



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:

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Tribeca Financial is a financial planning business that has been helping Australian families to *Live their Good Life* for more than 10 years. With 8 advisers, we currently support just over 1,000 families with ongoing financial advice with a predominance of pre-retirees and recent retirees (Ages 46-65) as clients, although our focus on financial wellbeing sees us also helping workplaces with seminars and training across adult age groups.

Our brand is built around “My Good Life” and our service to clients is focussed on how we can enrich the lives of our clients across the dimensions of the Five L’s: Live, Love, Learn, Laugh and Legacy. To us, financial advice is about so much more than the money. Its as much about who you are, who and what matters to you, and how can we help you find and deliver on your own sense of purpose throughout the different stages of your life.

The author, Brad Fox, is a former President and CEO of the Association of Financial Advisers from 2010-2017. Brad currently consults to numerous financial planning practices and is also a panel member for the Australian Financial Complaints Authority (AFCA) and an industry representative on ASIC’s Financial Services and Credit Panel (FSCP). Brad part own’s and Chairs Tribeca Financial, and Worksorted Pty Ltd being software as a service (SAAS) used by hundreds of Australian financial advice practices and numerous AFSL’s. Brad is a former financial adviser.

Tribeca Financial is pleased to contribute to the considerations about the future regulatory landscape for financial advice. It has been our practice to pre-empt the direction of financial advice regulation and to position our own practices to be in excess of the minimum requirements placed on the industry. This has served us well throughout the constant changes of the last ten years. With that said, it is our experience that the requirements placed on advice today are the result of the regulatory pendulum having swung too far. The cost to provide financial advice has escalated at an astonishing rate in the last three years since the Royal Commission recommendations have been adopted, but the invisible cost of stress on the people providing advice is even more concerning.

Tribeca has a young advice team when compared to the industry average adviser being in their late 40’s to early 50’s. Our team are highly educated, and we take great pride in hiring people with strong emotional intelligence that can relate to our clients on all levels. But it has been troubling to see the fear that invades their professional life from the unrealistic expectations of the current regulatory regime that focusses on compliance with an over regulated advice process, rather than a regime focussed on whether the advice itself is good advice. It is our hope that the future regulatory settings maintain the protections that clients deserve when receiving professional advice, but that the focus be on the advice, and not the process in devising, creating, and delivering the advice to the client. At the same time, it would be a travesty to see the hard-won steps towards financial advice becoming a recognised profession being undone by opening the flood-gates to institutional employees providing unqualified, unprofessional advice to consumers on anything more than the simplest aspects of what is currently termed personal advice.

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?

A refocus of obligations towards outcomes of advice rather than the process of advice is an excellent shift in the regulatory dynamic. Based on that shift, not complying with ALL of the current obligations makes sense as a number of the obligations would become redundant. The issue then becomes which obligations should be removed, or relaxed, and for whom, and in what circumstances.

It is vitally important that personal financial advice continue to require the taking into account the relevant circumstances relating to the advice being sought. Unqualified employees of AFSL's (non-relevant providers) will therefore need to have some limitations applied to the matters upon which they could adequately provide personal advice as the broader impacts of their advice, and the breadth of relevant circumstances that would need to be considered, become more nuanced and as such should be the domain of a qualified professional (relevant provider).

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 – No.** The current requirements are clear – very onerous, but clear. AFSL's hide behind the excuse of uncertainty to place risk-averse policies and procedures in place for their AR's and customer support staff. This enables them to avoid giving personal advice where the cost to provide that advice at the standard required by law and the Code of Ethics significantly outweighs the benefit of the advice if it were to be provided. They know where the line between personal and general advice is and make commercial decisions not to cross it or even lean up against that line. Further, AFSL's fear the look-back risks that ASIC can and do apply, and therefore conservatism reigns in AFSL decision making.

We would not see changing the definition of Personal Advice having any impact on consumer understanding of regulations either – their current understanding of regulation of advice is low and that is unlikely to change because the definition changes. Consumers know the questions and concerns they want addressed and have little regard for legal imposts that make gaining those answers difficult or expensive.

b) **Facilitate the provision of more personal advice to consumers? – The answer must be 'yes'** if the definition of personal advice is expanded to include several areas currently classified as General Advice.

In answering 'Yes', it must be very clearly understood that any increase in the incidence of personal advice is only a good outcome if the monitoring of the quality of that additional advice is sufficient to prevent a return to the product flogging self-interest of the past, be that by advisers, or more commonly, by employees of institutions seeking growth. As noted in our response to Question 1, there must be some limitations applied to the matters upon which non-relevant providers could adequately provide personal advice, AND there must be consideration of the relevant circumstances of the client in every circumstance. This MUST include making reasonable enquiries into those circumstances and not simply relying on information already held by the AFSL or volunteered by the customer. Seeking relevant information must also be part of the requirements to provide good advice. On page 8 of the Consultation Paper at Point 3, it states "...having regard to the information that is **available** to the provider at the

time of the advice is provided.” That bar is set way too low. If the information is likely to be relevant, then it must be obtained **before** the giving of advice. There must also be a responsibility to **seek** that relevant information.

c) Improve the ability of financial institutions to help their clients? – This outcome is certain under the proposals in the draft paper. This is also an area of extreme caution.

As proposed, there appears to be no constraints as to the type of advice an unqualified employee of a product issuer (a non-relevant provider) could provide as long as the outcome can be deemed ‘good’ for the client. We certainly see value in customers being able to receive limited forms of personal advice from product issuers. **We also see a need for limits on the extent of this advice** being set in legislation/regulation to protect consumers from situations where a lack of experience, information, or consideration of inter-related matters such as taxation, relationships, Centrelink, Aged Care and Trust-related matters pose a risk of sub-standard advice being provided. Much like in the health field, someone with basic first-aid training could recommend a person with an ankle injury apply the RICE (Rest, Ice, Compression, Elevation) technique...but depending on the severity of the injury, the first-aid provider will have failed in their duty if they did not suggest the client seek further ‘professional’ medical treatment and or investigation of their situation. In the most severe of situations, the first-aid provider should in fact decline to treat to avoid the risk of mistreatment worsening the injury, and instead defer to a better trained and equipped provider even when that requires waiting for the suitably qualified provider to arrive.

We note the supposition that product providers and trustees will self-regulate their non-relevant providers to only provide personal financial advice in only ‘simple’ advice situations, and that it is expected that they will adequately train and supervise their employees. This requires a significant leap of faith given the poor past-behaviours of Australian financial services corporations. Future failures on their part will impact ALL providers of personal financial advice including the fully qualified, registered relevant providers. We have seen this over the last 10 years where substantial corporate wrong-doing tarnished self-employed financial advisers.

To reduce the risk of tarnishing the brand of Personal Financial Advice occurring again, and thus dissuading Australians from seeking the benefits of personal financial advice, we believe it is necessary for the following limitations on advice provision and fee charging be applied to financial institutions:

1. Financial institutions to be restricted in the provision of personal advice to simple matters only.
 - a. For example, a super trustee’s non-relevant providers be limited to personal advice on risk profiles and investment selection, use of concessional contributions cap, and non-concessional contribution cap where the bring forward rule is not triggered, Co-contribution, Spouse contribution.

A **relevant provider** (whether employed by the trustee or not) be required for personal advice in relation to commencing an Account Based Pension, a Transition to Retirement Strategy, Spouse Contribution Splitting, Non-Concessional Contributions that trigger the bring forward rule, switching between super funds where insurance benefits will be lost as a result of the switch, and Aged Care. These matters are complex, and consumers routinely benefit significantly from a deep and broader consideration of their financial position – outcomes that commonly run into the tens-of-thousands of dollars over a lifetime.

2. Financial Institutions providing personal advice through a non-relevant provider must make reasonable enquiries to ensure their advice is “Good Advice”.
 - a. The institution must make reasonable enquiries into a customer’s circumstances and not simply rely on information already held by the AFSL or volunteered by the customer.

The institution must make the customer aware of benefits that will be lost if the customer follows the advice, recommendation, or opinion of the non-relevant provider.

Many AFCA determinations turn on the issue of loss of benefits from following the advice provided, the degree to which reasonable investigations were made by the advice provider, and whether the client was sufficiently informed or educated before accepting the advice (achieving informed client consent). Under the Good Advice regime proposed, we believe institutional providers of advice need to have the same obligation to investigate lost benefits to the client that would result from their advice (as is required of Relevant Providers). The circumstances to which this may apply would need to include:

- Consolidation/Rollovers between superannuation funds including considerations of capital gains, pricing, features, performance and linked life insurance protections.
- Switching life insurance products.
- Evaluation of investment alternatives outside of the superannuation system.

Without this safeguard, the floodgates to product flogging by institutions will be thrown wide open and we risk a return to the bad-old-days.

Should the above be required, there would likely be an efficiency benefit to the broader industry. Currently, many product issuers appear to take delight in frustrating other providers/advisers from obtaining information on a customer’s existing holdings, terms and conditions. This information is sought with a customer signed Third Party Authority (TPA) document. There is no industry standard

form, nor is there a consistent requirement as to what identification or other permissions that each product-issue will require to accept the TPA. Many providers will not accept digital client signatures. Some will not accept TPA's more than a month old.

Standardising TPA's across the industry would represent an improved customer experience, support product comparisons, and drastically reduce the turnaround time for being able to give 'good' advice.

Access for relevant providers to the ATO portal and other data-related initiatives are sorely needed to support all personal advice providers to be able to access accurate, current information in live-time to be able to give Good Advice. This will significantly reduce the risk that customer's existing products and situation are not given sufficient regard before the provision of advice.

3. Members of a super fund should pay for personal financial advice.
 - a. That advice from a relevant provider be paid for by a fee from the customer directly (which definition would include deduction from their superannuation account). We do not support complex advice being cross subsidised by other members in the fund. By a relevant provider providing the advice, the Code of Ethics best interest duty will apply to the personal advice. **Where the relevant provider is an employee of a financial institution, the advice fee should represent the full cost of providing the advice and NOT be subsidised from investment fees, administration, or member fees paid by the broader members in the fund.** The consumer of the advice should pay and no-one else.
 - b. To receive simple personal advice from a trustee of a super fund, we believe that the member should need to **opt-in to paying a pooled 'Simple Advice Service Fee'**. Those members that do not Opt-in to paying the fee would only be able to obtain Factual Information from their fund. We believe this initiative will go a long way to protecting super fund members with the lowest balances and simplest of needs from having their funds eroded by contributing to a pooled fee designed to recover the costs of providing simple personal advice to those members requiring such a service.

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?

We understand that the Proposal for the deregulation of General Advice refers to the definition and requirements around General Advice being removed from Chapter 7 of the Corporations Act.

The conduct that is currently encapsulated under General Advice **is then to be split** between:

1. An expanded definition of Personal Advice (to which the 'Good Advice' regime would apply), and
2. Conduct which is in connection with the supply, or possible supply of financial services including the promotion of supply or use of financial services (broadly this is 'dealing in a financial product').
 - a. This would capture marketing, events, advertising, tiktokers, influencers and the like.
 - b. They would have obligations under the Competition and Consumer Act with particular regard to misleading or deceptive conduct.

We support that regulation change would need to be made to the conflicted remuneration provisions such that it would be an offence to receive benefits which would influence a person to recommend a product (irrespective of whether the recommendation constitutes personal advice).

We support that regulation change would need to be made to Design and Distribution Obligations as suggested in the Proposal Paper.

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?

To answer this question, we need to separately consider advice from relevant providers who will still have a Best Interests Duty (BID) under the Code of Ethics, compared to the unqualified, non-relevant provider within the employ of a product issuer, or Digital Advice. The quality outcomes will be different, as will the impacts on time and cost.

For Relevant Providers

- The quality of relevant provider advice should not change as it still needs to satisfy the BID in the Code of Ethics.
- **Removing the BID and the Safe-Harbour provisions at S.921B(2) from the Corporations Act will have little to no impact on the time taken to prepare advice.** A relevant provider will still need to make sure they follow a similar process to ensure the advice meets the BID in the Code of Ethics.
- **No cost saving is expected.**

For Product Issuers

- The extension of personal advice at the lower quality threshold of 'Good Advice' compared to BID has the potential for institutions to be more helpful on simple advice matters where they currently avoid the opportunity to provide personal advice because of the BID obligations.
- The time involved to advise on current product holdings of a customer we assume would only be marginally more than under General Advice if supported by appropriate tools and guidelines.
- The time involved in **product switching and product cancelling advice should be extensive unless** the industry has a data-regime that centralises access to a customer's existing products in real time. The steps to take to meet the obligation that advice is likely to put the client in a better position would require the gathering and comparison of current information on all of a customer's existing related products, and depending on the advice sought, their taxable income, Centrelink benefits, and potentially partner or children's situations, as well as debts, and household expenses. **Please refer to our further comments at Question 2.C (1-3) above in regard to the limitations and requirements that we believe are essential for switching and cancelling advice.**

For Digital Advice

- The extension of personal advice at the lower quality threshold of 'Good Advice' compared to BID has the potential for institutions to be more helpful on simple advice matters where they currently avoid the opportunity to provide personal advice because of the BID obligations. We have some concerns as to how the Digital Advice regime will be supervised and monitored to ensure that relevant considerations are indeed considered by the algorithm before advice is provided.

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) Easier to provide Limited Advice

- **Advisers - No.** Advisers will still be subject to the BID under the Code of Ethics. Any limitation on advice is countered by Standard 6 *You must take into account the broad effects arising from the client acting on your advice and actively consider the client's broader, long-term interests and likely circumstances.* Whilst the intention is understood to be that Scaled Advice is encouraged, that is not the practical outcome from the current Standard 6 and industry conduct. **Scaling advice is done very cautiously and the change to 'good advice' will have no impact unless the Code of Ethics changes to better align with the proposed definition of 'good advice'.**
- **Institutions – Yes. Too Significantly.** On page 8 of the Consultation paper the definition of 'Good advice' is *advice that would be reasonably likely to benefit the client, having regard to the information that is available to the provider at the time the advice is provided.*
 - Read literally, this does not require the institutional advice provider to make investigations into the external products, income, tax position, Centrelink, family position etc of the customer. Even if such enquiries were made, the "at the time" reference further limits enquiries to the information a customer has at hand, and the customer's financial literacy in being able to accurately represent to the advice provider the data that the customer holds. Experience shows this is not often the case – customers struggle to understand documents like life insurance and superannuation statements, and even tax returns.
 - This part of the definition of good advice (available to the provider at the time the advice is provided) creates a significantly unfair, unlevel playing field in the provision of personal advice in favour of institutions over relevant providers.
 - **We are not supportive of such a disparity and therefore recommend that the definition be amended to: 'Good advice' is advice that would be reasonably likely to benefit the client, having regard to the information that is relevant to that advice.** The provision of the advice could not proceed in all good conscience until the relevant information has been obtained.

b) Digital Advice

- We apply the same rationale to Digital Advice as we do to Institutional Advice. Digital advice needs to consider existing products and situations and make investigations on relevant matters before deciding whether it is appropriate to provide advice safely under the revised 'good advice' definition outlined above, or appropriate to refer out to a relevant provider for personal advice under the BID. As an example, we mean that a Digital Product needs to also be able to quantify any foregone or lost benefits that the customer would experience if they followed the advice provided.

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

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

a) The most important changes that would support relevant providers to provide limited advice more efficiently and cost effectively would be:

1. **Amendment of the Code of Ethics to better align Standard 6 to relevant investigations and how broad the effects to be considered are intended to be, particularly where the client wishes to restrict the scope of their advice to a particular issue.** This would increase the ability of relevant providers to provide simple piece-meal advice where a consumer wishes to avoid the conflict-of-interest risk that is inherent with speaking to a product provider that only has a 'good advice' duty.

An example: A super fund member wishes to know 'should I pay down my mortgage or salary sacrifice to superannuation.'

In this example, the product provider with a Good Advice duty has a conflicted motive to advise the member of their super fund to put more assets into super. Would that meet the Good Advice definition?

- Probably yes, as it will boost their retirement nest egg and may save them some tax on the amount that is salary sacrificed depending on their income.
- Is it advice that meets the best interest duty? **Not necessarily** as that answer depends on debt position, interest rates, age, earnings, income tax rates, salary packaging, spouse's super balance, income, and age etc.
 - **If Standard 6 was reworded/clarified, a consumer could agree with the adviser whether the spouse's position should be considered or not. That then places a relevant provider on an even playing field with the financial institution to answer the consumer's question in a timely and cost-effective manner, and without the conflict of interest to add to the super balance nor stay in the existing product if a better product is available.**

2. **Clarification from ASIC's Financial Services and Credit Panel (FSCP)** of their expectations to meet the Code of Ethics including clear examples of Standard 6 in practice to demonstrate the breadth of broad effects to be considered.

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?

○ Quality of Financial Advice – consider this in two parts:

- from relevant providers:
 - The quality of relevant provider advice should not change as it still needs to satisfy the BID in the Code of Ethics.
 - **Removing the BID and the Safe-Harbour provisions at S.921B(2) from the Corporations Act will have little to no impact on the time taken to prepare advice.** A relevant provider will still need to make sure they follow a similar process to ensure the advice meets the BID in the Code of Ethics.
- from non-relevant providers:
 - They have a lower threshold to meet (Good Advice) and the advice quality will suffer as compared to advice from a relevant provider. Consider again the example referred to above at Question 6 and repeated here.

An example: A super fund member wishes to know ‘should I pay down my mortgage or salary sacrifice to superannuation.’

In this example, the product provider with a Good Advice duty has a conflicted motive to advise the member of their super fund to put more assets into super. Would that meet the Good Advice definition?

- Probably yes, as it will boost their retirement nest egg and may save them some tax on the amount that is salary sacrificed depending on their income.
- Is it advice that meets the best interest duty? **Not necessarily** as that answer depends on debt position, interest rates, age, earnings, income tax rates, salary packaging, spouse’s super balance, income, and age etc.
- **The financial implications between the two options could be worth thousands of dollars over one, two, or three decades.**

- Affordability and Accessibility of Financial Advice
 - We acknowledge that both affordability and accessibility would be improved.
 - **With appropriate limitations being placed on the advice that could be provided (as we have outline above at Q2.C(1-3)) the balance between consumer risk and benefit can be balanced.**

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?

No.

We believe limitations must be placed on the advice that can be provided by non-relevant providers. Again, we refer you to our responses at **Q2.C(1-3)**.

In addition to the limitations we have outlined, the AFSL employing non-relevant providers must be made to:

- Contribute the full cost of their monitoring and supervision to ASIC as an industry sector (and be quarantined from that of personal financial advice)
- Have their Directors and Officers held personally liable for systemic failures to which they have contributed
- Contribute the ASIC Relevant Provider fee for each relevant provider in their employ
- Publish on an annual basis the:
 - Number of advice remediations required under the Good Advice provisions
 - The value of the remediations made under the Good Advice Provisions
 - Complaints held against them by AFCA
 - The value of settlements required under AFCA complaints.

We believe these measures will encourage a stronger culture of brand management and good advice from the institutional 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):
- 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?

Members of a super fund should pay for personal financial advice.

Not every member should be compelled to pay for personal financial advice. It should be an Opt-in arrangement

- a. **Advice from a relevant provider employed by a trustee** should be paid for by a fee from the customer directly (the definition would include deduction from their superannuation account). We do not support complex advice being cross subsidised by other members in the fund. By a relevant provider providing the advice, the Code of Ethics best interest duty will apply to the personal advice.

Where the relevant provider is an employee of a financial institution, the advice fee should represent the full cost of providing the advice and NOT be subsidised from investment fees, administration, or member fees paid by the broader members in the fund. The consumer of the advice should pay and no-one else.

- b. To receive simple personal advice from a trustee of a super fund, we believe that the member should need to **opt-in to paying a pooled 'Simple Advice Service Fee'**. Those members that do not Opt-in to paying the fee would only be able to obtain Factual Information from their fund. We believe this initiative will go a long way to protecting super fund members with the lowest balances and simplest of needs from having their funds eroded by contributing to a pooled fee designed to recover the costs of providing simple personal advice to those members requiring such a service.

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)** We agree with the proposal to streamline disclosure requirements. This will have an administration saving for our advice practice, however, as we have used software to automate most of this function, we estimate the saving in costs per year at approx. \$40 per annum per client. The majority of the cost saved will be from the time saved in producing and getting forms to, and back from, clients, and then registered with product providers.
- b)** We think that clients of advisers will greatly appreciate the simplification of the regime and suffer no detriment from the reduction in requirements. They know what they pay and can see it clearly on product statements, and in the case of our firm, significantly more than 50% of advice fees are paid directly by the client from their bank accounts.

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) Relieving a financial advice practice of the time-consuming obligation to prepare an SOA-brief request and an SOA as required under the current obligations will create more time for an advice practice and their relevant providers to explore options, model different strategies, and spend more time really understanding their client from both a financial and psychological motivation standpoint. This will be great for the quality of advice.

We note the proposal suggests a client can request the advice in writing. We strongly suggest that the client be able to request a record of the advice and that the adviser can choose the format in which a recording of the advice be provided. Video, for example, ought to be sufficient.

The effectiveness of the advice in improving a client's position will increase if the advice can be provided in a more compelling way to the client compared to existing written SOA's. Further, effectiveness of advice increases with a corresponding increase in the rate of adoption of the advice, and discipline in adherence to the advice. We think it is likely that any time saved in the preparation of advice will be redirected to assist clients better interact with their ongoing advice.

The advice will still need to be show-cased to the client in some way, and that will take some level of preparation and delivery. We estimate a time saving for the provision of initial comprehensive client advice of perhaps 3 hours across the advice process representing approx \$450. For ongoing clients, this is likely to be a saving of 1-2 hours per annum (\$150-300 p.a.). **NOTE: These savings are NOT from the introduction of the Good Advice regime but rather from the removal/adjustment of the SOA provisions.**

- b) **We do not see consumers being negatively impacted from the removal of the requirement to give clients an SOA** as these documents across the broader industry generally haven't been fit for the purpose intended. In our own practice, we strive to produce SOA's that meet the legal requirements and that are effective in conveying the value of our advice to the client. With that said, they are still too long, arduous to read and comprehend for many clients, and certainly are not in keeping with the highly engaging advice interactions that we create at every other step of the advice process.

If SOA's were not required, we will certainly innovate how the essential elements of the advice can be shared with the client. The use of video and other presentation formats would come to the fore creating a more engaging, and compelling experience.

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?

The removal of the FSG requirements will reduce the administration required to update and redistribute FSG's each time relevant details change on the form.

Providing the information via a website or client portal is supported.

We see no detrimental impact for consumers of personal financial advice.

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?

We fully support the suggested amendments to the DDO regime.

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

We agree with the suggestion to allow providers to opt-in early to the suggested changes. That will encourage innovation and proactive change at all levels of the industry for the net benefit of advice usage.

Where industry wide implementation is required (such as for standardising forms) these deadlines should be brought forward and sit well ahead of changes to broader advice provision. There can be immediate benefits in terms of efficiency from standardising fee consent forms and Third Party Authority arrangements.

General

15. Do you have any other comments or feedback?

We commend the draft proposals for truly addressing the accessibility and affordability of advice. With that said, as put forward, the proposals as a suite of changes do not hit the correct balance between risk and benefit for consumers of advice. Permitting unqualified, unregistered employees of financial institutions to provide personal advice where there is also an obvious product-conflict is a recipe that we have seen before. It didn't end well then, and it wouldn't end well now.

Limitations on what advice can be provided is essential if the return to the bad-old days of product flogging by institutions is to be avoided. We are supportive of product providers like insurers and superannuation funds being able to assist their customers/members with simple personal advice needs that relate to their current product under a Good Advice Duty. We are not supportive of any over-reach into personal advice that risks the loss of benefits, or a lack of enquiry into relevant circumstances of the individual customer before the provision of personal recommendations to them.

To better enable relevant providers to assist consumers with simple advice needs, **the Code of Ethics and related guidance needs to better clarify the ability of a relevant provider and their client to limit the examination of broad-based impacts of the advice as outlined in Standard 6.** This would mean that a relevant provider could provide quick, inexpensive, single-issue advice to consumers with an appropriate balance between best interest duty and the value and complexity of the advice being provided. The relevant provider would retain a higher obligation compared to an institutionally employed non-relevant provider's good advice obligation which should be consistent with the consumer's expectation that the relevant provider's position as independent to the product and not having an imbedded conflict of interest imposes a higher duty (and thus benefit to the consumer).

We **do not support** personal advice being funded by a broad-based fee being collected from all members of a super fund. Members need to opt-in to an advice fee, or pay personally for complex advice, and thus have the legal protections offered by a relevant provider where a fee is paid for the advice.

We agree that a shift to regulating the outcome of advice in replace of regulating the advice process is highly desirable. However, the suggested Chapter 7 changes to the Corporations Act to remove the Best Interest Duty and the Safe-Harbour provisions will have little to no impact on the preparation of advice by relevant advisers (i.e those advisers that are personally qualified and registered on ASIC's Financial Adviser Register). The obligations of the Code of Ethics will continue to ensure that similar, relevant steps are taken as are completed now under the Safe Harbour framework to validate that their advice is in the best interests of their client.

We believe any cost savings in the provision of personal financial advice from a relevant provider will be small – within the range of less than 10%. Nevertheless, we welcome those changes as they will spark innovation in the client experience of advice, especially if SOA's are replaced by more engaging and relevant conveyance of the advice.

We look forward to the final recommendations.