



23 September 2022

Secretariat, Quality of Advice Review
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

By email: AdviceReview@treasury.gov.au

Dear Sir / Madam,

RE QUALITY OF ADVICE REVIEW PROPOSALS PAPER RESPONSE

About Otivo

Otivo is a digital, personal advice platform (www.otivo.com) which is owned by Map My Plan Pty Ltd, holder of an AFSL and Australian Credit Licence number 485665, and employs a range of specialists including responsible managers, engineers, relevant providers, qualified tax relevant providers and mortgage brokers.

These are the qualified and experienced professionals upon whom we've relied since getting our licence in 2016 to ensure the personal advice we deliver using algorithms is consistently 'good advice'.

Our algorithms and accompanying personal advice outputs were constructed, and are regularly tested, to comply with our licence conditions and financial services laws such as the best interest duty, provision of the Financial Services Guide and Statement of Advice ("**SOA**").

Otivo is living proof that the laws are not an impediment to the delivery of quality advice that is personalised, affordable and accessible to every Australian.

How our digital personal advice platform works and what it costs

A consumer (aka **user**) starts by creating an online account on any device by selecting one of three subscription plans — Starter Plan at \$15.99pm (flexible monthly subscription), Essential Plan at \$143.88 annual fee upfront (ie \$11.99 pm) or the Premium Plan at \$299.88 annual fee upfront including support (ie \$24.99 pm).

This is how affordable digital advice is and there's no limit to how many users we can provide online personal advice to.

Using algorithms and data feeds, we collect personal and financial information from a user and their partner if included (aka fact-finding) to provide advice both on the platform and in the SOA.

The SOA can be generated by the user from within their account, as often as they like. There is no additional cost to the user to include their partner.

There is no limit to how many personalised SOAs our advice platform can generate. We're currently producing an average of 10 SOAs per day but could do significantly more.

A user can either manually add their information or link their financial institution to Otivo securely. If they choose to link their accounts, the data is refreshed every 24 hours (or sooner if done by a user within their account). This ensures our advice and the accompanying SOA are automatically updated whenever their situation changes.

If we can do it, there is no valid reason why other digital advice providers cannot.

Submission summary points

We support the Review's objectives to look at how the regulatory framework could better enable the provision of high quality, accessible and affordable financial advice.

Our subscription prices start at less than \$3 a week and we provide personal, general and strategic advice to over 6,000 users. We can confidently say therefore, that digital advice plays an integral part in solving the Review's objectives.

It's also a source via which financial advisers could grow their business. The number of Australians who sought advice from a financial adviser in 2021 was 10.1%¹. Without digital advice, it is unlikely this percentage will grow by much, especially if adviser numbers continue to decline.

We welcome several proposals, specifically 7 to 11 which have the potential to reduce regulatory complexity and costly, prescriptive burdens thereby facilitating greater access and affordability of personal advice for consumers.

Clarification is needed around some proposals to ensure their intended effect is achieved. In particular:

- While we support broadening personal advice and removing general advice, we hold concerns over the adequacy of existing consumer laws and regulatory oversight to capture and disable misleading or deceptive conduct which has the potential to increase should these proposals in their current form, become law.

¹ Vanguard, *Australian Financial Advice Landscape*, April 2021.

- If the Review is committed to achieving the 'provision of high quality'² or 'good' advice, the inclusion of a relevant provider's invaluable skills and knowledge in the creation and delivery of advice, whether by script or algorithm, warrants further consideration in several proposals and ASICs RG 255³.
- Clarity around the adequacy of RG 146 is required. It is proposed that employees who are not relevant providers will be eligible to provide personal advice if RG 146 compliant. This appears inconsistent against Treasury acknowledging repeated failures of RG 146 in their *Financial Adviser Education standards - Consultation paper*, August 2022, including:

'Concerns have been raised that the current standards in RG 146 are not commensurate with the level required to ensure appropriate technical and professional competence. Further, in some instances, the existing minimum education and training standards have not been applied consistently across the industry, and the rigour and quality of some training courses is questionable.'

We welcome new sources from which consumers can seek specific personal advice but without adequate regulatory guidelines and safeguards, question whether 'good advice' will be good enough when assessed against the broad range of potential individuals who are proposed to be able to deliver personal advice under the guidance of their employer.

Making it obligatory that all institutions, including digital platforms, employ a relevant provider who's involved in the construction and delivery of personal advice is a valuable safeguard to the quality of advice, and offers greater consumer protection compared to advice provided to an employee who is RG 146 compliant and supervised by someone who is not.

It also opens career opportunities under which an employee, including a provisional adviser, could pursue a path towards becoming a relevant provider. This presents an opportunity to replenish falling adviser numbers.

Being a relevant provider should not be defined by the nature of the remuneration but by their duty of care, specialist skills and qualifications they hold. We have relevant providers who are salaried employees and do not charge a fee. They are committed to the provision of quality, personal advice. It is not appropriate therefore, to define anyone remunerated in this way as someone who is not deserving of the title, particularly when it was earned by completing the relevant education standards now contained within s921U of the *Corporations Act 2001 (Cth)*.

We have addressed selective questions and sections of the Consultation Paper and are open to further discussions on these points.

Our response is through the lens of a client-led digital advice provider.

Please do not hesitate to contact us below if we can be of further assistance to the Review.

² The Treasury, *Quality of Advice Review - Issues Paper*, March 2022, p4.

³ ASIC, *RG 255: Providing digital financial product advice to retail clients*, para 62.

Appendix 1: Consultation template

Organisation: Otivo Pty Ltd

Contacts:

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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?**

So that more Australians have access to an affordable range of specific advice, we support the principle that any employer (ie adviser, digital advice provider, product manufacturer or trustee) should be able to facilitate personal advice, delivered by employees, to their customers - provided there are sufficient mechanisms in place to ensure that all employers ("**advice providers**") deliver 'good advice' and are sanctioned appropriately when they don't.

By enabling product issuers to provide personal advice under their AFSL, we agree it is likely to increase access and potentially, the affordability of personal advice to the large number of Australians not currently receiving it.

The onus appears to be heavily placed on the consumer to determine which advice provider best serves their budget and interests, regardless of their financial literacy level. And on that we have concerns which are addressed below.



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) We welcome the clarity that comes with broadening the definition in how it captures interactions between consumer and an institution that has or holds their information about them. When considered in context of the proposals, it conceptually reduces regulatory burdens on providers of personal advice.

It appears to do this unevenly however, by presenting different standards for 'personal advice' which are dependent on the advice provider.

At Otivo, we've never experienced regulatory uncertainty as we've always been clear on what personal advice entails, and sought external legal advice on an as needed basis.

Our algorithms and accompanying advice outputs were constructed, and are regularly tested by our qualified and experienced staff which includes Responsible Managers, Relevant providers, Qualified tax relevant providers ("**QTRP**") and Qualified mortgage brokers, to comply with provisions such as the best interest duty and the prescriptive inclusions of an SOA. This is one of several mechanisms we use to maintain high quality, rather than 'good', personal advice output for the benefit of consumers.

Clarity around how some proposals will differ from current practices would minimise some uncertainty, such as the current interaction of personal and general in RG 175 Appendix 1, and differences between comprehensive financial plans if an advice provider is only able to advise on a range of issues or financial products as per RG 234.128 for example.

b) Yes. Increasing the sources from which a consumer can seek simple, personal advice increases the likelihood they'll seek advice, even more so when digital platforms are involved. Thinking about behavioural science and economics, these odds improve if the price is right, timely, serves their purpose and there's trust in the relationship.

However, it's unlikely consumers will understand the differences between why costs apply to some advice providers and not others, and what consumer protections each offer.

Competing players in the advice market, some with very deep pockets operating in vertically integrated businesses⁴, could be able to obscure the lens of objectivity through which consumers are expected to make informed decisions.

Otovo is already fit for purpose to facilitate the provision of personal and limited advice on a large scale. And where an advice provider wishes to partner with Otovo to use our digital advice platform under their own AFSL, or under ours to mitigate risk, our Australian based web servers and inhouse team of engineers remove several compliance burdens and limitations because of the number of consumers we're able to deliver personalised advice to regardless of when or where.

- c) We agree in principle but require guidance around what regulatory safeguards they must adhere to, to ensure the financial services market operates fairly and competitively, and consumers are adequately protected, with access to adequately resourced and experienced avenues like AFCA.

If the Review is committed to achieving the 'provision of high quality'⁵ or 'good' advice, the absence of a relevant provider's role in 'the rationale, risks and rules behind the algorithms underpinning the digital advice'⁶ requires closer consideration in the proposals and in ASIC RG 255.

It is safeguards, such as the obligation to have a relevant provider in a financial institution who is integral to the advice process, which are likely to be more effective in reducing the incidence of poor advice outcomes due to incorrectly programmed algorithms, or call centre scripts constructed and used by RG 146 compliant staff and supervisors.

This is particularly important where a financial institution - or any advice business, does not have a Technical department whose unique skills lie in interpreting and implementing the impact of financial services laws and compliance obligations into products, retirement income projections, adviser guides, client marketing and communications for example.

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?

⁴ ASIC, *Report 474: Culture, conduct and conflicts of interest in vertically integrated businesses in the funds-management industry*, March 2016.

⁵ The Treasury, *Quality of Advice Review - Issues Paper*, March 2022, p4.

⁶ ASIC, *RG 255: Providing digital financial product advice to retail clients*, para 62.



a) If not, what additional safeguards do you think would be required?

If significantly more consumers are likely to seek advice and this results in increasing complaints, it is difficult to gauge whether existing consumer protection provisions will be adequate.

It is therefore appropriate that some disclosures are provided to a consumer seeking specific advice where no advice fee is paid - especially if there is any potential for bias (such as links to KPIs for staff) or conflict when personal advice is provided.

Provided in writing or recorded, this serves as evidence and ensures the consumer is made aware that the personal advice is very limited and specific in scope. For example, a consumer looking to contribute more into a new super fund contacts their existing financial institution which issued their mortgage and credit card and therefore holds personal information about them. A consumer may reasonably expect the institution to consider their debt obligations when providing personal advice about making contributions, but under the proposed changes, it would appear that they don't have to.

This is of particular concern where super funds continue to exclude liabilities like a mortgage but call centre staff would be able to facilitate simple personal advice services such as recommending additional contributions without knowing a client's personal contribution caps and if they're in mortgage stress.

To that end, regulatory guidance is required to clarify the hand-off point at which a client should be referred to an adviser who is authorised to advise on a broader range of issues (aka comprehensive advice). A relevant provider's involvement in constructing what's in and out of the scope of personal advice delivers better corporate governance due to their direct oversight of daily operations as compared to a Director or Responsible Manager, who has different qualification and professional standards, and CPD obligations to a relevant provider (aka financial adviser).⁷

Moreover, it would be appropriate that any person providing personal advice who is not a relevant provider, be restricted from using any of the terms already referenced in the *Corporations Act 2001*. This is to minimise any misleading or deceptive conduct around the use of industry terms which, in situations where personal advice is provided under the guise of 'advice' or 'coaching', could result in financial harm for consumers.

How should personal advice be regulated?

⁷ ASIC, *Professional Standards for Financial Advisers*, [viewed 21/09/22](#) and ASIC, *RG 105: AFS licensing - Organisational competence*, June 2022.



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) Because we're all human, we think it's good practice to prompt consumers with reminders about ensuring they've given us key details. We've found this practice assists the delivery of 'good advice' and accordingly, Otivo will retain some aspects of the best interests duty (**BID**) but apply it with user-friendly language.

An algorithm which has been constructed with laws, licence conditions and regulatory guides in mind, repeatedly delivers the same output based on inputs. Otivo uses annual certification by external legal professionals; daily oversight by mortgage brokers, QTRPs and relevant providers, and monthly internal auditing as tools to check the algorithm is performing as programmed.

Based on some of the outcomes where advice providers have relied on the safe harbour steps, we can appreciate how its removal could reduce uncertainty and are therefore supportive of its removal.

We hold concerns around the lack of prescribed safeguards for employers (working for trustees, platforms and product manufacturers for example) in circumstances where simple advice could be provided by staff who are not relevant providers. Without prescribed guidance for aspects such as minimum training and education, it is difficult to forecast whether these proposals will return an industry wide 'good advice' score in 12 months' time.

By broadening the sources from where, and from whom, personal advice may be obtained to a consumer, and excluding safeguards like the involvement of a relevant provider at institutional levels, it seems more likely that the overall quality of personal advice will lower, thereby setting a low bar as to what constitutes 'good advice'.

b) Being a digital, personal advice provider with existing capability to generate an SOA in under 2 minutes, we do not expect much change in time and cost because of the proposals to retain records for evidentiary purposes.

Noting we will retain our AFS licence, we will continue to use the SOA (it's less than 35 pages when comprehensive advice is sought) but appreciate being able to remove much of the prescriptive content often recommended by lawyers, and will make it more consumer friendly.

For example, changing the title SOA and the order of main requirements⁸ to address what the client wants first, while accommodating their financial literacy level for example, is a great start.

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) Otivo does not benefit from this change. We've designed our algorithm so that a consumer ("**user**") can choose which areas of advice they'd like to work on at any given time (debt, cash flow management, savings, retirement, super, investments, personal insurance). This enables Otivo to offer limited, strategic or comprehensive personal advice as or when the user wants it.

We are neutral to the proposal to replace the BID with 'good advice' and hope that this change assists others with their business objectives, as well as consumers in receiving the advice they want.

b) We believe the proposed changes will encourage institutions to implement digital advice solutions so that they can benefit from its large-scale, integration and bespoke opportunities.

As per ASIC RG 255.100 our algorithm contains exit points to triage out consumers for whom our advice is not appropriate. The broad approach of RG 255 already makes it possible for digital providers to construct an algorithm which could deliver anything from high quality personal advice to a nice looking, non-compliant superannuation calculator.⁹

So while we agree these specific proposals make it easier to provide limited or basic advice, we question whether the advice will be 'good enough' to benefit the client - particularly in circumstances where limited fact finding is conducted and accordingly, minimal information is held upon which the advice is given.

⁸ s947B, *Corporations Act 2001 (Cth)*.

⁹ In reference to ASIC RG276, *Superannuation forecasts: Calculators and retirement estimates*, July 2022.



It would be appropriate therefore, to introduce a collective 'good advice obligation' which would apply to institutions, including digital providers. This would include guidance on the minimum fact finding required before basic personal advice is provided.

Without regulatory guidance on which key personnel a digital advice provider requires such as a relevant provider, and compliance rigour around education and training required by staff using it to deliver advice to clients, there may be some reluctance to engage in partnership with, or invest in the construction of digital advice platforms.

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

a) limited advice?

b) digital advice?

a) We agree that additional categories of advice are not required at this time.

So that 'good advice' standards can be maintained, it makes sense that it's provided by an appropriately trained and suitably qualified individual, regardless of whether it's simple, limited or comprehensive.

At Otivo, we make no distinction between these types because we always strive to provide good advice. To maintain this standard, and adhere to our AFS licence conditions, we employ relevant providers and QTRPs.

In changing this and removing obligatory licensing requirements, layers of governance and daily oversight are withdrawn, including the ultimate gatekeeper - the Responsible Manager. This exposure may not be appropriate in a range of circumstances such as small or large businesses, with varied experience, demonstrated most recently in the Royal Commission.

b) We have not found the current regulatory regime to be 'poorly suited' to digital advice and are living proof that personal financial advice can be provided on a large scale for less than \$3 a week.

We greatly appreciate and thank Treasury for their engagement with our advice platform, and welcome others to try www.otivo.com to obtain a greater understanding of what personalised digital financial advice is, and can do, without making product recommendations.

To better facilitate the provision of good advice when offered by a digital provider, employing a relevant provider and QTRP like we do should be mandatory. We suggest that ASIC RG 255 be amended to include this under the organisational competence obligation.

From our own risk mitigation perspective, we hold concerns around consumer privacy, dispute resolution, cyber security and data rights, where unlicensed digital providers, including robo providers, are not held accountable to the same standards as a licensed digital advice provider like Otivo.

Institutions partnering with unlicensed digital providers may be unwittingly exposing their business to unacceptable risks as highlighted in RG 255.60. We believe one reason for this is that a licensed digital advice provider is only obligated to have an adequately trained and competent person in the business that understands and reviews the advice generated by algorithms (ie the output). There is no obligation for that person to be a relevant provider, even if the consumer is charged a fee and comprehensive advice is provided.

And if a digital provider is not licensed, the obligations are lower and accordingly, one may question how 'good' the advice output will be.

A similar argument would be presented against an AFSL digital advice provider which under RG 255.86 is obligated to comply with the BID and related obligations such as the safe harbour steps, but not required to have a relevant provider as one of the people within a business who advises on and tests algorithm construction and modifications which produce the personal advice output upon which consumers rely and act.

We therefore recommend that a relevant provider be a specific human resource that digital advice providers employ when self-licensed, or when used by an AFSL holder which provides information about a financial product or personal advice (in a partnership arrangement for example).

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) We agree with the Treasury's comments in the *Financial Adviser education standards - Consultation paper*, specifically that "professionalism of the industry is also about ensuring consumer protection." We also agree that consumers should be able to seek advice from a non-relevant provider for basic product information and limited strategies.

To maintain industry professionalism we believe that a relevant provider should not be defined by the nature of the remuneration, but by their duty of care, specialist skills and qualifications they hold. We employ relevant providers and QTRPs who have recently completed their education requirements, are salaried and therefore do not charge an advice fee (nor does the Licensee). They are committed to the provision of quality, personal advice and obligated to put consumer interests before their own.

We therefore seek guidance on the proposal that 'permits a digital advice provider to provide advice to a customer for a fee without the provider (or any of its employees) being a relevant provider'. This appears to be inconsistent with Proposal 4. Digital advice providers are no different from any business in wanting to retain its' customer base, ie an ongoing relationship that lasts for more than 12 months. Why are digital providers who charge a fee entitled to advantages over advisers for example?

- b) Looking at the proposals as a whole, we are of the view that consumers will have greater access to more affordable advice, but we foresee an unfair playing field ahead between those providing personal advice as a 'relevant provider' versus others given relief from higher standards such as digital providers and institutions operating in vertically integrated product models.

Without digital advice it is unlikely that more Australians will have access to personal financial advice. Where a fee is paid, a consumer has the right to expect and receive a standard of advice that is at least 'good' (preferably better than good), regardless of whether it's charged on a collective basis or offered by a digital platform, product manufacturer or adviser.

If regulators leave safeguards such as training, pricing and adequate resources to industry participants, there is less certainty around affordability and consistency in advice quality for consumers - which also increases the likelihood of financial harm, misleading and deceptive conduct.

If the average Australian's super balance is their second biggest asset at age 65 (after their home), and being relied upon as a major retirement income source¹⁰, consumers could be exposed to significant harm by receiving product advice from an employee that is not appropriately

¹⁰ ABS, *Retirement and Retirement Intentions*, Australia, released 08/05/2020.

trained and supervised. We therefore recommend the obligation to employ a relevant provider and lift the education and ongoing training standards under ASIC RG 146.

We also recommend that any entity providing personal advice meet the requirements of being a relevant provider. Specifically, where a digital personal advice platform is also a relevant provider, the end consumer and any corporate partner using the digital platform to deliver personal advice to their clients or members, will gain more confidence to use their service.

It is possible that a corporate client such as a super fund, bank or insurance firm, wishes to provide their clients or members with access to affordable personal advice, but in doing so may be unable or reluctant to take on the accompanying responsibilities.

When assessing the suitability of a digital advice platform, a key consideration should be *"does the digital advice platform meet the requirements and obligations behind the provision of good advice?"*. Where the digital advice platform is a relevant provider the answer will clearly be yes, but if they are not, the question will be "who is responsible for the advice provided?"

We therefore recommend that a relevant provider should be any entity that delivers personal financial advice.

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?

An individual who provides personal advice to retail clients about their money should be competent, appropriately trained and supervised.

Structured guidance is needed around what levels of competency, training and supervision the staff of employers like product issuers, insurers and super funds should have when providing personal advice that is 'good' to consumers.

How would the proposals subsequently apply and regulate these standards, particularly in circumstances where an advice provider is not licenced? Without robust guidance behind the process, we have concerns about the quality of advice being provided to consumers which is a key objective of the Review.

We note that RG 146, sections D and E remain under review since 2012¹¹, and do not apply to relevant providers, but continue to apply to Licensees and representatives who provide financial product advice to retail clients. It would be appropriate therefore, that RG 146 is reviewed, particularly in light of the long history of ongoing changes to financial services laws and the introduction of others such as consumer protection and data rights.

In reviewing these, it would be beneficial to consider if the education requirements were aligned as a subset to the education and professional standards for relevant providers. This offers an opportunity to address diminishing financial adviser numbers, lift industry advice standards and facilitate a future career path for less experienced advice providers - which would be pursued with employers such as trustees, digital providers and product issuers.

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) We agree that proposed amendments to the sole purpose test make it easier for trustees to provide personal advice to members and use fund assets to meet the cost.
- b) We welcome the removal of restrictions on collective charging and agree the proposed amendments will make it easier for members to access advice about their super.

So that members are aware of the cost and the implications, we suggest standard warnings be prescribed for inclusion in forms which state what the cost is and how it's deducted from their super thereby reducing their balance, impacting what's saved for retirement.

Advice fees should be included in member statements to be consistent with other fees and charges deducted from member accounts. We assume that collective fees will continue to be included in APRA's annual performance tests to ensure costs remain competitive and fair for members.

¹¹ ASIC, *RG 146 Licensing: Training of financial product advisers*, July 2012.

A standard form makes it easier for members to complete alone, or with the assistance of an adviser - who may be required to complete multiple forms for clients with holdings in more than one fund.

To ensure advice is provided and executed in a timely manner, particularly where members wish to act alone, it would be beneficial for trustees to adhere to standardised forms and content, processed within regulated timelines to ensure advice is provided when it's needed.

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?

As this is currently outside the scope of our services we are not responding.

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) If the removal of this obligation assists in reducing costs and regulatory burdens for advisory firms - we welcome it.

As stated above, to satisfy our record keeping obligations, we will continue to generate a PDF form of the SOA, albeit one which is client focused rather than prescriptive.

b) Based on the substantially low percentage of users who actively download the SOA available to them in their account at www.otivo.com, its removal is unlikely to be noticed or missed. Accordingly, we do not see any negative impact for consumers.

12. In your view, will the proposed change for giving a financial services guide (FSG):

- 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) We appreciate the flexibility this proposal offers. Being able to direct consumers to a dedicated webpage simplifies the distribution obligations and therefore the regulatory burden for Otivo.

However, the current prescribed inclusions are not client focussed nor friendly, and are therefore likely to remain as popular as the SOA, ie unlikely to be read by consumers regardless of their delivery or location.

b) We support the change but are mindful that less able or vulnerable clients such as the elderly (who are still mentally competent) or visually impaired could be disadvantaged. Clarification around how advice providers are obligated to consider clients in such circumstances would be appreciated.

We would like to suggest that the FSGs prescriptive, jargon laden content as per s924B of the *Corporations Act 2001*, be reviewed so the consumer is prioritised ahead of regulatory requirements as proposed with the SOA.

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) Negligible and we thank Treasury for addressing this.

b) As this is currently outside the scope of our services we are not responding (we don't make product recommendations).

Transition and enforcement**14. What transitional arrangements are necessary to implement these reforms?**

Given the long history of changes to laws impacting financial services dating back before 2000, and broad range of industry participants included in the proposals, we would suggest a phased implementation period of up to 3 years which prioritises proposals:

- a) 9 to 11 within 6 months. We agree these 'quick win' proposals reduce regulatory complexity and burden whilst improving consumer experiences.
- b) 6 to 8 within 18 months. For similar reasons above at a), it is likely to reduce the cost of providing advice for advisory firms without consumer detriment and open new advice channels with affordable price points. This timeframe considers smaller licensees, particularly those who may be transitioning from general to personal advice, requiring legal and licensing guidance, subject to ASICs licensing approval timeframes.
- c) 5 within 24 months. This considers ASICs review of RG 146 and 255 to ensure that employers have sufficient guidance and structure in place for ensuring employees are adequately trained, authorised and supervised to provide basic advice.
- d) 1 to 4 up to 36 months. These more complex areas require further consultation to ensure all participants are aware of their respective obligations and have sufficient time to ensure risk frameworks, corporate governance, process and procedures are in place so that staff are adequately trained and supervised, and have a viable pathway towards a professional designation such as relevant provider. This also considers:
 - i) Consultation which enables industry participants to have adequate time to seek additional guidance from professionals such as external legal and compliance specialists, or via industry bodies to ensure interests are fairly assessed.
 - ii) Regulators and agencies such as ASIC, ACCC and AFCA to review and develop practice standards or guidance notes as required,

In accordance with our own governance and risk mitigation policies and procedures, commencing any changes as a Licensee would result in our business incurring considerable legal expenses and, until there is absolute certainty of any proposals being legislated, prefer to wait until Royal Assent.

Being a digital advice provider with inhouse engineers, conversant in several programming languages and APIs, possessing a solid understanding and appreciation of financial services laws and the compliance obligations we must adhere to as a Licensee, means we do not need a long transition period for the proposals being made by this Review (less than 3 months).

General

15. Do you have any other comments or feedback?

We'd like to take this opportunity to provide some insights on how digital advice works and supplements traditional financial advice practices.

We use technology to deliver financial advice at Otivo, with the guiding principle that everything we do, is to help people be better off.

There is a lot of complexity around the current advice rules and they can be simplified and improved, particularly to address greater consumer centricity around advice provision, ie a greater focus on the consumer outcome 'good advice'.

The fact is though, that quality advice can be delivered through technology under the existing rules at a significantly lower price point today. Technology has developed to the point where it can 'best' address the issue of affordability and accessibility of providing quality advice to the majority of Australians.

It should be acknowledged that through technology, we can currently address the expense and accessibility hurdles within the current framework of consumer protection. Therefore as part of any changes, consumer protection should not be substantially diluted due to the supposed trade off of accessibility and affordability. It would be a shame to see consumer protection diminish under this misconception, when so much has been done over the last 20 years to make advice consumer centric and not product centric.

So how does Otivo ensure its advice is correct, tailored, consistent and good?

For a given set of inputs, which can be applied to around 85% of working Australians, an algorithm can be constructed to give correct, tailored, consistent and good advice. This ensures that for the same inputs (data provided by a user), advice is repeatedly outputted (delivered), whilst tailored to the specific circumstances of the person (user) at that point in time.

We have a series of tests which cover a broad range of common and uncommon circumstances. We then test the results that Otivo outputs with our predetermined and scrutinised solutions. If they match, we know the advice and therefore the algorithm is correct.

A simple example of how the Otivo algorithm works and produces consistent advice with a client's best interests in mind, is the prioritisation of cash flow. If a client has outstanding high interest debt and limited disposable income, Otivo will always suggest paying the expensive debt first before suggesting to add more to super or pay more off other less expensive non-deductible debt.

But how do human and digital advisers co-exist?

The best use case is where humans and algorithms work together. The algorithms do their job and either lead the advice process and or check the human is doing the right thing. And where circumstances get beyond the algorithm, the human adviser can take over and fill-in the missing more complex parts.

This is why at Otivo we have built-in hand-off points (specifically where financial advisory firms utilise the Otivo platform) that enable clients to reach out to advisers for help. Alternatively advisers can search the data pool of their clients and identify which clients they can assist based on their current needs and goals.

