

3 February 2022

Advice and Investment Branch
Retirement, Advice and Investment Division
Treasury
Langton Crescent
PARKES ACT 2066

Email: advicereview@treasury.gov.au

Dear Sir/Madam

CENTREPOINT ALLIANCE LIMITED SUBMISSION – QUALITY OF ADVICE REVIEW TERMS OF REFERENCE

Centrepoin Alliance Limited ('CAF') is an ASX listed financial services company which provides licensee services to over 1,300 financial advisers who in turn provide financial advice to over 130,000 Australian consumers.

We appreciate the opportunity to provide feedback on the draft Terms of Reference.

The draft Terms of Reference state '*The Government is committed to ensuring that Australians have access to high quality, affordable and accessible financial advice.*' We agree that this is exactly what the Government and industry should be striving to achieve. The reality is that the industry is facing such significant headwinds that unless action is taken to balance consumer protection with sensible regulatory compliance, enabling advisers to run an efficient business, access to advice by consumers will be further eroded.

The industry is currently facing the following challenges:

- the number of financial advisers has been in decline. Over the last 3 years there has been a 25% reduction from 23,498 advisers in 2019 to 17,670 advisers in December 2021¹;
- there are very few advisers entering the industry. In 2021 only 221 new adviser appointments were made².
- the Banks which were training grounds for new advisers, have exited the financial advice industry post the Royal Commission, and small to mid-tier firms do not have the capacity to train new advisers and instead opt for experienced advisers who are productive on day one;
- the average age of an adviser in Australia is 48 years³;
- advisers have had to reduce the number of clients they can service and increase their fees due to the administrative burden of meeting compliance obligations; and

¹ ASIC Financial adviser data

² Wealthdata – adviser movements

³ Adviser Ratings' *Advice Landscape* report

- the combination of fewer advisers, with lower productive client facing capacity, has resulted in reduced total advice capacity. Consider 17,670 advisers each servicing 100 clients with ongoing advice – this equates to 1.7 million consumers being serviced in total against a working population of 13 million consumers.

Notwithstanding the above challenges, the need for advice by consumers has never been greater. This is due to:

- household assets in Australia being quite considerable in value. Australia has \$6.5 trillion in investible assets⁴;
- a global retirement system with \$3.4 trillion in assets⁵; and
- demographic shifts which will see an intergenerational wealth transfer estimated around \$3.5 trillion over the next 10 years⁶.

The above challenges then need to be overlaid with the complexities of the interdependencies of taxation, superannuation, social security, and estate planning.

We would therefore recommend that a major objective should be **‘to balance consumer protection and regulatory compliance with an efficient and viable professional advice industry’**. The central issue that needs to be addressed is that there is an increasing demand for advice and less capacity to provide that advice due to the compliance and regulatory burdens placed on financial advisers. Unless this is addressed it will be impossible to achieve the Government’s over-arching goal.

Recent legislative change, in particular Best Interests Duty, the Code of Ethics, increased standards for education of advisers, annual fee consents and the prohibition on conflicted remuneration have substantially improved consumer protection and moved financial advice inexorably towards professionalism.

However, we consider there are an additional two key areas which need to be addressed. These are:

1. Complexity and prescriptiveness of Australian financial services laws

The Australian Law Reform Commission (‘ALRC’) notes that *‘The intricacy of financial services laws makes it harder for businesses to meaningfully comply with the law, affecting businesses and consumers,’*⁷. The ALRC notes that laws are often contained in a wide range of instruments. Key problems identified by the ALRC in its initial analysis of Australian financial services laws include:

- overly prescriptive approach to regulation;
- complex and unwieldy regulation, contained in various instruments;
- complexity of definitions, and
- inconsistent use of definitions.

2. Over reliance on disclosure

Product Disclosure Statements, Statements of Advice (‘SOA’), Records of Advice (‘ROA’) and Financial Services Guides have become extremely lengthy documents written by lawyers, which consumers find difficult to understand. ASIC’s own research indicates that clients will not read lengthy documents.⁸

We recommend that the Quality of Advice Review should address a number of ‘big picture’ areas such as:

- adopting ‘principles-based’ regulation relying on Best Interests Duty, Code of Ethics and regulatory requirements and move away from overly prescriptive compliance requirements;

⁴ ABS National Accounts June 2021.

⁵ APRA Superannuation statistics September 2021

⁶ McCrindle, 2017, Wealth Transfer Report.

⁷ Australian Law Reform Commission Report 137 November 2021

⁸ Disclosure: Why it shouldn’t be the default ASIC & AFM October 2019

- balancing consumer protection through regulatory compliance with an efficient and viable professional advice industry;
- reducing regulatory duplication;
- simplifying and streamlining disclosure and advice documentation including in what circumstances it is required; and
- adopting a sensible materiality threshold to breaches.

CAF recommends that the following focused areas, which could be implemented within a short time frame, be addressed by the review:

- (a) A simplification and consistent approach to documentation provided to clients, focusing on clear communication and client understanding. An overhaul of the complex SOA/ROA documentation requirements in favour of a more streamlined approach is required.
- (b) Elimination of the annual Fee Disclosure Statement with a reliance on the annual consent process to protect consumers who may not wish to continue those fee arrangements. Elimination of duplicated responsibilities for fee consent which should be the sole responsibility of the adviser to meet their contractual obligations with respect to fees and services, not fund administrators, trustees or licensees.
- (c) Elimination of the 'safe harbour' steps for Best Interests Duty with it being replaced with a principle-based framework.
- (d) Revisiting the ASIC regulatory guide framework. We note that Regulatory Guides routinely apply or suggest additional responsibilities to Australian Financial Services Licence holders ('AFSL's') and advisers other than those embodied in the legislation. Legislation should be the foundation for AFSL's and adviser's obligations.
- (e) Clearly defining ASIC's and the Australian Financial Complaints Authority's role in adjudging appropriate advice to exclude applying higher standards than the law requires.

We believe that the above issues should be thoroughly addressed and investigated by Treasury as part of any review being undertaken. CAF supports the Quality of Advice review and anticipates a balanced approach to consumer protection and financial adviser obligations to enable advisers to run an efficient business model.

We appreciate the opportunity to provide this submission and hope it is useful. Please do not hesitate to contact me on John.Shuttleworth@cpal.com.au or (02) 8987 3016 if we can assist further.

Yours sincerely



John Shuttleworth
Chief Executive Officer