Australian Government
The Treasury

TSY/AU

Quality of Advice Review

Template for response

August 2022

Consultation process

Request for feedback and comments

Interested parties are invited to provide feedback on the proposals for reform listed in the Quality of Advice Review Proposals Paper using the template in Appendix 1. Consultation will close on Friday 23 September 2022.

While submissions may be lodged electronically or by post, electronic lodgement is preferred. For accessibility reasons, please submit responses in a Word or RTF format via email. An additional PDF version may also be submitted.

Publication of submissions and confidentiality

All of the information (including the author's name and address) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose. Respondents who would like part of their submission to remain in confidence should provide this information marked as such in a separate attachment.

Legal requirements, such as those imposed by the *Freedom of Information Act 1982*, may affect the confidentiality of your submission.

View our submission guidelines for further information.

Closing date for submissions: 23 September 2022

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Appendix 1: Consultation template

Name/Organisation: Trevor O'Callaghan / Ethical Wealth Partners

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. The current regime is overly burdensome and limits the ability of advisers to provide good advice to more consumers. Often people I have seen who seek advice are surprised at the processes involved to obtain in some instances very simple advice. It is often commented on in media in terms of the shock of the quoted cost to get advice. It goes against community standards that one would often assimilate with similar professionals such as accountants and lawyers.
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, the concept of personal advice is quite simple for consumers to understand, so aligning the definitions would help **b)** Yes, it is easier to understand, and thus more consumers would engage with the concept of personal advice **c)** Yes, as it takes away the uncertainty of what is and isn't personal advice

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?**
Generally, yes, other safeguards could include using existing consumer protection laws.
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) It will likely lead to higher quality advice due to the ability for advisers to focus more on the actual advice given rather than ticking boxes and constantly second-guessing interpretation of the safe harbour steps. **b)** Significantly less time, increased competition which will therefore lead to downward pressure on 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) Yes, we can use professional judgement on whether limited advice is something beneficial without having to constantly worry about having to look at absolutely everything that in one's own judgement is not necessary. Where it is judged a need to look further (like other professionals) then the adviser can explore this as needed.

b) Potentially. Financial advice is often a form of counselling/coaching and therefore relies a lot on human interaction. Digital advice hasn't taken off in other countries, so it's hard to see whether these changes do much for this side of things.

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

a) limited advice?

b) digital advice?

a) Simply the removal of not always having to provide a Statement of Advice will have the biggest impact

b) No particular view on what could help here

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 relevant provider changes under proposal 4 are likely to lead to a split of conflicted personal advice and non-conflicted personal advice which won't help the quality of advice as it would create an uneven playing field between relevant providers and probably institutions like a super fund or banks and insurance companies. Anyone providing personal advice should be subject to the same professional standards and training regardless. If we are to have a simple definition of personal advice, there should also be a simple understanding and consistency of who provides personal advice (i.e., licenced financial adviser).

b) It may lead to increased affordability and accessibility of personal advice, but the uneven playing field of professional standards would likely have unintended consequences, so this proposal should be reconsidered or understand that it will have negative consequences.

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) Anyone providing personal advice regardless, should be subject to the same standards and training requirements so this needs to be better aligned.

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) I do not support the notion of collective charging; this results in other members of a super fund subsidising others for their own benefit. It also seems to tie in with split in personal advice between relevant provider and not relevant provider which I do not support. Yes, it will make it easier, but it will then impact on returns of a fund, particularly at times when advice is highly sought (i.e. market corrections, major world events). Additionally, the collective charge would appear to be a breach of the SIS Act (section 62) and sole purpose test so this would need to be considered.

b) Potentially, but not necessarily always good advice given inherit the conflicts associated with vertical integration.

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) Yes, the current regime makes it less clear what the client is paying so having one set of annual disclosure and opt in will simplify and provide more transparency and consumer empowerment.

b) No negative impact given the annual opt-in requirements and ability to turn off fees when advice is no longer wanted anyway.

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) Yes, significantly in some cases. Without having to provide an advice document for every single situation, in some cases could result in advice costs of a few hundred dollars rather than a few thousand dollars particularly for relatively simple matters that are only going to give a positive impact (things like co-contribution advice, salary sacrifice to super vs mortgage repayment etc). It can also build trust in the advice industry as consumers can start with simple advice then move to more complex advice as they become more comfortable and educated.

b) Overall, there won't be a negative impact as the positives will far outweigh the negative. There will always be some instances of negative impacts, but you can never eliminate every single bad consumer experience, and the current regime still has many instances of negative impacts on consumers.

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) Will make a small positive difference but relatively minor in the scheme of other things.

b) Potentially, it's still important to make something available to the consumer particularly at the start of the relationship. Updates to FSG aren't necessarily that important and can easily be done via a website.

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) No real difference. Most managed fund providers have adopted a standard paragraph in the TMD to help with the significant dealing (can be outside target market if part of a diversified portfolio). b) No real difference, the regime seems to duplicate with Product Disclosure Statements, perhaps they should be incorporate into this, or remove PDS and have a simple TMD only which has some added elements of a PDS that are important.

Transition and enforcement
14. What transitional arrangements are necessary to implement these reforms?
a) Advertising in the media to make consumers aware of the changes. **b)** About 12 months lead in period and the ability to opt in earlier if ready.

General
15. Do you have any other comments or feedback?
The changes are ambitious, but the current regime is now beyond any form of minor repairs and needs to have a bold set of changes which is clearly what the draft proposals have done. If the intention is to increase affordability of advice and improve advice, then it will be a big help. Most of the proposals are definitely a positive change particularly in the areas of simplifying the advice definitions, removing the need to provide a Statement of Advice and removing fee disclosure duplication. Keeping it simple as possible should be the aim though and there is room for improvement on the proposals. Particularly proposal 4 and proposal 6 which I don't support in its current form. Personal advice by a suitably qualified professional subject to the same standards whether working on behalf of a financial institution or not. How advice should be provided should be up to the professional and will ultimately help more consumers obtain good advice. Consumers should always pay for their own personal advice when requested just like any other service. There will always be media focussing on potential negative impacts as that is what sells news and advertising rather than the positive impacts. There needs to be a commitment from government and in particular the relevant ministers to follow through on genuine reform and not get drawn into short term focus on any potential negativity.