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:

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?
Yes
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 b. Definitely – his is not without some additional risks but I think being able to act to help and advise clients as opposed to actively trying to avoid it should be better for all parties. c. Yes

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?

Absolutely. It's good enough for every other industry where consumers face at least at as much financial risk, if not more (auto sales, real estate come to mind), and yet financial services have been under a huge weight for a long time. This proposal is enough, especially since conflicted remunerations have been removed from products.

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) Improve. It will mean the majority of people who are currently not being helped (e.g. calling a super fund contact centre) will start to get an actual answer to their questions and not just told that they 'can't tell you that', and those who still want more detailed assistance will be able to obtain that.

Again, there is potential risk here from misuse by product providers but, as noted above, given consumer protections and 'adequate training' obligations, it is a worthwhile risk.

b) Not sure that the change to 'good advice' will actually be where the time savings come from, from a provider perspective. It is certainly a potential time saver for consumer as may get immediate response and not have to be transferred all around or wait days/weeks/months to receive advice.

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) Without doubt **b)** Probably
6. What else (if anything) is required to better facilitate the provision of: **a) limited advice?** **b) digital advice?**
a) Nothing comes to mind for me, key aspects are quality of staff and removal of SOA requirements as proposed.
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) As above. No worse overall and more will be provided. The problem to now has been that we have tried to use legislation to take away all the consumer risks which has clearly failed. Complex problems need simple solutions b) Significant increase. Not only will product providers be able to assist the majority of people who want simple answers, financial planning businesses will be able to confidently innovate.

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?

- Yes, but of course, some risk

a) Possibly around pay structures. Or something like RG146 in super. Maybe something like where this all began, a simple checklist that is retained to support advice given (many years ago there was a tick-a-box Customer Advice Record that was the forerunner to SOAs that was a pretty simple way of covering advice so, for unlicenced providers, maybe something like this. But, as with the theme here, maybe discretion of provider as to format rather than prescribed).

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

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) Not able to answer **b)** Don't think so
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 – potentially a great extent. b) No. Very few customers want that kind of detail or information. I believe good advice providers will still provide a form of written confirmation of their advice, only it will be brief and clearly understandable – i.e. useful and customer friendly.
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. Most consumers are uninterested so will save the adviser time when meeting and if just publicly available should simplify communications and possibly physical publications (and associate costs). b) No. would be surprised if 1% read FSGs

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) Unsure b) I doubt the introduction of these requirements have provided any benefit in the marketplace and have added a lot of cost, risk and distraction for providers. I believe this should be scrapped. The purpose of a PDS is to explain a product which should be sufficient for a consumer and an adviser to make a decision about. If concern with product or PDS disclosure, ASIC should review and take it up with the provider.

Transition and enforcement
14. What transitional arrangements are necessary to implement these reforms?
Not exactly sure how to approach this. The change to Good and removal of SOA are critical and need to be available as soon as possible.

General
15. Do you have any other comments or feedback?
This is an excellent start. It represents the first positive and practical suggestions in the financial advice industry in over 20 years. I am still a bit confused around Good and Best though. Earlier in the document I got the impression you are proposing retaining Best interest for licenced advisers, but in the feedback requested here, you only refer to good advice? No other industry I am aware of has salespeople who have to meet best interests, and often their customers are guaranteed to suffer financial loss from those purchases – auto industry always springs to mind. Someone selling a $60k (or a lot more) car doesn't have to tell a prospective customer that a $20k car will do what they need and maybe they should consider that. And they are still getting paid by the product provider. And that's fine. Our customers in almost all cases end up better off and this is well documented. If I have misread and misunderstood, please ignore. I believe that the concept of 'Good' advice, regardless of how provided, is the way to go. The concept of 'best' anything is fanciful because it will always be subjective. I hope we could be consistent in this regard with any changes implemented.