



7 June 2022

Quality of Advice Review Secretariat
Financial System Division
The Treasury
Langton Crescent
PARKES, ACT 2600

By Email: AdviceReview@treasury.gov.au

Dear Sir or Madam

Quality of Advice Review Issues Paper March 2022

Thank you for the opportunity to provide TAA's submission on the Quality of Advice Review Issues Paper.

Introduction

The Advisers Association Ltd (TAA) represents over 550 financial advice businesses and more than 1,150 financial planners authorised by Hillross, Charter and AMP Financial Planning licensees.

TAA is a non-profit member-based organisation formed in 2020 by the merger of the AMP Financial Planners Association Ltd (established 1925) and The Hillross Advisers Association Inc (established 1987). The Charter Advisers Association, known as The Authorised Representatives Association (established 1989), is currently merging with TAA.

As a member-based association, our aims are to partner with members and their licensees, advocate the benefits of financial planning and financial advice, help educate consumers on the benefits of financial planning and provide a range of benefits (including PI insurance) for our members.

TAA sits on the Joint Associations Quality of Advice Review Working Group with 11 other associations representing financial planning and financial advice.

Background

Over the last 10 years, FOFA and other reforms have significantly improved financial advisers' overall quality, education standards, and competency. Advisers and Licensees have embraced the Best Interests Duty, Codes of Ethics, completion of AQF7 tertiary level qualifications (or limited recognition of prior learning at that level), an increase in Continuous Professional Development (including 9 hours of Ethics each year), the removal of grandfathered commission and conflicted remuneration, the introduction of internal and external duty dispute resolution processes and a single disciplinary body, and moved their clients to annual renewals of ongoing fee arrangements or annual advice arrangements.

Despite being seen by the vast majority of their clients as trusted and valued professionals, government and regulators, until recently, appear to believe that we must have a highly regulated environment that relies on black letter law, multiple legislative instruments and

The Advisers Association Ltd ABN 98 108 199 622

Mail: PO Box R1390 Royal Exchange, Sydney, NSW 1225

Location: Customs House, Level 3, 31 Alfred Street, Sydney, NSW 2000

Phone: 02 8199 8801

Web: www.theadvisersassociation.asn.au

regulatory guidelines for consumer protection, which has resulted in a complex, inconsistent, costly and difficult to comply with environment for advisers and licensees.

This 'zero tolerance' environment has resulted in a fear of making even minor errors at both licensee and adviser levels and the tolerance of regulatory risk being extremely low if not zero for some advisers and licensees.

The cost to serve has increased significantly, with even simple advice taking 16-20 hours and a simple advice review taking 4-10 hours. There is a significant mismatch between what consumers expect i.e. simple advice should be simple, cost-effective (\$300-\$500) and quick, compared to the complicated advice and documentation, which is expensive (cost over \$5,000) and takes far too much time to prepare and months to implement.

Submission

TAA has actively participated in and contributed to the joint associations' submission on the Quality of Advice Review from 12 associations. That submission identified 5 themes¹:

- Customer First
- Recognition of Professionalism
- Regulatory Certainty
- Data Quality and Innovation
- Sustainability

The Joint Associations submission was developed in the context of the desire to have a workable joint response with implementable solutions that drove good consumer and advice outcomes. This would help financial advice be recognised as a profession, shift the focus onto what consumers need and want, improve their advice experience, and ensure appropriate recognition and balancing of the risk of advice and the cost of providing that advice. It would also help develop workable pathways through the different legislation, multiple regulators, Codes of Ethics, etc. The proposed actions and initiatives this Review should consider could then be delivered in the short, medium and longer term. We acknowledge for some of the changes to be fully implemented they would need to be addressed as part of the ALRC Review.

TAA's Board has reviewed the 83 questions in the Issues Paper and provided our high-level comments on each question at the end of this document, commencing on Page 6. Please note, that all our members are also members of the Association of Financial Advisers (AFA) or the Financial Planning Association (FPA) and we previously asked our members to provide comments directly to the AFA and FPA. We expect those two associations will provide more detailed submissions and address the questions in more detail.

For the record, we support the submissions made by those two associations.

There are several matters that we would like to provide some more detailed additional commentary on.

Balancing Consumer Protection and Access to Available, Affordable Quality Advice

Access to affordable and quality advice is at the heart of this review.

¹ At the time of writing this submission the joint association submissions theme titles and order of priority had not been finalised

Michelle Levy has highlighted this review as related to ‘advice’ and not just ‘financial product advice’. We appreciate this distinction and believe the desired outcomes can be achieved by removing licensee and adviser fear of a making a compliance error or mistake and the avoidance of compliance risk by having better more consistent regulation, streamlining that regulation and advice policies and processes, increasing the use of scoped advice, using already available data better and moving to a more principles-based approach over time.

We do not see access to available, affordable and quality advice as mutually exclusive to the other desired outcomes, i.e., to maintain appropriate consumer protection and have a viable and thriving financial services industry and advice profession.

However, balancing expectations of cost to quality and consumer protection currently can result in a cost of 10 to 16 times higher than consumers are prepared to pay, so there is a lot to do.

Based on our members' experience, we know that there can be very different perceptions and experiences between consumers, customers and clients. When surveying these groups or seeking their feedback we encourage this Review to separately categorise, seek and collate the views of:

- potential consumers i.e., people with limited or no experience with advice, financial product or service,
- customers who have purchased or used a financial product or one-off advice, and
- clients who have ongoing advice relationships.

The use of the word Advice

Based on previous submissions, the only significant difference between TAA's and AFA's, which is more pertinent to the Australian Law Reform Commission Review, is the AFA does not oppose using the term ‘general advice’.

TAA has strong, long-held and consistent views about using the word ‘advice’ related to product providers selling and retaining customers. We understand that General Advice requires a ‘recommendation’. In most cases the recommendation is for a product sale. TAA's view is that only someone or some methodology that complies with a Code of Ethics and must put the Client's Best Interests first should be able to provide advice. TAA has long held this view and raised it in previous submissions.² Specifically, our concerns relate to the use of the word advice in the following contexts:

‘Intrafund Advice’

We have no objection to product providers educating consumers, selling and retaining their products, and some would argue ‘intrafund advice’ enables consumers to get access to ‘free’ ‘advice’, often related to their superfund. However, we are concerned that:

- The ‘advice’ is not actually advice but product information or sales and marketing.
- The ‘advice’ is not ‘free’ as everyone else in the fund subsidises any individual who accesses it.
- This type of ‘advice’ can create a false level of confidence in Australians that they are doing enough for their future without considering the broader implications of the information given, including all risks and other possibilities or options.
- FASEA Code issues also need to be dealt with, including super funds and Trustees thinking about how they provide and charge for those services.

² For example ‘TAA Submission to Treasury 200228’

We have previously suggested the term 'intrafund advice' should be changed to remove the word 'advice,' e.g., call it 'intrafund information' or 'product information' to avoid any misconception that advice is being provided.

We also suggest that product providers should clearly disclose how they can provide these services without charging individual fees.

'General Advice'

Again, we are concerned that the use of 'advice' creates the impression that advice has been provided when it is purely factual information that has not considered the client's situation. All advice should consider the client's situation. The use of the word advice can create a false level of confidence in average Australians that they are doing enough for their future without considering all the risks and possibilities.

In addition, the recent Westpac case³ has made many organisations review their position on General Advice. We suggest the definition of general advice should be changed to remove the word 'advice,' e.g. call it 'general information' or "product information' to avoid the appearance of advice being provided.

'Roboadvice' and 'Digital Advice'

This is a rapidly growing area overseas and becoming an increasingly popular topic in Australia.

Again, despite its name, these services are rarely indeed advice. They are usually some form of calculator and modelling tools that may include a risk profiling and an asset allocation tool or, increasingly, a product solution, often from the provider of the Roboadvice or Digital Advice.

For clarity, we do not oppose using people, processes, tools and technology that help educate and inform consumers about the options available from product and other advisers, as it leads to better informed and educated consumers.

We are concerned that the naming conventions create the illusion that advice is being provided, which can create a false level of confidence in average Australians that they are doing enough for their future without considering all the risks and possibilities.

Other submissions will be made related to these forms of 'advice' and we recommend it would be beneficial to coordinate a considered and holistic solution rather than piecemeal solutions that run the risk of increasing consumer confusion and other unintended consequences.

Life Insurance

Other submissions will provide much more information and details about the underinsurance crisis developing in Australia following the LIF review, changes to commissions and clawback periods and the exit of many risk specialists unable or unwilling to do the FASEA exam, which they saw as not relevant to the advice they provided. We have seen this exodus of experienced and well-regarded by their clients' advisers amongst our own members.

Our view is that while life insurance is regulated by the same legislation and regulatory environment it is different to superannuation and investment advice, and much closer aligned to mortgage broking. Most people seeking advice at least have a 'nagging doubt' they have a problem that insurance may help to fix eg protection for themselves and their family. They can see the benefit of getting advice. However, they are not prepared to pay directly for advice for

³ Westpac Securities Administration Ltd v Australian Securities and Investments Commission [2021] HCA 3

several reasons, including the risk that the insurance may not be available to them, or only available with loadings, exclusions, etc.

You will see in our responses to the specific questions below we are generally supportive of the removal of conflicted remuneration and see little benefit to financial services or consumers in revisiting that ban, especially related to product providers. However, we have a strong view of the need to continue with commissions for life insurance products as this helps consumers have access to accessible, affordable and quality advice.

The current mandated commission rates applicable to all providers go a long way to manage and minimise the risk of conflicts - as the adviser gets the same percentage and remuneration no matter which product provider they choose for their client.

We are also of the view that the current upfront commission is too low to cover the costs of providing the insurance advice, which is reflected in the number of our members who have ceased providing insurance advice. Access to insurance advice for consumers has deteriorated with the exit of many risk specialists, mentioned above. We will leave it to others to argue what the upfront commission should be but our starting point it is it should not be less than the current 60% and preferably be 80% or above.

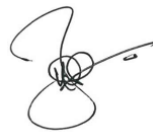
We also support the position that clarifying the ability to 'safely' scope advice and the introduction of Letters of Advice for life insurance would go some way to make providing insurance advice for financial planners more attractive.

Thank you for the opportunity to provide our members' views.

Yours sincerely



Neil Macdonald, Chief Executive Officer



Bill Beimers, Director/ Chair

TAA Submission Quality of Advice Review

Questions for Stakeholders 2205

Questions for Stakeholders	Responses
3.1 Quality financial Advice	

<p>1. What are the characteristics of quality advice for providers of advice?</p>	<p>General metrics of quality for any provider should be client satisfaction, cost, benefits and features of the product and speed (timeliness) and consistency of the providers' services and systems. The advice must also be able to be delivered cost-effectively and profitably by the provider.</p>
<p>2. What are the characteristics of quality advice for consumers?</p>	<p>It's not just about the financial product! Quality advice should be measured in the client context and the ability of the product or solution to meet the client's goals, needs and objectives. Other than the User Experience (UX), TAA's view is that the specific characteristics of quality advice will vary depending upon whether the receiver of the advice is a consumer, customer or client of the provider of the advice. Most consumers only want episodic, straightforward (simple), quick and initially low-cost advice. Customers who have already experienced obtaining a product or solution (eg budgeting assistance) will have different expectations. A client who has an ongoing relationship with an adviser, often covering many aspects of their life becomes less focussed overtime on the specific product and more focussed on progress towards their stated goals. They often see the quality of advice in terms of; increased financial literacy, increased confidence, peace of mind, and access to personal and financial coaching, which helps them achieve the life they want and avoid mistakes. As clients are involved in a longer-term relationship with their adviser, they also expect the advice to be able to be delivered cost-effectively and profitably for the adviser.</p>
<p>3. Have previous regulatory changes improved the quality of advice (for example the best interests duty and the safe harbour (see section 4.2))?</p>	<p>Some have, and some have just created unnecessary red-tape with similar but conflicting regulatory guidelines and standards resulting in an increased compliance burden and compliance risk for advisers and licensees. Much of this could have been avoided by allowing appropriate time for stakeholder consultation and engagement (with the right stakeholders), completing detailed stakeholder impact analysis, including a cost-benefit analysis of the proposed changes, a reasonable transition period and a Post Implementation Review to ensure the expected benefits were delivered and there were no unintended consequences. One topical example of good intentions not delivering the desired outcome is the Safe Harbour provisions, which are designed to provide some protection to advisers. Unfortunately, as it currently exists they have</p>

	<p>become a box-ticking exercise, that due to various standards (1, 3 and 6), multiple guidelines and unwillingness to address the Safe Harbour Sect 961B(g) wording after further consultations have meant many advisers are concerned about providing scoped advice and feel that there is not a very safe harbour for them.</p>
<p>4. What are the factors the Review should consider in deciding whether a measure has increased the quality of advice?</p>	<p>There has been much focus in recent years on a one size fits all, 'zero' defect, no errors approach to quality. This has resulted in reduced access to advice for everyday Australians and an increase in the cost of advice for all. One of the challenges is that good quality advice outcomes are hard to measure as they can take years to come to fruition. One size fits all has meant files have 'failed' due to relatively inconsequential matters, but from a risk management perspective licensees have added additional wording to advice documents.</p>
<p>3.2 Affordable Financial Advice</p>	
<p>5. What is the average cost of providing comprehensive advice to a new client?</p>	<p>Current research, from a variety of sources, including the FPA indicates costs of over \$5,000 (not what is charged to the client) to prepare and deliver relatively straightforward comprehensive advice. More complex advice such as SMSF advice is more expensive, other than when it moves into the wholesale of sophisticated investor environment.</p>
<p>6. What are the cost drivers of providing financial advice?</p>	<p>Business = Fear of making a compliance error and the avoidance of compliance risk impacts costs significantly as everything is double and triple checked, Adviser and staff time, other staff costs, licensee fees, technology, office space, training and CPD, etc.</p> <p>Legal and Regulatory = duplication, overlap and regulatory inconsistency.</p> <p>Industry = lack of standardisation for the same or similar processes, individual company forms and processes required rather than standard forms for standard matters, data inconsistency, poor data quality, out of date data and lack of access to available data.</p>
<p>7. How are these costs apportioned across meeting regulatory requirements, time spent with clients, staffing costs (including training), fixed costs (e.g. rent), professional indemnity insurance,</p>	<p>There is extensive benchmarking and cost of advice data available from various adviser associations and individual Licensees.</p>

software/technology?	
<p>8. How much is the cost of meeting the regulatory requirements a result of what the law requires and how much is a result of the processes and requirements of an AFS licensee, superannuation trustee, platform operator or ASIC?</p>	<p>Unfortunately, the major contribution to cost is fear of getting something wrong and avoiding compliance risk. This is compounded by multiple overlays of the same data and information being required by the client, the adviser, the licensee, product and service providers, Trustees, ASIC, APRA, etc., at different times and in different and often unique ways.</p> <p>A good example is the TMD regime and reporting, where Advisers were initially to be exempt because they had a 'Best Interest Duty'. That did not occur and virtually every TMD has wording to the effect that it can be used as part of a broader portfolio.</p> <p>While it is positive that 'nil' returns no longer need to be provided, there is still no standard automated reporting format or documentation across the industry. This is then further compounded by both the adviser and licensee being fearful of making even a small error that means they overcheck, write copious file notes, and err on the side of caution all of which increases the cost of compliance and therefore the cost of advice to the consumer.</p> <p>An additional contributor to the cost of advice is the difficulty in obtaining basic data to quickly and accurately ascertain the clients current position to provide the initial advice and thereafter annually to track progress to the clients desired goals and complete the required advice and fee documentation.</p> <p>Much of this data is already available, but not provided to advisers, in MyGov, Centrelink, SuperStream, etc., as well as product providers, etc, who are often tardy at best in providing the information to the adviser even though there is a completed client consent form. We recommend the rollout of Client Data Rights to financial services, starting with the provision of the information to the adviser in a timely manner, based on a standard consent form.</p>
<p>9. Which elements of meeting the regulatory requirements contribute most to costs?</p>	<p>The 'zero error' and 'fail one aspect and the file files' approach by regulators and AFCA has meant the fear of making a compliance error or mistake is very high, and much time, effort and cost is spent by advisers on obtaining detailed and up to date information on the client's current products, researching, considering and documenting recommended and alternate products and</p>

	<p>solutions, retaining records and making copious advice documents, working documents and file notes for compliance e.g., BID worksheets, safe harbour documentation, etc.</p>
<p>10. Have previous reforms by Government been implemented in a cost-effective way?</p>	<p>Not consistently.</p> <p>There appears to have been limited consideration of stakeholder impacts, especially small business advisers and whether the expected benefits were delivered. Post Royal Commission there was a rush to roll out changes, without adequate consideration of change management, cost impacts and identification of unintended consequences e.g., the Compensation Scheme of Last Resort to deal with \$3-5m of unpaid claims each year across the whole industry was expected to cost \$16m to establish and then \$3.7m to administer. In addition, small business advisers were expected to contribute \$12m by a levy when advice complaints are less than 1% of all AFCA complaints and less than 0.03% of unpaid complaints.</p>
<p>11. Could financial technology (fintech) reduce the cost of providing advice?</p>	<p>Yes, however, you should be aware that most firms already extensively use technology to improve efficiency and reduce the cost of advice.</p> <p>Licensees have also invested heavily in technology to meet ASIC expectations and to improve compliance and the efficiency of advice.</p> <p>The broader issues are rework and the lack of use of consistent data quality and standards, the inconsistent use and acceptance of electronic signatures, and the lack of common industry standards means that everyone has their own forms and many only accept their form.</p> <p>Recent US research indicates that while digital advice has increasing levels of use by consumers, the dropout rate to implementing the advice or proposed solutions is very high. That research showed over 38% of potential US investors had used a digital solution as part of their process, but less than 1% of transactions occurred as a result.</p>
<p>12. Are there regulatory impediments to adopting technological solutions to assist in providing advice?</p>	<p>Yes. They have to deal with exactly the same regulatory environment and red-tape as advisers (as they should).</p> <p>The solution is not to exempt technology solutions as that will result in poor consumer outcomes and unintended consequences, it is to remove, or at least reduce, the fear of making a genuine mistake or error for advisers and make the process quicker and simpler for everyone including professional advisers.</p>

3.3 Accessible Financial Advice	
13. How should we measure demand for financial advice?	The relevant metrics are what percentage of eligible (eg of working age) consumers (no product or advice), customers (have some products or advice) and clients (an ongoing relationship with an adviser) who have sought or want to seek advice (it has dropped consistently over the last 10 years for each group, with a recent upswing in younger people) and how many people have actually implemented the advice they received in full or partially.
14. In what circumstances do people need financial advice but might not be seeking it?	Most people need good financial advice, to help them make the right decisions. However, many will not seek advice as they see it as too expensive, they don't think they have enough money to get advice or need advice and as a result, they often don't get any advice or get advice from their family and friends or social media.
15. What are the barriers to people who need or want financial advice accessing it?	<p>Knowing who provides what advice (stockbrokers, accountants, SMSF specialists, Investment Advisers, Financial Planner, etc., all provide different types of advice and solutions).</p> <p>Making it easier to find an adviser, they can trust.</p> <p>Consumers don't know what advice will cost or what to expect.</p> <p>We live in an instant world so even when consumers engage with advice they find the whole user experience too slow, too complex and can't understand why advice documents take weeks to prepare and the implementation process is slow, with rollovers, insurance underwriting, etc.</p>
16. How could advice be more accessible?	<p>Make it easier to provide simple, straightforward advice, and allow advisers to provide that advice with confidence and without copious paperwork.</p> <p>Importantly with the exit of so many advisers, we need to explore how we can retain advisers and bring new people into advice and encourage them to become authorised.</p> <p>The FSC has suggested opening up the FASEA exam to people in the industry, which TAA supports.</p> <p>New entrants must be AQF7 qualified before they are allowed to commence their professional year, there could be a consideration to allow them to provide advice under supervision while studying and extend the professional year to help manage this.</p>
17. Are there circumstances in which advice or certain types of	<p>Of course, there are, and it occurs already.</p> <p>Some is quality advice, e.g., financial counsellors, etc.</p>

advice could be provided other than by a financial adviser and, if so, what?	Some is more questionable e.g., fin influencers and whether the advice is good and is in the client's best interests?
18. Could financial advisers and consumers benefit from advisers using fintech solutions to assist with compliance and the preparation of advice?	They already do so, via the use of advice software and modelling tools such as XPlan, and various advice documentation tools driven by Microsoft Dynamic, Salesforce, etc. Unfortunately, data quality and access is inconsistent, and ASIC and AFCA don't like automated templated advice documents, which limits their optimised use!
19. What is preventing new entrants into the industry with innovative, digital-first business models?	The current environment treats everything the same, whether it is different types of advisers e.g., stockbrokers, insurance specialists or different types of advice eg tech providers. There is no clear connection between different consumer needs and wants, the way advice can be scaled or the risk and complexity of the advice and the one size fits all process that most licensees and advisers feel they have to follow.
Regulatory Framework	
4.1 Types of Advice general and personal	
20. Is there a practical difference between financial advice and financial product advice and should they be treated in the same way by the regulatory framework?	Yes, there is a practical difference between financial product advice and financial advice provided by different types of advisers. Financial Planners generally have a more holistic and longer term view of a client's goals, needs and objectives and therefore different to stockbrokers who are more inclined to focus on particular stocks and blends of stocks, who are different to risk specialists and product providers providing intrafund advice. One size doesn't fit all, but the current regulatory environment doesn't reflect that.
21. Are there any impediments to a financial adviser providing financial advice more broadly, e.g. about budgeting, home ownership or Centrelink pensions? If so, what?	No, most financial planners already provide those types of advice. Other than the practical issues at a detailed level e.g., dealing with Centrelink is slow and clunky, getting access to income and expense data to help with budgeting is not always easily available for advisers (there is technology available, but often from smaller firms, which may create addition risk, AND as previously stated licensees and advisers have become very risk adverse.
22. What types of financial advice should be regulated and	All of it should be regulated, but that could include coregulation or self-regulation for some types of advice.

to what extent?	The level of regulation should reflect the level of risk with a lighter process for much lower risk and simpler, straightforward advice.
23. Should there be different categories of financial advice and financial product advice and if so for what purpose?	Yes, to align with consumer, customer and client expectations of cost, quality and accessibility. A recent example provided to us was a person reliant on the age pension, with no other income or active super of pension account being notified of a \$900 remediation payment from an old closed fund. The obvious solution was to open a super account, pay in the funds, withdraw the fund and close the account. If that was advised it would take 16-20 hours and 2-3 months to process at a cost to the adviser of over \$5,000. The risk is low the benefit to the client high. Ideally, the adviser should be able to tell the client that, make a file note and charge a notional amount or possibly choose to waive their fee.
24. How should the different categories of advice be labelled?	Clearly separate advice from product information (refer cover letter).
25. Should advice provided to groups of consumers who share some common circumstances or characteristics of the cohort (such as targeted advertising) be regulated differently from advice provided only to an individual?	The critical point is that if the client's personal situation has been taken into consideration, it should be advised. If it not advice, then call it information, education or sales/ marketing materials. Stop calling this advice, it merely continues the myth it is advice and confuses consumers.
26. How should alternative advice providers, such as financial coaches or influencers, be regulated, if at all?	Our view is there should be a level playing field with similar rights and obligations for each of the players. TAA doesn't think there should be more onerous requirements and obligations introduced for these alternate providers. We question whether should be allowed to use the word advice in what they do, without being competent to provide that advice. Our preference is to align the requirements and obligations for professional financial advisers and financial planners to enable them to carry out this role. Note many younger self licensed advisers have already moved down this path, with a subscription based coaching model and a separate fee based advice model.
27. How does applying and considering the distinction	Under current definitions, no distinction as advisers avoid general advice and increasingly, TAA expects, so will

between general and personal advice add to the cost of providing advice?	many product providers following the recent Westpac case.
4.1 Types of Advice Intra-fund Advice	
28. Should the scope of intra-fund advice be expanded? If so, in what way?	No. While we have no major objection to product providers giving information to consumers and their customers about their product, we are of the strong view that 'information' should not be called 'general advice', as that creates an expectation that 'advice' is being provided. Our view is that BID should apply to all advice. Simple advice should be simpler for everyone including highly competent and well qualified professional advisers.
29. Should superannuation trustees be encouraged or required to provide intra-fund advice to members?	Hard to see how they can avoid it with the introduction of the Retirement Income Covenant, although we find it hard to see how this advice with Centrelink and other considerations could be categorised as simple.
30. Are any other changes to the regulatory framework necessary to assist superannuation trustees to provide intra-fund advice or to more actively engage with their members particularly in relation to retirement issues?	Most are already actively engaged. Unfortunately, they create an uneven playing field as many of them insist on using their own client consent forms, and many make it difficult for advisers to get basic product information about the adviser's clients.
31. To what extent does the provision of intra-fund advice affect competition in the financial advice market?	Very little, other than the risk that customers may believe their needs have been met and have not considered options or other potential solutions. Unfortunately, advisers have moved up market as it is too hard to provide this simple advice cost-effectively.
4.1 Types of Advice Limited Scope Advice	
32. Do you think that limited scope advice can be valuable for consumers?	Yes - to some extent any good advice is better than no advice at all. Unfortunately, the focus on a comprehensive solution, driven by fear, is at odds with how consumers would like to get advice.
33. What legislative changes are necessary to facilitate the delivery of limited scope advice?	Changes to the all-encompassing, one-size-fits-all view, that advice is 'financial product advice', and not the broader strategy, and range of services and solutions most financial planners provide.

<p>34. Other than uncertainty about legal obligations, are there other factors that might encourage financial advisers to provide comprehensive advice rather than limited scope advice?</p>	<p>The cost of providing both new comprehensive and scoped advice and additional advice is too high. The ability of AFCA to open up and review the whole file is also an impediment to scoping advice as advisers try to avoid both current issues and future risks of advice. There are also concerns of a lack of regulatory certainty ie that the advice provided today will be reviewed at some future date, using the standards of today, rather than the standards applicable at some future date. A cost of a client review is often 60-80% of the cost of new advice even if there are only minor changes. In any other industry/ profession, a review would be 1/10th to 1/5th the initial cost of advice. Finally fear of getting it wrong means that it is safer to do the whole process each year, even when most clients' circumstances don't change that much every year.</p>
<p>4.1 Types of Advice - Digital Advice</p>	
<p>35. Do you agree that digital advice can make financial advice more accessible and affordable?</p>	<p>Potentially yes, although the USA experience is that many consumers access digital advice, but then do not proceed with it. There is strong evidence that many people still want to speak with someone, and the risk is that the person they speak to is representing the product provider, not the clients best interest.</p>
<p>36. Are there any types of advice that might be better suited to digital advice than other types of advice, for example limited scope advice about specific topics?</p>	<p>Potentially yes, although our preference is to enable professional advisers to be able to provide that advice quickly and efficiently just like any other professional. Doctors deal with life and death yet have significantly less documentation than financial advisers - typically 2 pages for major surgery.</p>
<p>37. Are the risks for consumers different when they receive digital advice and when they receive it from a financial adviser?</p>	<p>Our view is the risk is higher, as the outcome inputs and outcomes are narrower and reliant on the correct coding, and calculators or algorithms. For most consumers, advice is not just the facts and figures it also needs to consider the clients' biases, financial experience and literacy, selection of solutions, trade-off discussions, etc.</p>
<p>38. Should different forms of advice be regulated differently, e.g. advice provided by a digital advice tool from advice provided by a financial adviser?</p>	<p>No, it should be a level playing field! A professional adviser should be able to use the technology or their professional expertise to deliver the same or better outcomes at the same or similar cost. The Best Interest Duty and Code of Ethics are intended to mitigate the risk of the advice provider acting in their own interests when providing advice. Without those obligations</p>

	on all advice providers including digital advice, it is not clear how the consumer would have those protections.
39. Are you concerned that the quality of advice might be compromised by digital advice?	Only if there are different standards and processes applied to digital advice or any other forms of advice for that matter.
40. Are any changes to the regulatory framework necessary to facilitate digital advice?	Yes, the current regulatory environment is the same for personal and digital advice. It shouldn't be easier just for digital, it should be easier for all types of advice.
41. If technology is part of the solution to making advice more accessible, who should be responsible for the advice provided (for example, an AFS licensee)?	The provider of the advice should be responsible for the advice provided, the current structure is AFSL and adviser. Digital advice should be on the same basis.
42. In what ways can digital advice complement human-provided advice and when should it be a substitute?	Digital advice can complement other advice in many ways, especially helping educate consumers, making the advice process more efficient, preparation of comparisons, etc.
4.2 Best Interests and Related Obligations	
43. Do you consider that the statutory safe harbour for the best interests duty provides any benefit to consumers or advisers and would there be any prejudice to either of them if it was removed?	Safe Harbour steps should be primarily designed to protect the provider of the advice and make the client aware of what is being provided. Unfortunately, the current Safe Harbour provisions in the Code of Ethics and Corporations Act do not achieve that objective. Our preference has been to amend the wording, but if that is not possible then removing them is better than the current situation. Associations and Licensees will still document sensible steps to demonstrate they have met their obligations and manage their compliance risk - it appears sensible to have a consistent but workable wording for all advisers that do provide a Safe Harbour.
44. If at all, how does complying with the safe harbour add to the cost of advice and to what extent?	Standard 6 and Corporations Act Clause 961B(g) effectively require broader consideration of the client's situation, which results in the need for a full fact find (as noted in previous Stockbroker Association submissions), and makes it difficult to scope the advice. The lack of Regulatory Certainty then means there are concerns about the current regulatory view being applied retrospectively at some future date ie by ASIC, APRA, AFCA, etc.

<p>45. If the safe harbour was removed, what would change about how you would provide personal advice or how you would require your representatives to provide personal advice?</p>	<p>Our preference is to amend the Safe Harbour Steps so they actually align with their intent. If that is not possible, then their removal would mean that each licensee or potentially the professional associations would create their own 'standards' to document steps taken to demonstrate a similar process.</p>
<p>46. To what extent can the best interests obligations (including the best interests duty, appropriate advice obligation and the conflicts priority rule) be streamlined to remove duplication?</p>	<p>Streamlining them to reduce duplication could and should be explored and ideally done. This would also help to provide some regulatory certainty.</p>
<p>47. Do you consider that financial advisers should be required to consider the target market determination for a financial product before providing personal advice about the product?</p>	<p>Advisers would always consider how funds fit into a client portfolio in the context of their Best Interest Duty, the client's broader goals, needs and objectives and creating a portfolio of diversified assets. The current TMD requirement being applied to professional advisers merely results in additional duplication and unnecessary documentation.</p>
<p>4.3 Conflicted Remuneration</p>	
<p>48. To what extent has the ban on conflicted remuneration assisted in aligning adviser and consumer interests?</p>	<p>This is a positive change for investment and superannuation products, that better aligns client and adviser interests. However, as already seen with mortgage broking, the benefits of commissions that are fixed at the same level across the industry for the same types of products, including life insurance help to minimise the conflicts of being paid by a product provider as they all pay the same percentage and outweigh the negatives associated with falling consumer insurance cover, increased under insurance, etc., which will put more pressure on the NDIS, pensions, etc. We are confident that other submissions will focus much more on LIF aspects and demonstrate the impact of reducing commissions, on client coverage, increasing underinsurance in the community, etc.</p>
<p>49. Has the ban contributed towards improving the quality of advice?</p>	<p>Advice was already well progressing well to improve the quality of advice and the professionalism pathway, before the removal of all conflicted remuneration. The ban on conflicted remuneration accelerated those changes, but it was not the main contributor to the</p>

	improvement in quality.
50. Has the ban affected other outcomes in the financial advice industry, such as the profitability of advice firms, the structure of advice firms and the cost of providing advice?	<p>When the ban was introduced, yes there were significant financial and emotional impacts for many advice firms due to the limited timeframe to transition and make the changes. However, most advisers are resilient and adaptable and have restructured and changed their business models. The fall in adviser numbers with increasing demand has assisted.</p> <p>It should be recognised that for Master Trusts planner service fees and adviser service fees that were explicitly negotiated with clients and the subject of annual advice agreements, were deemed by product providers and Trustees to be 'grandfathered' commissions and therefore terminated.</p> <p>Many TAA member firms spent 12-18 months converting inbuilt product commissions to these fees. At the time they represented an average of 25% of practice revenue. They were then informed they had wasted their time and had to start again to convert the grandfathered planner service fees to new adviser service fees.</p>
51. What would be the implications for consumers if the exemptions from the ban on conflicted remuneration were removed, including on the quality of financial advice and the affordability and accessibility of advice? Please indicate which exemption you are referring to in providing your feedback.	<p>We do not think there would be much benefit in changing the ban on investment and superannuation products now, as most firms have already changed their business models to explicit pricing, and BID would make it difficult to implement.</p> <p>As previously stated, we believe there are significant benefits to consumers and the broader Australian economy to continue to allow commissions on insurance and mortgage products, especially where the commission percentages are prescribed. As stated in the covering submission TAA's view is the upfront component for insurance should be 80% and not 60%.</p>
52. Are there alternatives to removing the exemptions to adjust adviser incentives, reduce conflicts of interest and promote better consumer outcomes?	<p>Yes, there are a number of options considered.</p> <p>TAA would like to see tax deductibility for advice fees. In addition, some consideration to help lower-value clients to access advice (say for fees below \$1,500) we previously suggested that there should be the option to provide a review every second year.</p> <p>This would allow clients to obtain advice and effectively to have a payment plan over two years for their review, which would occur every second year. The risk is low as many products and platforms can automatically rebalance funds</p>

	and the asset allocations. The client's personal situation and circumstances do not change annually, and if they did they could receive additional advice and services. We know from our members if one-off advice was required out of cycle many advisers would provide it at little or no cost due to the value of the ongoing client relationship.
53. Has the capping of life insurance commissions led to a reduction in the level of insurance coverage or contributed to underinsurance? If so, please provide data to support this claim.	Yes, other submissions will provide evidence to support this claim.
54. Is under insurance a present or emerging issue for any retail general insurance products? If so, please provide data to support this claim.	TAA members are not involved in General Insurance so unable to comment on this question. We can confirm under insurance is an increasing issue for life insurance as a result of the LIF and broader industry changes.
55. What other countervailing factors should the Review have regard to when deciding whether a particular exemption from the ban on conflicted remuneration should be retained?	We see limited benefits in removing the ban on conflicted remuneration, especially from product providers. There could be some easing in the position eg for referral arrangements with advisers by changing the Code of Ethics wording.
4.4 Charging Arrangements	
56. Are consent requirements for charging non-ongoing fees to superannuation accounts working effectively? How could these requirements be streamlined or improved?	No. A new client has to sign up to 8 times to implement the advice. Each product provider and Trustee has different rules as to what they will accept, different consent forms, different ways to obtain the signature (some wet, some digital, but with different digital requirements) resulting in consumer frustration, in some cases thinking they are being charged multiple times, rather than just once and the need for advisers to understand and implement different policies and processes for each product provider their client deals with.
57. To what extent can the requirements around the ongoing fee arrangements be streamlined, simplified or made more principles-based to	The implementation of standard forms, which cover both the authority to pay the adviser and debit the member account, and the consistent acceptance and application of electronic signatures, will probably need to be mandated as there is a cost to each product provider/Trustee in

reduce compliance costs?	changing systems and processes that they are unlikely to incur if it is optional.
58. How could these documents be improved for consumers?	One form, one signature to implement the advice and approve the payment to the adviser.
59. Are there other ways that could more effectively provide accountability and transparency around ongoing fee arrangements and protect consumers from being charged a fee for no service?	Our strong view is that the removal of trail commissions and the introduction of FDS for On-going Fee Arrangements or the increasing trend to Annual Advice Agreements, as well as the multiple signatures required, means the client is already very aware of their advice fees, the services and solutions provided and the value they receive. They also have to sign the FDS documentation multiple times and renew their contract annually. Unfortunately, we have ended up with a system designed for a different era of trail commissions, that no longer exists and should be reviewed and updated to improve the client experience and streamline the process.
60. How much does meeting the ongoing fee arrangements, including the consent arrangements and FDS contribute to the cost of providing advice?	We will leave it to other submissions to provide a more detailed analysis of the costs.
61. To what extent, if at all, do superannuation trustees (and other product issuers) impose obligations on advisers which are in addition to those imposed by the OFA and FDS requirements in the Corporations Act 2001?	Some Trustees and Product Providers will not accept client instructions for OFA and FDS or Annual Advice Agreements. Some only accept them if the licensee agrees to onerous and one-sided agreements. Based on ASIC and APRA guidelines some have requested copies of Statements of Advice, which create other confidentiality and privacy issues for the adviser if they do not redact much of the information.
62. How do the superannuation trustee covenants, particularly the obligation to act in the best financial interests of members, affect a trustee's decision to deduct ongoing advice fees from a member's account?	Some Trustees and Product Providers will not accept client instructions for OFA and FDS or Annual Advice Agreements. Some only accept them if the licensee agrees to onerous and one-sided agreements.
4.5 Disclosure Documents	

<p>63. How successful have SOAs been in addressing information asymmetry?</p>	<p>Not very, they have become too long disclosure and compliance documents and difficult to navigate by consumers.</p> <p>With each regulatory change, ASIC Guide or AFCA ruling Licensees have added additional wording. Most fail the clear, concise and effective test.</p> <p>We strongly support the FSC recommendation of a change to a Letter of Advice, possibly for simpler advice as an interim step, although our preference would be to implement this as soon as possible as the standard advice document. Financial Advisers could provide longer documents to clients they believed needed more documentation.</p>
<p>64. How much does the requirement to prepare a SOA contribute to the cost of advice?</p>	<p>FSC has provided the cost savings of moving to Letters of Advice from Statements of Advice in their White Paper.</p>
<p>65. To what extent can the content requirements for SOAs and ROAs be streamlined, simplified or made more principles-based to reduce compliance costs while still ensuring that consumers have the information they need to make an informed decision?</p>	<p>Refer to previous comments about Letters of Advice, which could also replace the Record of Advice in most cases. If there was still a requirement for a Record of Advice they should be reviewed in line with Letters of Advice.</p>
<p>66. To what extent is the length of the disclosure documents driven by regulatory requirements or existing practices and attitudes towards risk and compliance adopted within industry?</p>	<p>It is hard for us to take an industry view - so we will leave to other submissions to comment on.</p>
<p>67. How could the regulatory regime be amended to facilitate the delivery of disclosure documents that are more engaging for consumers?</p>	<p>Stop taking a one-size-fits-all approach to consumer protection and advice documentation requirements, apply Customer Experience techniques, and accept and implement many Australians' preference for visual communication methodology eg pictures, diagrams, etc, rather than more 'words'.</p>
<p>68. Are there particular types of advice that are better suited to reduced disclosure documents? If so, why?</p>	<p>Virtually all types of advice, especially if it is by an adviser who has a BID and Code of Ethics obligations.</p>

<p>69. Has recent guidance assisted advisers in understanding where they are able to use ROAs rather than SOAs, and has this led to a greater provision of this simpler form of disclosure?</p>	<p>Yes, it has assisted, but the cost of providing even a ROA is still too high.</p>
<p>70. Are there elements of the COVID-19 advice-related relief for disclosure obligations which should be permanently retained? If so, why?</p>	<p>The COVID-19 relief was not helpful or useful for financial planners and as a result was rarely used.</p>
<p>4.6 Accountants Providing Financial Advice</p>	
<p>71. Should accountants be able to provide financial advice on superannuation products outside of the existing AFSL regime and without needing to meet the education requirements imposed on other professionals wanting to provide financial advice? If so, why?</p>	<p>No - unless there are similar changes implemented for financial planners. It should be a level playing field for similar professionals providing similar types of advice.</p>
<p>72. If an exemption was granted, what range of topics should accountants be able to provide advice on? How can consumers be protected?</p>	<p>Refer above comment about a level playing field.</p>
<p>73. What effect would allowing accountants to provide this advice have on the number of advisers in the market and the number of consumers receiving financial advice?</p>	<p>While this could mean the number of advisers available would increase by the number of accountants, it does send the message that you can get advice on superannuation easily from someone who hasn't the relevant education requirements, or take more time and cost to get advice from an educated professional.</p> <p>If the education requirements are not fit for purpose or not necessary to provide superannuation advice then they should be changed.</p> <p>History indicate there were previous concerns with Accountants providing advice on Superannuation, including potential conflicts, hence the limited advice environment, etc. Despite that not working well, the solution is not to waive the obligation for appropriate</p>

	education and importantly competency (ie skill, knowledge and attitude)
74. Is the limited AFS licence working as intended? What changes to the limited licence could be made to make it more accessible to accountants wanting to provide financial advice?	No, it is not working as intended. We will leave it to Accountants/ their Associations to comment on why.
75. Are there other barriers to accountants providing financial advice about SMSFs, apart from the limited AFSL regime?	We will leave it to Accountants/ their Associations to comment.
4.7 Consent Arrangements for Wholesale Client and Sophisticated Investor Classification	
76. Should there be a requirement for a client to agree with the adviser in writing to being classified as a wholesale client?	Yes, that would appear to be a sensible suggestion in the current context of wholesale clients and sophisticated investors. The current tests based on assets and income levels are blunt instruments that have not been reviewed for many years. The asset test also currently includes the family home, which in major metropolitan areas has increased in value significantly over the years, and therefore is probably not a good indicator of client financial literacy, education or sophistication. In addition to reviewing the levels to qualify for being treated as a wholesale client, one other option to consider may be to exclude the family home from the asset test and rely on other assets only for the test.
77. Are any changes necessary to the regulatory framework to ensure consumers understand the consequences of being a sophisticated investor or wholesale client?	Consumers should have a better understanding of what protections they are losing by being treated as wholesale clients or sophisticated investors and should be able to make a more informed decision about whether that is what they want or not.

<p>78. Should there be a requirement for a client to be informed by the adviser if they are being classified as a wholesale client and be given an explanation that this means the protections for retail clients will not apply?</p>	<p>Yes, fully agree with this position.</p>
<p>5 Other Measures to improve the quality, affordability and accessibility of advice</p>	
<p>5.1 ASIC 5.2 Advice Licensees 5.3 Professional industry Associations</p>	
<p>79. What steps have licensees taken to improve the quality, accessibility and affordability of advice? How have these steps affected the quality, accessibility and affordability of advice?</p>	<p>Licensees have taken steps to improve the quality of advice. They have and are implementing technology solutions to make the provision of advice and reviews more efficient. Unfortunately, the expectations and obligations of licensees have increased at the same time as conflicted remuneration was banned and cross-subsidations removed, which in combination with the exit of advisers has resulted in Licensee revenues falling and the cost of their services to advisers increasing. These costs are then passed onto advisers, which then contributes to the increased cost of advice.</p>
<p>80. What steps have professional associations taken to improve the quality, accessibility and affordability of advice? How have these steps affected the quality, accessibility and affordability of advice?</p>	<p>Just as there are different types of financial advisers, there are different types of associations with different remits ranging from member-based associations to professional associations. While many of them have taken steps to help educate consumers about the benefits of advice, and most have taken action to improve the quality of advice it has proven difficult to effectively address the issues related to accessibility and affordability of advice. We are sure they will put forward more detailed information in response to this question.</p>
<p>81. Have ASIC's recent actions in response to consultation (CP 332), including the new financial advice hub webpage and example SOAs and ROAs,</p>	<p>The Financial Advice Hubpage has been well received. There are still other concerns with the acceptance and implementation of the SOA and ROA templates.</p>

<p>assisted licensees and advisers to provide good quality and affordable advice?</p>	
<p>82. Has licensee supervision and monitoring of advisers improved since the Financial Services Royal Commission?</p>	<p>We suspect that ASIC reports 499 and 515 and the resulting look back programs, had a much bigger impact on improving the supervision and monitoring of advisers than the Royal Commission findings, as not all the findings related to advice being provided by advisers eg charging advice fees to unadvised customers.</p>
<p>83. What further actions could ASIC, licensees or professional associations take to improve the quality, accessibility or affordability of financial advice?</p>	<p>The current legislative and regulatory environment was built and implemented when vertically integrated businesses viewed advisers as a distribution force. The implementation of FOFA should have changed that, but many licensees were slow to adapt. They have all moved quickly or exited over the last four years. Everyone needs to recognise consumers, customers and clients have different expectations, perceptions and needs. There are also different types of advisers all being treated the same way due to the current legislative and regulatory environment.</p> <p>We (regulators, licensees, professional associations and professional advisers have a once in a generation opportunity to recalibrate the way personal advice is provided, to ensure appropriate consumer protections are not lost, quality advice becomes more accessible and affordable and advisers, their firms and licensees can run sustainable and profitable businesses.</p>