



abrdn Australia Limited's position  
in response to the

## Quality of Advice Review (QoAR) Interim Consultation Paper

CONSULTATION PAPER – PROPOSALS FOR REFORM

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## Appendix 1: Consultation template

Name/Organisation: abrdn Australia Limited

### Questions

#### Intended outcomes

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

Yes. As part of an overall vision for making advice more accessible and affordable, we believe the package of proposed changes will have a significant and sustainable impact on the advice industry.

Rather than tinkering with the myriad of regulations that don't materially benefit the consumer, we welcome the approach taken to replace complex and cumbersome regulations with simplified, practical, understandable and consumer-friendly changes.

We are in favour of advisers and product issuers being able to provide personal advice to their customers without having to comply with all of the current obligations as long as consumer benefits and needs are satisfied, namely specific advice and guidance about their individual objectives and outcomes.

The intent of the proposed change is a positive course of action - the complexity of the existing regulation should be removed and replaced with a much simpler and clearer intent to perform consumer best interest by providers. The detail in how the definition of personal advice is couched will be crucial.

Removing cumbersome current obligations – and hence the greyness and administration associated with them – will, in our view, create a level playing field across the industry, whereby:

- consumers will have more access to affordable advice provided by advisers and product issuers, including in the area of retirement
- This should significantly reduce administrative processes and non-value add time with the consumer/adviser/product issuer. Advisers and product issuers can, in principle, focus on more value-add activities with the consumer rather than having to complete processes and templates

- Focus can be primarily on the consumer needs rather than processes that are designed, in some cases, for the benefit of the advice provider. The content of advice will become the focus rather than conduct of the advice provider
- Consumer protection will be stronger as new regulations will be easier to interpret, simplified and written from the consumer's viewpoint.

## What should be regulated?

### 2. In your view, are the proposed changes to the definition of 'personal advice' likely to:

- reduce regulatory uncertainty?
- facilitate the provision of more personal advice to consumers?
- improve the ability of financial institutions to help their clients?

We believe the proposed changes to personal advice will go a long way to solving a number of current issues and are a significant step towards consumers getting the advice they need and to making advice more accessible and affordable.

Most importantly, in our view, the proposed broader and expanded definition of personal advice should result in increased consumer protection, focussing on the advice they specifically need.

Whilst we are supportive of the proposed personal advice definition change and believe that regulatory uncertainty will be reduced, we do not believe that the personal advice definition change will go far enough on its own to reduce enough regulatory uncertainty for all stakeholders.

In our view, the proposed change to the definition of personal advice moves Australian regulations closer to the UK framework, where the concept of 'restricted' (aka limited or scaled) advice already exists. Our own experience in the UK (where we are the largest advised platform provider) suggests that this change will make it far easier for advisers and product providers to give limited advice, noting that there is a difference between the role ASIC currently performs here and the consultative, relationship management approach that the Financial Conduct Authority (FCA) take in the UK.

In the UK, we work closely with the regulator (as we do in other jurisdictions including Singapore). We have first-hand experience of successfully implementing several advice solutions – including digital - in the UK where we implement limited (restricted) advice solutions for our clients. FCA provides us with a case manager assigned to work with abrdn to provide insight, collaboration and meaningful feedback on our business model and proposed solutions in the market. These one-on-one discussions do not provide us with "certainty" with regards to our intended solutions (nor is the UK regulatory structure perfect). Nevertheless, the process we undertake with FCA is invaluable to reducing regulatory uncertainty when we are launching a new advice

solution into the market. This is particularly relevant to us when we wish to introduce innovative solutions, including digital advice. Our experience with FCA has been collaborative and insightful, allowing us to focus on making substantive and innovative improvements towards better consumer outcomes.

We are happy to share some of our specific personal learnings in our dealings with the FCA if that would be of benefit to the Review.

UK financial advisers, building societies, wealth managers and some banks readily use limited advice solutions and we believe far more limited advice adoption will exist in Australia with the personal advice definition change.

We have similar experiences in dealings with the Singapore regulator, the Monetary Authority of Singapore (MAS). Whilst the MAS has an additional specific purpose and mission to “adopt digital solutions that enhance productivity, cyber security, and operational efficiency,” the Singapore government has also taken the approach that introducing significant regulatory change requires the regulator to have a wider focus than just enforcement and become more proactive and consultative. Similar to the UK, our own experience with MAS has also been collaborative and insightful.

From our own experiences in overseas markets mentioned above and to deal with perceived or real industry uncertainty, we believe ASIC’s role should also change to work directly with AFS licensed businesses to proactively help introduce advice-based innovations (non-digital and digital) into the market. In our own experience, we believe ASIC’s “facilitative” approach discussed in the Consultation Paper is insufficient to achieve meaningful change with the package of proposed changes. It is no coincidence that there is far more innovation and safe digital advice solutions in markets such as the UK as a result of the more forward-thinking role of the regulator.

We have outlined how we would wish to see changes to ASIC’s role in Section 15.

**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?**

Yes. As current general advice regulation provides little meaningful benefit, this is a sensible first step to reduce overall complexity for consumers. Additional safeguards can be added later if required but we believe the proposed change will be sufficient to ensure consumer protection for general advice.

**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?**

We see all stakeholders benefitting from the adoption of 'good advice.'

Most importantly, for the consumer:

- All interactions with an adviser should be focussed on real value add activities and advice
- This should significantly reduce administrative processes and non-value-add time with an advice provider.
- The amount of paperwork that is frequently not read or valued by the consumer will significantly diminish
- Advice should become more accessible and affordable.
- Additionally, digital advice, particularly bionic (or hybrid advice), will play a significant role in making advice more accessible and affordable. Our own experience in the UK suggests time for comprehensive advice could be reduced from 20+ hours to less than four hours per year

Advisers will benefit because:

- With the reduced time and cost to produce advice they can focus on where advice recommendations can make the biggest benefit to consumers
- By focussing on value-add consumer activities they can see more consumers who want advice
- The natural evolution of bionic (or hybrid) advice will help advisers help more consumers
- They can offer a range of fees more suited to the advice that the consumer needs

As a result, we would anticipate an improvement in the quality of advice and reduction in the costs associated with producing advice.

- 5. Does the replacement of the best interest obligations with the obligation to provide 'good advice' make it easier for advisers and institutions to:**
- a) provide limited advice to consumers?**
  - b) provide advice to consumers using technological solutions (e.g. digital advice)?**

Yes. The introduction of ‘good advice’ and the replacement of current best interest obligations is a meaningful step, a game changer, to overcome current bottlenecks in making it easier provide limited advice. The provision of advice can now be done in a more consumer friendly format.

We have always felt that the current best interest obligations have negative consequences for providing meaningful advice to consumers. There is no full-proof test to demonstrate best interest has been achieved. Rather, as it stands today, the onus is on the financial adviser to demonstrate advice is in “the best interest” of the consumer, which leaves them exposed to potential recourse from consumers, and the regulator (ASIC), if the advice is deemed to fail this test at any point in the future. As a result, the advice industry has taken a very conservative approach to adopting innovation (for example, digital advice technology).

“Good advice, “ in our view, will allow more innovation and provision of digital advice to consumers. We believe that the future of advice in Australia that utilises technology will be predominantly in the form of bionic (or hybrid advice) – the combination of automation and human advice – that is driven by the consumer. The consumer should decide if or when to involve a human adviser in the digital advice process, thus receiving the level of accessibility and affordability to the advice they want.

We also see “good advice” acting as a catalyst for more providers of advice and digital advice in the market (both domestic and international providers).

In our view, our regulatory environment would become more aligned with the UK’s. As stated previously, our experience with limited (‘restricted’) advice in the UK where financial advisers, building societies, wealth managers and banks readily use limited advice solutions, suggests that far more personal advice adoption will occur in Australia with the proposed definition change. The proposed change will create a more level playing field to advice providers and, in turn, make it easier for advisers and institutions to provide advice.

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

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

As stated previously in our response to Section 2 (and further defined in Section 15), to make such a proposed change effective, we believe ASIC’s role should also change to work directly with AFS licensed businesses to proactively help introduce advice-based innovations (non-digital and digital) into the market.

Please note, we do not see giving licensed AFS holders access to ASIC's sandbox as the solution to what we would like to happen (only non-licensed fintechs currently have access to the sandbox). We point this out as a current anomaly only. The breadth of changes and new capabilities we propose are contained in Section 15.

Given the timing of the Review and its relevance to the success of RIC – **a critical success factor is that retirement advice needs to be embedded into a retirement strategy for it to succeed** – the timing of the current RIC rollout may change or the two pieces of regulatory reform may be brought closer together to expedite both.

**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?

N/A

**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?

N/A

**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?**

We agree with the proposed changes as this will allow trustees more flexibility to determine what will be in the best interests for providing advice to members, particularly with impending RIC obligations. We also concur that trustees can be trusted to act in the best interests of their members and a member's interest in the fund and therefore they should decide how best to charge for advice to members.

The proposed change should allow members more access to affordable advice provided by a fund, particularly in the area of retirement.

**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?**

N/A

**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?**

Providing a statement of advice (SoA) is a costly process and, in our view, more designed to protect the adviser than benefit the consumer.

In our view, the complete removal of SoAs will:

- allow advisers to tailor advice rather than provide a standard format to consumers



- put the focus on advice content rather than compliance or ticking boxes
- allow advice to be given without paperwork unless requested
- materially reduce costs for the consumer.
- not negatively affect consumers as long as good client record keeping is implemented.

**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?**

Yes, it will be easier to put the FSG on a website as consumers generally don't want paper documents.

We don't believe there is a negative impact.

**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?**

N/A

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

We believe the proposed changes should be implemented in full, together with the change to ASIC's role (refer to sections 2 and 15).

Given the considerable regulatory change that will be involved from adopting all changes, we believe that there needs to be a minimum of eighteen months lead time for the industry to prepare. This period should include plenty of time for adequate consultation and guidance between industry and the Government.

## General

### 15. Do you have any other comments or feedback?

Overall, we believe the proposed changes are a significant step towards consumers getting the advice they need and to make advice more accessible and affordable.

However, as we have stated in other sections of our response (notably section 2, where we have outlined our experience in working with the UK and Singapore regulators) we believe there is one key missing element to ensuring these proposed changes can be successfully introduced.

We would like to see a policy change to the role of ASIC, from being primarily a policing role (with a limited “facilitative” approach) into having a more proactive stance to support and actively work with any stakeholder wanting to launch advice services, including digital. As mentioned previously, we have had direct experience of ASIC’s current ‘facilitative’ approach and our view is that this is insufficient to bring in innovation and new thinking to limited advice.

We fully realise that our proposed policy change to ASIC’s role will require sufficient government funding, careful drafting of legislation and, perhaps most important of all, a new capability and skillset shift in ASIC. This will not be a simple change to make. However, as outlined in our response to Section 2, our experience with regulators in the UK (and Singapore) has resulted in those jurisdictions accelerating the introduction of innovative and safe advice solutions (both digital and non-digital) that focus on benefitting consumers.

We are not looking for a proposed change to ASIC’s role that directly mimics how other countries have achieved more advice solutions and competition in those markets. No jurisdiction has solved all issues regarding the relationship of financial services firms with their local regulator. However, in our experience with the UK, Singapore and Australian regulators, we have found FCA and MAS to be more advanced in the way they interact with advice groups and financial institutions. As mentioned previously, it is also not a coincidence that there is far more innovation and safe digital advice solutions in markets such as the UK as a result of the more forward-thinking role of the regulator.

As a minimum and as an example of a specific ASIC policy change, we would like to see the following:

- Over and above ASIC's current enforcement role, we would like to see a policy change to broaden and expand their remit for services to include working collaboratively with firms through regulation on advice solutions that could be launched into the market. As mentioned previously, as a licensed AFS holder, abrdn does not have access to ASIC's sandbox as only non-licensed fintechs do. We point this out as a current anomaly only as we don't see licensed firms being given access to the sandbox as being sufficient in itself to cover the breadth of changes and new capabilities proposed
- Assign an ASIC case manager for any AFS licensed company who wants one.
- The Case Manager's role is to provide consultative guidance on the digital or non-digital solution with the advice provider and to work through likely consequences in achieving intended consumer outcome
- In such an incubation period, informal conversations can take place and consumer outcomes agreed
- The digital or non-digital advice solution can then be tested in the market with a sample of clients
- Once complete, a joint ASIC and advice provider review can take place to determine if the advice outcomes have been met. NB This can be an iterative process until objectives met

We don't believe that such a collaborative process will impede any consumer who may wish to formally lodge a complaint regarding negative outcomes to specific advice recommendations. Rather, we believe the number of consumer complaints will be reduced with the proposed changes and the redefinition of ASIC's role.