SuperEd

Submission to the Quality of Advice Review

3 June 2022

Helping all Australians achieve a better,
more sustainable retirement income.

100 Walker St
North Sydney, NSW 2060

3rd June 2022

Quality of Advice Review Secretariat

Financial System Division

The Treasury

Langton Crescent

PARKES ACT 2600

Dear Sir, Madam,

Thank you for the opportunity for SuperEd to make this submission to the Quality of Advice Review.

Please direct any enquiries to Jeremy Duffield at jeremy.duffield@supered.com.au or by phone on 0403187657.

Sincerely,

Jeremy Duffield

Director

SuperEd Pty Ltd

SuperEd submission to the Quality of Advice Review –June 3, 2022

SuperEd & Retirement Essentials

Thank you for the opportunity to make this submission to the Quality of Advice Review. SuperEd and its subsidiary, Retirement Essentials, provide digital and human services to assist everyday Australians to achieve better financial outcomes. In particular, Retirement Essentials serves a client base of over 80,000 directly with government entitlements assistance and financial advice services through online, email, telephone, chat, and video conferencing channels, operating as an authorised representative of SuperEd Pty Ltd. SuperEd itself provides digital services to institutional clients in order to help the institution deliver better assistance to their clients.

Our mission is highly aligned with the purpose of the Quality of Advice Review:

We believe all Australians, not just the wealthy, should have access to affordable financial advice that improves their financial wellbeing.

We seek to deliver quality and affordable financial help by

- ***Providing** accessible and affordable financial advice*
- ***Engaging** consumers with easy to use digital experiences*
- ***Helping** people set and achieve their financial goals*

We believe the Quality of Advice Review is very important

Our comments will be focused on the Retirement needs of the community. Each day in our Retirement Essentials business we see the impact on everyday Australians of the unavailability of affordable financial advice. Through our hybrid (digital/human) service, we help people work out their eligibility for the Age Pension or Commonwealth Seniors Health Card and help them apply if eligible. In doing that we see how many struggle with the basics of retirement planning and how many are making poor or suboptimal decisions about their retirement income choices. And we also see just how beyond their reach are typical currently available financial planning services at prevailing prices.

The Hayne Royal Commission was an inquiry into misconduct, into harms created by financial services providers, which attracted outraged headlines. However, we believe the self-harms created by individuals without access to affordable help are enormous and of great concern.

So in answer to Q2: “*What are the characteristics of quality advice for consumers?”* we would include the avoidance or amelioration of self harms as a key characteristic alongside assisting the client with the achievement of their goals and objectives.

Some important examples of how we see individuals self harming, or achieving suboptimal results, in Retirement Phase through our client base, which reflects typical older Australians:

- Applying late for the Age Pension. 32% of our clients report that they applied at least a year late. As there is no backpay on the Age Pension, this creates a very serious loss.
- Misunderstanding the Age Pension or Health Card. There are all kinds of myths and misunderstandings about the Age Pension that prevent individuals from getting their due entitlements.
- Cashing out of their superannuation too early and not getting the benefits of a well diversified tax preferred pension.
- Failing to move from accumulation super to a tax-free pension. About 30% of our clients have not moved to a tax-free account based pension even though they are over 66.
- Investing entirely in cash through their retirement phase.
- Failing to understand how much they can afford to spend in retirement, and as a result either spending too much or too little(a major finding of the Retirement Income Review).

Our business objectives are to make high quality affordable advice available to regular Australians (not the wealthy), to address and resolve these and other retirement issues through a hybrid (digital + human) advice service. We have found this not impossible but very, very difficult – under the current advice regulation.

Retirement Advice is the key focus of our submission since retirement is a major challenge for consumers and help and advice is a fundamental need

Our focus will be on retirement advice; it is one of the most significant life events when people need help. Most Australians facing retirement will need some help or advice which they can afford. It's an incredibly challenging decision phase because of the dual uncertainties of unknown life expectancy and unknown financial market returns as well as because of the complexity of the superannuation rules and Age Pension eligibility – all at the same time as a person or a couple are making a major lifestyle transition.

A key success metric for the Quality of Advice Review should be affordability and accessibility of quality advice. Advice should be in the consumers' best interest…but for most consumers advice costing the standard fees for comprehensive advice($3000 to $5000 or more) just can't be in their best interest.

How to create a better retirement advice landscape

We suggest a number of ways that quality retirement advice can be made more affordable and accessible. We relate these ideas to the questions raised in the March Issues Paper.

1.Simplify the overall approach to advice regulation

Q23.Should there be different categories of financial advice and financial product advice and if so for what purpose? Q24. How should the different categories of advice be labelled?

In his submission, Michael Rice[1] does an excellent job in describing the history of advice regulation development, in particular the historical context of needing to deal with product advice in a setting of conflicted regulation. Since we have moved a long way from that history via FOFA and the Hayne Royal Commission, it is time now to reconsider the categories of advice currently used. We believe the complexity and uncertainty around the convoluted definitions of General Advice, Personal Advice, Limited Advice, Intra Fund advice, Strategic Advice have added to costs and contributed to the difficulty

[1] 2022 Quality of Advice Review – Michael J. Rice submission

in innovating in financial advice. ASIC has made some heroic attempts to give regulatory guidance but confusion and uncertainty still abounds. We provide an example below[2].

We think Michael Rice's recommendations of a risk based approach to advice regulation deserve consideration as a way to simplify regulation and reduce uncertainty. He recommends advice topics be divided into three categories:

Simple (low risk)

Comprehensive (medium risk) and

Complex (high risk).

The risk determination could be based on the complexity of the type of financial advice being provided and also by the complexity of the individual's or household's circumstances (as household complexity varies considerably).

The regulatory environment should also recognise that clients vary in terms of the style of assistance they desire. Some clients want full discretionary advice, others want an adviser to validate their decision, and many others prefer do-it-yourself solutions with suitable information, education and tools for diagnosis and calculation of alternative approaches.

2.Facilitate single issue advice

Q16. How could advice be more accessible? Q32. Do you think that limited scope advice can be valuable for consumers? Q33. What legislative changes are necessary to facilitate the delivery of limited scope advice?

Making single issue or limited scope advice more affordable and available will make a big difference to the overall quest for greater affordability and availability.

Many consumers often need advice only about a single issue or a limited problem. Or they can only digest one financial issue at a time. Further, consumers are often only prepared to pay enough to cover a single issue being resolved at a time.

ASIC regulatory guidance allows for single issue advice, but the complex boundaries between Advice categories as described above increase the costs of providing single issue advice.

3.Encourage better use of technology in advice

Q11. Could financial technology (fintech) reduce the cost of providing advice? Q12 Are there regulatory impediments to adopting technological solutions to assist in providing Advice? Q19. What is preventing new entrants into the industry with innovative, digital-first business models? Q35.Do you agree that digital advice can make financial advice more accessible and affordable? Q36.Are there any types of advice that might be better suited to digital advice than other types of advice, for example limited scope advice about specific topics? Q37.Are the risks for consumers different when they receive digital advice and when they receive it from a financial adviser? Q38. Should different forms of advice be regulated

[2] An example of confusion caused by convoluted boundaries: when is a retirement spending (or income) forecast giving personal advice, general advice or giving factual information? The regulations imply that if personal information is involved and a product choice COULD be impacted then it's personal advice, requiring a Statement of Advice. Well, as various investment allocations are associated with various investment products, the forecast could be considered personal advice. We see it as a factual information calculator based on various factual inputs and various (disclosed) assumptions. But it certainly has personal implications and relates to what products might be suitable.

differently, e.g. advice provided by a digital advice tool from advice provided by a financial adviser?

We believe technology solutions and digital advice offer the best routes to reducing the costs of providing quality advice and making it available to everyday Australians. Adding strong technology to the mix allows "industrialisation" of advice while "professionalism" is also being improved:

- Better use of technology should enable advisers to be more efficient and encourage consumers, through well designed user experiences, to do some of the manual work themselves, replacing adviser costs
- Technology should enable strong compliance and quality by design. The use of well designed algorithms, calculators and tools can reduce the dependence on individual advisers' judgment and calculations and improve the standardisation of quality advice, allowing the adviser the crucial role – often best done by humans– of explaining the recommendations.
- And technology will enable whole new digital advice services which invite consumers to get fully or partially automated advice and to self serve, which often is preferred by those with DIY temperaments and those with low ability to pay.
    - Technology is also well suited to using the insights of behavioural finance to encourage("nudge") consumers to better outcomes, in a way that cannot be hoped for in a human-only approach.

We do believe that hybrid advice, combining technology and human expertise appropriately, will come to be the preferred mode of delivering retirement advice to those in the mass market. It is unlikely retirement advice will see a highly effective digital-only advice solution in the near future, since consumers prefer the validation provided by a human voice when making big,complex decisions as at retirement. But strong technology innovation and adoption will make a consequential difference to the affordability and availability of quality advice.

The key regulatory impediments include: 1)the complex definitions of types of advice as defined by the regulations(as described above); 2)the current regulations (such as the Safe Harbour rules) imply a focus on a regulated process whereas breakthrough tech solutions are often focused on producing better outcomes for consumers; 3)The assumption that the rules are the same for digital advice as they are for human advice should be questioned as a potential blocker of positive innovation; 4) if the role of technology is in large part to encourage more "self-driving" advice to enable affordability, then the compliance burden should not be so heavily stacked against the advice provider; the consumer must bear responsibility for some of the risks. Risks for the provider should be able to be limited to be commensurate with the fees received – while still ensuring available of quality advice.

To ensure quality of digitally enabled advice, regulations to ensure high quality algorithms and honest practices in the best interests of consumers are essential.

We can report from our experience that the current complexity of regulations and the regulatory uncertainty inhibit capital investment in the sector and capital investment is critical to providing first rate digital advice services. Some venture investors opine that "the regulation has not caught up with SuperEd's technology"…and "the costs of compliance prohibit scalability."

Australia is way behind some other western countries in the development of "wealthtech" and regulation inhibiting capital investment has been a significant contributor to that.

4. Facilitate super funds offering retirement advice

Q29 Should superannuation trustees be encouraged or required to provide intra-fund advice to Members? Q30. Are any other changes to the regulatory framework necessary to assist superannuation *trustees to provide intra-fund advice or to more actively engage with their members particularly in relation to retirement issues?*

We have long argued super funds have a key role to play in making retirement advice available to everyday Australians at affordable prices. They have the membership which needs the service and are often well trusted by their membership.

Intrafund advice is a key type of advice well suited to super funds essentially as it covers low risk topics. The question is whether it is suited to retirement advice. Under current regulations, it is not. Retirement advice is best provided for a household–since retirement advice must include consideration of the Age Pension and the Age Pension is assessed on a household basis. The super fund's relationship is with its individual members, about whom it typically knows very little – and has no direct information about the household situation. So, arguably, intrafund retirement advice could cover a single but not a couple.

The Retirement Income Covenant sets the stage for the development of the role of super funds in retirement advice by requiring funds to have a Retirement Income Strategy(RIS). In our view, a RIS requires an advice strategy. Yet, the Retirement Income Covenant consultation paper left completely unaddressed the question of how that could be provided – deferring to the Quality of Advice Review.

Under current settings, many funds will only provide General Advice about retirement. But many clients will need more than that. Retirement Advice is a moderately complex type of advice – particularly for those on the part Age Pension and for couples. It can be tackled either as single pieces of advice or as a comprehensive plan.

The sole purpose test for superannuation is another obstacle to funds providing advice. Some funds interpret the sole purpose test to say that personal financial advice should not be offered directly by the fund.

5. Encourage use of stochastic forecasts showing a range of outcomes

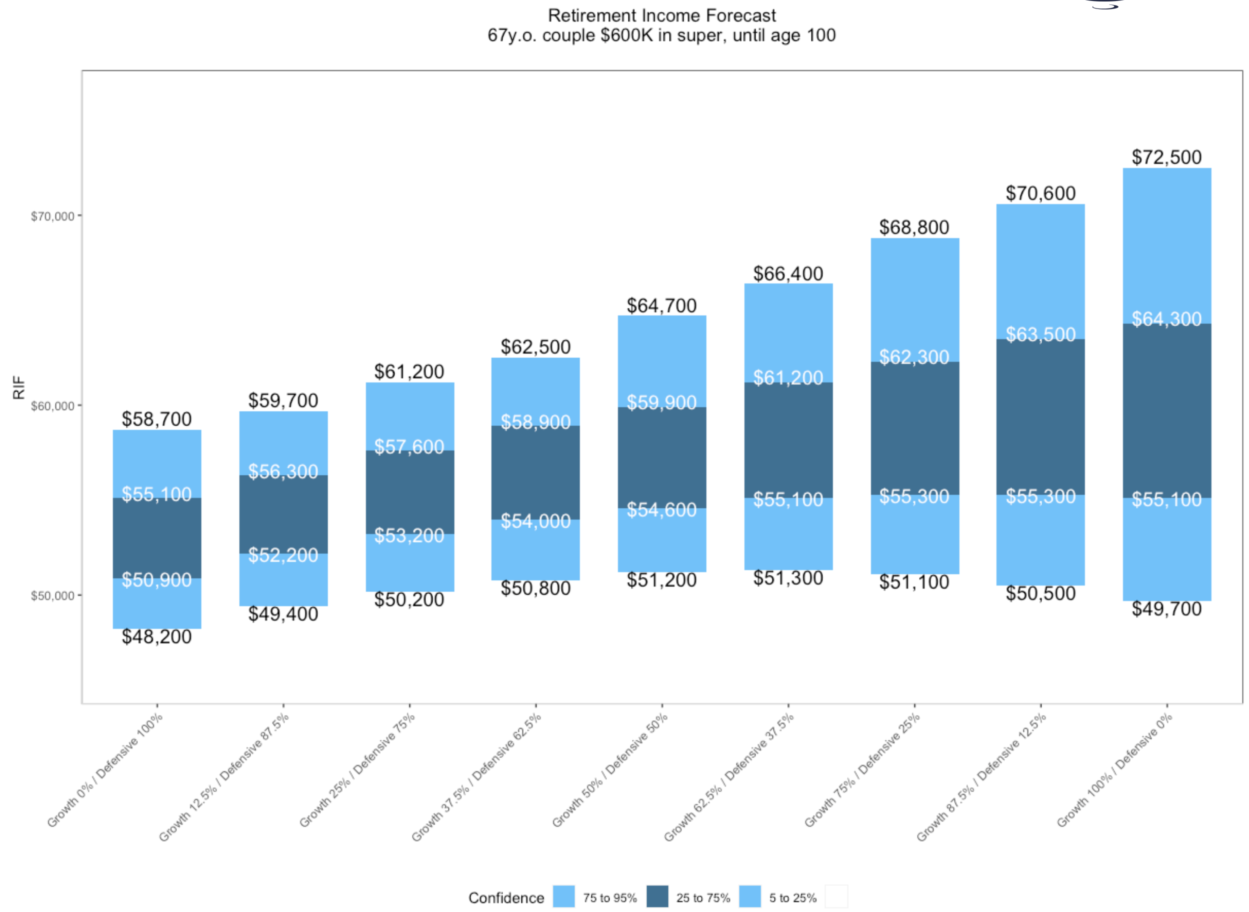
Q2. What are the characteristics of quality advice for consumers?

Key consumer issues in retirement advice include the questions of "how much can we afford to spend in retirement?" and "how long will our money last?" In planning for retirement income, consumers are faced with substantial uncertainty in estimating spending levels, due to uncertain market performance and uncertain life expectancy.

Consumers should not go into retirement expecting a certain level of income unless they are in a defined benefit scheme or annuity arrangement with a guaranteed outcome. Instead, consumers need to be coached on dealing with a range of outcomes. That's why we think stochastic forecasts should be encouraged.

- It is misleading to project a single outcome provided by a deterministic forecast; yet deterministic forecasts are standard in the industry (eg ASIC's MoneySmart calculator). A deterministic (or point) forecast of retirement income is not quality advice, since it does not allow an understanding that investment markets are constantly changing.

  This chart illustrates the wide range of sustainable spending outcomes likely for a consumer for a range of asset allocations. The range depends on the expected range of outcomes of investment markets. The Age Pension is incorporated. For any single asset allocation –whether conservative at left of the chart or aggressive at the right of the chart– there is a very wide range of outcomes. The consumer needs to be prepared for that. A single point forecast is misleading.



We think the Quality of Advice Review should encourage, or better require, stochastic forecasts (presentation of a range of outcomes) in retirement advice. Quality advice does not ignore the fact that a range of outcomes may be realised.

6. Simplify Statement of Advice Requirements

Q61.How successful have SOAs been in addressing information asymmetry? Q62.How much does the requirement to prepare a SOA contribute to the cost of advice?

SOAs, under current regulations, are generally too long and too complex to be read by the consumer –and so fail to address the information asymmetry issue. They also greatly contribute to the cost of providing advice. The Safe Harbour rules encourage financial planners to dump every disclosure conceivable in the SOA, making them unreadable and expensive.

An example may make the point. Even in ASIC's RG 90 on Example of Statement of Advice for scaled advice, the prototype example SOA is 23 pages! Full of mandatory disclosures, and largely unreadable.

It would seem to us that we should adopt ASIC's "clear, concise and effective" mindset which is applied to disclosure documents and apply that to SOAs. Then they would be shorter, contain the key information and be more likely to be read and understood by consumers.

A particular challenge we face in digital advice – in providing retirement income forecasts – is that we encourage consumers to experiment, to test different assumptions/scenarios. Yet, if that forecast is deemed personal advice, must each experiment have a Statement of Advice attached? Greater regulatory clarity on that issue would be helpful.

7. Review compliance requirements and risk shouldering

Q40. Are any changes to the regulatory framework necessary to facilitate digital advice?
Q41. If technology is part of the solution to making advice more accessible, who should be responsible for the advice provided (for example, an AFS licensee)?

All firms in the advice industry are concerned about the business risks of providing compliant advice. These concerns particularly hamper innovators trying to improve outcomes with new models of doing business, such as digital advice businesses.

In our view, the risks are too heavily shouldered by the vendor under current regulations. Digital-first businesses are often designed to cater to "Do-it-yourselfers" or people who want to share responsibility for financial decision making (get help but make the final decision themselves, often referred to as "validators"). The key strategic driver of digital first businesses is often to drive consumer costs down by "helping the customer do it themselves."

In such a business model, the risks of poor decisions and outcomes should be borne in large part by the consumer. So, regulations should make some allowance for caveat emptor and not just caveat vendor. For example, the onus ASIC places on all financial advisers to ensure clients understand the implications puts too much burden on the provider of a low cost service. The regulations seem to imply it's the vendors' fault if the client misinterprets how to use the tool or interpret the digital recommendation.

Better decision-making tools and "diagnostics" are new emerging categories of "advice" that ASIC needs to allow for. The vendor has a responsibility to provide high quality tools and analysis. But the client has some responsibility for using the tool or analysis.

Regulations should allow AFSL holders to clearly disclaim responsibility where appropriate. If the Adviser has discretion, then responsibility is with the Adviser. Where the client has discretion, it is not only the Adviser's responsibility. Where the AFSL holder is providing tools to the DIY client, it is mostly the client's responsibility.

This is a big mindshift change for regulators and the law. But the basic motivation for the change in thinking is strong and sound: unaffordable advice is by definition not in the best interest of the client. So regulatory mindsets and legislative settings need to adjust to create an environment conducive to high quality affordable advice.

—---