Australian Government
The Treasury

TSY/AU

Quality of Advice Review

Template for response

August 2022

Consultation process

Request for feedback and comments

Interested parties are invited to provide feedback on the proposals for reform listed in the Quality of Advice Review Proposals Paper using the template in Appendix 1. Consultation will close on Friday 23 September 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All of the information (including the author's name and address) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

View our submission guidelines for further information.

Closing date for submissions: 23 September 2022

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Appendix 1: Consultation template

Name/Organisation: Ray Ong of Access FP Pty Ltd T/A Fortitude Wealth Partners

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 agree for advisers, but not for product issuers. Advisers should be able to provide personal advice without having to comply with all the current obligations because advisers meet education, training and experience requirements as a relevant provider. If product issuers have representatives providing financial advice, the standards should be the same regardless of who you work for.

What should be regulated?

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

a) reduce regulatory uncertainty?

b) facilitate the provision of more personal advice to consumers?

c) improve the ability of financial institutions to help their clients?

a) Yes, it is very likely to reduce regulatory uncertainty.

b) Yes, it will facilitate the provision of more personal advice to consumers. Costs will come down dramatically by replacing best interest with good advice and removing the need for SOAs.

c) Yes, it is very likely to improve the ability of financial institutions to help their clients as it will be much easier to provide personal advice.

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?**

No, general consumer protections are an insufficient safeguard for consumers. In my view, free general advice would have a substantial consumer reach (i.e. finfluencers, books, trading courses, property seminars full of conflicts etc.) and potential for damage. The focus of the changes should be to make financial advice more affordable and accessible, not free and unregulated.

While there is evidence that consumers don't understand what general advice is, I suspect that is the case for one-to-one consultations. In a public or group context, the general advice warning is relevant, useful and easily understood by consumers. It draws attention to the fact that the "general advice" may be inappropriate to their circumstances and most importantly, alerts consumers to the potential need for tailored personal advice.

Under the proposed changes it will be much harder to provide "general advice" in a one-to-one setting. It also wouldn't make sense for an adviser to provide "general advice" when it's easier and safer to provide personal advice. Advisers won't need to or want to provide a confusing general advice warning. We'd simply provide personal advice.

a) I feel that the regulation of general advice does provide benefits to consumers. The 108 current AFS licensees with an authorisation to give general advice only are doing so in a regulated and accountable environment. If general advice wasn't regulated, there may be 1000 organisations providing free advice to sell bad products or spread self-interested poor 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?**
a) It will **significantly** reduce the quality of financial advice provided to consumers. The good advice obligation reduces regulatory complexity, increases access to more affordable advice, however it does not improve the quality of advice. How can the quality improve when the standards are lower? b) It will **significantly** reduce the time and cost required to produce advice by not having to adhere to the best interest obligations.
5. Does the replacement of the best interest obligations with the obligation to provide 'good advice' make it easier for advisers and institutions to: **a) provide limited advice to consumers?** **b) provide advice to consumers using technological solutions (e.g. digital advice)?**
a) Yes, it will be much easier. b) Yes, as the bar is lower.

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

a) **limited advice?**

b) **digital advice?**

Removing the SOA requirement is a game-changer, along with the removal of the best interest obligations. It will make it easier to provide a) and b). I don't agree with the complete removal of the best interest obligations.

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?**

a) It will create an uneven and dangerous playing field and substantially increase the risk of consumer harm. Consumers will naturally gravitate towards "free advice" where the standards and requirements are lower, and conflicts of interests are pervasive.

b) Low level advice will likely be free of charge to consumers; however it will be charged to them indirectly. I'm not convinced this is a wise strategy for Australia. The affordability and accessibility will increase.

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?**

I don't have any confidence that product issuers who are also licensees can be trusted to give good advice. The advice is deeply conflicted and if it is provided for free (or a low cost) it is a simply a mechanism to distribute products which is more lucrative than advice fees. Why else would a provider be motived to provide personal advice?

It is easier to provide "good advice", therefore easier for licensees to ensure their representatives are doing this. My view is that since it's easier for licensees, the quality is likely to be lower.

a) Providers of personal advice should be required to be relevant providers. If not, they should at least meet a minimum standard of education and experience.

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?**

a) Yes
b) Yes

I strongly recommend proceeding with extreme caution if the solution of the undersupply of financial advice in Australia are superannuation fund advisers. The proposed changes will substantially reduce the cost of personal advice. The proposed changes are transformative. They are not insignificant. The increase in adviser job satisfaction will be enormous. Financial planners and advisory firms will be reinvigorated, and the next generation of graduates will be drawn to the profession. The profession needs to be given time to absorb and adapt to the new landscape and rebuild and restructure for the modern consumer. Please allow the profession to fill the gap, not superannuation funds or product issuers who have a clear vested interest in product fees.

Disclosure documents

10. Do the streamlined disclosure requirements for ongoing fee arrangements:

a) reduce regulatory burden and the cost of providing advice, and if so, to what extent?

b) negatively impact consumers, and if so, how and to what extent?

a) It does reduce the regulatory burden and the cost of providing advice. It's hard to quantify but it's not insignificant. I estimate it takes about 5% of time within a year.
b) I don't have empirical research, but I suspect just like the general advice warning and SOA comprehension, the fee disclosure arrangements have been ineffective. I don't believe it will negatively impact consumers and the requirements will be clearer, more concise and more effective.

11. Will removing the requirement to give clients a statement of advice:

a) reduce the cost of providing advice, and if so, to what extent?

b) negatively impact consumers, and if so, to what extent?

a) Yes, in my view it reduces the cost by at least 60-70%.
b) No, on the condition consumers are provided with an accurate record of advice if requested and some standards are maintained (see question 15.).

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?

a) Yes, it will save approximately 5 hours in a year.
b) No 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?**

a) No impact? I can't see how changes to reporting will influence design and development by product providers.
b) No impact.

Transition and enforcement

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

Allowing providers to opt-in is a wise way to accelerate change.

I would say the profession needs 12 to 18 months to implement the reforms.

General

15. Do you have any other comments or feedback?

Proposal 1: Regulation of personal advice – Support.
Proposal 2: General advice – Not in full support. Would prefer that GA is regulated and GA warnings for groups/marketing is retained.
Proposal 3: Obligation to provide good advice – In support, only if personal advice is kept to relevant providers. Not in support if personal advice can be provided by non-relevant providers who are not subject to professional standards. An alternative to good advice is retain the core best interest obligations s961B(1) but remove s961B(2). My original proposal was to retain the best interest obligations but remove s961B(2)(e) and (g).
Proposal 4: Requirement to be relevant provider – Do not support. Bad advice is bad advice regardless of whether a fee is charged/received. Not charging/receiving a fee should not omit the adviser from professional standards. Free advice that's easier to provide by less qualified advisers, who are not subject to professional standards, has substantial potential for consumer harm. Proposals 1+3+9 will dramatically reduce the cost of advice and naturally increase access. We should not be striving for "free advice" provided by advisers with lower standards.
Proposal 5: Personal advice to superannuation fund members – In support, only if personal advice is kept to relevant providers.
Proposal 6: Collective charging of fees – Do not support. Collective charging of fees creates a "fee for no advice" structure which is unfair on members that do not seek advice. The purpose of the reforms should be to increase access and affordability, not make it free service provided by superannuation funds. If a member of the public requires simple taxation advice, they can contact the ATO or pay a small fee to a qualified tax accountant. The same mindset should apply to financial advice which is more complex than simple tax advice. Why should a consumer receive the financial advice for free, from an adviser that does not adhere to professional standards, from a product provider who has a vested interest in retaining funds under management?
Proposal 7: Fees for advice provided to members about their superannuation – Support.
Proposal 8: Ongoing fee arrangements and consent requirements – Support.
Proposal 9: Statement of Advice – Support, but remove the requirement for a written record of advice. Allow the adviser flexibility of the form of the record of advice (i.e. video, audio, text, chat transcript, e-mail etc.)
Proposal 10: Financial Services Guide – Support.
Proposal 11: Design and distribution obligations reporting requirements – Support.
Proposal 12: Proposal for transition period – Support.

The Quality of Advice in Australia

Problem: Complex laws and undersupply of advisers in Australia

Proposed solutions: Simplify laws and allow product providers and super funds to subsidise financial advice (free or very low cost) and fill the undersupply of advisers.

Potential harm:

- Conflicted and biased advice with less disclosures.
- Unfair charges to members that don't receive advice.
- Lower quality advice as professional standards don't apply.
- Repeat of systemic failures.

Suggest solutions:

- Simplify laws.
- Allow the financial planning profession time to fill the undersupply.
- Allow product providers and super funds to provide advice but adhere to professional standards.
- Allow product providers and super funds to provide advice and charge the member.

If product providers and super funds are allowed to provide advice easily and for "free", consumers are unlikely to seek the services of an experienced and professional financial adviser (i.e. relevant provider). Most will be satisfied with the free/low cost basic advice and would only turn to a professional financial adviser in more complex scenarios. Logically, the relevant provider will charge more due to the complexity. The charge will be lower under the proposed reforms, however, there will naturally be a reluctance to pay higher fees as the advice already received was either free or low cost. We already know consumers are reluctant to pay more than $500 for advice, so if product providers and super funds subsidise the true cost of advice, the fee barrier will be even worse.

It appears that the proposed reforms will reduce the cost of advice and increase access to advice, ***but it won't be existing financial planners providing lower cost advice to the masses***. It will be employees of product providers and the biggest superannuation funds in Australia. Advisers will be focused on complex clients charging higher fees and helping a smaller proportion of the population. I'm not convinced that this is the future we want for financial advice in Australia.

My final comment is that licensees are the gatekeepers for the bulk of the adviser population in Australia. None of the proposals address the licensing structure in Australia which may be intentional. That said, the effectiveness of the reforms and the positive flow on effect to consumers rests with licensees. It's a major structural problem within the profession that should be looked at.