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

Email	AdviceReview@TREASURY.GOV.AU
Mail	Secretariat, Quality of Advice Review Financial System Division The Treasury Langton Crescent PARKES ACT 2600
Enquiries	Enquiries can be initially directed to AdviceReview@TREASURY.GOV.AU

Appendix 1: Consultation template

Name/Organisation:

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?
I don't agree that product issuers (eg. Super funds), should be able to provide personal advice to their customers without complying with the current provisions for personal advice. **I think for the most part, all advisers are now used to meeting the requirements, so this should continue. However, it would be great if Treasury could give some further guidance on streamlined ways we can provide more efficient and shorter form advice which is compliant. Eg. Greater guidance around video SOAs etc.**
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?

2a) I think the proposed changes will increase regulatory uncertainty because suddenly an adviser's obligations are much lower after spending so long ensuring we meet the provisions.

2b) Yes, it would facilitate the provision of more personal advice to consumers. But I doubt whether the advice would be 'good' advice.
2c) I don't think it should be the role of financial institutions (eg. Super funds) to help their clients with financial advice if they are not licenced authorised representatives. Just as I wouldn't expect an administrator in a hospital to give me advice. I would want to consult with the Specialist Doctor, that is appropriate qualified, has a code of ethics, follows best practices and continues to be educated at the highest possible standard. Ie. a Professional Adviser.

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?

They insufficient safeguards. How could an employee of a financial institution possibly know if they are providing misleading conduct when they are not trained as professionals in financial advice?

3a) There would be no additional safeguards that you could implement that would be sufficient to prevent a consumer from receiving advice which could potentially be misleading or deceptive. Simply because the employees of the financial institutions are not professionals in the provision of financial 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?

4a)
This decision makes a mockery of all the hard work and legislation done by the Government's reviews into improving the quality of financial advice over the past 15 years. I am astounded by this announcement and the lack of consultation with advisers. By allowing financial institutions to provide 'good advice' seems at complete odds with what previous reviews have called for. An impartial voice acting and advising the client in their best interests. Such a pivot to allowing financial institutions to provide advice will only be self-serving and will again result in more reforms when consumers & investors don't receive the quality advice that is in their best interests. In short, this will only reduce the quality of advice. Consultation with advisers needs to be done so that the Government gets this right.

4b) Yes, it would appear that the changes would reduce the time and costs to produce advice. However, it causes consumers & investors to receive poor quality advice. The announced changes don't help advisers or consumers. Please consult with industry so that we can formulate a better way.

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)?

5 a) Yes
5 b) Yes potentially, but this could still be done without having to replace best interest obligations! You simply need to explain to advisers how you'd like them to deliver advice via digital solutions.

6. What else (if anything) is required to better facilitate the provision of: **a) limited advice?** **b) digital advice?**
6 a) Most definitely consumer education. The Government needs to educate consumers that limited advice should be a last resort or only used in certain circumstances. If you went to your GP about something that was troubling you, yes, they would assist you with that problem, but they would also ask you lots of questions about your health in general as part of their duty of care for you. These might be things that are relevant for your age, weight, family history, or medical conditions. The same ideology should apply when consumers see an Adviser. They should expect to receive personal advice, rather than just limited advice because an important 'condition' could be overlooked if you make it so easy for the consumer and the financial institution / adviser to just do limited advice. I truly think limited advice doesn't support the journey that financial advice relationship is trying to achieve in delivering good long term outcomes for consumers & investors. 6b) Yes, Treasury needs to be more explicit about how they want advisers to deliver digital advice eg. Video SOAs etc. They will constantly need to be updating this because the fintech solutions are changing rapidly. Importantly moving to digital might also provide opportunities to deliver advice in a better way to under represented voices eg. Indigenous, disabled or minority groups (English as a second language), because a video will use images and other communication means, not just written words.
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?**
7a) They are completely inconsistent with the Professional standards in my view. How can an employee of a financial institution (eg. Super fund) follow them? They are not a professional. 7b) I don't see how the Professional standards can be met under the proposed changes. So this is irrelevant.

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?

8 a) If you remove the professional standards, you are essentially saying that the providers of personal advice don't need to follow a code of ethics or be professionals. I think this is the wrong standard to be setting. I think that consumers & investors just want affordable advice. They do want a professional to be providing this advice. I think you have confused the issues here. In short, there is no way you can add additional requirements that will be satisfactory to ensure that professional standards of advice are met – unless the provider of the personal advice is indeed a professional. I hope this is clear. And indeed, the entire reason the Professional standards were set up in the first place.

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?

9a) Yes
9b) They will receive advice. However, the more important question is whether the advice is 'good advice' and in their 'best interests'. I struggle to understand how a super fund employee could provide the same level of advice as a professional advice, that follows a code of ethics, Professional Standards, ongoing education requirements, has years of experience and adheres to the law.

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?

10a) We are already doing this is a cost effective manner. I think it should continue.
10b) I believe that consumers appreciate and are used to this disclosure and that it should continue.

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?

11a) Again, advice needs to be provided in a certain, regulated manner. To protect the consumer & investor. Removing this requirement is illogical.
11b) Yes. Consumers & investors need to receive advice. It will put us back into the 1980s.

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?**
12 a) I don't know how this is a 'burden'. Again Treasury aren't focused on the matters that we should actually be receiving guidance on. Rather they should have stated how this information could be delivered in a different digital / means of communication. 12 b) Yes. They should be given this information. The main focus of Treasury should be investigating methods of delivering the information that is more user friendly.
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?**
I'm not sure.

Transition and enforcement

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

I would suggest that you focus on the digital advice guidance firstly and do NOT implement any of the proposed reforms. They are pointless and contradict all of the work that advisers and the industry in general have done in the last 10 years to become a profession.

General

15. Do you have any other comments or feedback?

We would welcome the opportunity to work with Treasury to draft a better suggestion that the one that has been proposed.