23 September 2022

Ms Michelle Levy

This submission is from a group of truly independent financial advisers. We are not linked in any way to the products we recommend, do not accept commissions, and do not charge asset based fees. Importantly, we are not representing the views of any AFSL or representative body. These are our personal views as advisers and business owners. We believe it is important that you hear from advisers like us to balance out the views of product providers and superannuation funds, which have a vested interest in supporting many of the recommendations as they currently stand.

The outcomes of the QAR will have far reaching consequences for both advisers and consumers, and to adopt many of the recommendations in the current proposal will not only set the industry back to pre FOFA levels of conflicts of interest, but also place consumers at significantly more risk than is necessary.

The proposals in the QAR consultation paper appear to be centred around the misbelief that the main role of financial advisers is to recommend a particular investment or insurance product. While this may be the case for advisers that work for product providers or superannuation funds, for many it could not be further from the truth. To highlight why we believe this, the word product appears 140 times in the QAR consultation paper and yet the word strategy only appears twice (and neither of these refer to the strategic financial advice).

The regulations imposed on financial advisers in the past 15 years support this notion that law makers have the belief that recommending products is all advisers do and as such they all have a conflict of interest.

- The purpose of the Financial Services Guide is to make it easier for consumers to identify the conflicts of interest the adviser has.
- The purpose of the Statement of Advice is to demonstrate that the adviser looked at other products to hide the fact there is a conflict of advice.
- The purpose of the Fee Disclosure Statement is to show the client how much they were charged and what changes to products were made – as if that is all we do.
- The purpose of the Code of Ethics is to imposes ethical duties on financial advisers because regardless of what was being imposed on them, the conflict of interest for many remained.

We cannot speak for the whole industry, but from our perspective as independent financial advisers, it is nearly always the strategic advice and emotional support we provide that is of most importance and has the biggest impact on their future financial well-being.

To highlight the difference between the way we work and the way super funds and investments funds view things, here are some examples:

- A super fund may provide advice on which investment option to choose which can be helpful to the client. We start with strategy and provide advice on whether they should be investing through super or not, then we look at the different super funds and investment options. Essentially we provide two key pieces of work that super funds wouldn't.

- A super fund may encourage its members to maximise their concessional contributions, which may be helpful to the client. We will look at whether they are likely to have any future capital gains tax liabilities and if so have them defer their super contributions to get the biggest benefit from it.
- An fund manager may provide a recommendation on which investment to put their money into which helps guide the client. We will look at whether they should be investing through a trust fund or in their spouses name, then (or through super).

The range of strategies we help client implement is exhaustive. It often includes:

- Ensuring they have the right investment structures in place to minimise tax and increase long-term wealth creation
- Helping them implement strategies where they convert non-tax deductible debt to tax deductible-debt, to ensure they do it legally and in the most streamlined way possible
- Ensuring they use gearing effectively
- Helping them take the appropriate risks at the right time
- In addition, we provide significant emotional support at what are often difficult times.

We believe that the questions being asked through the consultation paper are not the right ones. For example, you ask if the proposed changes to the definition of 'personal advice' are likely to reduce regulatory uncertainty, facilitate the provision of more personal advice to consumers, and improve the ability of financial institutions to help their clients. The response to this I invariably yes, but with caveats. The main caveat is that many product providers will be able to direct consumers to their own products regardless of the outcomes for the consumer.

The question you should be asking is "do the proposed changes to the definition of 'personal advice' make access to personal, unconflicted personal advice easier and cheaper for consumers?" In many cases, sadly the response to this question is no.

Even though the Banking Royal Commission noted that to separate products from advice would be too complex (which we disagree with), more and more advisers are choosing to license themselves in a way that separates them from the product provider. An Investment Trends' *2022 Adviser Business Model* report found that 70 per cent of financial advisers surveyed suggested they'll switch to a self-licensed model.

We believe that the QAR proposals make it easier for conflicted product advisers and super funds to direct clients into their own products, but there is very little thought to how best to support advisers that are trying to remove many of the conflicts of interest from their business.

Thank you for providing us the opportunity to make this submission. We make ourselves available should you or Treasury staff want to discuss in more detail any of the recommendations we have raised below.

Regards

Phil Harvey – Construct Wealth
Andrew Saikal-Skea - Saikal-Skea Independent Financial Advice
John Hicks – John Hicks Independent Financial Advice
Craig Meathrel – Strategiq Wealth
Neil Salkow – Roskow Independent Advisory
Chris Young – CY Financial Advice
Jacie Taylor – Periapt Advisory
Peter Humble – Rise Wealth
Berivan Dubier – Curve Wealth
Tony Cafarella – AFM Wealth Strategy
Fergus Hardingham – FM Financial Solutions
Cameron Foster – Horizon Advisory
Naomi Horobin – Clover Wealth Group

Intended outcomes

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

Advisers and product issuers are two completely different groups and should be treated as such.

You are essentially establishing two types of personal advice

- The first is from a Relevant Provider (aka registered financial adviser). This adviser needs to comply with the Code of Ethics and have to provide advice that is in their client's best interest
- The second type of advice is from a product provider that can be provided by a salesperson or a technology solution. This advice does not need to be in the consumers best interest and is broadly unregulated.

It is hard to see how this is not going to be any less confusing than the term general advice is now.

We agree that the current obligations that apply to registered financial advisers are excessive and at times confusing for both the advisers and consumers. In addition, ASIC is seen as a regulator that is quick to penalise advisers for relatively minor indiscretions while being lenient on the major licensees. As an example, despite all of the fines and money that has been paid back to consumers through the fee for no service scandals, no major AFSL has lost their licence and no executives have been banned from working in the financial services industry. There has been several cases where advisers have been prosecuted, albeit correctly, for not complying with the regulations and subsequently banned from providing financial services.

This often results in advisers and their AFSL overlaying additional compliance requirements to increase their legal protections from future claims from ASIC and/or AFCA. This leads to consumers needing to pay more for the advice than they otherwise should have to, but doing little to safeguard the consumer from poor advice.

Relaxing some of the current obligations will help advisers operate more effectively and has the potential to reduce the costs associated with providing personal advice.

Regarding product providers, we do not believe it is in the best interest of the consumers to allow them to use unregulated advice as a tool to direct clients into their products.

In our view, asking clients to answer a few questions and then the computer generate a standardised report that "recommends" they invest in one of the investments owned by the product provider is not advice. It is a sales tool. Further, while it may appear to make advice more accessible, there is an increased risk that the consumer will be worse off.

We recommend that product providers, including super funds, be allowed to use staff and/or digital tools to provide help more cost effectively but this should not be called advice. It should be called what it is, sales support.

This will allow product providers the ability to provide better information to their clients more easily, but not confuse this information with actual advice.

What should be regulated

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

The proposed changes include the removal of the term General Advice, and the splitting up of personal advice into that provided by a Relevant Provider and that provided by a corporate entity (or their employee that is not a relevant provider). In all cases, the information or advice should be 'good advice". To add another complication to it, the QAR proposals allow the corporate entities that aren't relevant providers be able to provide digital advice.

While it states that all advice should be covered under the "good advice" provisions, the reality is that Relevant Providers will still be required to meet the best interest provisions in the Code of Ethics.

The QAR consultation paper indicates that the reason for doing this was product providers were unclear of the distinction between personal and general advice and as a result would not give any helpful information. We believe that it is not really the uncertainty these institutions are hoping to remove, but instead they want the ability to provide more information about their products with the expectation of selling more.

What the QAR has proposed is to allow product providers to do this as well as removing the need for them to act in the clients best interest, and remove the need for them to document this advice.

While we support the removal of the term General Advice, we believe that allowing corporate entities (or their employees) to provide personal advice without having to meet the same obligations as Relevant Providers is going to create more confusion.

We have seen that consumers have trouble distinguishing between General Advice and Personal Advice. It is hard to believe they will have less confusion with the different types of personal advice.

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

These changes are not likely to make it any easier or harder for Relevant Providers to provide more personal advice to consumers, as our obligations under the Code of Ethics remains unchanged. Removing the best interest duty and safe harbour steps will make it less complicated, but under the Code of Ethics we will still need to act in the client's best interest.

The biggest difference will be for corporate entities who will be free to provide any advice or information they wish as long as it is good advice. While this will facilitate the provision of advice in the way the QAR paper views advice, it won't be advice that is comparable to what is provided by financial advisers. To suggest that advice, digital or otherwise, provided by a salesperson or a digital solution after asking 10 questions, is similar to actual financial advice is pretty insulting.

To use a scenario as an example. An insurer that uses technology to determine the consumers needs with an algorithm that says Life Insurance should be 12X annual income plus debts, which is commonly used in personal finance books. This algorithm could recommend a couple with a combined income of $160,000 a year and no mortgage take out a $2 million life insurance policy each. If there are legitimate reasons why most financial advisers would view this as excessive, but this was not covered in the questionnaire, would this still be considered good advice? At what point would the consumer be able to find out if this is good advice? Who determines what good advice is?

It would be appropriate to reiterate the words of Commissioner Hayne "so long as the parent company seeks to make a profit there must come a point at which the interests of members and the interests of the parent company collide"

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

We believe the proposed changes will make it significantly easier for product providers and financial institutions to provide information to their clients and direct them to their products. But, it is unclear whether this is going to be in the consumers best interest.

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?

It is clear that consumers do not understand or appreciate the difference between personal advice and general advice. As advisers we see this regularly where people have followed advice from a book or a website (that all had the general advice warning) that was clearly not in their best interest but told us that "the book/person/website advised us to do this".

This does not mean that the advice or information was wrong or misleading, it is just that it was not the appropriate advice for this particular consumer. If a book is written aimed at 'families', it is not possible to present it in a way that would allow the advice to be suitable for everyone.

In our view, relying on consumer law will not stop people from making poor decisions based on taking what is now general advice.

a. If not, what additional safeguards do you think would be required?

We do not believe there are any safeguards the Government could put in place that would save people from taking general advice and using it inappropriately.

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?

Relevant Providers will still need to work in the consumers best interest (Standard 2 of the Code of Ethics), and therefore the proposed changes will have little if any impact on the quality of advice we provide.

However, product providers and financial institutions will not need to comply with the Code of Ethics. Under the proposal, this allows them to provide "advice" with minimal investigation into the clients needs. We think this will result in financial advice that is of much lower quality. This comes back to the matter we raised earlier that financial advice is much more than directing consumers to particular investment or insurance products. Most financial advisers do a considerable amount of work to ensure the financial strategy is right for the client before we get to the product recommendations.

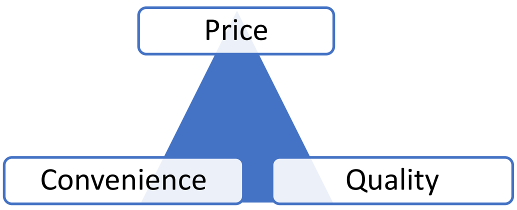
For example, if a client has funds to invest, we will look at the best tax and access structure to meet their needs and objectives (e.g. inside or outside super, using an investment or education bond or investing through a trust), before we get to recommending which investment. It is hard to believe a financial institution that only has one of those options is going to recommend another. For example, a managed fund provider is unlikely to recommend super contributions even if they are by far the best overall option for that specific client.

    b. the time and cost required to produce advice

Once again, Relevant Providers will still be required to meet the Code of Ethics, and as such will need to unsure we have thoroughly looked into a clients goals and objectives and done everything possible to act in our clients best interest. It will be easier to not have to demonstrate we have met the safe harbour requirements, but it won't necessarily take less time. Therefore, it is unlikely to make any real change to the time taken or the cost of advice.

It is likely that many product providers will move to a more automated system of providing advice, or have salespeople selling products on their behalf. Any "advice" will be limited in scope to only providing advice on particular products, and it will be limited to providing advice on a small range of products (and in most cases only those owned by the corporate entity providing the advice). This advice will require minimal human contact, and can therefore be provided very cheaply. We imagine that in many cases product providers will provide this 'advice' for free, with the expectation that they will make their money on the products they recommend.

With most products and services, consumers often have a choice:



It is rare that you get all three in any product. The recommendations in the QAR consultation paper appear to have strongly favoured the convenience (ease of access) at the lowest price possible, without any consideration to the quality of advice or the quality of outcomes for the consumers. Considering most of the scandals in the past 20 years have been down to conflicts of interest of product providers and their employees, this is a bewildering decision.

While we believe the industry as a whole should be encouraged and helped to use digital solutions wherever possible, digital advice in the proposed form is not the answer.

We strongly recommend two things:

- Product providers should be allowed to use technology to help consumers decide between which of their products to be used, but it should not be called advice. It is sales support
  - There should be a clear warning that this is only to be used for customers to make better decisions on this particular institution's products.
- Digital advice should only be provided by an entity that does not have a financial interest or incentive in any of the products they recommend.
  - This will allow fintechs to find a solution to be able to provide genuine advice but not with the conflict of interest product providers have in the proposed model.

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?

Relevant Providers will still be required to comply with the Code of Ethics and as such it will not necessarily change our ability to provide limited advice. While we believe it is possible to provide limited advice under the Code of Ethics, the costs do not decrease substantially as we still need to carry out significant research and fact finding into the clients, to ensure limited advice is suitable.

As per the responses above, it will be easier for product providers to provide limited advice as they will not need to comply with the Code of Ethics that Relevant Providers need to. However, once again, it should be noted that the limited advice provided by product providers will be limited by both the products they recommend and the type of advice they provide.

    b. provide advice to consumers using technological solutions (e.g. digital advice)?

It is clear that the proposed changes are designed to make it easier for organisations to use technology. However, the big issue we have with the current proposal is that it does little to make it easier for Relevant Providers to use technology above what most advisers are currently doing - but at the same time it makes it significantly easier for product providers to use technology to help them direct clients to their own products.

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

Nearly all advice, by it's nature is scaled/limited in some way. However, it is our understanding that in this question you are referring to 'more limited than normal'. For example investment advice only, or superannuation advice only.

With this in mind, the provision of limited advice is possible under the current regulations, however it is not as easy as it appears. The main things that make it harder for advisers to provide limited advice cost effectively are:

- ❖ Conflicting information and requirements from regulators. On one hand ASIC is saying you can adjust our level of enquiries, but on the other the Code of Ethics says we need to consider the broader situation before we decide to provide limited advice. Further, AFCA will take into account if the limited advice was insufficient.
    - o The Code of Ethics (Standard 2) states that "You should take into account your client's express wishes, but these do not override your duty to give advice that is in the client's best interests".
    - o The Code of Ethics (Standard 6) states that "You must take into account the broad effects arising from advice and actively consider the client's broader, long- term interests and likely circumstances". You must make an independent, professional assessment as to whether scoping the advice is in the best interests of the client (and not just in accordance with their preference or instruction) and it is important that you consider the longer-term requirements and/or any broader considerations for the client within the scope of the advice provided.
    - o RG244.71 states that "You can adjust the level of inquiries to reflect the nature of the advice sought".
    - o AFCA state that they will review complaints where "Advice you were given about the product where the advice wasn't in your best interests, or was inappropriate or insufficient.
- ❖ The rules of the individual licensees (and the Professional Indemnity providers) also make it more difficult, as they often require advisers to do more than meet their legal obligations to safeguard against future claims
- ❖ The individual advisers business model. If the client only wants advice on one area of their finances, after the detailed fact finding process, looking at alternatives (just in case we need to advise them that limited advice is not in their best interest), and providing the SOA, the costs of providing limited advice become prohibitive.
- ❖ If a client asks for advice on how to invest in managed funds, we are also obliged to look at the clients overall financial situation (debt, super, etc) to determine what advice is in the client's best interest. The advice could then move from advice about which managed fund to strategic advice about making additional concessional contributions into super or changing super funds. Advisers need to factor this into the pricing of any work.

To allow advisers to better provide limited advice in a cost effective way, we recommend the following changes:

- ❖ Changing the Code of Ethics and the guidance around it to make it more workeable
- ❖ Guarantee advisers that ASIC and AFCA will not introduce new provisions in the future and then look back through past advice
- ❖ Removing the requirement for lengthy SOAs (which you have proposed and will be discussed in the next section).

b. digital advice?

While the idea of digital advice has been included in the QAR proposals, at no stage has the term digital advice been accurately described. In the examples used throughout the proposal paper, it is assumed that digital advice is a transactional tool – that is answer some basic question and the computer will tell you which investment to make. This is sales advice, not financial advice.

The provision of genuine Digital Advice, even when it is limited in nature, is difficult for Relevant Providers due to Standard 2 of the Code of Ethics. In the guidance provided by FASEA, it states that *"The ethical duty in Standard 2 to act with integrity is a broader ethical obligation. It is based on a more professional relationship between your and the client, where you have a duty to look more widely at what the client's interests are. This means that you will need to work out, and, if necessary, help the client to work out what the client's objectives, financial situation, needs, interests (including long-term interests), current circumstances and likely future circumstances are. To comply with the ethical duty, it will not be enough for you to limit your inquiries to the information provided by the client. You will need to make reasonable steps to inquire more widely into the client's circumstances."*

Digital advice relies on the client providing all of the information, but as financial advisers we are required to do more than this. We are concerned that ASIC and AFCA would not consider us to have acted in our clients best interest if we did not do more to ensure the client had fully outlined their objectives before the digital advice was provided.

One of the big time and cost savings is in the data capture or fact find process, and the advice generation process. To help use technology to lower the costs of advice while still providing good quality advice, we recommend:

- The government allow fintech companies to be licensed to provide digital advice, as long as they have no financial ties or incentives for any of the products they recommend
- The government expand the Consumer Data Right, to make it mandatory that all financial products, including superannuation, be included. It is hard to understand why an industry with more than $3 trillion of Australian's retirement savings is not already included. This will allow technology providers to more easily capture consumer's data
- The government work with financial institutions on privacy and security measures, so that third party applications can access their client's information. This will significantly improve the fact finding process
- The government should provide all Relevant Providers with access to individual's superannuation data stored on MyGov (as happens for Accountants now) so we can assist our clients with making decisions around future super contributions.

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?

Relevant providers will still be bound by the Code of Ethics and we therefore do not believe this will make a material difference to the quality of advice they provide.

As mentioned earlier, as product provided or institutions who are not classified as Relevant Providers will not need to meet the Code of Ethics, the bar for the quality of their advice will be much lower. If it is your view that product providers will provide advice to a significant number of people, then it is also reasonable to say that the quality of advice will be lower.

It is stated in the QAR consultation paper “I do not dismiss the real possibility that a digital advice provider may provide advice that serves the interests of the provider, but whether or not the advice is 'good advice' will be evident from the advice provided and the design of the program and therefore I think the duty is less important and less relevant than when advice is provided by an individual”. This raises the following questions:

- Most consumer complaints to AFCA are from product providers and not financial advisers. Why is it less important that product providers are held to the same standard as financial advisers?
- How will consumers know if they have received good advice?
- At what point will they be able to determine this?
- Consumers weren’t warned that Westpoint financial was a bad investment until after the collapse. Is this going to be the same in the future where it is only after consumers have lost their money that they will know it wasn’t good advice?
- Will there be a compensation scheme of last resort for consumers that all product providers will need to contribute to?
- Who will regulate the design of the programs being used?

To reinforce that product providers have a history of putting their commercial interests ahead of the consumer, it is worth noting that in the six months up to April 2019 AFCA reported there were:

- 1,241 complaints against banks and financial institutions for providing misleading product/service information
- 141 complaints against financial advisers for a failure to act in client's best interests

It is probably easiest to illustrate our concerns with two examples:

<u>Example 1</u>
123 Investment Manager offers eight different managed investment funds, but does not have a super fund. Potential clients can answer a few basic questions, undertake a short risk assessment questionnaire to find out which of their products is best suited to them.

Stefan is 55 and recently received an inheritance of $100,000 and is deciding what to do with it. He is mortgage free, has less than $500,000 in super and hasn’t been maximising his concessional contributions. In addition, he has a $6,000 credit card debt and is planning on working for another 7 years.

His friends have told him that managed funds are good (they happened to invest just before the most recent 30% increase in the share market). The next day he sees a Facebook ad for 123 Investment Manager. He clicks on it and gets directed through to their digital portal.

He is asked a few personal questions such as his age, income, risk preferences and details of any debts. They recommend he pays off the $6,000 credit card debt, and invest the remaining $94,000 in the 123 Investment Manager's high growth managed fund that has fees of 2.5%.

They do not recommend he contribute the remaining $94,000 to super as they don't have a super product. It is clear that 123 Investment Manager has put their interest ahead of Stefan's. They have directed him to one of their own investment products rather than recommend he talk to his superannuation fund.

In this example, 123 Investment Manager has been allowed to recommend the consumer invest in their product even though a more appropriate recommendation should have been made. This is sales advice, not financial advice.

- It is putting the responsibility to determine if it is good advice on the consumer. They will have to read (and understand) the Product Disclosure Statement) and make their own decision about whether the product is appropriate for them.
- It does not recognise that investment products are not equal.
- It does not put an obligation on product providers to provide a comparison of the product they are recommending with other products that are in the marketplace.

b. the affordability and accessibility of financial advice

In our view, the suggested changes will make it easier for individuals to access financial advice, however we do not think it will have a material impact on the cost of personal financial advice provided by a Relevant Provider.

Where digital financial advice is free, or very low cost, it may make it affordable but does mean it is in the consumers best interest, or even that it is good advice. As the saying goes, nothing in life is free.

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?

There are professional standards for Relevant Providers, but we note that besides saying the representatives of product providers should be "adequately trained and competent to provide financial services" there does not appear to be any detail around what this training is and which representatives can provide this advice.

Is it proposed that we return to having bank tellers attend a 4 hour course and then be able to recommend bank owned managed funds, or Industry super funds having hotline staff that are allowed to recommend customers roll over their super from competing funds to theirs?

Will Industry super funds be liable if a consumer loses their insurance because of this 'advice' and is unable to get insured again due to recent health conditions?

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?

The proposed changes include allowing superannuation trustees to collectively charge for advice and allowing them to provide advice that takes into account more than just their superannuation. While this should make it easier for super funds to provide personal advice to their members, we have three significant issues with it:

- ❖ allowing superannuation funds to provide personal advice is entrenching the conflicted advice that has been at the heart of many of the financial advice industries scandals. Just because advisers' remuneration is not based on the investment products they recommend does not remove the conflict of interest. The biggest conflict of interest is that they will only be recommending their own investment options. Will the super funds recommend consumers invest outside of super in products they have no financial connection to?
- ❖ it is unclear whether representatives of superannuation funds will be considered Relevant Providers or not, especially if the fund uses a collective charging model. If they are not, it does not make sense that they can provide the same advice as a Relevant Provider, without needing to meet any of the obligations that non-aligned Relevant Providers would need to. Do financial advisers that work for an Industry super fund only have to meet the good advice criteria while a Relevant Provider that is bound by the Code of Ethics have to meet the higher, best interest duty?
- ❖ allowing superannuation trustees to collectively charge for financial advice, is likely to result in many people paying for a service that is only used by a percentage of the members. Is this any different to the fee for no service scandals that were seen in the Banking Royal Commission?

    b. make it easier for members to access the advice they need at the time they need it?

Yes, the changes will make it easier for members to access advice, but it does not mean it is in the members best interest. The advice will always recommend they stay with the super fund they are getting their advice from, regardless of whether they offer investment options that are in their best interest or not. In this case the member will have no recourse as the adviser working for the super fund does not need to meet the best interest duty.

We seem to be moving back to making it easier for product providers (in this case super funds), with little regard to the consumer outcomes.

It is helpful to show you through two examples.

<u>Example 1</u>
A super fund (let's call it SuperA) only offers four diversified investment options, with the high growth one having 15% bonds. All four are actively managed and there are no ethical or sustainable investment choices.

One of their members has money in two other super funds. They are interested in ethical investing and due to their age would be best served by being in a mix of 100% high growth investments. When they meet with the SuperA representative, they are not asked about ethical investments and aren't aware of the long-term implications of having an investment with 15%

bonds. The recommendation is to roll the money from the two other super funds into SuperA and invest in the high growth option. When you take the increased costs of active fund management and the lower annual returns due to having 15% bonds, this could reduce the annual net returns by 1-2%. Over the clients life this could potentially cost hundreds of thousands of dollars compared to going to a fund that has a more appropriate range of investment options.

While this advice is easy to access and more than likely at minimal cost, the opportunity cost to the individual will be significant.

Example 2
SuperB has quite a few different investment options, but only one of them is considered an ethical investment. This is a 'balanced' investment option that has 25% cash/bonds.

A 25 year old member, that most financial advisers would recommend be in a mix of 100% high growth assets, approaches the fund to talk about their ethical investment options.

If the client is asked 'do you prioritise ethical considerations above potential long-term returns?' and answers 'yes', the super fund would probably recommend they switch to their balanced ethical option.

They wouldn't need to tell the client that there are other super funds that allow investing in ethical investment and having 100% of their investments in high growth assets. Based on historical data, this could cost the client up to 2% in lower net returns. Over 35 years this could cost the client hundreds of thousands yet could still be considered 'good advice'.

Disclosure documents

10. Do the streamlined requirements for ongoing fee arrangements:
    a. reduce regulatory burden and the cost of providing advice, and if so, to what extent?

It is proposed that providers of personal advice should obtain annual written consent from their client to deduct ongoing advice fees from a financial product. The consent form should explain the services that will be provided and the fee the adviser proposes to charge over the course of the upcoming 12 months.

We think this is appropriate and is more than happens in most other industries.

Instead of requiring an annual written agreement, we believe that there should be a requirement that when a fee is being charge, the provider must meet with the client.

We all meet with our ongoing clients at least once a year and in this meeting we discuss what has happened and what is happening over the next 12 months. Whether this is documented or not, does not add any value to our clients. While not having the annual Fee Disclosure Statement will reduce the administration burden slightly, it is not going to mean any significant changes to the way we work.

What we would like to see is for the ongoing fee arrangements to place a store on the intangible value we provide to our clients. Currently the focus is on the tangible aspects of the relationship such as whether we met them, or provided them with a review document, or changed their investment options. Most clients view the intangible aspects of our relationship (such as the feeling of being in control, the comfort of knowing someone is guiding them through the turmoil, a sounding board during a family crisis, or someone is stopping them from making bad financial decisions) much higher than the tangible aspects.

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

We believe consumers should know how they are being charged and how much they are being charged. However, this should not be in a lengthy document - because if it is contained on page 17 of a 26 page document there is a good change they won’t read it.

Not having the annual Feed Disclosure Statement will not negatively impact consumers.

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?

First of all, we should say we applaud you for wanting to remove the need to provide a Statement of Advice in its current form. This is not because we do not want to provide any information to clients, but feel the current system of having to provide a lengthy document (that in itself has other lengthy documents referenced) does not add value to our clients.

While on the face of it the removal of the requirement to provide an SOA will reduce the costs of providing advice significantly, Relevant Providers will still be required to provide information to clients to help them understand the recommendations and the steps required for implementation.

We think the real benefit won't necessarily be in the time saved by providing the SOA, but in the removal of the prescriptive way in which we are told it must be presented. It is more likely that we will be able to present it in a way that is much more engaging and meaningful to our clients.

While we expect it to reduce the time taken to provide advice, it is hard to put a dollar figure on it. Many of us use outsourced paraplanners, and as a guide, the cost saving could be between $300 up to $1,300 per SOA.

There is a significant caution here, in that AFCA and ASIC need to ensure that if there is a complaint that we do not need to show that we have disclosed every conceivable to the client. We have found that much of the issues with the length of SoAs today are the result of licensees adding in wording following AFCA decisions in an effort to protect themselves.

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

We do not believe removing the prescriptive nature of the SOA will negatively impact our clients. If anything it will allow us to provide a much more meaningful experience for them.

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?

For the most part, Financial Service Guides are static documents. Whether we provide this to our clients with every piece of advice we provide, make it available on our website, or include a link on every email we send to our clients does not change the time taken for us

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

Evidence shows that providing more information to clients does not improve consumer outcomes. If anything it drowns out the important information that consumers should be understanding.

Whether the Financial Services Guide is provide once, twice, or three times to a client will not impact the outcomes for consumers.

13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:

We support the recommendation proposed in the consultation paper which is to remove the need for professional financial advisers to identify and report significant dealings for Target Marker Determinations and only report any complaints.

This obligation does not provide added consumer protection and is unnecessary. Pointless is a fair description. The removal would reduce the cost of providing advice and make advice more accessible.

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

It is proposed that there is an adequate transition period for implementing any changes, but consideration should also be given to allowing providers to 'opt in' early.

We support this approach.

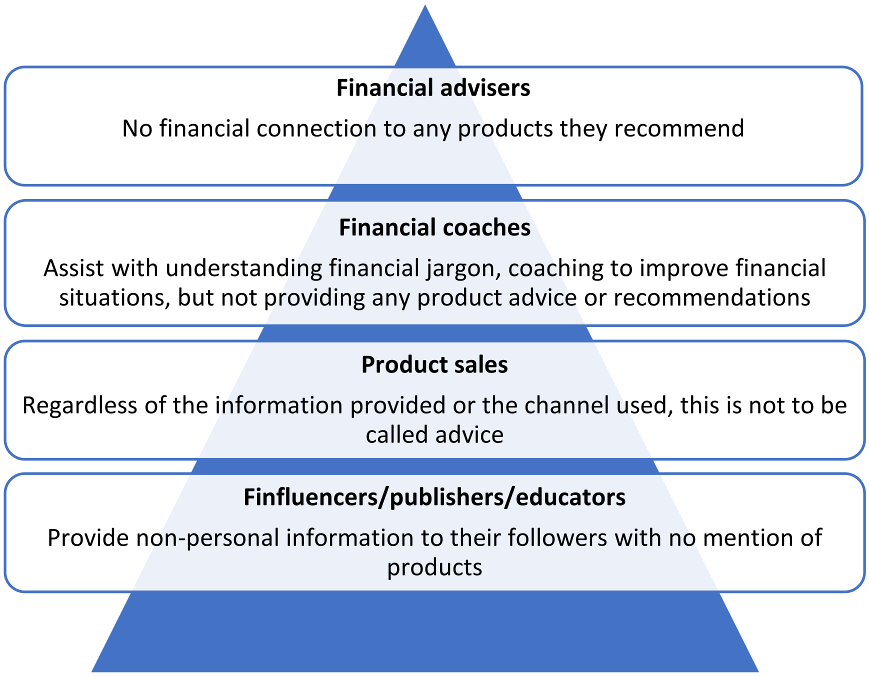
15. Do you have any other comments or feedback?

As you can see from our submission, we believe many of the proposed changes are taking the industry in the wrong direction. While trying to solve the affordability issue, you are giving product providers and superannuation funds (ie the ones with a significant conflict of interest) a license to operate in a way that helps them channel more consumers into their products while at the same time giving consumers less protection.

We believe that product providers have a big role to play in assisting their members but this work should not be confused with advice provided by a financial adviser. Having Relevant Providers and non-relevant providers is complex and confusing, and much like the confusion with general advice now, we don't think the consumers will understand the difference.

To address the affordability of advice issue while not opening up the conflicts of interest we recommend the following:

1. Use the following industry framework



To expand on how these should be regulated and what they should be able to do:

<u>Financial advisers</u>

- Regulated and licensed by ASIC or an independent body
- Does not need to be licensed through a separate AFSL
- Must adhere to the Code of Ethics and the current educational requirements
    - This includes needing to act in the best interest of the client
- Allowed to provide personal financial advice ranging from limited up to more complex advice, and including both strategic and product related advice
- No financial connection (from the adviser or their employer) to any products they recommend
- Can charge fees how they wish
    - Fee for service
    - Asset based fees
    - Commissions from insurance

- Need to get an annual opt in consent from clients
- Not required by law to provide any documentation to clients
  - Will need to retrospectively demonstrate why they recommended a strategy/product if needed
  - If clients request information on products they recommend, it must be provided within a reasonable timeframe
- Has access to client super information through MyGov
- All fees are tax deductible

Financial coaches
- Regulated and licensed by ASIC or an independent body
- Does not need to be licensed through a separate AFSL
- Must adhere to the Code of Ethics and the current financial adviser educational requirements
  - This includes needing to act in the best interest of the client
- Allowed to provide personal financial, but limited to strategic advice – they cannot provide any recommendations on a particular product.
  - For example, they may help their clients determine whether they should or shouldn't make a super contribution, and they may show them the fundamentals of investing in super, but they cannot recommend one super fund over another
- Can only charge on a fee for service basis (ie not asset based %, or commission based)
- Fees are tax deductible
- Need to get an annual opt in consent from clients
- Not required by law to provide any documentation to clients
  - Will need to retrospectively show what information has been discussed with clients if needed
- Has access to client super information through MyGov

Product sales
- This 'sales person' can be a digital tool, a phone hotline staff member, or someone currently licensed as a financial adviser
- Regulated and licensed by the company they work for, noting the company needs to provide suitable training and must be registered by ASIC to provide product sales information
- Product providers should not be licensed to provide financial advice
- Able to provide information on strategies and products, but this information is not to be called financial advice and must not be misleading or deceptive
- Can be remunerated only by an income from the employer, with no sales commission permitted
- Not required by law to provide any documentation to clients other than the PDS of the recommended product

Finfluencers/publishers/education providers
- Not required to be licensed or regulated through ASIC
- Able to provide whatever information they deem appropriate, noting that it cannot be misleading or deceptive
- Cannot provide any recommendations on any products
- Cannot receive any money from a product or financial service provider, but may receive payment from the platform they use, book sales, or course sales

2. Make it easier for financial advisers and financial coaches to become self-licensed

Move to a structure where financial advisers and coaches are licensed through ASIC (or an independent body) and do not need to be licensed through an AFSL.

ASIC should have a group whose main role is to assist advisers move from being employed by an AFSL to being self-licensed.

3. Support financial advisers and coaches to develop a Professional Standards Scheme overseen by an independent body

Having a Professional Standards Scheme that is run by an independent representative organisation and is overseen by the Professional Standards Councill will

- Provide advisers and coaches a single place to register through that will oversee the educational requirement and conduct of its members
- Create certainty for advisers and coaches
- Allow consumers to easily verify if their adviser has the required qualifications and prior experience
- Allow financial advisers to operate on a limited liability basis. This will significantly reduce insurance premiums which will result in lower costs to consumers
- Provide Government with a more coherent voice on issues around financial advice, as the organisation would not have any conflicts of interest regarding where their funding comes from

4. Make fees from a financial adviser or coach tax deductible in the year they are paid

Making fees for financial advice should be tax deductible. In most cases, financial advice fees are a cost incurred in the process of consumers growing their wealth and generating a future income.

Conclusion

The goals of the QAR are to ensure Australians have access to high quality, affordable and accessible financial advice.

We believe that adopting the framework above, will help Government achieve this.