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

Email	AdviceReview@TREASURY.GOV.AU
Mail	Secretariat, Quality of Advice Review Financial System Division The Treasury Langton Crescent PARKES ACT 2600
Enquiries	Enquiries can be initially directed to AdviceReview@TREASURY.GOV.AU

Appendix 1: Consultation template

Name/Organisation: MLC Life Insurance

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. We welcome the Proposals Paper recommendations and believe they are in the best interests of consumers. Consumers will benefit from scaled advice targeted to their needs, which for life insurance could be as simple as a “Life Cover Assessment” that may or may not include a product recommendation. Specialist risk advice for the purpose of obtaining appropriate life insurance protection is a clear example of where scaled advice could better meet the needs of consumers than what is provided today. Many people seeking specific financial products can have their needs met with a more scaled approach to advice, including from product providers, but this change must be reflected in the entire regulatory ecosystem, everything from the education, training and professional requirements for specialist risk advisers, to the advice process and documentation for consumers. Despite consumers calling out for this style of scaled advice, current regulation and guidance makes this difficult in practice, with often the only options provided being costly full, holistic personal advice or no advice/support at all. We estimate 30% of retail life insurance policyholders no longer have an active relationship with a financial adviser, often because advice has become too expensive or their adviser has left the industry, creating a poor customer experience. At present, product issuers are limited in the support they can provide to these policyholders due to current regulations on providing guidance specific to a customer’s personal circumstances. Consumers who engage directly with a product issuer expect to be able to seek information based on their circumstances and transact without being referred to a relevant provider. This is particularly the case when providing what a consumer would view as basic customer service for existing customers and reflects the need to be able to provide greater support than is currently the case under general advice.

MLC Life Insurance frequently receives calls from customers seeking to adjust their policy based on a change in their personal circumstances which would be classified as personal advice, for example, a customer who is simply seeking to reduce their premium after having paid of some of their mortgage would likely be seeking personal advice and at present would be referred to speak to their financial adviser which many do not have.

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?

Yes. Broadening and clarifying the definition of personal advice ensures greater certainty, while enabling the provision of more personal advice to consumers. As noted above, greater personal advice is expected and requested by customers on a daily basis.

Consider the following case study, where the highlighted challenges would in part be addressed by implementation of the Proposals Paper, while demonstrating the need for further and related reform to address challenges arising from the interaction between financial advice, DDO and related regulations.

Case Study: Retail Insurance for income protection
A retail advised client may have taken up an income protection insurance product (Product A) with us some years ago. Product A is distributed via financial advisers and is not sold directly to consumers. The premiums for Product A have increased year on year due to claims experience for Product A series, which are in tern based on the guaranteed benefits, terms and conditions that Product A provides (and which may not be changed by the provider under law except to improve them to the customer's benefit).

The provider has another more modern income protection product (Product B) that has terms and conditions designed to be more sustainable in terms of premiums and claims experience. Whilst the terms and conditions are somewhat different, Product B is still designed to protect income, and therefore may be suitable for the customer, and would be more affordable. Product B is distributed under the DDO, and a condition for distribution (sale) of the product, is that it is via a licensed financial adviser – it is not a direct-to-consumer offer. To provide a direct offer would require a substantial change in strategy for the provider in relation to Product B, and a significant investment in technology, systems and processes to ensure all the required steps under DDO are adhered to in order to ensure new customers are within the target market for the product.

Currently, an annual statement /premium notice to the customer for Product A indicates a significantly increased premium for the upcoming year. The Product A statement /notice to the individual customer may not make mention of Product B as a less expensive alternative for the client, lest it is deemed to constitute financial product advice – there are no exemptions that would generally apply in this circumstance. The provider cannot call the customer to explain Product A's premium increase and talk about alternatives such as Product B as this would breach the anti-hawking rules.

Even if a flyer was placed in the with Product A's annual statement/notice, that is merely advertising for a new range of income protection called Product B, the customer cannot call and realistically obtain useful obtain information comparing the two products or similar, given the customer may perceive the provider is taking into account their personal circumstances in providing that information (i.e. that they cannot afford to pay Product A's premium), unless the provider and their representative on that call is licensed to provide (general or personal) product advice. The product provider (if not in the business of providing advice) can only direct the customer to their adviser. If the customer no longer has an adviser or does not want to pay for advice from an adviser, they do not have any way to gain access to the alternative Product B that may be more appropriate to their affordability needs.

The provider would be providing a valuable service to the customer in making available Product B to them, particularly if the offer is part of a transition pathway from a back book (or off-sale) less sustainable product to a more sustainable on-sale product, and the provider was willing to waive underwriting to facilitate the transition from Product A to Product B. The need to underwrite new policies is a significant barrier to customers wishing to transition to newer life insurance products, as terms may be much less favourable, or simply not available, due to age and/or a deterioration in health or other relevant circumstances over time. APRA has requested providers design such transition strategies/facilities for customers, to move them from off-sale, less sustainable to more sustainable, more modern products. Currently, the legislative provisions governing advice, DDO, anti-hawking and other matters make that, practically speaking, impossible.

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?

Yes. The broadening of the definition of personal advice will leave a far smaller scope for what is currently considered general advice or information. As such, general consumer protections are sufficient.

However, it may also be appropriate to ensure regulators have sufficient resources to effectively enforce general consumer protections where appropriate.

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?**
Focusing on the outcome to the consumer, rather than the process in producing the advice, better ensures the link to the quality of the advice to the consumer. In particular, focusing the scope of the advice on the needs of the consumer will mean that the advice will be more valuable without investment in items that the consumer may not want or need. It will therefore reduce the time to produce the advice and through that, the cost to the consumer. The safe harbour steps are an excellent example of how the current systems introduces complexity, time and cost into the advice process. Enabling institutions to provide personal advice will also go some way to recreating the financial advice career pathway that had disappeared in recent years, creating a greater supply of experienced financial advisers.
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)?**
Yes. Please reference the information contained in our previous answers.
6. What else (if anything) is required to better facilitate the provision of: **a) limited advice?** **b) digital advice?**

Following the legislation of the spirit and intent of the proposals, it will be necessary to ensure regulators are fully enabled and supported to administer the laws in their same spirit and intent. This will require a deliberate, positive change of the significance of the one that occurred after the Financial Services Royal Commission. Further, innovation should be encouraged and facilitated in line with the principles based regulatory approach. Engagement with regulators prior to implementation of proposals (as other regulators do) should be encouraged to give industry confidence to innovate.

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?

At present, only those with complex financial circumstances are able to access or afford financial advice, with estimates that only 10% of the population are currently served. The relevant provider professional standard will ensure continuity of the high standards and quality of financial advice, but offer the opportunity for a far larger proportion of the Australian population to access more narrowly scoped or simpler financial advice that is relevant to their needs and circumstances.

Moreover, the changes will have an equity impact. That is, it is likely that those who will be able to access financial advice under the proposed regime (but do not or cannot now) are also the ones most likely to benefit the most in relative terms of the impact on their financial and personal circumstances, whether that is their ability to access appropriate life insurance protection, or their income in retirement.

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. It is appropriate and enables licensees to ensure their advice offering is tailored to the circumstances of their customers and representatives will be trained, competent and supported to provide good advice.

For example, consumers would benefit from scaled life insurance advice targeted to their need, which for life insurance could be as simple as a "Life Cover Assessment" to enable a review of their current coverage due to a chance in personal circumstances, that may or may not include a specific product recommendation. At present, general advice models are being tailored to meet the law by not providing the requirements that consumers actually expect, which is a poor outcome. The proposed regime will broaden personal advice to ensure consumers can receive what they need, in the context of what the licensee (that is not a relevant provider) offers. The training of their representatives, support such as scripts and other operational support, together with general consumer law and financial services licence obligations, along with industry codes, dispute mechanisms etc provide adequate protection.

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?

Yes. Providing certainty for trustees will enable the expansion of personal advice to members, who represent a large proportion of the Australian population and for many of which, their superannuation will form a large proportion of their wealth. At a population level, it will have a significant impact on the wealth of Australians across their working life and in retirement

As noted in relation to question 4 above, enabling superannuation funds to provide personal advice will also go some way to recreating the financial advice career pathway that had disappeared in recent years, creating a greater supply of experienced financial advisers.

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) Yes. It will reduce the administrative time and repetitiveness inherent in the current requirements.

b) No.

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. The effort and cost required to produce good advice will still be required, but the changes to the recordkeeping requirements will dramatically reduce the current inflexible documentation which are widely recognised as having little or no value to consumers, or worse, are confusing. It will also allow for innovation, including better enabling audio or video records and other innovative records.

b) No.

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 reduce the requirement to provide a document that is often not reviewed by the consumer (because they are relying on the good advice from their financial adviser). This will also have a positive environmental impact, while ensuring the content is still conveniently available to consumers

b) No.

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?

The ultimate impact is unclear. However, more broadly, it would be appropriate for the Final Report to recommend review of DDO and other legislation introduced following the Financial Services Royal Commission which touch and interact with the regulation of financial advice. In particular, anti-hawking and add-on insurance prohibitions continue a prescriptive approach that does not take into account consumer needs, which is being properly reversed in the Proposals Paper. The principles-based approach of focusing on conduct and ensuring good outcomes for consumers, rather than regulating the process by which financial services are accessed by consumers is important and will impact the effectiveness of the advice reforms, given its focus on institutions providing advice to consumers.

Transition and enforcement

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

The reforms should be legislated and come into force as soon as possible and no later than 12 months from the final report. Delays will only extend the poor consumer outcomes that are currently experienced and further harm the advice profession.

General

15. Do you have any other comments or feedback?

The package of measures set out in the Proposals Paper work together in a collective fashion to redesign the way financial advice is delivered to consumers, with a focus of producing good outcomes for a far larger number of consumers. It is important they are all implemented rather than cherry picked, as they will not have

the same significant impact and could potentially be worse than the current system. For example, broadening the definition of personal advice without the other reforms to expand the provision of personal advice will cause consumer harm.