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

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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?

The financial advice industry has successfully lifted professional, ethical and education standards and is on the verge of becoming a recognised profession.

A key benefit of being a professional is greater self-regulation.

There are concerns that some of the changes proposed in the Quality of Advice Consultation Paper will see the mistakes of the past repeated, however, advisers and product issuers must still meet strict obligations including general consumer protections and those contained in the Corporations Act.

The current regulatory regime is extremely complex and ambiguous. This is driving up the cost of providing advice, and curbing the ability of licensees and advisers to help more people.

Removing legislative roadblocks will go a long way towards making good advice more affordable and accessible.

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?

Treasury's proposed changes to the definition of personal advice expands the scope of personal advice but provides greater clarity.

The requirement to provide *good advice* as opposed to meeting a best interest duty (BID) makes practical sense.

It supports a more practical and pragmatic approach and, importantly, focuses on the *advice* not the process of giving advice.

Advisers still have a legal and ethical obligation to act in their client's best interest, however, removing BID and associated safe harbour steps will stop licensees from going over the top to prove BID, which has been one key driver of higher costs.

However, cost is only one obstacle stopping people from seeking advice. Complexity is another. The proposal to scrap Statements of Advice (SoAs) for every advice situation, provides an opportunity for the industry to produce advice documents that are still informative but also engaging, simpler and easier to read.

Proposed changes to the definition of personal advice will make it easier for product issuers and financial institutions, which hold personal information about customers and members, to provide personal advice.

This should be seen as a positive step. Consumers need greater access to good advice and advisers should be able to provide advice in a simpler format.

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?

Scientiam supports the proposal to remove general advice from the financial services regime.

The term general advice is the source of enormous confusion.

This proposal will encourage new advice models, including digital advice ,which could see the widespread dissemination of general information and educational content.

Advisers will also be able to assist more people via a simple advice model, based on advice rather than the current model of documentation and product disclosure.

We believe that consumer protection legislation is an important safeguard. It aims to protect consumers from fraudulent and unethical behaviour, poor products and services, and keep sellers and service providers honest.

General advice providers should not be able to accept product commissions , hidden fees, or other conflicted remuneration.

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?

Scientiam supports the replacement of best interest obligations with the obligation to provide good advice.

As the terminology suggests, good advice is focused on the outcome whereas BID is focused on the process. As a result, advice has increasingly become process-driven rather than outcome-driven.

A key focus has become, is this advice compliant? It is assumed that compliant advice is good advice but BID and the associated safe harbour steps has resulted in onerous administration, documentation and paperwork for no material consumer benefit.

There is no evidence that BID has improved the quality of advice. We believe that the quality of advice has improved in recent years, due largely to higher professional, ethical and educations standards, and better systems and processes, not more legislation.

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)?

The obligation to provide good advice should make it easier to provide limited advice, due to the removal of BID and the associated compliance burden.

However, all personal advice providers, including individuals, product issuers and digital platforms, should adhere to professional, ethical and education standards that are fit for purpose.

While the professional, ethical and education standards for relevant providers will be more onerous (most likely mirroring current standards), non-relevant personal advice providers should also be subject to standards.

When it comes to *good advice*, a client's needs should dictate the process. For example, a digital solution is unlikely to suit a person with complex needs. A digital solution is more likely to suit someone with relatively simple needs.

As a client's individual needs and circumstances change, the type of advice and level of service they require may also change.

The financial services framework should allow people to easily move in and out of limited and comprehensive advice.

Currently, once a client is in the world of personal advice, which costs a minimum of around $3,000 per annum, they can't opt for a simpler low cost option and stay with the same adviser.

Similarly, people are putting off seeking advice until they have complex needs or have accumulated a meaningful amount of money. This is because the advice process is timely and costly.

In principle, Scientiam supports changes that aim to make it easier for advisers and product issuers to provide limited advice.

The more engaged a person is with their money and the earlier they seek advice, the greater the probability of them achieving their short, medium and long-term goals.

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

a) limited advice?

b) digital advice?

There are concerns that removing BID and making it easier for product issuers to provide limited and digital advice may lead to product flogging again, however, consumer protections could be strengthened by requiring product issuers and institutions to offer advice under their institutional brand.

Historically, problems arose when institutions operated third party advice businesses under unrelated brands. For example, brands like RI Advice, Financial Wisdom and Securitor were all previously banked-owned.

This affiliation was not obvious to clients.

Personal advice providers, including product issuers and institutions, should articulate the limitations of their advice and disclose any conflicts upfront.

For example, the personal advice you are receiving is limited to the (institutional brand) product you are invested in.

There must be truth in labelling so consumers can easily distinguish a professional financial adviser from a customer service representative tied to an institution.

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?

Relevant providers must still meet the professional, ethical and education standards.

The introduction of a relevant provider could potentially create two tiers of adviser. Advice from a relevant provider will be higher quality and more expensive, given representatives must meet the prescribed education and training standards, comply with the Code of Ethics and be registered with ASIC.

We agree with Treasury's observation that this could potentially make advice more affordable and accessible.

That said, the existence of two categories of adviser could be confusing for consumers. Disclosure and transparency will be critical.

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?

Prior to the current standard, the education and training of advisers was contingent upon licensee obligation 912A in the Corporations Act 2001.

The minimum education standards for financial advisers was RG 146, which the *2014 Parliamentary Joint Committee inquiry into proposals to lift the professional, ethical and education standards in the financial services industry* (PJC Inquiry) found did not deliver appropriate standards.

Ultimately, that lead to the current standard, which is based on existing advisers completing an approved eight-unit graduate diploma by 1 January 2026 and new entrants holding an approved bachelor's degree (or higher) and undertaking a professional year, in addition to all practitioners passing the Financial Adviser Exam and maintaining continuous professional development (**CPD**) study requirements.

We believe that education standards must be fit for purpose. A customer service representative providing limited product advice in a call centre does not need the same level of education and training as a financial adviser providing comprehensive superannuation, retirement, tax and estate planning advice.

For relevant providers, professional standards are essential. We have an obligation to consumers and the community to ensure high professional, ethical and education standards are upheld.

FASEA has not been perfect but it took a consistent approach.

In financial planning, there are a number of industry bodies but they don't have the same credibility as other professional associations, for example, the CPA and CA in accounting.

Notwithstanding, the proposed merger of the FPA and the AFA, the industry needs a professional body akin to the Financial Planning Standards Board, which owns the Certified Financial Planner (CFP) designation and establishes, upholds and promotes professional standards in financial planning globally.

The FPSB manages, develops and operates certification and education.

With an exodus of older advisers from the industry, more must be done to attract new entrants. The education pathway is too narrow, with only a small number of universities and tertiary education providers offering an approved degree or qualification (and approved post-graduate degree or equivalent qualification).

These approved degrees and qualifications are a pre-requisite for the professional year. There must be greater assurances given to students and potential candidates that they will be able to complete the requisite training and work experience.

If product issuers and institutions can provide adequate education, training and work experience, this will help increase the number of advisers and improve advice accessibility.

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?

Nothing further to add.

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?**
Clients should be informed in writing about the fees and services they should expect when engaged as a terms of engagement explaining the services and fees. We recognise that the current FDS and opt in obligations are onerous, complex, add to costs and can be condensed into a more relevant document.
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?**
Scientiam supports the proposal to remove the requirement to issue clients with a statement of advice (SOA). This would significantly reduce the cost of providing advice, and make advice more accessible. SOAs provide a lot of relevant and educational information. In their current form, they are too long and complex and have lost context.

Client should still receive advice in writing but a simple email or letter of advice may suffice, depending on the nature and complexity of advice. There should be no carve out for wholesale clients, ie all clients should receive advice and fee disclosures.

An advice document of some description is a useful educational tool for clients but the contents of that advice document should not be too prescriptive.

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?

Financial Services Guides (FSGs) contain a lot of important and relevant information.

The information contained in an FSG should be easily accessible to clients .The information could sit on a company website or client portal in shorter, more digestible sections.

Information could be emailed to clients.

Handing a client a dense 40-page FSG does not strengthen consumer protections. It does not facilitate or enhance the provision of good advice.

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?

Nothing further to add.

Transition and enforcement

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

The changes proposed in the Quality of Advice Consultation Paper can't be reviewed in isolation. They must be considered in light of proposed changes to the Financial Adviser Education Standards, namely the proposal to introduce an experienced adviser pathway.

Scientiam does not support the proposal to exempt experienced advisers, under Treasury's proposed definition, from any further higher education.

We believe that in order for financial advice to become a bona fide profession and enjoy the benefits of being a profession, including a more principles-based approach to regulation, all practitioners must possess clearly-defined minimum education, training and competency standards.

As recognised as a profession, all the changes proposed in the Quality of Advice Consultation Paper make sense and should be quickly implemented.

With a growing number of Australians rapidly approaching retirement, it is imperative that they are able to access good, affordable personal advice from a variety of trusted sources.

General

15. Do you have any other comments or feedback?

The proposals contained in the Quality of Advice Consultation Paper are positive and will deliver the stepped change necessary to reduce the compliance burden on advisers, which is driving up the cost and complexity of advice.

The baby boomers (1946-1964) represent 21.5% of the population and they are all either in or about to enter retirement.

Given Australia's forced retirement savings system, it is imperative that all Australians including the baby boomers have access to affordable quality financial advice on matters including superannuation, investments, insurances and retirement planning.

Scientiam supports the proposals contained in Quality of Advice Consultation Paper.

As an emerging advice profession, we must cut ties with the past and embrace positive change.

The current financial services regime is extremely complex and this has stifled innovation. A shift to more principles-based regulation would encourage new forms of advice, including digital advice.

One of the main obstacles to the efficient delivery of digital advice has been SOAs.

Advisers want to inform and educate their clients but current advice processes are too complex and expensive. Instead of helping advisers to deliver good advice, as they were intended to, they are getting in the way of good advice.

Removing this one roadblock alone would go a long towards reducing the administrative burden on advisers and improving advice affordability and accessibility.

It will help advisers to help more people, via the ability to offer or suggest a digital solution, in addition to face to face advice.

Scientiam was developed to enable advisory firms to offer educational content and basic investment solutions to clients who didn't need or couldn't afford comprehensive full-service advice.

Our mission is that we want to help more Australians receive quality financial advice in a format that suits their requirements.

Yours sincerely,

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