



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

Via email: AdviceReview@TREASURY.GOV.AU

Dear Secretariat,

***Submission – Quality of Advice Review Proposals Paper***

Thank you for the opportunity to provide feedback on the Quality of Advice Review Proposals Paper.

FinTech Australia is the peak industry body for financial technology businesses and represents over 400 fintech Startups, Hubs, Accelerators and Venture Capital Funds across the nation. Our membership includes around 50 businesses involved in providing WealthTech services, including the provision of limited and digital advice.

We agree with the general approach taken in the Proposals Paper that regulation should focus more on the substance of the advice provided rather than on the form of the advice practices (i.e. prescribed disclosure and documentation). Our members note the number and complexity of current requirements create friction points throughout the advice experience. For digital advice, this leads to considerable drop off in usage and limits uptake by financial institutions.

The regulatory simplification and clarification described in the Proposals Paper will broadly assist to facilitate greater uptake of more affordable and accessible digital advice. Encouraging the development and usage of digital self-serve and adviser support technologies at scale by fintechs is key to improving the availability of personal advice for a broader range of consumers.

FinTech Australia members affected by the proposals can be broadly categorised as:

- B2B2C digital advice solution providers which support streamlining the regulatory framework to encourage partnerships and outsourcing with financial institutions;
- B2C digital advice providers which already comply with and are supportive of maintaining the consumer protections of the current regulatory framework; and
- B2C Wealthtechs (e.g. investing platforms) which do not currently provide advice but will look to integrate digital advice functions on their platforms if there is greater regulatory certainty and lower barriers to entry.



Although our members differ in their views on reform, they agree technology provides scale and efficiency that allows the provision of advice to many more clients at the time they need it, in the way they prefer it, and at a lower cost. Digital advice models should be supported and encouraged because they achieve the scale and efficiency required to bring accessible and affordable advice to more consumers, particularly younger and lower net worth individuals.

FinTech Australia expects that increased use of new technologies in artificial intelligence and machine learning, together with widespread adoption of the Consumer Data Right will increase the nature and scope of the types of digital advice available and facilitate the provision of more comprehensive advice.

Although technology has made advice more accessible and affordable in recent years, some members report that the current cost of advice is increased by the time and complexity involved in compliance with the current regulatory framework. These requirements involve repetitive and time-consuming documentation merely to demonstrate compliance, rarely of use to the adviser or the client, and the production of lengthy and overly complex disclosure documents which are rarely read by clients.

For financial advice to be truly accessible, these costs must be brought down to the level which most consumers appear willing to pay. In order to achieve this cost reduction, reforms must drive consumer trust and confidence in the adoption of new models such as self-serve or adviser-led digital advice which can cater to the mass market, limited advice needs of most consumers.

Demand for fintech digital advice services has increased over recent years, however, some members also report that regulatory barriers are obstructing a broader take up of digital advice services, particularly through vertically integrated channels.

Many fintechs seek to partner with financial institutions and non-financial businesses wanting to provide digital financial advice or dealing services for their clients. Digital self-service models are preferred because they are scalable, cost-effective and have compliance built in, without requiring a large investment in human advisers and the associated infrastructure. These businesses see digital solutions provided by fintechs as both a client retention and engagement strategy. They can also be a way of addressing the unmet advice needs of their lower net worth clients who cannot afford the costs of a traditional financial adviser.

FinTech Australia members have experienced an increase in interest in these arrangements from financial institutions, superannuation funds and financial advice businesses for access to digital advice solutions. However, members also report difficulty in establishing partnering or outsourcing arrangements with these businesses. The key obstacle appears to be the risk exposure and regulatory uncertainty arising from broad advice offerings. These concerns are adversely impacting the pace at which fintechs can scale innovative B2B digital advice offerings.



Early and effective guidance will be essential to the successful implementation of any reforms to improve the quality of advice. The current regulatory framework is underpinned by a myriad of detailed regulatory guidance and explanatory materials which have been developed and refined over time. If the proposed reforms are implemented, FinTech Australia encourages Treasury to work closely with ASIC to provide as much guidance as possible, as early as possible. This will provide certainty and allow industry to understand and provide more useful feedback on the practicalities of any new principles-based obligations. Practical examples, like those featured in this Proposals Paper, are particularly useful – whether in regulatory guides or explanatory materials.

Please see below answers to specific questions from the Proposals Paper:

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?

FinTech Australia supports the intention behind simplifying and streamlining the existing obligations. The number and complexity of these requirements creates friction points throughout both digital and paper-based advice experiences.

Members note that a principles-based ‘good advice’ duty will in practice rely on detailed ASIC guidance and ASIC’s regulatory approach. During implementation, advice providers will seek certainty and clear, detailed examples of what ‘good’ is. The existing best interest obligations, while complex, involve clear safe harbour steps and extensive, prescriptive guidance which has been developed over time.

However, some members view these proposals as potentially weakening consumer trust and confidence in the advice industry. These members highlighted the risk of the advice market becoming dominated by product-led distribution strategies by large, vertically integrated financial institutions. High quality, fiduciary financial advice provided by B2C fintechs under the current regulatory regime could become less competitive as a result.

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)?

Generally, yes – simplification will make it easier, and the proposal is more channel neutral. The current framework has resulted in an advice industry which is hyper-focused on reducing risk and reluctant to adopt technological solutions.



However, some members note they and other fintechs already provide low-cost digital advice that meet existing best interest obligations. The use of technology by these fintechs has been an efficient way to comply with otherwise onerous regulation. In particular, recordkeeping and generation of statements is automated and compliant. These members also caution that care must be taken to ensure that personal circumstances and whether better alternatives exist will be adequately considered under any new requirements.

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

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

In our members' experience, most digital financial product advice is currently provided topic by topic and is necessarily limited or 'single issue' advice. Most digital advice businesses service only part of the financial advice spectrum (e.g. only life insurance, only investment). The quality of advice in Australia could be improved by enabling end-to-end or comprehensive digital financial product advice and dealing services.

Under the current regulatory framework, digital advice providers note they face uncertainty about:

- The circumstances and extent to which digital advice technologies must advise on (or alert the client to) topics other than the advice being offered by the digital advice engine;
- The appropriate way to alert clients about these issues, particularly where they are outside the scope of the particular services provided by the digital advice engine.

Several other regulatory gaps affect the provision of digital advice, including:

- limitations on digital signatures;
- requirements to obtain individual consents or signatures for jointly received services (i.e. this should only be required before a recommendation is implemented); and
- clickwrap requirements to ensure enforceability of contract terms.

Beyond the Corporations Act and the FASEA Code, other regulations apply to digital advice which create complex and overlapping disclosure and consent requirements. These include:

- Australian Privacy Principles established under the Privacy Act – notification and consent requirements;
- Anti Money Laundering and Counter Terrorism Financing Act 2006 – KYC information collection and consent requirements;
- ASIC RG 221: Facilitating electronic financial services disclosures Consent to receive documents electronically; and



- Chapter 7 of the Corporations Act 2001 – multiple disclosure requirement, i.e. FSGs, engagement letters, SoA/RoAs, FDS/Renewal Notices and PDSs) many of which contain the same material.
- The consent requirements are even more complex and inconsistent if the business also provides credit and must also comply with the National Consumer Credit Protection Act and Privacy (Credit Reporting) Code.

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?

We support the currently rigid disclosure obligations becoming more flexible to enable digital advice providers to choose to disclose the required information when and where appropriate to the client experience. Members generally agreed that the minimum standard would be that all required information is provided in a form that is a logical and suitably prominent place.

As the paper acknowledges, with technology, advice is becoming a more dynamic process and there are better ways for disclosures to be provided than in lengthy, static documents which are rarely read by consumers.

SoAs typically provide information in a way and using language that is not meaningful to consumers, repeat information and include significant amounts of extraneous information and disclaimers. Despite good intentions, this can lead to poor consumer outcomes with long and complex SoAs and RoAs, as advisers and licensees focus on form over substance. If the requirement is not removed, ASIC should work with industry to streamline and improve content and how it is conveyed.

The current requirements also apply clumsily to many self-service advice technologies where consumers vary the information provided to consider alternative scenarios. For example, users might iterate many times before arriving at their preferred scenario, which might involve changing their personal circumstance information, risk preferences, goals, or spending. If an SoA is required to be provided each time, the consumer will end up with multiple SoAs and a confusing outcome compared to the equivalent conversation with a human adviser about different scenarios.

However, some members also acknowledged that the production of an SoA is a good recordkeeping tool and provides consumers with greater certainty. If the requirement is removed, detailed guidance will need to outline how advisers can keep good records of their conversations, processes and decision-making that was previously captured in a consolidated SoA.

Broadly speaking, fintechs providing digital advice can already automate and produce SoAs more quickly and at a lower cost than other advice providers. Although these



	<p>documents are seldom used, the costs involved in generating them are not necessarily significant.</p>
<p>12. In your view, will the proposed change for giving a financial services guide:</p> <ul style="list-style-type: none"> <li>a) reduce regulatory burden for advisers and licensees, and if so, to what extent?</li> <li>b) negatively impact consumers, and if so, to what extent?</li> </ul>	<p>As noted in the answer to Q11, more flexible approaches to disclosure will encourage innovation and use of technology to improve how this information is conveyed.</p> <p>However, members also note there is a low material effort required to produce a FSG under the current requirements and there is unlikely to be a significant change in regulatory burden for advisers and licensees. At the very least, the FSG should be made mandatory on the provider’s website. Members also noted that is important information remains about how fees are charged, what conflicts of interest may exist and remuneration.</p>
<p>13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:</p> <ul style="list-style-type: none"> <li>a) the design and development of financial products?</li> <li>b) target market determinations?</li> </ul>	<p>Members report that consumers prefer to read short, clear and concise documents like fact fund sheets rather than target market determinations. There is a role for consumer friendly and useful disclosure materials that leverage the DDO requirements.</p>
<p>15. Do you have any other comments or feedback?</p>	<p>Members gave strong feedback about the importance of considering potential conflicts of interests for product issuers and advice providers in further formulating the ‘good advice’ obligation.</p> <p>As noted earlier in our submission, guidance will be important during the transition to any new obligations – particularly broad principles-based obligations like ‘good advice’. Guidance on financial advice is currently provided across many different regulatory guides and reports (e.g. RG 175, RG 244, RG 148, REP 562, REP 591, REP 639). These were developed over time for specific purposes in specific contexts. Reform will provide the opportunity to synthesise and streamline this guidance, as well as the opportunity to revisit guidance to ensure it is relevant to innovative and emerging advice models.</p>



Worked examples are the best way of bringing context and colour to explanatory materials and regulatory guidance that can be difficult to understand and contextualise. For example, members have reported that the practical examples in the appendix to RG 244 are helpful.

We also note that greater guidance around good recordkeeping particularly important if disclosure obligations, like SoAs are streamlined or repealed. A good example of guidance on a principles-based approach to recordkeeping is ASIC's guidance in RG 273 on the best interests duty for mortgage brokers.