited advice to the detriment of Australians that need simple and defined advice.

- b) Rest is proud of the way we have integrated digital advice into our range of services available to our members, and we have established pathways through advice offerings that incorporates this digital delivery. To date, however, no meaningful regulatory guidance around digital advice provision has been provided. Rest believes greater certainty of the application of advice laws to digital advice would increase confidence and in turn result in further innovation, development, and uptake of digital advice service offerings. Therefore, we encourage the Review to recommend any guidance released (supporting these reforms) consider the various means of advice delivery, and support technology-neutral approaches to regulation.

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) The change would potentially have the risk of reducing quality, however **Rest is confident that with the right analysis, risk management and governance practices this can be managed.** Superannuation funds already have considerable fiduciary obligations in relation to fund members, including to act in the best financial interests of members, and therefore have governance and processes in place to support meeting broader obligations to those consumers. Other providers may not have those same obligations, and as such this may be where greater risk resides.

For a superannuation fund, Rest believes it would be essential to:

- a. Analyse what advice members have sought, and which advice delivery method they used.
 - b. Conduct a risk assessment over the analysis to determine which advice provider (relevant provider vs. non-relevant provider/digital) will be best placed to deliver quality advice across the various topics.
 - c. Determine what governance activities will be required to ensure our members are receiving quality advice – regardless of who provides it. Additionally, Rest believes an alternative minimum education requirement is necessary for non-relevant providers (refer to response in question 8 for detail).
- b) Costs associated with advice delivery would be expected to reduce due to non-relevant providers having a lower cost base compared to a relevant provider. Rest expects that non-relevant providers would be able provide simple advice to our members, leaving more complex advice to be provided by our relevant providers. We anticipate this change would result in increased accessibility and improved affordability.

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?

Although Rest considers licensee obligations to be sufficient, we also **believe a minimum education standard would be required for non-relevant providers**. The Australian Qualifications Framework (AQF) specifies the standards for educational qualifications in Australia. Relevant providers are required to hold an AQF level 7 qualification – which is a bachelor’s degree. Rest believes an AQF 5 qualification level (i.e. a diploma) may be an appropriate minimum requirement, and that the program should cover topics such as:

- the compliance framework,
- advice delivery and client engagement,
- investment planning principles, and
- superannuation and retirement planning.

This would ensure a base line understanding for all non-relevant providers, which would support delivery of quality advice in a more consistent manner across the industry. Rest feels without setting a minimum education standard, it risks undermining efforts to secure the status of financial advice as a profession worthy of widespread public trust and respect.

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?

Rest believes superannuation funds have a critical role to play in ensuring Australians can easily access affordable good quality financial advice. In particular, Rest’s membership of generally younger people, frequently in part-time or casual employment, and with lower superannuation balances, means that many of our

members would not be able to access or afford personal advice outside what is offered by Rest. Our experience is that, for Australians with lower balances, the right advice at the right time can make a significant difference to the personal circumstances of our members, and this is often only available through collective charging models within superannuation.

Our experience tells us that our members want to address their finances one topic at a time, such as investing, growing their super, or planning for retirement. We believe it is imperative that members can easily progress through the different information and advice options available. **We believe the proposals would allow Rest to streamline our member journeys and as a result improve member engagement.** For example, a member may start their journey by using one of our calculators to assess their needs, however, currently it is often cumbersome to progress to obtain advice without repeating at least some of the process. Rest could review our current suite of calculators to enhance how a member could progress to advice (verbal or digital) and even implementation. Further, should the 'intra-fund' restrictions be removed - Rest could review our advice topics and determine which personal advice provider (relevant vs non-relevant) should deliver advice covering certain topics.

Rest also understands our members need advice that is simple to understand and easy to access. Rest has experienced great success with our digital advice offering, with recent analysis finding that within 60 days of a digital advice interaction, our members were up to twice as likely to do an investment switch or salary sacrifice, and also significantly more likely to make a voluntary contribution. These stats demonstrate the benefits our members can achieve when we make advice easy to understand and obtain. Rest believes the proposals will make it easier for our members to obtain advice, and for superannuation trustees to provide advice.

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?

Rest does not establish ongoing fee arrangements with our members. However, we have no concerns with the proposal and believe this will reduce unnecessary compliance costs which in turn should generally benefit consumers with lower advice fees. The proposed approach is likely to be easier for consumers to link an advice fee to the resulting service.

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) Rest expects the removal of the requirement to provide a statement of advice (SOA) would moderately reduce our advice delivery costs. Rest estimates it could save on average a 2-3 hours per advice document and much more for complex advice. The more complex the advice, the larger the extent of the cost reduction.

We anticipate, however, that there will be initial costs to establish appropriate types of communication to members who have received advice. With the removal of SOAs, while prescriptive disclosure would cease, we would seek to establish effective levels of communication commensurate with the advice given and provide that to the consumer. There would be costs associated with developing those communications and implementing that across the services delivered.

b) ASIC Regulatory Guide 90 (RG 90) states “*The purpose of an SOA is to communicate to the client important and relevant information about the advice so they can make an informed decision about whether to act on the advice*”. Rest agrees that an advice recipient should be provided important and relevant information to make an informed decision, however we believe the current SOA requirements are not the most effective way of achieving this. To be effective, advice must not only be clear and concise, it must also be relatable and easy to consume. Therefore, Rest supports the proposal and welcomes the opportunity to be able to deliver advice to our members in a more meaningful and impactful manner. However, it is important to note that a relevant provider will still be subject to the Code of Ethics – Standard 5, which a non-relevant provider will not. Amongst other things Standard 5 states:

You must be satisfied that the client understands your advice, and the benefits, costs and risks of the financial products that you recommend, and you must have reasonable grounds to be satisfied.

Rest believes quality advice should be clear and easy to understand, therefore **we believe it is essential for all personal advice providers to be satisfied that a consumer has understood the advice along with associated benefits, risks, and costs.** Rest recommends the Review consider this supplementary measure when making final recommendations.

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?**

Rest supports this proposal and the further streamlining of the advice process. Our experience is that members do not find the information provided in a financial Services Guide useful at the time of providing advice, and would generally look at our website if they were seeking information about a product or service that Rest provides.

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) Rest has examined the proposals against our activities under the design and distribution obligations for superannuation funds, and we do not expect any negative implications as a result of the proposals.
- b) Target Market Determinations issued by superannuation funds may require some additional text to highlight that relevant providers are exempt from certain reporting requirements, but this would not be a material change.

Transition and enforcement

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

Rest does not expect to significantly change the advice areas offered to members because of the proposals. However, we acknowledge that if the proposals were to become law, Rest will need to conduct an extensive review of our business model, for example, Rest will need to:

- Determine what changes are required to our operating model

- Establish new guardrails between personal advice and information
- Review our risk management and governance practices to align with the new operating model
- Determine our approach to evidencing advice provided now an SOA is no longer required – taking into consideration different delivery methods.

Therefore, careful consideration needs to be had on how the advice industry transitions to the future state. To determine a suitable timeframe, **Rest believes ASIC needs to communicate what their revised expectations will be. Once industry has this information, we can fully comprehend the extend of the reforms.** However, the commencement date should be no sooner than 18 - 24 months from becoming law with industry participants able to opt in earlier. Rest is also supportive of ASIC taking a facilitative compliance approach once the reforms come into effect.

General

15. Do you have any other comments or feedback?

Rest is keen to understand how ASIC would regulate advice in the future state as would be established by these proposals, and what support and guidance they will provide, as they represent a significant change in regulatory approach that would be required.

Rest notes that there are significant interdependencies between the proposals, for example, the success of the removal of the concept of general advice, and expansion of personal advice is dependent on the removal of Statements of Advice. Therefore, if the proposals were not to be implemented in full, there could be unintended consequences.

For simplicity, it may be beneficial to have a naming convention for advice providers who are not 'relevant providers' (other than 'non-relevant providers').

Superannuation funds require clarity on how the de-regulation of general advice practically applies to marketing activities and member education delivered via seminars. Rest, like many superannuation funds, currently provides members with education through workplace seminars. We understand the intent of the Review is that the seminar itself would not constitute personal advice, however we are unsure of the implications associated with common member interactions that occur. To fully consider the impacts and benefits in this area from the proposals, Rest requires clarity on how the proposed personal advice definition is intended to apply. Specific questions we have include:

- 1) **During the seminar:** If a member asks a question during the seminar, and specifically refers to their personal circumstances, is the Education Manager response considered 'information provision'? Or would it be considered personal advice?
- 2) **Post the seminar:** Often following a seminar, members ask questions and/or seek clarity from the Education Manager who presented to them. Currently these conversations occur as general advice, and if more specific and personal advice is required, the member is referred to the advice team. Would these subsequent questions now require the Education Manager to be authorised to provide advice under the broadened personal advice definition? Or could these conversations still take place as 'information provision'?

Rest would not want these clarifying and general discussions to be defined as personal advice, and believes that if they were, it would impact the benefit of these activities and result in a missed opportunity to engage members with their superannuation and resulting advice process. It may also result in an additional cost to deliver this service if Education Managers were required to be licensed to provide personal advice.