

Consultation Response - Snowgum Financial Services

Dear Treasury,

Snowgum Financial Services is a small financial planning practice operated by a single practitioner, Matthew Vickers. Matt provides strategic advice, wealth management, life insurance and debt management services.

As a younger practitioner Matt's desire is to support the transition of financial advice into a profession and see clients better served by regulation.

Over the last few years, like many peers, Matt has been commercially limited to service clientele of greater financial capacity. Alternately, Matt provides 15-30minute blocks of time (at no cost) to assist prospective clients of lower means, who have no practical avenue of accessing affordable advice under the current compliance regime. Conversely, it is these clients that often have the greatest need for financial advice.

For the first time since Matt's entry into the industry in 2010, there appears a broad alignment in the view that financial advice is valuable and regulatory arrangements are serving nobody well.

The hope is that these comments assist with the important work of making recommendations that benefit the community for a generation to come.

Happy to assist further if of value.

Regards,

Matt Vickers BEc, Dip MFBM, MAppFin, CFP®

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Appendix 1: Consultation template

Name/Organisation: Matthew Vickers, Snowgum Financial Service.

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. A shift in regulatory focus from the manner with which a consumer and relevant provider interact, to focus on the quality of consumer outcomes and competence of a relevant provider is more effective in serving customer and community needs.

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) Partially. A lack of precedence around the proposed definition of personal advice will provide uncertainty in the years following implementation.
- b) Yes. The onus of good advice, with a reduction in disclosure obligations, will afford a financial adviser the capacity to provide simplistic but valuable 'one page' strategy/advice letters directing clients to reduce mortgage / maximise concessional contributions / consolidate superannuation / do nothing. Consumers who lack financial literacy greatly benefit from what appears simplistic advice but can provide meaningful financial benefit. The cost reduction in being allowed to provide simplistic advice without the heavy disclosure regime is dramatic (an A4 strategy letter could be drafted and sent in < 1 hour at c. \$350 vs. current average SOA cost of \$3,500).
- c) Yes. Omitting general advice and broadening personal advice (without catch-all disclosure requirements) will be valuable to consumers seeking guidance from financial product manufacturers. Trepidation remains on whether a financial product manufacturer can be reasonably expected to provide good

advice in all circumstances. A product manufacturer and their employees may have limited capacity to deliver ‘good advice’ within a truncated APL or narrow set of product solutions. Importantly, a product manufacturer employee should be unable to call themselves a financial adviser/planner. It is inferred from ‘**2.8 How can the law be changed to encourage providers to give personal advice?**’ that personal advice should be available from employees of financial institutions. It would be inconsistent to allow these employees to be conflated with a financial adviser/planner when they lack capacity to assist clients in a product agnostic manner. Has the review considered the possibility of enshrining the term “Financial Adviser/Planner” to restrict use to a relevant provider **not** employed, licensed or directly associated with a product manufacturer?

Enshrining ‘Financial Planner/Adviser’ could reasonably be expected to clarify to a client/consumer of the role and potential conflict of a personal advice provider employed a financial product institution (super fund, insurer etc.). Although this is implicit in the proposal, should it not be explicit for the avoidance of doubt? There is a clear risk that an industry super funds re-title call centre staff ‘financial adviser’s’ providing personal intra-fund advice – I have no doubt this would be misleading to consumers.

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?

a) Unclear. They should be, but the efficacy of consumer protections will in large part be determined by oversight and enforcement.

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) In theory, a transition from a ‘best interest obligation’ to a ‘good advice obligation’ reduces the quality of advice. In practice, ‘best interest’ is subjective, if not impossible to determine given the unknowability of investment outcomes in advance. A ‘good advice’ obligation is sensible to implement, uphold and regulate. For this to be effective, relevant providers must have a sufficiently high level of competence to be entrusted in delivering ‘good advice’ outcomes - i.e. act as professionals. As stated in ‘**2.6 relevant Provider**’, the code of ethics will retain a best interest duty for

clients, but in a manner consistent with professional judgment, no prescriptive paperwork. So, I do not see scope for consumer detriment arising from this change.

- b)** Yes. Documentation rigour to validate recommendations, which increases the time and cost in providing financial advice, is expensive. Reducing the burden to produce this will reduce input costs and make financial advice more affordable. It does not mean a loss of rigour as there remains a professional obligation to act in a client's best interest, in addition to the potential new statutory obligation to provide good advice. This change reinforces the importance of professionalising financial 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.

b) Yes.

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

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

- a)** If the term 'Financial Adviser/Planner' was enshrined to be limited to non-aligned relevant providers, financial institution employees would be better placed to provide limited advice, without consumers conflating that advice with more holistic and agnostic advice they might receive from a Financial Adviser/Planner. The community, financial institutions and fledgling Financial Advice profession would all benefit.

Employees, with appropriate training, should be providing limited intra-fund advice or insurance policy maintenance advice etc, as implied in the proposal. Perhaps a poor analogy, but this would be like introducing a workforce of nurses to fill a treatment gap that would be inefficient for doctors to be triaging. Given the ongoing decline in financial adviser numbers, this would be beneficial to the community and lower the cost in accessing limited advice.

- b) With difficulty. Perhaps some sort of regulatory sandpit for a probation period, with ongoing regulatory engagement/oversight. This may impractical if it places too much of a workload on the regulator.

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) Subject to financial advisers acting as professionals, there wouldn't be any loss or diffusion in the quality of financial advice. Should an amendment be introduced that prevents/subverts the professionalisation of financial advice, consumer outcomes could be impaired from unprofessional advisers subverting standards via scaled/limited advice to avoid adherence to the professional standards framework. I.e. I would not be in favour of reducing education standards for experienced financial advisers as that would lead to inconsistent education standards across Relevant Providers, delaying the professionalisation of the industry.
- b) Accessibility of financial advice improves as relevant providers better exercise professional judgement in how they engage with clients, based on client individual need.

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?**

- a) There is a risk of sales creep or rationalising an immoral use of a licensing structure. That is, a product manufacturer holds and AFS license to employ sales staff to sell financial products. The conflicts are known, with ample historical precedent. A base external training/education load should apply. Relying on a licensee is not sufficient as there is a conflict in the cost and quality of licensee education delivery. Something akin to the former RG146 regime. Providers of personal advice who are not relevant providers still need to know enough so they know the limitation of their knowledge!

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
- b) No. A superannuation trustee is not particularly well placed to provide financial advice sympathetic to broader aged care, Centrelink, insurance, loan repayment or any other financial matter beyond superannuation. A superannuation trustee has significant responsibilities in operating a complying superannuation fund. They should have greater flexibility to provide personal advice that better informs members of their financial position and options, but this would be the extent of a trustee's role in providing personal advice. The community would be better served if superannuation trustees responsibilities remained clearly separate from providing personal financial 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?

- a) Significantly. The obvious duplication was of no value to consumers.
- b) No. Upon structure/service establishment, annual review and the proposed annual fee consent, there are ample disclosures.

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) Yes. In many instances a more simplistic form of advice delivery would deliver the same value. The savings in time and money could be significant.
- b) No. Where advice is more complicated or product review are necessary, there will remain a requirement to undertake research and validate the advice is the right fit for client needs. Assuming the relevant provider is sufficiently competent, they will be able to exercise professional judgment.

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. Most consumers are now comfortable to access information digitally. Although this information is important, allowing this to be centrally available reduces compliance duplication.
- b) Limited. Where a consumer is not sophisticated or digitally comfortable, they would still benefit from the provision of up-to-date information being provided personally.

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) No impact.
- b) No Impact.

Transition and enforcement**14. What transitional arrangements are necessary to implement these reforms?**

As the proposals greatly improve access to, and delivery of, advice, limited transition is required. Perhaps aligning transition with the industries professionalisation pathway is suitable. At the latest 2026 (when education standards become binding), at the earliest 1 Jan 2023 when advisers are all registered with ASIC. So potentially a phase in period in that window or aligned with those advisers who meet the 2026 education requirements etc.

General**15. Do you have any other comments or feedback?**

The proposal to broaden personal advice beyond relevant providers has risks, but where benefits outweigh those risks. Explicit control on use of the term ‘financial adviser’ and ‘financial planner’ should be enshrined to differentiate personal advice via a relevant provider from that of an employee of a licensee or product manufacturer.

Financial advice is complicated. Individuals are varied by financial and emotional needs. Historic regulatory oversight dictated the manner with which a Financial Adviser and consumer interacted. The complexity of advice and diversity of consumer needs makes the historic regulatory approach impractical and expensive. The changes proposed are pleasing in that they shift regulatory oversight to the quality of advice and competency of the relevant provider. If standards are raised, the industry will professionalise and consumers will receive higher quality, more affordable and valuable advice. Affordable advice is supported by exercising professional judgment to scale services to client needs without catch-all disclosure requirements and empowering financial institutions to better serve their consumers with accurate and personal information.