



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: SuperEd Pty Ltd

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, current advice requirements are excessively bureaucratic, overly prescriptive, confusing, and expensive to follow. The Proposals Paper does a good job of recognising the substantial advice gap in the industry and the consumer harms being done by the lack of an adequate supply of financial advice. Significant change in the regulatory requirements is necessary to close the gap.

We support:

- the move to a principles-based approach rather than a process based approach
- the reduced emphasis on lengthy documents that are confusing and meaningless to consumers, particularly unwieldy Statements of Advice.

However, we continue to support high professional standards and want to see a high quality advice industry. We want to avoid risks of going back to a situation that demanded a Royal Commission into Misconduct in Financial Services.

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) Reduce Regulatory uncertainty? Given the move from regulating process to regulating advice designed around expected outcomes is a very significant change, it depends how the regulations are defined as to whether uncertainty will be reduced.

However, as the minimalist definition of good advice strikes us as designed to be relatively “easy to meet,” we think it would most likely reduce regulatory uncertainty.

The question remains whether “good advice” will be “good enough” for our policy aspirations for an affordable, accessible AND high quality advice regime. In our view the definition of good advice still needs more work. We are not confident it will create the safeguards necessary to assure high quality advice. The definition of “good advice” relies exclusively on providing a benefit to the client, regardless of how that benefit compares to the benefits that could be provided by “high quality” advice. A marginal benefit does not seem good enough, if a significantly better benefit is available or could be achieved.

An example might best make the point: Let’s say a consumer asks a wealth management firm for advice about asset allocation. The consumer is currently entirely in cash. After doing a risk tolerance questionnaire, the firm advises the consumer that they are reasonably likely to be better off in a diversified investment pool. The firm recommends the high cost diversified portfolio they offer, when there were also lower cost comparable portfolios available to the consumer. Is this “good advice?”

Many other examples could be produced where making someone better off is not sufficient condition to define it as “good advice.”

- B) facilitate the provision of more personal advice to consumers?

We believe the definitions would increase the supply of personal advice to consumers since they are much less onerous, and less costly to deliver. They also encourage a greater role for financial institutions in offering personal advice(see below).

- C) improve the ability of financial institutions to help their clients?

We think they would encourage a move back to vertical integration and encourage institutions to offer advice, since the “good advice” test can be more easily satisfied. Moreover, the recommendations foresee superannuation taking a much more active role in offering personal advice.

It is not self-evident how financial institutions will practically monitor the provision of “good advice.”

We do think the Review should explicitly consider the likely industry microstructure outcomes of the envisaged regulatory reform. What consequences would changes result in? Will there be more vertically integrated models of advice? Will inappropriate conflicts be avoided?

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?

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

We doubt the general consumer protections are adequate but do not have an expert's knowledge on that subject. It is not immediately memorable when prohibitions against engaging in misleading and deceptive conduct have been used to bring financial players back into line – in a significant manner.

The general advice laws' impact would seem to be primarily of precautionary value – warning financial services companies that high standards are expected and false claims should be avoided. For the consumer, they signal that interpretation of the information to their situation should be done cautiously since the information has not been presented in a way specifically designed for them. Unlike the Proposals Paper, we do believe it helps to remind consumers to be skeptical of financial information and recommendations and to watch out for conflicts.

- a) There should be a strong safeguard on conflicts of interest. It should be clear to consumers when a party expressing a view has a financial motivation to hold that view or make that recommendation.

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) impact on the quality of financial advice:

As previously noted under 2a), we think the obligation to provide "good advice" is a minimalist standard and should be upgraded or better defined in the final report. We think the Reviewer should improve the definition of good advice, to create higher expectations of advice and to create more safeguards.

We do agree that both the Best Interests Duty and the Code of Ethics cover the same topics in similar ways. We don't need both.

b) from a time and cost perspective, good advice, as defined, is likely to be cheaper to deliver since it won't necessarily require the same extensive review as the best interests obligations.

We think the advice laws should allow for gradations in the depth of advice, which may relate to the price charged. The current regime does not do that well – mandating expensive heavy requirements in many circumstances unnecessarily. The proposals may result in sensible gradations in depth of advice offered with matching pricing gradations.

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. The adviser need only be confident the client will be reasonably likely to be better off. The requirements to fully understand the client’s needs and objectives would seem to be less onerous, due to the removal of the Safe Harbour steps. The proposals sensibly appear to encourage limited advice by narrowing the scope of inquiry to the topics relevant to determining good advice.
- b) Yes, for the same reason. A digital advice provider would be required to collect the information needed to ensure the advice provided was reasonably likely to benefit the client, not examine every aspect of the client’s situation. A less prescriptive approach will assist digital advice providers in developing good user experience and also good advice for people who have a limited advice requirement.

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

limited advice?

digital advice?

The Proposals paper would have a significant positive impact on the provision of a) limited advice and b) digital advice. We are particularly excited about the prospects for digital and hybrid advice. We do believe that digital advice is really just in its early days and that it can play a huge role in making advice higher quality, more affordable and more accessible over time. “Hybrid” advice – incorporating human assistance alongside consumer utilisation of technology – is likely to be important, particularly for complex matters, like retirement planning. Algorithms within digital advice technology can enable people to learn, educate and play, while each step is trackable. The technology can have capabilities that triage clients out where they become too complex for the digital service.

We would like to point out one one element of the proposals, which impacts limited advice and hybrid advice, that made no sense to us:

Cameo 2 – Limited Advice by a Super Fund – envisions two scenarios: A) where the fund does not charge an explicit fee; and B) where the member is charged an explicit fee. Under the two scenarios the Professional Standards differ. Under Scenario A since there is no explicit fee. The phone consultant is not a relevant provider and so is not required to meet the education/training standards or the Code of Ethics. However, in Scenario B, where there is an explicit fee, the phone consultant is deemed a relevant provider and must meet the education and training standards and the Code of Ethics.

Why should the pricing policy of the fund determine the education and professional standards?

This makes no sense to us.

And we think it would encourage funds and other providers to package up advice costs in product fees, which we think is generally a bad idea. Markets work better when line item costs are itemised and give consumers the right to pick and choose what services they want, and not pay for unnecessary costs.

- 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:**
- the quality of financial advice?**
 - the affordability and accessibility of financial advice?**

There could be a positive impact if there is the right detail/clarity regarding when a relevant provider is required vs not required and if better clarity/requirements around the level of education needed for those who are not relevant providers is provided. It would allow more people to access affordable, quality financial advice as there would/could be more providers available..

Currently one of the greatest impediments to bringing advisers back into the industry/stopping them from leaving is the onerous education requirements and the lack of recognition for years of experience providing appropriate advice in the best interests of their clients.

However, the changes/requirements need to be clear. We also believe that the industry should continue on the journey to being a profession. The question around the proposed changes is will they result in impeding that journey?

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?

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

Superannuation funds and intra-fund advice

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

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

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



Yes, we believe it will make it easier for superannuation trustees and thus easier for members to access the advice needed. Regarding “collective charging” we think that the Best Financial Interests Duty should apply and trustees should satisfy that test. That is, we don’t think there should be a blanket exemption for collective charging for 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) Yes.
- b) We don’t believe it will have a negative impact on consumers if there is clear transparency for the client. The current process takes hours (involves different documents and timelines to be met) adding to the cost which ultimately the consumer pays. Coming up with a streamlined transparent invoicing and disclosure approach will benefit both the client and the advisers.

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

b)No, there are many times a written piece of advice enhances the client experience. Good advisers will know when to provide a written piece of advice. Advisers are still required to have a record of advice and produce it for clients.

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) We expect a moderate reduction in regulatory burden.

B) It may only marginally impact consumers, since we expect they very rarely read the FSG. Nevertheless, we have generally viewed the FSG as a worthwhile document for clarifying the role of the adviser and their approach to advice. However, we think it is currently filled with excessive irrelevant information. It could be greatly improved through streamlining.

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:**
- the design and development of financial products?
 - target market determinations?

Transition and enforcement

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

The proposed reforms are very extensive.
We have trouble imagining regulators accepting them as is – so it's not possible/fruitful for us to speculate on how transition would be accomplished.



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

We are supportive of substantive change.

As a hybrid/digital advice provider we are encouraged at the significant changes recommended in the Proposals, which we think will make it easier to offer affordable advice.

We do want there to be high standards in the industry, and strong consumer safeguards, and are concerned the definition of “good advice” is not strong enough and is too simplistically defined.

And we want conflicts of interests to be well addressed. And for consumers to understand when conflicts of interest exist.

If the proposals are to be seriously considered, we think it would be valuable for Treasury to a scenario analysis on how the industry will react and develop in response – so consequences can be anticipated.