

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

Thank you for the opportunity to comment.

My consulting business regularly puts me in touch with retail AFSLs and their advisers.

The feedback below reflects the feedback I regularly receive from them.

1. **What should be regulated?**

Any advice that triggers or might reasonably be expected to trigger a decision to acquire, dispose of or vary an interest in a financial product.

No “general advice”. Just advice that meets above test. Call it “personal advice” to reflect the tailored nature of the advice.

Stop the fiction of general advice. If its not personal advice it is not advice, it is disinterested information provision.

2. **How should advice be regulated?**

All advice (being “personal advice”) must be in the client’s interests where no other interest competes unless it is clearly disclosed and expressly consented to by the client.

The “best interests” duty as codified in s.961B is unhelpful and results in a compliance-driven approach to advice preparation.

The law should simply say “Personal advice must be in the client’s interests where no other interest competes unless it is clearly disclosed and expressly consented to by the client”.

The ban on conflicted remuneration should be maintained but only as a test of independence.

Amend s.923A to remove the overly restrictive approach to “independence”.

Conflicted remuneration should be permitted but also be an automatic excluder from any claim to “independence” or terms of similar import.

Professional standards around “best interests” to be amended to align with “independence” so individual retail advisers must meet definition of “independence” but not be subject to a “best interests” test while other industry participants are not.

3. **Intra-Fund advice**

My above suggestions will facilitate Intra-Fund advice (at corporate level) but ensure that any individual advisers must meet the higher (independence) test. Current restrictions on collective fee deductions to remain.

#### 4. **Advice fees from superannuation**

There should be no restriction on advice fee deduction from superannuation funds subject to the sole purpose test.

#### 5. **Advice fees**

The fee disclosure and consent regime is one of the most regressive measures I have seen in the 30+ years I have consulted to this industry.

Advisers should be free to contract on whatever basis they wish, subject to sole purpose test.

Clients have statutory capacity to terminate fee arrangements at any time.

Remove enhanced FDS regime, require advisers to provide at least annual statements to their clients setting out the fees paid and services rendered.

Clients will soon decide if they have obtained value!

#### 6. **Disclosure obligations**

SOAs provide structure around recommendations but (in my experience reviewing hundreds per year since the SOA regime commenced) they are also often obtuse and lengthy documents that probably don't mean much to the average retail client.

Advisers should have freedom to tailor advice to the client but subject to a duty to maintain records to justify their recommendations.

Disclosure to clients should be simplified so they get the most out of the advice experience, not a large tome of technical information they are unlikely to ever read.

FSGs should remain – they contain key disclosure information but should also be enhanced to include statement that client can terminate arrangement at any time.

#### 7. **DDO**

I completely agree that adviser complaints feedback should be encouraged.

All other current DDO "distributor" obligations are unnecessary for the reasons you propose.

#### 8. **Enforcement**

I agree with your proposal. Anything that provides industry with certainty around regulator view of things is to be encouraged.

#### **Conclusion**

I have kept my submission brief as I know you have limited time to consider feedback.

I would be happy to expand on any comment made above at your convenience.

*We wish our clients, their families and loved ones a safe passage through these strange times.*

*Take care.*

Brett Walker LL.B.