Quality of Advice Review – Response to Proposals

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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?
It would be fair to say that most consumers of personal financial advice do not fully appreciate the complexity of the regulation controlling its provision. If they did, they would readily appreciate why personal financial advice costs more and takes longer than they expect and the advice documents are overly complex and unreadable. Full and Partly self-funded retirees who are significant **consumers of financial advice are concerned that reductions in the obligations that currently apply to the provision of personal advice would reduce the current consumer protections.** We support the proposed focus on the consumer and the quality and value of advice rather than on the provider and the process for formulating the advice. Many retirees find the current personal financial advice process complex and difficult to navigate. Indeed, to access financial advice effectively, a retiree consumer needs considerable financial literacy and understanding of the retirement income and superannuation systems. As the Retirement Income Review found, there is low level of financial literacy across the community and insufficient understanding of the retirement savings and incomes systems.

The Association of Independent Retirees has advocated for a national program to promote existing government sources of information (eg. Moneysmart, ATO, etc) that would improve understanding of the retirement income system, superannuation and financial literacy generally.

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) For many retiree consumers, the proposed definition of 'personal advice' **would** reduce regulatory uncertainty because when a consumer speaks to financial services organisations they will have more certainty that representatives who use the information they hold about them, are providing personal advice.

b) In their view, it **would** facilitate the provision of **more** personal advice to consumers. This would happen because more consumer interactions with providers of financial products or services (like banks, superannuation funds, etc) that hold information about their customers where recommendations or opinions about products and/or services would now be covered by the definition of personal advice rather than general advice.

c) This broader definition would mean that a **financial institution could not seek to avoid giving personal advice** to a customer by seeking to quarantine information they hold about the customer for the purposes of giving advice.

For some consumers, they believe that the current regulations should not be reduced but tightened further due to the low financial literacy of many consumers. To this end, some consumers believe that to avoid potential conflicts of interest, financial advisors should not be permitted to recommend financial products at all, and this should be left to product issuers and distributors.

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?

Retiree consumers are somewhat divided on the proposal to de-regulate 'general advice' as a financial service and remove the definition altogether and the obligation to give a general advice warning.

Even though some of the current general advice would be defined as personal advice, it is expected that the 'general advice' terminology will continue to be used (whether appropriately or not) for some time.

Many retirees are comfortable that the proposed general consumer protections and the conflicted remuneration provisions would be adequate for the provision of information about a financial product. However, they insist that any use of the term 'general advice' be accompanied with a warning that it is NOT personal advice.

a) Others want to retain the existing financial service regulations when the term 'general advice' is used, rather than rely on general consumer protections like the prohibition against engaging in misleading or deceptive conduct in connection to the supply of financial services.

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?

Ideally, the regulations should focus on the quality of the advice and the process by which it was provided, but a consumer is primarily concerned with the advice being appropriate to their needs and objectives, timely and value for money (ie. high quality).

The definition of 'good advice', but 'goodness' can be subjective, so maybe a more suitable term can be found.

Consumers, especially older consumers, support the principals of the ‘best interest obligations’ particularly to act in the best interests of the client, give priority to the client's interests and undertaking a review of the marketplace of relevant financial products as prescribed by the safe harbour steps.

These principals should underpin ‘good’ advice but reviewing the marketplace of relevant financial products would add considerable effort when formulating financial advice and may not be required where strategic or single issue advice is required.

a) Where the client requires a recommendation or opinion on a financial product, **the quality of the financial advice may diminish** if a review of relevant financial products is not performed.

b) It is likely that the **time and cost to prepare financial advice would reduce** if the ‘best interest obligations’ were repealed, but not across all personal advice engagements.

To enable more advice to be given, it is appropriate to enable “personal advice provided by an individual to be provided by a relevant provider”, but rather than repeal the Chapter 7 Best Interest obligations, the wording if Chapter 7 could be changed to “… requires a **Provider** who provides personal advice to a retail client to: ….”

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) By removing the ’safe harbour’ requirements, **it will likely make it easier for advisers and institutions** to provide limited, strategic or single issue advice to consumers.

b) By replacing references to ‘individual advisers’ with ‘providers’, **it will more readily enable the use of technology to support the advice process. However, as with all existing technology assisted commerce, all digital interactions with consumers will need appropriate oversight by a representative of the AFSL holder.**

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

a) limited advice?

b) digital advice?

a) To better facilitate the provision of limited financial advice that might relate to life events (like inheritances or the sale of private property) it not just about reducing regulation and compliance for the providers. It also requires an **attitude change by the financial advisors and/or their licensees.**

Often when consumers with the proceeds from a once-off event seek financial advice on strategy or investment options they have difficulty engaging an advisor unless they have over $250,000 or are prepared to commit to the funds being under management for an annual fee based on % of Funds Under Management (FUM).

The **consumer just wants limited advice on a fee for service basis** but the advisors just want to grow their FUM or recurrent revenue.

b) Consumers are often told by advisors that their fees are high because of crushing regulation or significant time spent with the client in face-to-face meetings understanding their personal circumstances and advice requirements. Yet, **digital surveys, structured email questionaries or online financial health checks are rarely used as key tools to capture personal financial data and preliminary advice requirements**. This digital approach as part of initial advice engagement would save hours of expensive face-to-face professional time and has the potential to reduce the personal financial advice costs considerably.

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) Consumers potentially believe that the application of professional standards (the requirement to be a 'relevant provider') will improve the quality of financial advice.

Where the advisor is the relevant provider satisfies the professional standards, then consumers will have more confidence in the quality of advice provided.

Where the advisor is a representative (or staff member of the license holder), confidence in the quality of the financial advice depends on the competence of the staff or processes undertaken by the licensee to ensure their representatives are trained and supervised.

b) **With the application of professional standards, consumers will potentially expect that when they receive advice from a relevant provider, the cost of the financial advice will be higher.** However, with the proposal to permit advice to be provided by staff or digital advice providers who are not 'relevant providers' there is a capacity to improve affordability and accessibility of financial advice.

NB. Reference is made to an ongoing advice relationship between the adviser and the client or the client has a reasonable expectation that such a relationship exists. For limited or once-off advice, the definition of this ongoing advice relationship needs to be clarified.

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?

a) It might be appropriate for licensees to maintain records of training and acquired competences by their representatives to provide financial services. This could be provided to the regulator as part of the licensing/renewal process.

If there was a complaint, these records could be used to determine whether at the time of providing advice, the representative had sufficient knowledge and/or skills.

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) Superannuation trustees should only be permitted to provide personal advice to members following the express consent for this personal financial advice from the member. b) The proposal that would enable superannuation fund members to obtain personal financial advice from their superannuation fund would make it easier for superannuation members to access personal advice. The removal of the restriction on collective charging should be approved by a majority of fund members and not be at the discretion of the fund trustees.

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) Streamlining fee disclosure documents would reduce the administrative and regulatory burden and marginally reduce the cost of providing advice. b) Streamlining fee disclosure documents would not negatively impact consumers.

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?**

Consumers, particularly retirees often prefer to receive written financial advice if the issue is complex or multi-faceted. But, they do not want lengthy documents that are full of pro-forma text that seem to be protecting the advisor rather than assisting the client.

Shorter records of advice (ROA's) or a copy of the advisors file notes would often be sufficient to document the advice provided for once-off event type advice or other limited advice.

a) Retirees consumers are sceptical that removing SOA's would reduce the advice fees charged but would likely reduce the cost to the advice provider.

b) It may impact some consumers where their advisors only provide the minimum of documentation or explanation for the advice given.

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?**

Consumers need to have access the financial service guide from their financial advisor.

This access should be in a form that suits the client, that is, from a website for computer literate clients or in hard copy for those who prefer the FSG in that form.

a) Consumers do not think this measure will materially reduce the cost of advice.

b) Consumers need to know that a FSG is available and what is in it. It should not impact consumers if it provided in a format of their choice.

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 reporting requirements for financial advisors under the design and distribution obligations would not usually concern consumers unless they have a complaint about a product.

Hopefully, any reduction in DDO reporting costs would be passed on to consumers, but consumers are sceptical that this will occur.

b) It was intended that these deign and distribution obligations would ensure that products offered by product issuers would be more targeted to retirees for example. However, it was found in early 2022, that the distribution of Hybrid securities directly to retail investors was restricted by these obligations. This impacted hundreds if not thousands of retail investors were had been acquiring these Hybrid products for years directly from product issues (like the banks).

Transition and enforcement

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

General
15. Do you have any other comments or feedback?
a) Financial Advisors should never be allowed to hold client funds. b) Clients should never deposit funds with a financial advisor for on-investing. c) All investments should be entered into by clients in their own names. d) The number of financial advisors in Australia is reducing but is still more than there are in UK on a population basis. The number of Advisors in Australia is therefore likely to reduce further. More and more are retiring holding their money in managed superannuation funds. Most of the top super funds in Australia are now encouraging their members to retire and simply move their Super to an Account Based Pension and to stay with the same Super Fund. Those people who simply 'roll over' to account based pensions will not usually seek external financial advice. e) Financial Advice from Super Funds – the Retirement Income Covenant and other changes mean that Super Funds are going to be providing more and more what we might call 'vanilla' or scaled advice to the exclusion of independent financial advisors.