



- a) reduce regulatory uncertainty? Yes, with trial, testing and adviser feedback.
- b) facilitate the provision of more personal advice to consumers? Yes.
- c) improve the ability of financial institutions to help their clients? 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?

General Advice has always been seen from a banks & an AFSL's perspective of general/factual information.

Financial advisers have a thin grey line, and I don't prescribe advisers from providing general advice unless they have a specific panel of portfolios or panel of insurers, they can restrict themselves too.

Product guidance or bias is automatically personal advice as that product can be seen to fit the client's needs and objectives. This then led me to develop guidance for General Advisers for financial advisers if they intend to provide advice in this manner.

I am currently drafting a policy and a General Advice Template I am willing to share with the Government/ Treasury to support the guidance for General Advisers.

The policy is in draft format and the template has been developed by working through RG 244 and reading through the Corporations ACT 2001.

- a) If not, what additional safeguards do you think would be required? RG 244 is sufficient to support General Advisers. A policy and universal template should be used and audited against the adviser files. However, the current Westpac verdict at the high courts does not provide certainty to the sector. I am happy to provide the template as mentioned before but if ASIC's guidance cannot be relied upon what can advisers rely on?  
There shouldn't be 2 methods of interpretation and RG244 may need to be revisited and updated to today's standards and reflect the new guidance for General Advice.

#### **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. Best Interest is too onerous and the introduction to a simpler more efficient methodology is welcomed. Reasonable basis pre-Best Interest was good enough.
- b) the time and cost required to produce advice. Trials must be had, and case studies must be drafted to support what is Good Advice. We all know what Best Interest duty means: the best product, the best insurance, the best fund with the lowest fees, cost effective, highly rated, etc with hours of research, product comparisons to support the recommendation, alternative strategies and products which didn't meet the mark etc.

The intention behind the change seems reasonable if it removes the list of obligations mentioned earlier.

Good Advice will mean 1 product comparison researched if it replaces another product.

If it is a new product, then 2 products should still be researched the Recommended and the Alternative to fulfill that section of research.

That is all to it and the file notes and research saved on file.

This research will still take time but not hours on end trying to justify how the advice is the “Best advice” in the market over 10+ products.

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? Yes. However, what does ‘Good Advice’ mean?

b) provide advice to consumers using technological solutions (e.g., digital advice)? I’m not sure how this will work with robo-advice the idea is to limit the scale of products. So, there is a bias, and the AI technology cannot house every product on the market.

As such the panel of products is already biased and the most appropriate product based on this panel must be selected which may cover “Good Advice”

For Robo advice I would like to see a disclaimer explaining that the AI technology is limited to a panel of options to inform the client that the options are limited and list the options (panel of products) available to the client.

If the client required comprehensive options, then to visit a qualified human financial planner.

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

a) limited advice? Based on the learnings of Best Interest Duty – there is no way you can scale advice without thinking about the implicit and explicit ways it would affect the other strategic goals of a client. For example. John Smith is aged 55 divorced and recently has a new partner. John earns \$250,000p.a. He needs \$2,000,000 worth of term life cover which will cost \$15,000.00. The cover will assist in the unfortunate case of John’s death. John and Melissa - his new partner acquired a new home valued at \$2.2million. \$2million is the loan amount. John wants to fund this through his superannuation.

The adviser needs to consider the below points to provide ‘good’ advice:

- John’s Salary,
- Superannuation accumulation balance to prevent any erosion in super
- Superannuation guarantee amount,
- Would John require to deposit more into super using (concessional contributions) and
- Can he afford the insurance outside of super as an alternative.
- What is his retirement age and

- Will his future projections within super mean he will be financially happy with the super balance.

These points cannot be avoided for a simple strategy to prevent financial detriment of the client's Superannuation balance.

If Good advice means to disregard all the above points to provide the \$2million cover disregarding all other considerations, then we will quickly be back in 2015 with millions of dollars in remediation and AFCA complaints.

I do not agree ethically or morally that the simple avoidance of linked strategies can be "Good Advice."

In today's alternative – an Execution Only document can be used which essentially gets the client to sign off that the adviser accepts no liability on the dollar value taken up and the client must manage their financial affairs and the adviser will only execute what the client wants.

I am happy to share our Execution document.

b) digital advice? As above. Digital advice is not Good Advice if it doesn't consider other financial aspects of the client's life which is directly or indirectly affected by the new advice provided. A.I technology may or may not be to recognise this yet. I would be happy to review documents generated by AI tech and provide assistance and guidance where required.

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? Quality of the advice maybe be debatable however that is the point and difference. The Best product, or best strategy may not be offered however it is still Good. If advisers are more stringent with their panel of model portfolios, funds managers, insurers, instead of focusing on a massive fully open APL then the practice can provide dedicated advice based on a few select product providers.

Quality of advice may improve as the advisers will focus on a few select products which work for them and their practice, they will understand their systems, don't have to spend hours on multiple institutions product providers webpages generating FDS's and navigating for hours on end for 10-20 products.

The policy of an AFSL may then limit the APL to a few dedicated products which would accommodate the client's 'Good Advice' requirement streamlining the advisers business.

Streamlining in turn will result in quicker, smarter, time efficient practices.

b) the affordability and accessibility of financial advice? Affordability will definitely be available to the client as there may be less of a burden in regard to research, documentation, SOA and ROA generation, less fee's to be paid to tech providers etc.

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?

For 'Good Advice' which is less onerous I would debate and say yes. Advisers who manage their own practices focus on what they are good at and outsource what they are not good at such as;

- SOA's, (Statement of Advice)
- ROA's, (Record of Advice)
- FDS generation which is leading to increased costs. (Fee Disclosure Statement)

Systems for ongoing service have also been updated from a platform providers perspective to support advisers particularly in terms of charging ongoing service fees.

In addition to this adviser who is authorised to provide advice in specialist fields need to provide a qualifying diploma or certificate to prove they are knowledgeable in the field of practice.

That authorised field of strategy for instance "Superannuation" then must be studied with an annual subscription for professional study. Continued professional development assists the adviser to stay up to date with industry changes and developments.

On top of that the AFSL supports the adviser further with PD days, Professional development days and conferences.

- a) If not, what additional requirements should apply to persons who are not required to be relevant providers?
- An AFSL should also adhere to an ongoing monitoring regime which includes -Regular audits/reviews/feedback. If I find lacklustre advice I put the adviser on a forced paraplanner requirement to write the SOA (for a set time) and I vett the SOA's. This obviously takes more time but ensures SOA's are appropriate for the client's situations.
  - General Advisers should also be audited yearly/reviewed yearly by the AFSL to ensure they are managing their practice as developed by law. Personally, I believe a universal template should be available for General advisers. It is a simple task and provides certainty and a guideline for General advisers.

### **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?

I personally believe Intra fund advice has always been conflicted to support industry based super funds. Best Interest was never applicable to them, nor did they receive scrutiny as per the banks and stand alone AFSL's. Intra fund advice should not exist.

Superannuation Trustees advisers should only be able to provide general advice and be compensated by salary from the super fund.

Personal advice cannot be made to client's as the advisers researched is limited to support if the existing product is even good advice?

There should not be 2 rules for the 1 role.

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

General advice is good enough as the product is already invested in.

### **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? Current system is flawed. Institutions like BT, Macquarie, MLC, think that they are the fee receiver and believe they need their form signed for opt in and fee consent signed annually. This makes the adviser duplicate FDS forms annually leading to more compliance burden, cost and administration.

### **Current situation:**

1. 1 form is required for the institutions.
2. Then our AFSL licence require one with full ongoing data and services to be met.

b) negatively impact consumers, and if so, how and to what extent? By retaining the FDS regime this costs more time to administer leading to more cost to the clients, as advisers have less time to build their business and more time is spent on non-income generating tasks.

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?

1. Remove up to \$1,000 to \$2000 cost for 1-2 strategy SOA's.
2. Complex SOA's can charge up to \$3,000-\$5,000 plus including estate planning considerations, pension, trusts, tax considerations.

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

No formal document will be provided to support what advice was provided leading to complaints if the client's expectations are not met. However, if a file note is on file to support every topic discussed, tax considerations, ATO guidelines, items to consider, alternative strategies it may be welcomed however Treasury must understand:

- Majority of Advisers do not write the SOA's.

- Statements of advice are outsourced due to its technical nature.
- Paraplanners develop the statement of advice to help the adviser meet regulatory obligations
- Paraplanners charge as an outsourced individual or as an employee.

With the above being said – I have a hard time believing the file notes will be up to par across banks, industry fund advisers, AFSL's.

This leads to the thought of a minimised version of SOA's being provided. Less compliance documents, less disclosures and focus solely on strategy and the advice. The FSG can handle the rest which is a 1-time document with all the data, compliance and disclosures required.

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? Reducing SOA's entirely can be trialled however providing no documentation at all might be a worrying factor for advisers and AFSL's combined. There needs to be guidance on how this can be managed. My suggestion is to combine all compliance data in the FSG such as conflicts of interests, commissions, fees. SOA is for strategic only and pitfalls of the advice and fees applicable. Good advice maybe mean the adviser does not consider alternative products or strategies. This reduces time, research, and eventually cost.

SOA's will be more simplistic to review from a licensees perspective allowing vetting to be more smoother allowing advice to seamlessly be presented to clients at a reduced cost.

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

It is a positive for consumers as advice will be provided sooner with less regulatory burden.

So, in this instance a policy or procedure must be made to confirm what the adviser is about to recommend is not 'bad advice' or puts the client in a worse position.

A trial for this needs to occur and how this will run.

If Safe harbour is removed from the equation a checklist on what 'Good Advice' means must be available through the ASIC website.

- A scaled version of an SOA can be developed.

### **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?

When I was undertaking study within the qualification of RG-146 there was a clear distinction on what products are suitable for who during what stage of their life cycle. Also, some people push boundaries beyond their life cycle stages and have an over-arching risk tolerance to particular products because they are financially literate.

### Example:

- A financially illiterate individual aged 67 should not receive a recommendation to implement a margin loan investing 80.00% of their inheritance funds valued up to \$500,000 into international equities when they have a \$400,000 outstanding mortgage. 'Good Advice' would be to pay down the non-deductible debt.
- The TMD documentation as mentioned within this consultation should be part of the PDS to relay who this product is for – however
- Financial Advisers are the professionals who can make sufficient file notes, complete risk profiles to prove a client is financially literate and has a suitable financial position to invest in this such funds if it is suitable.
- **For example:** A 67-year-old who has always been an aggressive High Growth investor with \$500,000 invested in Australian equities, may have a level of knowledge to expand his portfolio to a fund which has an exposure to 80.00% international equities with an investment horizon of 7 years. Currently has \$50,000 non-deductible debt. The income and revenue from the portfolio may provide enough income to pay down the \$50,000 debt over the 7 years or less.

These examples are provided to support that it is the client working with the adviser to invest without external intervention and regulatory burden on either of the parties.

### End of the example

b) target market determinations? A separate document is not needed. This is such a burden on fund managers, insurance institutions. An inclusion page within the PDS is sufficient to explain to the client which age bracket and type of investor would suit this product. A disclaimer should be provided to the client that the use of this product can be outside of the TMD if the client wishes and agrees to take on the level of risk.

### Transition and enforcement

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

- A 6-month transitional period needs to be trailed with SOA's and what works and what doesn't with a follow up QAR review of the proposal trials.
- ROA's and FDS can be immediately abolished and made into file notes.

### General

15. Do you have any other comments or feedback?

### Training and Education

Good Advice examples should not steer away from Best Interest learnings. The Advisers must complete a Kaplan or industry modules every year to confirm ethical morals and strategies and investigative actions to ensure the advice they are providing is 'good'.

### For example:

A risk only adviser wants to provide risk insurance advice to a client with an SMSF. The insurance is income protection valued at \$5,000 per month to the age of 65.



If the SMSF's trust deed does not stipulate that funds can be released from claim money, then the funds for the beneficiaries who are the trustees (1 in the same people) are locked out of accessing these funds when they need it the most. Now how would a risk adviser who provides advice in risk insurance only know anything about SMSF's and Trust Deeds?

The scenario would trigger an AFCA complaint and potentially a claim through the AFSL for insufficient research and the client will win as the adviser did not have knowledge or sufficient experience to complete this type of strategy.

### **End of the example**

The reasoning why this is so important is that risk advisers need to consider if the client's Good Advice is appropriate for the clients long term position.

1. If the risk insurance premiums erode the accumulation balance in super – then a complaint will trigger.
2. If the client's superannuation accumulation balance is not appropriate at time of retirement – then a complaint will trigger.
3. If funds are locked in Super due to Trust Deed design – then a complaint will trigger.

### **What would a risk advisers file look like in this example:**

1. FSG – (A vital document which explains to the client what the adviser is authorised to provide advice on)
2. Fact Find
3. Trust Deed
4. Insurance Quotes and Comparisons
5. Application Forms and Commission disclosures.
6. Implementation document to support what was put in force.

**Solution:** Risk advisers need mandatory education in Superannuation, Retirement Planning, SMSF's, Cash flow.

These modules would benefit all client's who want to house insurances in the superannuation environment due to personal cash management or whatever the reasoning maybe whoever the latter is most probably the main reason due to cash flow issues.

Risk Advisers who do not recommend housing insurances within Superannuation are not authorised to deal with these strategies.

If No SOA's are mandated, then all of this documentation & research should form as part of the file notes and research.

Trialling of this should begin with industry fund advisers, stand alone AFSL's and the full file should be reviewed on a trial basis to determine the quality of advice and if in fact it is "Good".

ASIC and Treasury can then be involved in the review or an external panel reporting into the QAR.

## **Risk Commissions back to 100%**

Risk Only Advisers are a different breed to advisers and the FASEA regime has killed off the insurance industry.

Underinsurance is a major concern and reducing the level of commissions is not helping advisers nor clients.

The work involved in providing the advice is not worth the trouble so a majority of all the advisers that I come in contact with are thinking of not providing risk insurance anymore and or dropping it from their service offering all together. This leads to further underinsurance in the Australian market from the advisory channel. To combat this, institutions should offer 100% upfront commissions and 1 year clawback.

Clients are not prepared to fork out upfront cash payments or settle fee for service for risk insurance advice.

### **Why?**

The demographics of people who need insurance are young couples, families, established families. These people still require insurance due to high levels of debt, mortgages, investment properties, growing children with education requirements etc.

With this comes low levels of expendable cash flow, rate rises, cost of living or they simply see paying another insurance for personal health as a burden until they are educated that it is a risk management strategy.

Without the education of risk management strategies and option to fund through other means for example superannuation we have found clients are not fond of upfront fee for service or cannot afford it.

Client education comes from interest and little effect on cash flow or minimised effect on their standard of life. So, funding it through superannuation becomes the natural go to strategy.

### **Ongoing Service Authorisation form**

1. Signed every 2 years aligned with the requirements for Accountants.
2. Client's receive statements from product providers which support they acknowledge the fees.
3. Client's have the right to cancel fee's and charges at any given time and complain if they believe they are not receiving the level of service they deserve. Sighted on the FSG.

**End of Submission.**