



28 September 2022

Ms Michelle Levy
Quality of Advice Review
The Treasury
Langton Cres
Parkes ACT 2600

Dear Ms Levy

Quality of Advice Review – Proposals Paper

The Australian Banking Association (**ABA**) welcomes the opportunity to comment on the Quality of Advice Review Consultation paper – Proposals for Reform (the paper).

The ABA supports the policy intent to make quality advice available to more consumers at lower cost. Simplifying the categories of advice and providing clarity on their scope is key to this, and we welcome the careful analysis undertaken in the paper to grapple with this challenge. We further support the objective of simplifying disclosure, to ensure that it is commensurate to the complexity of the advice, complements the Design and Distribution Obligations (**DDO**) regime, and helps consumers understand the implications of their financial options and decisions.

However, as significant providers of general advice currently, we have concerns that the current framing of the proposals may not achieve these objectives. Banks will need to weigh the provision of personal advice with the additional regulatory obligations compared with the current general advice obligations and may result in many customers receiving only factual information where they currently receive general advice.

The proposals also do not appear to substantially improve a customer's understanding of the advice provided or the status of the information they receive, for example between factual information and personal advice. The customer experience may also not be enhanced if they request assistance from frontline staff but receive only high-level factual information that does not serve their needs.

We note the proposals could be modified to ensure more customers benefit from personal advice and make recommendations below to assist in achieving this outcome.

Key recommendations

1. **Customers and banks should be able to set the scope of advice**

The ABA recommends that the laws implementing these proposals allow customers and banks to agree to (or reasonably set a shared expectation of) the scope of advice. The proposals currently have the implication of potentially requiring banks to review all information (including historical information) banks hold on a customer to determine what is relevant to the advice provided. This may increase costs of providing advice that consumers will ultimately pay and reduce the time and capacity for banks to provide personal advice.

This is because banks can hold a significant amount of information on their customers, across product lines that extend from basic banking, credit products, investments, insurance, and other types of financial and non-financial products. This information could exist in a range of different platforms (e.g. a share investment platform specifically designed for securities, or a dedicated insurance platform).

Without this ability to scope and scale advice at the outset, the work of investigating all the available information and providing advice may add time, increase costs and reduce the availability of advice for customers seeking assistance on even the most basic products.



2. The law should clarify the meaning of “good advice” and “benefit”

The ABA supports in principle the simplification of disclosure obligations and duties to the core duty to provide ‘good advice.’ However, the law should articulate the meaning of ‘good advice’ and ‘benefit.’

We propose that the good advice test should consist of two key requirements for advisers that are consistent with Recommendation 1 on the ability to set a scope of advice. We believe the following steps add further protections in setting the scope:

- a. a requirement to assess whether advice is reasonably likely to benefit the client, having regard to the scope of advice; and
- b. a requirement to take reasonable steps to ensure the customer understands the nature and scope of advice being provided (including any limitations).¹

The law should also make clear that good advice should be explicitly tied to the scope and scale of the advice. For example, where a provider and customer agree to a scope of advice, the good advice test should relate to the information considered in providing advice and not whether other information should have been considered outside of the agreed scope. This will assist providers of advice, regulators and dispute resolution schemes such as the Australian Financial Complaints Authority (AFCA) to understand how to evaluate whether good advice was provided.

3. Marketing material, whether conducted in a general or targeted manner, should not be considered to constitute personal advice

The ABA recommends that marketing materials are exempted from the proposed personal advice regime, even if targeted to a cohort based on information held on those customers.

Banks currently conduct targeted marketing on products that can benefit them based on purchases or online activity. For example, where a customer browser history on the bank website demonstrates an interest in savings, banks can tailor advertisements regarding a term deposit or savings account. Such targeted marketing makes cohorts of customers aware of products and discounts that may be suited to them. By turning marketing into personal advice, this may deter banks from such activity, thereby reducing customer awareness of products that may benefit them, and negatively affecting competition.

Marketing in financial services is also regulated by the Australian Securities and Investments Commission (**ASIC**). Apart from their good practice guide,² the new DDO regime means that issuers cannot offer products if an appropriate target market has not been identified for the product, and they must take reasonable steps to issue in accordance with the target market.³ Finally, the new laws to prevent hawking of financial products make clear that marketing materials that are factual information are a permitted form of communication.⁴ These regulations provide for a range of strong consumer protections for marketing materials.

We further note that as an activity, personal advice differs considerably from marketing, as it is a two-way interaction between the customer and provider and is very much centred on the personal needs of the customer rather than an algorithm-based advertisement to a broad cohort of customers. Customers generally understand when they are seeing an advertisement and it would be unreasonable for them to consider marketing materials to be personal advice.

Given these, the ABA recommends that marketing should be exempt from personal advice obligations under the proposals. This would significantly clarify the law and ensure that regulations are fit-for-purpose to the actual activity of personal advice.

¹ There is a similar provision in New Zealand law, which includes a duty to ensure clients understand nature and scope of advice – *Financial Markets Conduct Act 2013*, s 431J

² See ASIC Regulatory Guide 234

³ See ASIC Regulatory Guide 274

⁴ See ASIC Regulatory Guide 38



4. The record-keeping obligations in relation to advice should be flexible and scaled to the complexity of the advice

The paper proposes to remove the requirement to provide a statement of advice (SoA), while requiring providers of personal advice to retail clients to maintain complete records of the advice they provide and to provide a written record of advice to a client on request. We support removing the SoA requirement as they are of limited value to consumers who find it difficult to understand and engage with the detailed and lengthy documents.⁵

We support a flexible approach to record-keeping, commensurate with the complexity of the advice and channel of communication. For example, agents should be able to use notes taken from of interactions with customers to satisfy record-keeping requirements, and digital records of customer interactions through to bespoke reports where necessary. We consider such documentation provides an efficient and effective way to document and record conversations.

In **Appendix A** we provide some worked examples of scenarios which seek to clarify our recommendations. In **Appendix B** we provide answers to the questions as set out in the template.

Thank you for the opportunity to provide feedback. If you have any queries, please contact me at Prashant.ramkumar@ausbanking.org.au

Yours sincerely,

Prashant Ramkumar
Associate Policy Director,
Australian Banking Association

⁵ ASIC's report on "Disclosure: Why it shouldn't be the default" in 2019 provides the shortcomings of lengthy and complex disclosure documents such as SoAs that customers find difficult to understand.

Appendix A – Scenarios

Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
“Has information” and “good advice”				
<p>A customer of ABC Bank has received a windfall payment of \$10,000 which she has deposited into her non-interest-bearing transaction account. She is looking to deposit the amount in an account to earn interest.</p> <p>The customer also has a credit card with ABC Bank which has an outstanding balance of \$8000 (with a limit of \$10,000). Transaction history shows she only pays off a portion of her balance each month.</p> <p>She approaches an online banker through the ABC Bank app and asks the following question: ‘I have \$10,000 to deposit. I am still deciding what I want to do with the money, but I want to earn some interest on it in the meantime’.</p>	<p>Banker is providing personal advice because ABC Bank holds information about the client’s needs and financial situation and banker is making a recommendation about a class of financial product.</p>	<p>On one view, the advice will clearly benefit the client. She has expressed a desire to earn interest and by depositing funds into an interest-bearing account, she will be ‘better off’ than her current situation.</p> <p>However, the good advice obligation would require advice that would reasonably benefit the client, ‘having regard to the information that is available to the provider at the time the advice is provided’.</p> <p>This could require ABC Bank to consider her credit card debt. A broader view of ‘benefit’ suggests she may not benefit from earning ~3%pa on \$10,000 in the online savings account while she is paying ~20% of interest on her credit card debt.</p>	<p>ABC Bank will need to implement processes to maintain a complete record of the session and provide a written record to a customer on request.</p>	<p>Concerns</p> <p>Information not always available/usable: A proposed law which would, in this scenario, require ABC Bank to consider existing information about the customer’s debt position, could act as a constraint on the provision of simple advice on basic deposit products (i.e. banks may instead only provide factual information):</p> <ul style="list-style-type: none"> • Bankers may not have system access to information about a customer’s other accounts. This may be because there are deliberate “walls” between customer accounts to protect privacy, or to ensure bankers have the appropriate training and expertise in respect of particular products • The extent to which the banker should consider the customer’s debt position could be unclear and may be outside the reasonable expertise/capacity of frontline bankers. For example, the fact that the customer has a credit card debt may not be relevant if she pays off her balance every month. By contrast, it may be relevant where the credit card debt has been growing over time and the customer has been revolving her balance month to month (and therefore not paying down her debt) • The proposals may require ABC bank to make further inquiries of the customer, such as other debts she may have outside of ABC bank. <p>Level playing field: As the customer is an ABC bank customer, they hold all this information on the customer. Under the proposed recommendations, ABC bank would be required to review</p>



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
<p>Banker replies that: 'people tend to opt for a term deposit when they do not need to access their funds for a period of time. The online saving account is a more flexible option, as it allows withdrawals at-call and may be a better option for you.'</p>				<p>information across multiple systems and products in order to advise the customer on where to best place the money.</p> <p>If the customer walked into another bank (as a new-to-bank customer), they would not be subject to personal advice but would still be considered to be providing good advice irrespective of the amount of information held.</p> <p><u>Recommendation</u></p> <p>The law should permit the adviser and client to agree to or develop a shared expectation of the scope of any personal advice:</p> <ul style="list-style-type: none"> In the scenario, the customer may just want advice that compares a term deposit vs an at-call savings account – alternatively the customer may agree that ABC bank should consider the \$8K credit card debt but no other debts that she holds outside of ABC bank The adviser may need to limit the scope of advice given limitations in systems access (or the need to make further inquiries outside of ABC bank) and the advice they are qualified to provide. <p>For the above reasons, the good advice obligation should require a person to provide advice which would be reasonably likely to benefit the client, having regard to the information that is available to the provider at the time and the scope of the requested advice, or as agreed between the person and the client. Without this, there is a real possibility that the frontline staff will not be able to provide any meaningful advice or guidance and deprive the customer of valuable information.</p>
Nudges to existing customers				
<p>ABC Bank wants to send a nudge through its digital banking platform designed</p>	<p>Sending this type of nudge will constitute personal advice because ABC Bank</p>	<p>ABC Bank must provide advice that would be reasonably likely to benefit</p>	<p>ABC Bank must maintain complete</p>	<p><u>Concerns</u></p> <p>Under the proposals, preparing a simple nudge such as this one targeted to a broad cohort of customers would appear to require</p>



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
<p>to help customers improve their financial wellbeing. The nudge will be targeted to a cohort of customers who hold an ABC savings account.</p> <p>The nudge states “<i>Right now might be a good time to set some money aside in your ABC savings account for a rainy day</i>”. Around 50,000 customers fall within this cohort.</p>	<p>will hold information about each of the recipients’ objectives, needs and/or any part of their financial situation, given they are existing customers; and ABC Bank is giving an opinion about a financial product (the ABC savings account).</p>	<p>each recipient, having regard to the information that is available to it at the time it provides the advice.</p> <p>ABC Bank will hold information about recipients which indicates that saving might not be beneficial for them (e.g. that they hold credit products with ABC Bank). The ‘good advice’ obligation would likely require ABC Bank to individually consider these recipients’ circumstances and either tailor the nudge accordingly (e.g. with a warning that they may be better off paying down debt before saving) or exclude certain customers.</p> <p>There may be recipients who have debt with other financial institutions, but not with ABC Bank. Given this information is not available to ABC Bank at the time the nudge is sent, the current form of the proposals indicate that the nudge is likely to be ‘good advice’. This is because a recommendation to save,</p>	<p>records of the nudge and provide a written record to a recipient on request. In practice, it is difficult to see this playing out for advice that is provided through nudges.</p>	<p>ABC Bank to consider all of the information it has available on each recipient. Such an exercise would be costly and time consuming, discouraging ABC Bank from providing one-way savings recommendations that can benefit consumers.</p> <p>While it may be relatively simple to include a warning in all nudges to deal with recipients who have debt, there may be other circumstances which need to be considered and addressed for specific recipients pursuant to the ‘good advice’ duty (for example, recipients who receive Centrelink payments which may be impacted by saving). Engaging in this level of scrutiny for each recipient would be unworkable.</p> <p>To not be able to provide such communications may reduce information to customers and undermine the ability for banks to market to their customers and reduce the ability to compete and offer innovative products.</p> <p><u>Recommendations</u></p> <p>As the proposals are currently drafted, banks may be unwilling to send straightforward nudges like this one. A solution could be to exempt one-way communications from the personal advice regime. Such communications will continue to be subject to general consumer protection legislation.</p> <p>Alternatively, to make nudges workable the law could specifically state that personal advice is only where it would be reasonable for a customer to believe they are receiving personal advice.</p> <p>As such, clients will have clarity that the advice does not consider the entirety of their circumstances. In this scenario, a customer may specifically opt-in to receive savings nudges. ABC Bank would then be able to provide nudges at scale for simple savings products</p>



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
		without any warning about paying off debt, will be likely to benefit those recipients when only looking at their ABC Bank products. However, on a more holistic view that advice is unlikely to benefit those recipients.		without the requirement to undertake a wholesale review of the recipients' information.
Financial wellbeing sessions				
ABC Bank offers sessions in its branches to groups of customers and non-customers. These sessions provide generic financial wellbeing tips and promote features of the ABC savings account which are designed to help attendees cut down their spending and save more. These sessions are not interactive, so attendees do not have an opportunity to provide details about their objectives, needs or financial situation.	Under the existing regime, these seminars are run under a general advice model. The proposals will alter this approach so that: A. in relation to customers, the sessions will be personal advice as ABC Bank holds information about their objectives, needs and/or financial situation; and B. in relation to non-customers, they will not be providing a financial service as ABC Bank does not hold relevant information about them.	ABC Bank will only be required to provide 'good advice' to customers in attendance. Assuming both customers and non-customers will be attending together, the session will need to be tailored in a way that takes into account each customers' information but also makes sense in a group context. ABC Bank would be required to consider the relevant information it holds about the customers in attendance, to ensure that the content is reasonably likely to benefit each of them.	ABC Bank will need to implement processes to maintain a complete record of the session and provide a written record to a customer on request.	<p><u>Concerns</u></p> <p>Where generic material is provided to customers and non-customers, the classification of that information will be different in relation to each type of recipient if it contains a recommendation or statement of opinion about a financial product. We expect the disparity in approach will lead to a disjointed attendee experience, which in turn will reduce the ability of customers to receive such useful information that could assist financial wellbeing in the context of universally held basic banking products.</p> <p><u>Recommendations</u></p> <p>A solution could be to exempt one-way communications from the personal advice regime. Such communications will continue to be subject to general consumer protection legislation.</p> <p>An alternative solution could be to provide an exemption for generic recommendations and statements of opinions relating to basic banking products already held by the customer to increase the accessibility of simple financial wellbeing assistance.</p>
Research reports				



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
<p>ABC bank provides broking services to retail clients. Separately, the bank has a research team that distributes market research on stock insights (including some prepared by third parties) to recipients on its mailing list.</p>	<p>As the ABC bank provides research reports to customers and has knowledge of the history of the customers, this could be personal advice.</p>	<p>The bank has to determine whether the research reports would have information likely to benefit the customer.</p>		<p>Our concern is that there is a risk that such educational content would be considered 'personal advice' under the broadened meaning of personal advice (Proposal 1), where the educational content team happens to coincidentally share such research with broking clients. This is because the educational content would be deemed to hold information about the client's objectives needs or financial situation, even if it was clear that the research team could not and did not access any of this information.</p> <p>In our view, it would be contrary to the policy objective of supporting access to advice to treat those recommendations as personal advice.</p> <p>We recommend that it be made clear that educational content prepared for a broad audience cannot be personal advice, regardless of whether the distributing licensee holds relevant information about the client or not.</p>
Digital advice				
<p>A recommendation about a financial product is provided to a retail client in exchange for a fee through an automated digital advice channel.</p>	<p>Given the advice provider has information, this would be personal advice</p>			<p>As is currently the case, the Code of Ethics (including the best interest obligations in Standards 2 and 5) will not apply to the digital advice provider.</p> <p>However, by removing the best interests duty and replacing it with an obligation to give good advice, this widens the gap between how individual financial advisers and digital advice providers are regulated. It is not clear why a higher standard should apply to individual advisers, particularly when digital channels may have more information available to it that is instantly accessible.</p>
Basic Bank accounts				
<p>A customer who recently became a pensioner and concession card holder has</p>	<p>Under the proposals this is likely to be personal advice, and would need the bank to</p>	<p>This is likely good advice that is likely to benefit the customer</p>		<p>Chapters 15 and 16 of the Banking Code of Practice include provisions requiring banks to provide banking services for people with a low income otherwise known as a basic bank account. The</p>



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
<p>an account with fees charged on it.</p> <p>The customer presents at a branch and the bank representative notices the customer could be eligible for a fee-free basic bank account.</p> <p>The bank rep tells the customer "I think you are eligible for a basic bank account without any fees. I recommend it because you have fees right now and can save money. Would you like me to set you up?"</p>	<p>consider all the relevant information of that customer which will add time and cost to a simple process and recommendation. There will also likely be persons who cannot provide advice such as bank tellers or customer agents, so access to personal advice would be further restricted.</p>			<p>product is design for people on low incomes who are concession card holders (provisions below). Chapter 16 outlines the features of the account.</p> <p>Banks are now obliged under paragraph 45 of the Code to "raise awareness of our affordable banking products and services such as basic, low, or no fee accounts, including that you may be eligible if you have a government concession card."</p> <p>The concern here is that converting such conversations into personal advice could create barriers to such conversations particularly if the bank rep has to consider all the information held by the customer before making that recommendation that would clearly benefit the customer.</p> <p>The bank rep should be able to make a recommendation on these few relevant facts and the law should allow it.</p>
Personalised digital experience and targeted marketing to existing customers				
<p>ABC Bank wants to personalise the communications to its existing customer with a simple savings account to improve their financial well-being through the following channels:</p> <ul style="list-style-type: none"> - Personalised digital tiles or push notification when the customer logs onto their internet 	<p>Sending this type of communication (for all three examples) will constitute personal advice because ABC Bank will hold information about each recipient's personal information, including their objectives, needs and/or any part of their financial situation (such as their account information, spend behaviour etc.)</p>	<p>ABC Bank must provide advice that would be reasonably likely to benefit each recipient, having regard to the information that is available to it at the time it provides the advice.</p> <p>ABC Bank will consider some personal information about each recipient which indicates that a particular financial product might be</p>	<p>ABC Bank must maintain complete records and provide a written record to a recipient upon request. In practice, it will be difficult to determine what record can be shared with the</p>	<p><u>Concerns</u></p> <p>Under the proposals, preparing personalised digital experiences and targeted marketing to existing customers, such as the examples provided, would appear to require ABC Bank to consider all of the information it has available on each recipient. Such an exercise would be costly and time consuming, and ABC bank would need to reconsider such marketing that can benefit consumers.</p> <p>Furthermore, due to compliance and legal burdens being placed on personalised digital experiences and targeted marketing, it will potentially reduce innovation and limit ABC Bank's ability to provide enhanced digital personalised experiences.</p>



Scenario	What will be required under the proposals			Concerns and recommendations
	Personal advice	Good advice	Record-keeping	
<p>banking account to encourage customer to consider a term deposit product based on their long-term saving goals</p> <ul style="list-style-type: none"> - Personalised digital tiles to recommend a transaction account based on the customer's browsing history (including public and secure website browsing). <p>Promote term deposit to the customer based on the fact that their interest rate has now expired (electronic or mail).</p>		<p>suitable or beneficial for them, for example:</p> <ul style="list-style-type: none"> - The customer sets a long-term saving goal which indicates that a term deposit might be more suitable for them. - Browsing history of that customer shows that they might be interested in a transactional account - Interest terms on their account. <p>The 'good advice' obligation would likely require ABC Bank to individually consider all of the information ABC Bank holds about each recipient and tailor the communication accordingly by adding extra warnings or disclaimers.</p>	<p>customers, e.g. propensity model or internal data selection criteria – this will be beyond their need to know basis and is of commercial confidentiality, unless the information was requested by the regulator.</p>	<p><u>Recommendations</u></p> <p>As the proposals are currently drafted, it is unlikely that banks will be willing to send straightforward communications (for all three scenarios) or provide more personalised customer experiences.</p> <p>A preferred solution is to exempt personalised digital experiences and targeted marketing from the personal advice regime. Such communications will continue to be subject to general consumer protection legislation.</p>



Appendix B - Template questions and answers

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. Personal advice should be able to be provided to customers with a flexible approach to administrative activities. Some administrative work such as preparation and provision of Statements of Advice and Financial Services Guides are unnecessary for simpler, well understood financial products (e.g., basic banking products and general insurance products), and are unlikely to be of benefit or assistance to customers.

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, but to ensure that the new regime encourages the provision of personal advice in appropriate circumstances to all customers, the law will need to be clear that the level of enquiry, investigation and record keeping upon provision of personal advice is 'scaled' to meet the needs of the customer. Providers of advice issuing products should be able to limit the information considered in providing advice on basic financial products and have a duty to ensure clients understand nature and scope and limits of that advice. Without the ability to limit the information considered, personal advice will be time consuming and will result in significant increases in resourcing, which can reduce the availability of advice to customers.



- b) As noted above, without the ability to provide limited scope advice based on a limited set of information on the customer, banks may find it resource intensive, expensive and time consuming to provide personal advice considering all the circumstances of the customer. This can increase costs for consumers and reduce the availability for affordable and efficient advice.
- c) Unlikely, see reasons above. Further, the requirement for advice providers to “maintain complete records of the advice they provide” will be expanded to apply to situations where an SOA is not currently required. This may result in more record-keeping and other obligations, resulting in less customers receiving advice on simple queries that could otherwise be handled quickly, e.g. in branch interactions.

Providing factual information will likely be preferred by advice providers where the alternative is to try and obtain all the information an institution currently holds about a particular customer, inquire whether it is up to date, consider whether it is relevant, and then create a “detailed record” of the relevant factual background, the options considered, and the advice ultimately provided.

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?**

The general consumer protections are unlikely to be sufficient. Allowing non-regulated entities to provide opinions and recommendations about financial products is risky for consumers, as those entities are not technically required to be capable and competent to do so e.g. accredited or qualified.

The nature of additional safeguards required will be dependent on how the final definition of personal advice is drafted and will need be consistent with the current capabilities of AFSL holders to ensure consumer protection and a level playing field across providers.

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) The definition of ‘good advice’ will need to be carefully drafted to ensure a clear standard of application across providers to ensure consistency in the provisioning of advice. Clarity will be required on what steps / effort / understanding are reasonably expected to form that advice.

Overall, the change to a ‘good advice’ obligation may allow advice providers to better focus on the quality of the advice they provide rather than process and document production.

- b) An incremental cost reduction will be achieved for those providers who will no longer be required to produce Statements of Advice. For providers currently giving advice about basic banking and general insurance products, however, it is likely that almost all advice provided to existing customers will be personal advice which could result in an increase in both time and cost.

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) See response to question 2.

- b) The changes will likely make it easier for providers otherwise subject to the best interests duty but is unlikely to make it easier for other (non-professional individual) advice providers.

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

- a) **limited advice?**
b) **digital advice?**

See response to question 2. The law will need to allow for the level of enquiry and investigation upon provision of personal advice to be ‘scaled’ to meet the needs of the customer and the complexity of the product being recommended.

Otherwise, the complexity of incorporating significant volumes of customer data is not feasible under an expansive “has or holds information” requirement. This could either prevent providers from using digital solutions (given customers and regulators would reasonably expect that data be



incorporated) or steer providers to design solutions which only incorporate those inputs a customer actively provides during their specific interaction with the tool, thereby providing a poor customer experience and potentially a poor advice outcome.

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) The requirement to provide 'good advice' will likely maintain quality for the simpler topics/products that will not require professional advice.
- b) The changes will not impact the affordability and accessibility of advice on basic banking and general insurance products.

We agree with the recommendations that it would be appropriate to require a person to be qualified as a "relevant provider" (and apply best interests duty with the safe harbour steps removed) where there is an agreement to provide advice, or where the individual receives a fee or commission.

However, the wording of the Proposal is a little unclear and potentially goes further. It says:

Proposal 4 – requirement to be a relevant provider A provider of personal advice should be a 'relevant provider' where the provider is an individual and the client pays a fee for the advice, the provider (or the provider's authorising licensee) receives a commission in connection with the advice, there is an ongoing advice relationship between the adviser and the client or the client has a reasonable expectation that such a relationship exists.

- Are these "and" or "or"?
- What constitutes "an ongoing advice relationship". This should not extend to relationship bankers who will now be within the "good advice" regime under these proposals (given they will hold existing customer information).
- Suggest removing the reference to "or the client has a reasonable expectation that such a relationship exists" as this introduces uncertainty and is arguably not required as the criteria of "parties have entered an advice agreement; or the adviser receives a fee/commission" would be the reasonable indicators of such a relationship.

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, the 'efficiently, honestly, and fairly' obligation is a strong principle.

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?

N/A

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?

The streamlining of disclosure requirements will reduce regulatory burden. However, consideration is required as to how consent arrangements would apply in the context of digital advice. Requiring written consent for digital advice would be burdensome and would detract from the customer experience.

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) While on one hand this would reduce the regulatory burden of providing personal advice, there will be a continued cost associated with the requirement to retain suitable records of activities and discussions for customers to then access as required.
- b) Given that consumers will be able to request written advice if they choose to, it seems unlikely that the proposals will negatively impact consumers. The advice provider will remain obligated to have “complete records”.

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) FSGs will remain a requirement for banks in any event.
- b) Nil impact for bank customers.

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) Likely nil.
- b) Likely minimal.

Transition and enforcement

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

Having an opt-in during a transitional period will cause confusion and inconsistency in the application of the law.



General

15. Do you have any other comments or feedback?

Other feedback has been stated in our cover letter.