The quality of financial advice

Submission from Michael Rice AO FIAA to Quality of Advice Review Secretariat

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Review into the Quality of Financial Advice

I refer to the Issues Paper provided by Treasury in March 2022 and the request for feedback and comments. The title of the review is encouraging as no previous inquiries have focused on this important aspect of the industry.

The attached submission is a personal one from actuary Michael Rice who has had a lengthy career as a consultant and researcher in superannuation, life insurance and investments. I acknowledge the contribution made by actuarial colleagues Alun Stevens and Richard Dunn who previously worked alongside me at Rice Warner in preparing a ground-breaking report for the FSC on financial advice. Some of the original ideas set out in this submission were formulated in preparing that report (copy attached)[1].

I am also indebted to the valuable comments and insights on this submission provided by two colleagues with vast experience in this area, namely actuary Alun Stevens and financial industry expert Jeremy Duffield. However, note that this report is the sole responsibility of the author, and it does not represent the views of any of his past clients or any organisation where he has a current commercial arrangement.

I have extensive experience in financial services and have contributed to the many government reviews relevant to financial advice over the last 30 years. Most recently, I worked at Rice Warner where I consulted widely to the financial services industry and headed the firm's public policy work.

Rice Warner built a strong reputation for insightful commentary. Through its actuarial heritage, comprehensive industry research and public policy activities, it built an unrivalled reputation for delivering a unique perspective across the superannuation, wealth management and life insurance industries. The firm was well regarded for its thought leadership in advocating for policy change that is in the public interest, and it participated in all major government inquiries into superannuation and retirement incomes[2].

I have undertaken extensive work associated with financial advice and have drawn on this experience in my contribution this enquiry.

My professional work includes:

- 1992 – Michael prepared a report[3] for the Trade Practices Commission for its review of the sales practices of the life insurance industry.

[1] https://www.ricewarner.com/future-of-advice/
[2] Submissions, newsletters and blogs can be viewed at https://www.ricewarner.com.au
[3] Disclosure of Relevant Information for Consumers (Michael J. Rice and Mark S. Kachor)

- 1992-93 Michael was actuary for the AMP agents' association in its negotiations with AMP over changes emanating from the TPC Review.
- 2000s – Rice Warner researched all calculators issued by superannuation funds and was engaged by many funds (and other organisations, including ASIC) to develop sound calculators to assist members or investors.
- 2007 – Rice Warner - Report prepared for the Financial Planning Association on the ***Value of Advice.***
- 2015/21 –Rice Warner set up and maintained the award-winning VicSuper financial advice structure.
- 2016 to 2019 - Following its acquisition by First State Super (now Aware Super), Michael was appointed as a Non-executive Director of State Plus, a financial advice and investment company for retirees.
- 2019 – Rice Warner Report - Financial Advice Within Superannuation Funds.
- 2020 – Michael and his team undertook original research and prepared a report for the Financial Services Council (FSC) on the **Future of Financial Advice**.
- 2021 (November) – Michael was appointed Non-executive Director of ipac Asset Management Limited, a financial advice and investment company owned by AMP.

I apologise for the length of the submission, but it is necessary to explain the many problems with financial advice to show and understand how a risk-based approach could benefit all participants. A solution will require much of the financial advice legislation to be restructured and rewritten, rather than continuing to tinker with the law as has happened over the last twenty years.

I welcome the opportunity to discuss the submission with the Treasury in due course.

Yours sincerely,

Michael John Rice AO FIAA

Table of Contents

1. Background and Overview 6
1.1 About this submission....6
1.2 How to fix our failed system 8
1.3 What financial advice do consumers need? 9
1.4 Consumers 10
2. Thirty years of reactionary legislative change 11
2.1 Historical savings and insurance 11
2.1.1 Trade Practices Commission's review 12
2.2 Financial Services Reform Act 12
2.3 Ripoll Report and FOFA.... 13
2.4 Future of Financial Advice 14
2.5 Stronger Super Reforms 15
2.6 Intra-fund Advice 16
2.7 Life insurance - Trowbridge Report 17
2.8 Professional Standards 18
2.9 Related legislation 18
2.9.1 Protecting Your Super.... 18
2.9.2 Putting Members' Interest First 18
2.9.3 Your Future Your Super 19
2.9.4 Design and Distribution Obligations (DDO).... 19
2.10 Retirement Income Covenant.... 20
3. Redefining delivery of financial advice 22
3.1 Current definitions.... 22
3.2 Proposed future model.... 23
3.3 Allocation into sectors 24
3.4 Delivery by digital channels 24
3.5 Education 25
3.6 Advantages of new structure.... 26
3.6.1 Expansion of financial advice market 26
3.6.2 Existing financial advisers 26
3.6.3 Resistance to change? 27
4. Types of Advice 28
4.1 Budgeting and saving.... 28
4.2 Superannuation 28
4.2.1 Intra-fund advice 28

4.2.2 Personal superannuation 29
4.2.3 Self-managed superannuation funds 29
4.3 Insurance 30
4.3.1 Private Health Insurance (PHI) 30
4.3.2 General Insurance 30
4.3.3 Life Insurance 31
4.3.4 Restructuring life insurance 31
4.4 Investments 33
4.4.1 Investment Properties 33
4.4.2 Cash and Term Deposits 33
4.4.3 Investment Platforms 33
4.5 Retirement 34
4.5.1 Approaching Retirement 34
4.5.2 At Retirement 34
4.5.3 During Retirement 35
5. Response to Review questions 36
5.1 Quality of Financial Advice 36
5.2 Affordable Financial Advice 37
5.3 Accessible Financial Advice 37
5.4 General and Personal Advice 38
5.5 Intra-fund advice 40
5.6 Digital Advice 41
5.7 Best Interest and Related Obligations 43
5.8 Conflicted Remuneration 43
5.9 Charging Arrangements 44
5.10 Disclosure documents 46
5.11 Accountants providing financial advice 47
5.12 Wholesale and Sophisticated Investors 48
5.13 Other measures 48
Appendix A Delivery of each type of advice 49
A.1 Budgeting and short-term savings 49
A.2 Superannuation 50
A.3 Life insurance 51
A.4 Investments 53

1. Background and Overview

1.1 About this submission

This submission sets out the reasons why the current financial advice regime is in crisis. It suggests a better structure which is based on risk, and the potential for harm to a consumer. This is followed by a response to the Review's detailed questions. Finally, an Appendix sets out how various types of advice would be classified under a risk-based approach.

Over the last 30 years, the world of financial advice has changed significantly. At the start of that period, financial institutions, particularly life insurance companies, recruited or engaged agents to sell their products. The distribution costs included (initial) commissions paid to agents for sales and (renewal) commissions for retention. From 1986, competition for distributors led to higher commissions and other incentives which were largely undisclosed to consumers.

In 1992, the Trade Practices Commission (predecessor to the ACCC), at the direction of the then Labor Government, held a major review into consumers' experiences with life insurance and superannuation agents. Simultaneously, the Senate Select Committee on Superannuation held an inquiry into ***Fees, Commissions and Charges in the Life Insurance Industry.***

These were the start of several government reviews which have collectively led to many improvements for consumers, and a gradual cultural change from selling products to consumers to delivering them appropriate financial advice. Today, it is recognised that strategic advice is important with any purchase of a product being part of the implementation of that advice.

The legislative regime which grew out of these inquiries was framed to deal with the issues of that time – specifically the sale of inappropriate financial products. This was a big step forward at the time, but the advice legislation has become less and less appropriate because it has not broadened sufficiently from countering the inappropriate selling of financial products to also improving the quality of the advice that precedes and accompanies those sales.

While there is now much improved consumer protection, the heavily bureaucratic legislation pertaining to financial advice together with the ultra-cautious approach of the regulators is a severe hindrance to the industry delivering sound financial advice at a fair price for most Australians. While the original intention of the FSR legislation was to allow scalable/single issue advice, this has been thwarted by the regulator applying the same heavy compliance requirements to this type of advice as for the far more complex Comprehensive Advice plans.

The lack of pragmatism in applying the legislation has stifled innovation and led to most parties being unprepared to adopt even relatively risk-free strategies. In fact, the desire not to fall foul of ASIC usually takes preference over delivering a sound, value for money outcome for consumers.

Without material change, we will soon reach a situation where financial advice will be delivered largely to wealthy Australians. Few ordinary Australians can afford to purchase the financial advice they need and, for many of those who do obtain it, the advice they receive is not optimal. This is a major problem for the significant number of Australians moving into retirement. They need advice if they are to optimise their retirement incomes – which will be highly valuable for them as well as being to the benefit of the Australian economy.

Ironically, legislation and regulations aimed at protecting consumers, have contributed to a situation where many Australians (the majority) do not receive financial advice. Many of these people have poor finances and suffer because of the absence of any professional guidance.

The constantly changing legislation and regulations have distorted the delivery of financial advice and raised its cost. Even today, there is a continued focus on selecting products rather than setting and monitoring sound financial strategy. The legislation also requires a financial adviser to know, and importantly to consider, their client's overall financial needs even if only dealing with a small part of those interests. This was not the intention of the original FSR legislation, and it has restricted people from delivering simple forms of financial advice electronically at low costs (and with low risks) to consumers.

During 2020, employees of Rice Warner including the author prepared a report for the Financial Services Council (FSC). This report, ***The Future of Advice***[4], covered much of the material to be reviewed in Treasury's inquiry. It set out the needs of Australians for using financial advice (Section 2) and showed the benefits for consumers and the community alike in the delivery of this service (Section 3). For this submission, I take it as read that financial advice is needed by the community and that consumers derive value from receiving sound advice.

The Rice Warner Report also described many of the weaknesses in the current regime and suggested a new model. We suggested any changes should be measured against five key attributes:

- Simplification
- Affordability
- Accessibility
- Consistency
- Quality of advice.

Subsequently, the FSC prepared a Green Paper for consultation[5] followed by a White Paper[6], being its formal proposal for changing the regime. While the FSC adopted many of the themes of our report, it diverged in some areas which are important and which I have explored further in this submission.

This submission builds on the years of experience of my former colleagues and myself, including the work done for the FSC. It expands these ideas to present a new paradigm for delivering financial advice, namely:

that legislation on financial advice should be tailored to the potential risk of any harm to consumers.

This report shows that this structure will, for the first time, lead to:

- A regulatory regime that is at least as strong as the current regime, but simpler to follow and easier for regulators to police.
- Quality of advice at least as high as under the current regime, but higher in many important areas.
- Advice provided at a reasonable cost to consumers which is lower than for most of the advice delivered today.
- An expansion of the delivery of advice to more Australians, noting that the absence of sound advice (omission) is just as risky as receiving poor advice (commission).

[4] https://www.ricewarner.com/future-of-advice/ August 2020
[5] https://www.fsc.org.au/policy/advice/green-paper
[6] https://www.fsc.org.au/policy/advice/white-paper-advice

Importantly, the delivery of increased volumes of financial advice, will be provided at a reasonable cost for all Australians. The structure will benefit the existing financial advisers by cutting red tape and its cost and it will expand their market by providing most consumers with access to appropriate advice at a much lower cost.

1.2 How to fix our failed system

Section 2 sets out the history of legislation of the financial advice industry. Over this time, the law has become more complicated to follow and manage, and the cost of advice has increased without any commensurate improvement in the quality of advice given or in the protections provided to consumers.

Further, consumers are no better off as most find advice in its current format to be too expensive. The FSC White Paper included research by KPMG showing a financial plan currently costs more than $5,000 to produce. It suggested some administrative changes to reduce this cost significantly. However, the projected savings of $2,000 do not bring the cost of a financial plan down to levels that most consumers find palatable, so more fundamental change is needed.

Several surveys have shown that most consumers will not pay more than a few hundred dollars for each piece of advice. Conversely, wealthier Australians have substantial assets to protect or have high income which will generate future savings. In these cases, they value financial advice and will pay a sizable fee for it.

Consequently, to broaden the uptake of financial advice in the community, this submission considers that:

We need a system where people can get simple advice for one-off amounts under $500 for Simple Advice, and some forms of comprehensive advice for less than (say) $1,500.

Many of those who do receive advice are placed in riskier products than is desirable due to biases or conflicts within the industry. For instance, there is a perceived lack of value by advisers and clients in advice that just recommends standard, default products like MySuper, even though this is usually very sound advice. Consequently, there is often a tendency to use more complex structures. This also increases the costs consumers pay.

Any changes to the system will need to address the following issues:

- Most financial needs can be met with relatively low-risk strategies which require Simple Advice. This should be the default position for most consumers.
- Most consumers do not need to take high risks. It is suitable for them to be in strong default products such as MySuper.
- Regulations based on complex, high risk advice are unnecessary, inappropriate, and too expensive for simple low-risk advice. In most cases, they do not reduce the risks around providing advice on simple topics - instead they increase risks for consumers by making this advice largely unavailable! Rules for simple low-risk advice should be simplified to ensure the delivery can be done at low cost. This specifically applies to those providing low-risk simple advice via online tools.
- Financial advice should be focused on strategies, with less emphasis on products. The legislation needs to recognise this separation.
- Advisers only need to know and consider their client's full financial affairs if they are placing them in medium- to high-risk strategies/products (as defined later in this submission) or are providing advice on a range of needs. Most consumers have relatively homogenous financial needs, and these can be determined quickly.

- Ad-valorem (asset-based) fees are not appropriate on low-risk strategies where the advice provided can be commoditised. There should be a shift to fixed-dollar fees for these cases.
- The distribution of life insurance should be expanded to replicate the ways people buy Private Health Insurance and general insurance products.
- Financial decisions not currently within the advice legislation should be included. This would include savings, budgeting, and mortgage broking. As these activities are generally low-risk and beneficial for consumers, the legal requirements should be simple.
- High-risk activities will be defined and will continue to require strict standards and strong regulator monitoring. However, many advisers will shift their emphasis to low-risk strategies for many clients.
- Some high-risk strategies may need closer attention. These include:
  - Areas with a conflict of interest such as investing in related-party investments without appropriate management of potential conflicts. This should be done to avoid past failures such as Storm Financial and Dixon Advisory.
  - Investing in geared investments (including investment properties).
  - Investing directly in shares (perhaps with a reasonable financial threshold of $25,000 to allow some exposure without being considered high-risk).
  - Any risky strategy such as Contracts for Differences, unlisted assets, and some forms of foreign investments (which include currency risks).
  - Cryptocurrency products, many of which are distributed outside the reach of financial services regulation.

1.3 What financial advice do consumers need?

Financial advice is advice provided to an individual or family to assist them to grow, manage and protect their wealth. It includes strategic advice, recommendations about suitable investment classes, appropriate products (investments, insurance, superannuation, and retirement) as well as explanation of the impact of legislation, taxation, and other external factors on the individual's financial position.

Advice is essentially strategic with the choice of a product being made to fulfil a consumer's needs. So, why has such a large part of the industry failed to meet these needs?

A layman would not usually understand the boundaries of what does and does not constitute personal financial advice. They rely totally on their adviser to guide them efficiently and honestly. One of the problems we have is that many aspects of strategic advice are not covered by legislation. For example,

- advice about budgeting or saving for a holiday or car
- advice from their accountant about their tax position
- advice about the right type of health insurance cover they should hold (yet trauma cover which protects against an adverse health event is a financial product as it is issued by a life company)
- advice about accessing the Age Pension and understanding Centrelink rules
- options for Aged Care
- buying a telephone under a time-based contract
- advice about bank deposits or other fixed interest investments such as company debentures; and
- advice from a mortgage broker (even when this relates to an investment property).

At different times in their lives, consumers need financial advice in five distinct areas. These are:

- Savings – to achieve short to medium term goals.
- Investments – to build long-term wealth.
- Superannuation – to build for retirement.
- Life Insurance – to protect the financial position of a consumer and their family against the risks of death or disability. They also buy General and Health insurance but often make the purchasing decisions for these products without taking any formal advice.
- Retirement – to manage their financial capital over their retirement years, including superannuation, Age Pension, and home equity, and to prepare for ageing (care needs and estate planning).

The essence of the problem facing consumers, advisers and regulators is that the current regime regulates Financial Product Advice rather than Financial Advice. Both must be regulated but must be considered separately.

1.4 Consumers

The population can be split into three groups by their knowledge. These are:

- Mass Consumers – This is the largest group and most people in this cohort are unschooled in financial matters. Many within this group are subject to unrealistic expectations and they are vulnerable to scams.
- Sophisticated – These are usually tertiary educated with knowledge of compound interest and basic maths skills. Many are self-directed but they still need guidance and education at times when they make key financial decisions.
- Complex – This group has complicated needs which require professional assistance. They might own an SME, have existing wealth, manage an SMSF or a family trust, or have complex family circumstances. This group usually needs comprehensive financial advice on an ongoing basis.

Currently, the Mass Consumers are unable to obtain financial advice at a reasonable cost. Further, their needs are usually simple, and they do not need to enter complex financial arrangements. This group, comprising the majority of Australians, would benefit most from the new structure set out in this report.

Within all these groups, there is an overlay of 'consumer styles' which adds further complexity. Individuals vary from those who are risk-averse or who lack confidence though to the self-directed who will research a situation and then make their own decisions. The former group requires complete support whereas the latter just needs light guidance. There is a spectrum of style between the two extremes.

2. Thirty years of reactionary legislative change

If we were developing a financial advice industry from scratch, we would have never come up with the current model! Much of our current law has come through three decades of reactionary change to address problems of the times. While much of the legislation has been well-intentioned, it has focused narrowly on helping consumers avoid paying too much for inappropriate product, but with mixed success.

Most consumers require simple pieces of advice at various times in their lives. **Yet, t*he legislation is completely unsuited for helping consumers obtain strategic advice or make simple financial decisions at a reasonable price.***

It is worthwhile reviewing the impact of historical changes, as it highlights areas for improvement and unresolved issues. I have made brief observations of the impact of some of these changes; some have had detrimental outcomes. Later, we describe how a restructure of legislation will overcome many of the unforeseen poor impacts.

2.1 Historical savings and insurance

The financial planning industry grew out of the life insurance industry. Prior to 1985, there was no mandatory employer superannuation, so those non-wealthy Australians who saved voluntarily used bank term deposits or were sold traditional life policies, being whole of life or endowments. The latter provided steady growth through the allocation of annual bonuses, declared by actuaries after smoothing investment returns and amortising distribution costs.

The introduction of unit trusts (aka managed funds) in the 1970s led to *investment-linked* savings plans. From the 1980s, the life insurance industry began to provide retail investment-linked contracts together with stand-alone death and disability policies to supplement these savings plans. Over time, these replaced all traditional life policies.

The common themes with the savings industry prior to mandatory employer superannuation were:

- All purchases of products were voluntary, so there were large distribution costs. Life insurers via their agents were focused on selling to customers rather than servicing or advising them.
- Most life agents were tied to a particular life company and acted legally on their behalf (rather than acting for the consumer even though their activities did seek to meet their clients' needs).
- Products were largely homogenous and there was little or no tailoring to customer needs. Consequently, little financial advice was provided at the point of sale – and often none on renewal of the products.
- Agents were remunerated with high up-front commissions as well as trail commissions to encourage policy retention, all funded by the life companies, but ultimately borne by consumers.
- There was no disclosure of commission to prospective customers.
- The emergence of investment advisers led to sales of managed funds with remuneration linked to the amount invested. Some property trusts had upfront fees of 8% of the investment.

There were issues with the delivery and cost of financial advice. For example, advice was often too expensive, of variable quality and commission driven. In an environment of low financial literacy and engagement, there was a clear need for the advice industry to evolve.

2.1.1 Trade Practices Commission's review

In 1992, the Trade Practice Commission (TPC, subsequently merged with the Prices Surveillance Authority to form the ACCC) held a review of the sales practices of the life insurance industry. At the time, most intermediaries were agents of financial institutions and were remunerated mainly for selling products (initial commissions, usually expressed as a percentage of contributions) but also for retention (renewal commissions). Many of the intermediaries were 'sole agents' and limited to selling the products of a single institution.

The TPC review noted that the remuneration structures encouraged sales but that there was no emphasis on servicing clients. The general assumption within the financial services industry had been that the products were fit for purpose, but the TPC questioned this in its report. It concluded that "*the market continues to deliver poor value for money to a high proportion of consumers*[7]".

In June 1992, the Senate Select Committee on Superannuation produced a report ***Fees, Commissions and Charges in the Life Insurance Industry*** which was equally critical of the life insurance industry's practices.

Impact

Amongst other things, the TPC review and the Senate Select Committee inquiry led to:

- Requirements for full disclosure of fees on financial products.
- A shift from savings plans with small regular contributions to lump sum investments.
- A significant decrease in upfront fees with growth in renewal fees/commissions.
- For investment and superannuation products, there was a shift from charging a fee as a percentage of contributions to *ad-valorem* fees – a percentage of the account balance.

Over time, these changes led to an increase in adviser remuneration. Initially, the typical percentage commission on investment and superannuation products was 50 bps a year (0.5% of the account balance) but over time this was changed to become an adviser fee and it has increased to today's level of 75 to 100 bps - on much larger balances.

Product suppliers were competing for access to distribution rather than marketing directly to consumers. This caused prices to rise, despite greater supply, rather than to fall as some expected. Similarly, life insurance commissions grew significantly over the next 20 years until the Trowbridge Report of 2014 recommended capping commissions.

2.2 Financial Services Reform Act

The Financial Services Reform (FSR) Act of 2002 formalised the provision of financial product advice and standardised it across all investments, insurances (life and general) and superannuation. FSR consolidated all financial advice into a single set of laws to form Division 7 of the Corporations Act. Its genesis in a regime focused on regulating the sale of products led to a similar focus on products rather than the advice that supported their sale. Products not listed in the Act and advice related to them was, and are, not subject to the provisions of the Act.

All entities providing retail financial advice were required to hold an Australian Financial Services Licence (AFSL) and became regulated by ASIC. The AFSL was held by the licensee (also called a 'dealer group') which then bound its financial advisers, Authorised Representatives, to a set of rules.

[7] As an aside, life insurance products were excluded from the ambit of the Trade Practices Act.

Advice was segmented into ***Personal Advice*** which considers an individual's circumstances and ***General Advice*** which does not consider them and must limit itself to generalisations and information about products.

For the first time, ***Financial Product Advice*** was defined to mean a recommendation that is intended to influence someone to make a decision in relation to a financial product.

Although it was intended to standardise the rules for financial advice, there were many exceptions in areas which consumers might consider to be part of the industry. These include:

- Mortgages and mortgage broking – at the time, credit laws were set at State and not at Federal level, so it was easier to exclude mortgage broking, which remains outside the regime even for investment properties.
- Private Health Insurance (but not general insurances for car, home, and household contents, which are usually bought online or by phone in a similar way to PHI policies).
- Advice on budgeting, saving and personal taxation.
- Establishment and maintenance of Self-managed superannuation funds.
- Savings plans, such as Term Deposits, issued through Approved Deposit Institutions, particularly banks.

Impact

Although FSR attempted to introduce common legislation across all forms of advice and all activities, it has led to considerable confusion. For example:

- the terminology of the legislation is alien to consumers
- consumers are confused by what is covered within the legislation and what is excluded
- there is no differentiation between specialities (eg stockbroking or life insurance) even though they have few similarities other than involving financial products
- there is no differentiation between simple advice, perhaps offered once, and complex financial plans, perhaps reviewed regularly.
- there is no differentiation between low-risk products and complex ones.

FSR increased the cost of delivering financial advice but, arguably, these changes were the genesis for financial advice becoming a profession. It certainly accelerated the shift from selling product to providing strategic advice.

The retail investment segment, including the 4 major bank subsidiaries, AMP AXA, and IOOF, consolidated financial planners into their own licensees and grew their advice practices, as vehicles for steering assets into their own investment platforms and products. The licensing system facilitated this by having a small number of licensees enforcing regulation and compliance on many authorised representatives.

Accordingly, the number of independent financial planners remained small.

2.3 Ripoll Report and FOFA

In 2009 the Parliamentary Joint Committee on Corporations and Financial Services (chaired by the Hon Bernie Ripoll) inquired into and reported on the issues associated with the collapses of various financial product and service providers.

These collapses included the high-profile Storm Financial which had developed a risky plan involving naïve and vulnerable consumers borrowing excessively to invest using the equity of family homes as collateral. The investments were geared at high levels which were not decreased over time (sometimes they were increased).

The share market crash of 2008 led to 3,000 clients of Storm becoming destitute when they were unable to meet repayments on their Margin Loans. This case highlighted that the consumer protection afforded by FSR was inadequate.

The Ripoll Report considered:

- the role of financial advisers
- the general regulatory environment for products and services, including which products should be considered as financial products. Margin Loans were not properly regulated, and Securities Loans were unregulated.
- remuneration models for financial advisers
- appropriateness of information and advice provided to consumers considering investing in those products and services
- the need for legislative or regulatory change.

Amongst its recommendations were three key suggested reforms:

- The introduction of a statutory fiduciary duty for financial advisers, requiring them to put the interests of their clients ahead of their own or their employer/owner.
- The development of an appropriate mechanism by which to cease payments from product manufacturers to financial advisers.
- The establishment of an independent, industry-based professional standards board to oversee nomenclature, competency, and conduct standards for financial advisers.

The key impact of this Report was the introduction of the Future of Financial Advice (FOFA) Reforms.

2.4 Future of Financial Advice

The Ripoll Report led to the FOFA reforms of 2012/13. The key points were:

- Education standards for advisers were raised and ethical standards were improved by requiring all financial advisers to act in the best interests of their clients.
- There was a ban on conflicted remuneration including receipt of commissions on retail investment products and superannuation (subject to grandfathering to lessen the immediate financial impact on licensees of financial advice businesses).
- It was mandated that consumers must be told what they were paying for advice and this notification must be renewed every two years. If consumers did not elect to continue receiving advice services at least every two years, then financial advice fees should cease – preventing situations where consumers could continue paying fees for advice which they were no longer receiving.

Impact

The FOFA Reforms ended the practice of paying commissions or charging fees for financial advice on dormant accounts. While the FOFA rules were clear, much of the retail industry appeared to ignore them, and supervision by the regulator was lax.

A few years later (2018/19), the **Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry** highlighted that the transition to this consumer legislation was not a smooth one and that many financial institutions and licensees brazenly disregarded the FOFA changes.

As a result, many of the leading financial institutions were required to pay large amounts of compensation and fines. The stigma coupled with low returns on the capital placed in these businesses led directly to the four large banks exiting the financial advice segment.

An unforeseen response to FOFA was the rapid shift in client bases of advisers towards wealthier Australians. When commission was being received on low-activity accounts, advisers had kept these clients on their books. However, there was now a minimum cost of engaging with clients. Even simple needs could not be met under fees of $3,000 to $5,000 a year, so clients with smaller balances have been jettisoned. The minimum fees have also deterred an increasing number of Australians from obtaining advice.

Some organisations have tried to bring out low-cost internet-based models, but the legislation is blunt, and the regulator lacks pragmatism – ASIC considers you must ***know your client*** (fully) before giving any advice, however basic or simple. This has prevented many worthwhile ventures from being launched.

The evolving legislation and regulation have contributed to most Australians not receiving financial advice. This act of omission is a major societal risk as unadvised people are more likely to make poor decisions. These include investing in speculative schemes or products, poor savings habits, and underinsurance. Arguably the risks of omission of advice are greater than the commission of receiving poor advice (due to the scale of omission within society)[8].

2.5 Stronger Super Reforms

Off the back of the 2010 Cooper Review, the 2014 Stronger Super legislation was introduced. This included the introduction of *MySuper* products. These products were modelled on the successful Balanced Fund products offered by industry superannuation funds.

The products were set up for default employer (Superannuation Guarantee or SG) superannuation, so it was deemed that funds did not need to pay commission for distribution, nor should their members need to pay for financial advice. This removed commission and default financial advice fees from all mandatory employer superannuation.

Funds were still allowed to pay an advice fee to a member's financial adviser, provided the member agreed to this on an annual basis and it was invoiced appropriately. The advice must be pertinent to their superannuation (and associated life insurance).

[8] I am indebted to financial services expert Jeremy Duffield for articulating this concept.

Impact

This change had a huge impact on the retail superannuation industry which was no longer able to rely on financial advisers as a reliable distribution channel for employer superannuation.

Many financial advisers shifted their clients from employer superannuation products to individual *Choice* products, often on investment platforms owned by the same financial institutions.

For some time, financial advisers had not been required to sell exclusively or preferentially the products of the financial institutions owning their licensee. However, they had to limit their advice to the *Approved Product Lists* (APL's) set up by their licensee which would often use research from external specialist providers. The licensees owned by financial institutions limited the APL to product suppliers where they had a financial relationship.

Advisers could only recommend products not on an APL with approval from the licensee. This caused some issues; for example, none of the large retail institutions had industry super funds on their lists. Ironically, some clients were then advised to move from reputable high-performing industry funds to inferior products on the APL. Regulations have been introduced to deal with this issue, but they have not been completely successful as such transfers still occur.

Some advisers began to assist clients with establishing self-managed superannuation funds and took on the role of advising them on investment strategies, including building model portfolios.

The overall result was that many advisers were still conflicted. For example:

- Advisers were able to charge an asset-based fee to clients on a retail platform, so they had a financial incentive to move clients to a *Choice* product rather than leave them in a *MySuper* product.
- The commissions available on retail life insurance products gave an incentive to set these up and discontinue any cover within a MySuper product.
- If a client set up an SMSF, the adviser could take over the role of managing the investments and claim an asset-based advice fee. There are no controls over investment practices in these products nor any regulated measurement of performance[9].

2.6 Intra-fund Advice

Intra-fund advice is the term used to describe limited or scaled advice provided to members of a superannuation fund in respect of their interests in that fund, and where the cost is borne by all members collectively. In other words, no explicit fee (or only a nominal fee) is charged. This process is defined in the SIS Act, but the advice is not legally separate from any other form of financial advice.

Many superannuation funds help their members with simple strategies. As technology developed, these were backed by online calculators. The advice is very simple and carries little risk for members. Most funds absorb the costs of providing this advice, though a few funds charge a fee for the service usually of a few hundred dollars.

The most common types of intra-fund advice are:

- the impact of extra contributions on projected retirement benefits

[9] Some providers do provide performance against other providers with benchmarks selected by them though these are not standardised.

- whether it is more effective to make additional contributions as tax deductible contributions or not
- the impact on projected retirement benefits of changing the investment strategy
- calculating the family need for life insurance and buying extra within the fund.

These are all low-risk strategies but are subject to the same rules as all other financial advice.

ASIC appears to take the (reasonable) view that intra-fund advice is likely to leave members better off, so it meets the ***best interest duty.*** Certainly, ASIC has never prosecuted any fund in respect of this service.

Impact

Intra-fund advice allows superannuation funds to provide simple single-issue advice pertaining to a member's finances within the fund itself. ASIC's view, which it has expressed in Parliament, is that the advice will leave members in a better position.

It is a good example of a low-cost channel providing simple advice where the risk to the member of making a financial error is low.

Superannuation funds have helped countless members to improve their potential retirement outcomes (or protect their families through life insurance) via this service.

In my opinion, ASIC's sentiment could be extended to many other forms of simple advice, which are also low-risk and benefit consumers.

2.7 Life insurance - Trowbridge Report

In early 2014, ASIC undertook a review of the retail life insurance industry. It was critical of the quality of advice provided to consumers, the high lapse rates of policies across the industry and of the misaligned financial incentives for intermediaries.

As a result of ASIC's criticisms, the FSC (the industry body for life insurance companies) engaged esteemed actuary John Trowbridge to head a working group exploring changes to the retail life insurance regime[10]. He prepared an interim report in December 2014 and a final copy in March 2015.

Following FSR and FOFA, life insurance companies continued to pay commissions to intermediaries selling their products. The Financial System Inquiry report issued in December 2014 recommended a *level commission* structure to replace the high upfront commissions (typically 120% of the annual premium) and low renewal commissions (typically 10% of premiums paid from year two).

The Trowbridge Report contained several recommendations on adviser remuneration, quality of advice and insurer practices, including setting up a Life Insurance Code of Practice. Following a transitional period, initial commissions would be capped at 60% and renewal commissions would be capped at 20% of premiums (noting that 10% GST is added to these rates).

The industry accepted these changes and the transitional period ended in June 2020. The new minimums have become the industry standard commission rates.

[10] https://www.fsc.org.au/policy/investment-management/asian-region-funds-passport?view=article&id=168:trowbridge-report&catid=32

Impact

The value of financial advice businesses is enhanced by a strong stream of recurrent revenue. Hence, the increase in renewal commissions raised the value of life insurance portfolios.

The gap between initial and renewal commissions fell from about 110% of the annual premium to 40%. This should reduce the incentive to move clients to different insurance to gain more upfront commissions.

The changes have not reversed a decline in retail life insurance sales, which has been caused in part by a fall in the number of advisers and increases in premiums on all disability policies.

2.8 Professional Standards

In 2015, ASIC set up a register of all financial advisers providing personal advice.

In 2019, new standards were introduced which required advisers to have a tertiary degree in financial planning as well as a requirement for continuing professional development. A code of ethics was set out for all advisers to follow.

2.9 Related legislation

In the last few years, there has been a wave of legislation around superannuation and broader financial services which will impact on the financial advice market.

The four-year long review of superannuation by the Productivity Commission and the recommendations of the Royal Commission have led to several major changes to superannuation law.

2.9.1 Protecting Your Super

This legislation applied from July 2019.

The fees charged to small accounts (under $6,000) cannot exceed 3% of the balance.

Life insurance is no longer automatically provided for inactive small accounts, but members need to opt-in.

Impact

Some members of funds (particularly an SMSF) often leave small amounts behind in an APRA-regulated fund with group insurance cover. If they are not placing new contributions into these accounts, the accounts will be considered inactive, and they will have to expressly ask for the life insurance to be maintained.

While many affected members should have been provided with advice about the impact of the change, few will have received and understood it.

2.9.2 Putting Members' Interest First

From April 2020, this legislation removed life insurance cover for new members of superannuation funds under age 25 and for those with small accounts with less than $6,000.

Impact

Most members under age 25 will not think about life and disability insurance. Accordingly, most of them will become uninsured until they reach age 25.

Those members with serious medical issues or who have dependents should keep the cover. However, most will not see a financial adviser due to lack of awareness of the need for life insurance together with the difficulties of sourcing a financial adviser.

There will be increased levels of under-insurance from young people who need it. Note that people in rural and regional areas often have dependents at younger ages than those living in cities so relatively more people will be affected.

Premium rates overall have increased because of the reduction in overall industry premiums (meaning fixed costs are spread over a smaller base) and perceived anti-selection inherent in member starting insurance voluntarily when they reach age 25.

2.9.3 Your Future Your Super

This law set out 'stapling' of superannuation funds to members to avoid consumers holding too many unnecessary superannuation accounts.

Simultaneously, the government has set out a formula which APRA now applies to measure the performance of all MySuper products. This has been expanded this year to include Choice investment options where the fund trustees set the asset allocation.

Those funds which fail the test will need to advise members in the first year and stop taking new members if there is a second consecutive year of under-performance.

Impact

The average performance of MySuper funds will rise as under-performers are weeded out. These will become the default retirement product for unadvised consumers. The strength of the funds will attract advisers to recommend them to their clients too.

We expect that some advisers will recommend an SMSF for those with balances above $200,000. The justification will be based in part on lower fees, particularly as member balances grow. The risk for the consumer is that performance (which will not be measured) could fall.

2.9.4 Design and Distribution Obligations (DDO)

In December 2020, ASIC introduced RG 274 to assist issuers and distributors of financial products to comply with the new Pt 7.8A of the Corporations Act.

The objective of the legislation is to help consumers receive appropriate financial products for their own needs. In particular:

- Issuers must design financial products that are likely to be consistent with the likely objectives, financial situation and needs of the consumers for whom they are intended.
- Issuers and distributors must take 'reasonable steps' that are reasonably likely to result in financial products reaching consumers in the target market defined by the issuer.

- Issuers must monitor consumer outcomes and review products to ensure that consumers are receiving products that are likely to be consistent with their likely objectives, financial situation, and needs.

Product issuers must provide *Target Market Determination* documentation which sets out the target market for the product.

Impact

Mainstream financial products should not be significantly impacted by the DDO laws. For example, most Australians with debt or families have a need for life insurance cover. Single people without debt or families might still want to buy cover while they meet all underwriting conditions. Hence, pensioners would be the key group not meeting the DDO requirements for life insurance.

DDO does not comment on quantum. In fact, the amount of life insurance is a relevant component, as people might be sold too much cover, given commissions are related to the size of premiums.

DDO should eliminate financially unaware people buying inappropriate complex or high-risk products. For example, MySuper products are suitable for most consumers, particularly as the funds provide alternate investment strategies for those who want to take a higher or lower investment risk. Therefore, most consumers do not need to seek an alternative product.

However, riskier investments could still be marketed to members of SMSF funds where the trustees (even though they are retail clients) are deemed to be financially sophisticated and responsible for all investment decisions.

2.10 Retirement Income Covenant

There is a current move to expand intra-fund advice to assist members approaching retirement, and to put members into cohorts as part of the Retirement Income Covenant, which commences from July 2022. However, this is problematic.

Intra-fund advice has been carved out of the law to allow superannuation funds to offer specific advice relevant to their fund membership. Even this has some grey areas. For example, most funds offer intra-fund advice when moving a member into a pension under the same fund. However, it is critical to discuss retirement with the member’s partner to know the family’s full financial circumstances. If the fund’s adviser recommends putting the partner into the fund, it is no longer intra-fund advice – and they should have an Approved Product List for these contingencies!

Superannuation funds are specifically prohibited from giving personal financial advice relating to the Covenant to their members and can only provide strategic guidance. However, trustees need to consider how to assist groups of members understanding investment, inflation and longevity risks.

Intra-fund advice in its current form is not suitable as a vehicle to provide members with retirement advice since any sensible advice on retirement income requires consideration of financial interests outside the specific superannuation fund. Consequently, there is a problem with the interaction of the financial advice legislation and the Covenant. The current financial advice legislation and regulations effectively prevent funds from giving proper and adequate effect to the Covenant.

Some suggest that it is reasonable to extend intra-fund advice to deal with this set of circumstances. However, it is difficult to provide people with advice on retirement within the current framework for intra-fund advice given the need to advise on matters outside the fund such as the Age Pension or their spouse’s circumstances and options.

The proposal to use a risk-based approach to regulation and compliance offers the opportunity to resolve this problem. Funds are now required to establish retirement income strategies for their members. The legislation envisages these strategies offering variations (specific allocations of assets across default products) to different sub-groups of members. These variants will essentially become the default arrangements for cohorts of members with specific characteristics.

Assisting members into these default arrangements or tweaking the structure to meet their personal circumstances could be considered as Simple Advice and regulated accordingly.

I discuss this further in section 4.5

3. Redefining delivery of financial advice

Consumers need financial advice at different points in their career and throughout retirement. Current legislation assumes that financial advice should be tailored to the needs of a consumer and their family. For example, financial advisers need to "know their client" before providing any form of advice. Such advice is then described as **Personal Advice** as is any advice which makes use of any one or more of a consumer's personal circumstances.

In practice, many people can be put into cohorts with similar (homogenous) needs. In these cases, some advice could be provided without needing a detailed analysis of a consumer's personal circumstances. The law has recognised this with the framework of **intra-fund advice** for superannuation funds. However, there has been no such pragmatism for advice unrelated to a superannuation fund. This is a barrier to providing advice digitally and to providing advice at an acceptable price.

3.1 Current definitions

In Section 4 of its report to the FSC, Rice Warner set out definitions and documents highlighting the extraordinary complexity of the current system. The current definitions of services supporting consumers are not always clear to them and are difficult to deliver by advisers.

The broad legal definitions used by ASIC and the industry are:

- **Education** – Helping consumers understand topics (for example, what is an equity; what taxes apply to superannuation?)
- **Information**[11] – Providing facts about products or services (such as setting out the fees on a product). Any provision of information should not offer any recommendation or statement of opinion intended to influence the client.
- **Financial Product Advice** – This is what is regulated by legislation and regulation and is advice which evaluates, compares, or makes recommendations about one or more Financial Products.
- **Financial Products** – These are financial instruments or services defined as such in the legislation. Not all financial instruments are Financial Products – for example, mortgages are not.
- **General Advice**[12] - This is advice provided without using personal information about the consumer (even if you know something about the consumer). Giving out a Product Disclosure Statements (PDS) without any commentary on a product's merits is Information but telling someone (say) that the investment is suitable for superannuation is General Advice.
- **Personal Advice** – This is advice provided in relation to specific issues after considering personal information about the consumer.
- **Scaled Advice** - Personal advice about one or more topics (but is not expected to be Comprehensive, only specific to a topic).
- **Intra-fund Advice** - Scaled advice about one or more topics which includes personal information about the consumer and their interest in a single superannuation fund in which they are already a member.
- **Comprehensive Advice** considers all the personal circumstances of a consumer.

[11] RG 36 defines Factual Information.

[12] RG 244 – Giving information, general advice and scaled advice.

There are areas where consumers receive important strategic advice which falls outside the legal definitions. An example is advice about budgeting and saving. This is an important aspect of any financial plan – if you cannot spend less than you earn, you simply cannot save. Yet advice on this matter is often delivered by Money Coaches or Charities without the need to comply with any formal licensing regime. Such advice is also provided by licensees, but it is usually wrapped up in the same Statement of Advice as the regulated advice provided.

3.2 Proposed future model

In Rice Warner's report to the FSC[13], it stated that any new model must meet the following criteria when dealing with the needs of most Australians:

- Simplification – It must be easy for consumers to understand, and it must be delivered cost-effectively. This means simpler processes, shorter, better documentation delivered in multiple channels, and improved ways of delivering simple advice which does not carry high risks for consumers.
- Affordability – The price of simple advice needs to be reduced to a level where consumers believe it offers value.
- Accessibility – It should be easy for consumers to seek out and obtain Financial Advice which meets their needs.
- Consistency – There should be a level field across different structures and channels.
- Quality of advice – Obligations and rules should relate to the complexity of advice and the risks for consumers. This also allows qualifications to be tailored to the type of advice presented.

A new model will be successful if it significantly increases the number of Australians receiving Financial Advice and if this advice is provided at a lower cost than is available today.

The report suggested that **General Advice** be removed, and a new definition of **General Information** be introduced. This would replace the existing definitions of Education, Information and General Advice.

By itself, General Information is harmless for consumers. It should not be necessary to be licensed to provide it, though misleading or inaccurate information should still be subject to censure by ASIC or the ACCC.

We also suggested breaking down Personal Advice into three categories, namely Simple, Complex and Specialist advice. Based on industry feedback, that this would be complicated, I now suggest a variation based entirely on the risk of harm for a consumer, being:

- Simple (low risk)
- Comprehensive (medium risk)
- Complex (high risk).

There would still be a need for specific controls for advice in specialist areas that are either highly complex or especially high risk, or both.

All the above forms would be licensed and monitored by ASIC.

[13] Rice Warner – The Future of Advice, Section 5 - August 2020.

3.3 Allocation into sectors

Some existing services currently not included in the advice regime would be included under Simple Advice for completeness. This would include budgeting and saving. As the regulation for Simple Advice should be very light, it would not be onerous to include these services for completeness, but it would provide greater certainty for consumers.

The Appendix sets out a broad allocation of various types of advice into the proposed categories. This has been set out as a guide for consumers, advisers, and regulators alike. It is intended to be a starting point. It would not be difficult for the industry to extend and finetune these tables.

Financial plans inevitably need to change over time. Many reviews could be placed as Simple Advice even if the original plan was comprehensive (or even complex). For example, an investor with a share portfolio might be advised to alter his Dividend Reinvestment Plans (DRP) or whether or not to participate in an off-market company buyback. These are relatively simple and harmless changes and should not need a comprehensive plan to back the decision.

Where the quantum of any decision is small, that reduces the overall potential harm too. Hence, someone wanting to put (say) $500 a month into an investment plan or up to $10,000 into an investment is less exposed than someone making meaningful large investments. It would be pragmatic to vary the advice requirements if the quantum into risky assets is small.

Nonetheless, some complex strategies are high-risk for consumers. These need to be regulated more stringently to ensure the advice is not adverse for the consumer. They include:

- Areas with a conflict of interest such as investing in related-party investments. I note that building an in-house investment product structure also carries risk (eg Dixon Advisory).
- Investing in geared investments (including investment properties not currently covered).
- Investing directly in shares where the adviser recommends individual stocks (perhaps with a reasonable threshold of $25,000 or 5% of portfolio of investable assets to reflect that the exposure is relatively small).
- Any risky strategy such as Contracts for Differences, unlisted assets, and some forms of foreign investments (which have other risks including currency). Advice in these areas should be considered as Specialist Advice.
- Cryptocurrency products promoted through channels outside the advice regulatory environment, such as celebrity endorsements and social media influencers.

3.4 Delivery by digital channels

The delivery of Simple Advice would be akin to the requirements for single-issue intra-fund advice. This means it would be delivered at a low cost (and a low fee for consumers). This would dramatically increase the delivery of financial advice to middle Australia.

This would require changes to the existing law and current interpretations by ASIC. As an example of current barriers, a good case study is *Plenty Wealth*. In 2020, the Senate Select Committee on Financial Technology and Regulatory Technology received a submission from an actuary who had set up a simple financial tool for consumers, but which was deemed not to comply with the legislation[14]. This is a good example of the reason why Simple Advice is not provided more broadly today.

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[14] Plenty Wealth submission no 150

Where the advice is strategic and it does not recommend they invest in a new financial product, there is little harm to the consumer. There is also little harm in showing a consumer that they could obtain lower fees than they pay in their existing financial products.

We would elevate the advice to Comprehensive where the consumer asks for advice on moving to a new product. Nonetheless, this could be an extension of the existing digital tools (since more information would be required) and need not require face to face advice if structured properly. Alternately, the consumer could be referred to a financial adviser.

If the structure is risk-based, the quantum of investment can be considered. A consumer investing $5,000 into an indexed-share portfolio is not subject to material losses. Consequently, there is scope to shift some Comprehensive Advice to Simple Advice if the amount at risk is small.

3.5 Education

The current educational structure including FASEA has been (and continues to be) a failure. The policy of requiring all financial advisers to hold a degree in financial planning is an attempt to raise industry standards. However, this step is not necessary to develop standards for many forms of advice. It will also lead to a shortage of advisers in due course and adds significant cost. The flaws with the system are:

- New entrant advisers must obtain a degree in financial planning. This requirement will limit the pool of future advisers as many people trained in associated professions such as accounting or actuarial science will not want to study for a further three years, particularly as the financial planning degree is less valuable than their existing qualification.
- A specialist degree is not needed to deliver many forms of advice. Many advisers specialise in areas where there are already existing educational facilities. For example, a stockbroker needs to know about retail investments; they do not need to know anything about life insurance!
- A degree in financial planning is not necessary to deliver many forms of Simple Advice. An appropriate qualification is needed, but this need not be a degree.

If we move to a risk-based structure, the educational requirements can be tailored appropriately. As an example:

- **Simple** – demonstrate skills in compound interest, basic accounting functions, and statistics. The qualifications of accountants and actuaries are automatically accepted.
- **Comprehensive** – tertiary qualification which includes some of these topics - accounting, actuarial science, economics, finance, statistics, and behavioural finance.
- **Complex** – as above backed by further education in financial planning (probably a series of diploma courses or a specialist degree in financial planning).

When providing **Specialist Advice**, an adviser would need to demonstrate skills in the area. These fields would include Aged Care, Life insurance, Stockbroking, SMSFs, and Retirement Planning.

This approach would be analogous to medical services where the risk is to health rather than finances. Paramedics do not need to be fully qualified doctors and First Aid responders only need a certificate. There is a hierarchy within medicine which has many important professional people undertaking tasks at different levels – paramedics, nurses, general practitioners, and surgeons. The analogy for financial advice as it currently operates is that all advisers are deemed to be surgeons and all consumers are treated as if they need major medical procedures.

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https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Financial_Technology_and_Regulatory_Technology/FinancialRegulatoryTech/Submissions

3.6 Advantages of new structure

3.6.1 Expansion of financial advice market

The new system would meet the criteria set out in Section 3.2.

An adviser (whether from a super fund, a financial institution, an independent licensee or self-licensed) would not need to do a full analysis of a consumer's financial needs when delivering Simple Advice. Provided the advice is likely to make the consumer better off, it should be possible to deliver most Simple Advice using digital engagement akin to the current treatment of intra-fund advice.

It is possible to develop strong defaults which carry little risk. The best example of this is MySuper for superannuation investments. These products are heavily regulated and are now subject to maintaining strong performance at a reasonable cost. Consequently, the risk of joining one of these products is low.

Another example would be an investment portfolio issued by the mainstream indexed fund managers (such as Blackrock, State Street and Vanguard). The Design and Distribution Obligations tie in neatly with this concept, and it should be easier for ASIC to monitor than it is currently.

Advice centred around these products could have the same characteristics as intra-fund advice provided within a superannuation fund.

The proposed structure would lead to many new entities providing Simple Advice, thereby expanding the coverage of financial advice in the community.

3.6.2 Existing financial advisers

Comprehensive Advice

While the Financial Planning Association (FPA) has considered ways of reducing costs by digitising existing documents, it has done so assuming existing legislation continues unchanged. It has also assumed that advice will still be delivered in person face to face.

Many advisers will not deal with middle-Australia unless they have more than (say) $300,000 of investable assets. This amount is the minimum required to deliver an asset-based fee sufficient to meet the costs of their practices. Accordingly, digitisation of existing processes will reduce costs but not to a level which will significantly expand the number of people taking up advice.

It is likely that financial advisers will continue to deal with wealthier individuals for Comprehensive Advice or Complex Advice. Sensible changes such as those proposed by the FSC will reduce the costs of delivering this advice. This might help expand the use of Comprehensive Advice provided by the existing licensees.

Simple Advice

Many financial planners currently give Simple Advice to consumers, and they charge too much for it as they are not able to deliver this advice efficiently. They cannot lower their costs enough to provide this service if they continue their current processes. Accordingly, they will need to develop Simple Advice solutions for those with limited resources.

If successful, this will expand their services to more consumers (albeit at a lower cost and fee). They could substitute Simple Advice for some clients rather than turning them away as happens today. In fact,

many advisers will be forced to do this in time, or they will end up charging too much for this group of clients.

Existing licensees could have someone on staff delivering the Simple Advice while the expert advisers continue to focus on Comprehensive or Complex Advice.

3.6.3 Resistance to change?

Some advisers (and their trade unions, the AFA and FPA) may resist change. They would consider the proposed changes will weaken the advice provided to consumers and the perceived professionalism of their members.

On the contrary, the changes will be beneficial. As examples:

- It would allow consumers to access Simple Advice far more cheaply through many channels – including existing financial advisers.
- Advisers would be able to simplify their processes and reduce their fees for many consumers – and still be profitable.
- Many consumers are currently placed in complex structures due to a bias to extract fees. An example is a customer placed on an investment platform where the adviser manages the portfolio. While suitable for some, there would be many more suited to a simple default investment structure requiring less ongoing advice.

The Specialist Advice services (and legislation) could be tailored to reflect the nature of the work. This would recognise that services such as stockbroking and life insurance have little in common.

4. Types of Advice

4.1 Budgeting and saving

The start of building financial wealth is to develop a savings pattern. Consumers need to be able to spend less than their income as a prerequisite for building savings. This requires budgeting and a savings strategy. In some cases, it requires debt consolidation and then reduction.

Table 1 in Appendix A sets out the main areas for providing advice on savings. Short-term savings would include planning for a holiday or wedding or buying a car. Medium-term savings would include saving for a house deposit or for private school fees.

None of these are currently part of the financial advice regime but they should be included for completeness - and to recognise that many financial advisers currently give assistance in these areas albeit usually as part of a greater financial plan. Where an adviser currently assists a consumer in these areas, they are still bound by their licence conditions, and their costs will be too high relative to others giving similar advice.

Unregulated entities provide this beneficial advice. Some are Money Coaches; others represent government agencies or charities (which could be exempt from ASIC regulation).

All these activities are low risk and should be classified under Simple Advice. It makes sense for ASIC to license organisations or individuals who provide Simple Advice. This formalises the arrangement and allows ASIC to monitor for compliance. It would also provide those organisations with greater standing in the eyes of consumers. The requirements for providing the advice would not be onerous giving the low risks of harm for consumers.

There are examples of these activities where the risk is higher. For example, savings plans not issued through an ADI (which then have lower guarantees on capital repayment) or plans with penalties on early termination of a savings plan. These would be deemed to be medium-risk and the documentation and delivery should reflect this.

4.2 Superannuation

4.2.1 Intra-fund advice

All employed Australians should have a superannuation account. Following the introduction of the *Your Super Your Future* legislation in 2020, many will now be stapled to a MySuper fund for life. For most Australians, this will be a suitable product and they don't need separate financial advice but can rely on intra-fund advice for many of their financial needs for superannuation.

Intra-fund advice is low risk for consumers. It can be delivered as a series of one-off low-fee strategies.

This intra-fund advice could be extended beyond superannuation funds. There is similar (low) risk in helping members with such simple matters as:

- Contribution strategies (pre-or post-tax; quantum).
- Paying off mortgage versus making extra super contributions.
- Consolidating accounts (except where the recommendation is to move from a MySuper product to a different arrangement).

- Change in investment option (assuming the option is a diversified option within the same fund as the MySuper option).

None of these strategies are complicated, and they should all be delivered with a brief letter (Record of Advice), forming a record of the advice given. Many can be developed within online tools ('calculators') backed by a Call Centre.

The change in investment option is riskier than the other items. However, in combination with the Design and Distribution Obligations, it should be simple to develop documentation to assist consumers with any decision to increase or decrease exposure to risky assets by moving some or all their balance away from MySuper. This is Simple Financial Advice whether provided by the fund or the member's own financial adviser.

For life insurance intra-fund advice, see Section 6.

4.2.2 Personal superannuation

Consolidating a consumer's superannuation accounts into a MySuper product is low risk and should be classified as Simple Advice even if provided by an adviser not linked to the member's own fund. Special requirements related to consolidation Defined Benefit interests should continue.

Some advisers recommend investment platforms where a family's superannuation, investments and insurances can be placed in one vehicle for convenience. This suits many consumers, but the pros and cons of this option need to be explained carefully, particularly as an adviser will be conflicted by (and possibly biased towards) the asset-based fees of these structures.

Where an adviser moves a consumer into an investment platform, the risks and costs rise considerably. The products will lack the scale of a MySuper product including its strong investment characteristics. These higher risks (and costs) need to be explained.

The leading platforms all contain diversified multi-asset products built and managed by experts. These are far less risky than portfolios built and managed by licensees or financial advisers. If the portfolio is diversified and low cost (due to investments in mainstream indexed funds), it is generally low risk. For other portfolios, the risk is correlated to the expertise of the team managing the portfolio. For example, a reputable fund manager offering a diversified model portfolio could be considered to be a medium risk.

Where an adviser does have a say over individual assets, the risk is increased. Wherever a portfolio is personalised for a consumer, there is a higher risk due to the variable competency of the licensees in providing advice in this area. This would be labelled as a high-risk strategy.

If there are related-party investments (as occurred with the Storm Financial and Dixon Advisory debacles), the risk grows again. The regulation needs to segment these risks and ensure the documentation and monitoring reflect them.

4.2.3 Self-managed superannuation funds

Advice provided to SMSFs is generally around standard superannuation law including taxation. Some of this is Simple Advice, such as advice on how much to contribute each year. This can be provided by an accountant with experience in this segment.

Many SMSF trustees are self-directed. Some invest heavily in growth assets and take advantage of effective strategies such as participating in company off-market buybacks. They might need advice from time to time, but accountants working in this field should be able to assist them.

Many trustees are too conservative and hold too much money in conservative investment strategies over long periods. These trustees need more complex financial advice. Such Complex Advice should be provided ay an adviser skilled in investments (rather than the fund's accountant).

Some SMSFs are on investment platforms where the adviser provides support on choosing the fund's investments. This falls under the High-Risk Comprehensive Financial Advice category.

4.3 Insurance

Consumer insurance can be separated into three major categories, life, general and PHI, all regulated by APRA. The distribution of the products varies significantly.

4.3.1 Private Health Insurance (PHI)

This is not a financial product and does not fall under the financial advice legislation (Section 7 of the Corporations Act).

Premiums, including annual increases, are heavily regulated. There is a structure of lifetime premiums which do not vary by age ('community rating'). Thus, young members subsidise older ones.

There are some tax incentives for taking out this cover. There is a Medicare Levy Surcharge of 1% to 1.5% for those who have no PHI cover. Members who join after age 30 pay a higher premium based on their age at commencement.

Members over age 65 are co-insured by all providers.

Most people buying this insurance do so directly rather than through intermediaries, though some use product comparison sites (which are remunerated by commission from the insurers). Consumers purchase the product based on price, benefits, or reputation of the provider (usually via a family referral).

Heavy regulation protects consumers whose key decision is whether to take up the cover or not. There is little practical difference in picking one insurer over another, so the decision could be deemed to be low risk[15].

4.3.2 General Insurance

Consumers generally insure their cars (and other vehicles such as motor bikes or caravans) and they insure their family home and its contents.

Most consumers buy their insurance directly from one of the top three providers (which vary by State). Brand awareness is built largely through advertising. Few consumers read general insurance policies, but the ACCC has narrowed the differences between policies over time by introducing some common terminology including definitions.

The bulk of policies are sold by price with quotes easy to obtain by phone or internet. Policies are in-force for a year and some consumers shop on price annually.

Unless circumstances are unusual – insuring a sports car, living in a flood plain or having expensive contents – there is no need to obtain advice before purchase or renewal.

[15] There may be a risk from changing insurers if a consumer has a pre-existing ailment which the new insurer does not cover immediately.

General insurance products are subject to the same terminology of other financial products, such as providing a Product Disclosure Statement or a Statement of Advice.

4.3.3 Life Insurance

Life Insurance protects the financial position of a consumer and their family against the risks of death or disability. Most insurance can be set up in a superannuation fund, whereupon the premiums become tax-deductible (and don't come out of the consumer's disposable income). The exception is Trauma Insurance which provides a lump sum on attaining a particular defined ailment.

Unlike general insurance policies, life insurance is a long-term contract. They are *guaranteed renewable* which requires the life company to renew the policy each year even if the consumer's health or other circumstances have deteriorated. Most policies have premiums which increase annually due to the higher risks as people age.

There are four types of cover:

- Life insurance where the benefit is payable on death (or advanced in cases of terminal illness).
- Total and Permanent Disablement/Disability (TPD) which is a lump sum payable on becoming permanently disabled. The definitions of TPD vary within the marketplace.
- Trauma Cover which is a lump sum payable on attaining a medical ailment.
- Disability Income benefits – there are monthly benefits payable while off work for an extended period due to an accident or sickness.

There are three distinct channels for life insurance:

Financial advisers – traditional sales came from life insurance agents. These intermediaries (now financial advisers) still receive commission from the life company as their prime source of remuneration. The advantage of using an adviser is that they are experts in policy terms and definitions, and they will assist a family to select the right levels of insurance cover for their personal circumstances.

Where people have complex structures, such as business owners or those with complicated family structures, it is essential to use a financial adviser.

Superannuation funds – People who have their insurance in MySuper products will be able to access the default insurance and, subject to underwriting, purchase additional cover. Trauma cover is not provided as a superannuation benefit.

Direct sales – some life companies (or marketing companies which they underwrite) advertise direct to the public. These policies tend to have set levels of cover. They are aimed at lower socio-economic groups and the cover is unrelated to specific financial needs. This form of insurance was exposed under the Royal Commission due to many poor activities. Consequently, sales have decreased significantly.

4.3.4 Restructuring life insurance

It would be desirable if consumers could purchase life insurance more easily, but the underwriting of risks makes it more difficult than General Insurance or PHI. These industries also carry risks, but they are more easily underwritten.

Life insurance is valuable but national coverage is too low. Consequently, a government review would be worthwhile. While it is outside the scope of this review into Financial Advice, it would be necessary if there are to be major changes to simplify advice in this area. Such a review could look at levels of default cover, standard wording for contracts, claims management processes and the tax-deductibility of insurance within and outside superannuation.

The amount of insurance a consumer needs is subjective. However, it is not difficult to develop simple calculators to assess a reasonable figure. This is an area where it is more important to get a reasonable amount of cover (given the range is subjective) than worrying about calculating the figure accurately.

Restructuring financial advice according to the risk of harm for a consumer should make it easier to buy life insurance. The general insurance industry sales model might be more suitable for many Australians.

4.3.4.1 Advisers

The life insurance sales process is far too complex. There is often a focus on subtle differences between policies even if the number of claims that would be declined by one insurer but not another is trivial. However, licensees are worried about the one in a million case where they get sued for putting someone in the wrong product. More pragmatism is needed in the industry.

It would be useful to develop simple life insurance structures where the strategy is more important than the product used to implement it. If these could be set up as Simple Advice (replicating intra-fund advice for purchasing insurance within super funds), this would expand the number of consumers buying insurance. Simpler structures should also cost less than existing processes.

4.3.4.2 Superannuation

The stapling of members to superannuation funds means that most members will remain in one super fund for long periods, perhaps for life. This should make it easier to build and modify insurance cover over time.

Group life is usually cheaper than retail life insurance due to the lower cost of distribution, the scale of the policies, the absence of guaranteed premiums, and the lower levels of underwriting.

The levels of default cover within super funds are below the needs of most consumers. However, the funds have structures to provide higher levels of cover under their intra-fund advice structures.

Unfortunately, in recent years, there has been a high level of unprofitability in the group insurance market. This has caused high increases in premium rates in many funds, and in many cases, has tipped the value back to the retail sector.

One advantage of buying life insurance through superannuation is the effective tax-deductibility of the premiums, together with no impact on the consumer’s disposable income. The market suffers from limited access to affordable advice focused on cover levels, and there is scope for superannuation funds to pay a dollar-based fee to life insurance advisers who advise their members on appropriate levels of cover - and monitor the insurance every 3 years or so. This would combine the low cost of group life with the expertise of life insurance advisers.

4.3.4.3 Direct Sales

Direct sales are the smallest segment and products tend to be simple and high cost.

If the Simple Advice channels were enhanced, this segment might begin to offer good value products.

4.4 Investments

While many people are good savers, or can be taught to budget and save, few consumers are natural investors. Investing to build long-term wealth is an area where many can benefit from financial advice.

While superannuation is the most tax-effective long-term investment, many consumers are attracted to other forms of investment, due to familiarity (residential property), diversification (buying shares), and the ability to access funds before retirement.

Rice Warner provided a breakdown of the personal investment market (outside superannuation) as at 30 June 2020.[16] The key holdings were:

- Directly held investment properties (net of mortgages) 42.0%
- Cash and Term Deposits 42.7%
- Direct investment in equities 7.2%
- Investment master trusts and wraps 6.6%

Remarkably, less than 15% of all private investable assets outside superannuation are defined as financial products under the current legislation.

4.4.1 Investment Properties

This is the most common risky investment held by consumers. Sales do need to be regulated as there are many people who buy properties inter-state without undertaking enough due diligence. We have passed the time when some Queensland Gold Coast apartments had three prices – the lowest for locals, mid-level for inter-state consumers and a premium for foreigners. However, too many people still buy these investments based on misleading advice as to future investment returns.

The risks are mitigated by the lack of margin calls on property borrowings. Thus, when an investment falls in value, the owner can still make repayments and wait until better times before selling. However, forced sales after changes in personal circumstances often crystallise losses on poor investments.

Consequently, better regulation is required in this area.

4.4.2 Cash and Term Deposits

These are simple products with low risks. However, consumers chasing yields often shift into mortgage trusts or other cash products. These are higher risk, but the nuances don't appear to be appreciated by consumers.

Making these products Simple Advice would force providers to show the risks properly.

4.4.3 Investment Platforms

As with personal superannuation, the risks vary. If the platforms built simple default structures around model portfolios with a diversified asset mix, these would reduce risk and be attractive to consumers. The products could be structured along the lines of MySuper products with variations like super fund options. This would cater for consumers who have a higher or lower risk profile.

[16] Personal Investments Market Projections 2020 issued in March 2021

Such portfolios could be categorised as Simple Advice with low/medium risk.

Some of the existing structures are riskier, including those where advisers pick the investment components based on their views of fund managers or asset classes. There is still a place for these products but the relatively greater risks of employing these products against simpler products should be clearly articulated.

4.5 Retirement

Consumers have a need for advice about superannuation throughout their careers. Superannuation is the largest financial asset held by most consumers and they need advice on how to manage it well.

The urgency increases as they approach retirement and then at different times during retirement. They have a need to manage their capital assets throughout the remainder of their life. These assets include their superannuation, their home equity and (for most retirees) the Age Pension.

4.5.1 Approaching Retirement

In middle age, consumers need to think about retirement more closely. When should they retire, and will they have enough income to last them throughout retirement? This is difficult to assess as future investment earnings are unknown, their longevity is uncertain, and they might need Age Care costs later in life. This is all difficult to plan and impossible to navigate for most people.

As members approach retirement, it becomes more difficult for superannuation funds to assist members. As there is currently no default retirement product, each member needs to be placed in an investment strategy which is ideally determined only after provision of a comprehensive financial plan. The cost of delivering such a plan (usually $2,500 to $5,000) is more than most members will pay.

The **Retirement Income Covenant** commencing gingerly in July 2022, and which will be enhanced in future years, sets out a default plan for superannuation fund members. One of the objectives is to deliver stable income in retirement. Ideally, the product design of the super funds should provide a base retirement plan (with some variants) and most members can supplement this with Simple Advice as they approach retirement.

Necessarily, the Covenant requires consideration of matters beyond the member's interest in the fund. Unfortunately, the current proposal to provide 'guidance' but not advice is essentially unworkable because it will confront the same confusion as exists between General and Personal advice.

For many retirees, their greatest need is for advice around access to the Age Pension, what investment strategy to use for their retirement benefit, and how much to draw as a pension each year. Several organisations help in this area but there are barriers to doing this efficiently even though this is simple strategic advice. Again, part of the difficulty is the onerous requirements of current financial advice legislation - which does not differentiate between risks.

4.5.2 At Retirement

Fund members need advice which will include:

- What Age Pension can I receive and when does it commence? (This considers family assets including those of a spouse).
- What income do I need to live on in (say) the first ten years of retirement? Should I draw more than the minimum regulated pension amount?

- For homeowners, how can I use my equity in the family home? For example, can I spend all my super over 20 years, knowing that the home is a nest egg for good longevity or to provide for the costs of Aged Care later in life?
- Should I join the Retirement product provided by my super fund and should I vary it in any way (eg take less of the longevity component[17] as I have high equity in my family home).
- Should I vary the asset allocation of my product? Can I afford to take on a higher investment risk to provide higher expected returns to fund my retirement?
- How should I use my cash and investments outside superannuation?

These questions do require financial advice at a level which is currently defined as Comprehensive. The consequence is that although most members require advice on these issues, few of them will seek it because the fees charged for Comprehensive Advice are too high.

There needs to be a better, risk based, approach to regulate this advice as Simple Advice. If the fund has a strong default product (utilising the Retirement Income Covenant to set up a sensible structure for groups of members), the retirement income strategies become one of tailoring this product to the member's personal circumstances.

The advice, in these circumstances, is largely strategic and little different in nature from what is currently provided as intra-fund advice for members in the accumulation phase even where it does consider financial holdings and interests outside the fund. It should be possible for funds to develop advice modules to help with these questions.

4.5.3 During Retirement

Once a member has retired, there will be ongoing advice needs, particularly when circumstances change. Neither the industry nor the current legislation is well suited to these needs. Much of this advice could be commoditised and delivered electronically for the most part. That would require a large investment as well as changes to legislation to accommodate it.

Within the retirement phase, most regular advice is about budgeting for the next year and appropriate levels of withdrawals. This *Retirement Counselling* service is valuable, and all funds should provide this as part of their retirement strategy as intra-fund advice. Like the work of Money or Finance Coaches outside superannuation, this activity does not at present fall under the financial advice regime. Consequently, it should be possible to deliver the service cost-efficiently using technology and retirement counsellors within call centres.

Funds or advisers should be offering *Event-based advice* to their account-based pensioners periodically based on the need of each retiree. Such events would include change in marital status (marriage, or the death or divorce of a partner), the need for a late life annuity or home equity release, and the need for Aged Care services. This advice could be delivered for a flat fee by a financial adviser (not necessarily related to the fund).

I recommend reviewing the provision of advice on these services with a view to simplifying the processes (with a goal to reducing costs of delivery and increasing member usage of financial advice leading to and in retirement).

[17] It is expected that many superannuation funds will set aside some part of member's retirement benefit into longevity protection. This could be an immediate or deferred annuity or a Guaranteed Self-annuitisation product.

5. Response to Review questions

The issues Paper listed 83 questions seeking responses from interested parties. The key questions are listed below with a brief response or a link to where they are covered in this report.

5.1 Quality of Financial Advice

Q1 **What are the characteristics of quality financial advice for providers of advice?**

The key characteristic for an adviser is that their client acts on the advice by changing their behaviour. The client should be satisfied with the outcome and become better off for having taken the advice.

Q2 **What are the characteristics of quality financial advice for consumers?**

While *quality* is subjective and difficult to define, it is highly relevant in determining the value of any advice provided. Financial advice will assist a consumer to improve their overall financial position:

- by positioning them to reduce debt and increase savings
- by building personal wealth over time
- by protecting their assets and human capital (insurance)
- by utilizing their wealth efficiently through their retirement years.

The above characteristics can apply to all forms of advice and all methods of delivery.

Q3 **Have previous regulatory changes improved the quality of advice?**

Previous changes have had an emphasis on removing rogue advisers and steering people away from inappropriate products. Legislation has been too narrowly focused on *product* and not enough on *strategy*. Even then, regulators have not been quick to deal with emerging risks related to products, most recently cryptocurrencies.

The industry has become attuned to compliance with prescriptive law, and much innovation has been lost.

The regulatory changes can therefore be considered to have improved the overall level of advice by removing low quality operators and poor products, but they have not improved the quality of legitimate advice.

They have also limited and reduced the number of people receiving regulated advice. If this excluded group is considered, the regulatory changes have reduced the overall quality of advice.

Q4 **What are the factors the Review should consider in deciding whether a measure has increased the quality of advice?**

Has a consumer improved their financial position through using advice?

Has the cost of advice reduced?

Is more advice being provided to consumers?

5.2 Affordable Financial Advice

Q5–10 No comment.

Q11 **Could financial technology (fintech) reduce the cost of providing advice?**

All forms of Simple Advice (as defined in this submission) could be provided using technology. The advice could be structured via online questions and tools either as a complete kit, or as an aid for an adviser. In both cases, the costs of providing the advice would be much lower than is the case today.

Technology can also reduce the cost and improve the quality of Comprehensive and Complex advice.

Q12 **Are there regulatory impediments to adopting technological solutions to assist in providing advice?**

The current advice regime does not differentiate between Simple and Comprehensive/Complex Advice but has the same requirements for all forms. This makes Simple Advice far too expensive to deliver. It also makes Simple Advice too risky to deliver via technology for many organisations because compliance requirements are set for Comprehensive Advice, and the potential reputational damage from a relatively minor compliance failure is too high.

5.3 Accessible Financial Advice

Q13 **How should we measure the demand for financial advice?**

The demand for financial advice is intangible as most people are not aware that advice can help them improve their financial position.

Everybody needs financial advice at different times throughout their lives. However, most people are financially unaware (and often illiterate) due to lack of schooling on the subject, strange industry jargon and confused messages. They then remain ignorant about their needs. In fact, most people do not budget or plan – and a significant majority of consumers could not survive more than a month without income (so they have little savings).

Consequently, the real demand is hidden.

Q14 **In what circumstances do people need advice but might not be seeking it?**

There are countless examples:

- People who struggle to save
- Young families without adequate life insurance
- People with savings left in the bank due to uncertainty about investing
- People not topping up their superannuation contributions
- Members approaching retirement (how to access Age Pension, shifting super into pension form, asset allocation, drawdown strategies).

Q15 **What are the barriers to people who need or want advice accessing it?**

The most common response within the industry is the cost of advice. However, a larger factor is the lack of awareness of consumers that they can benefit from getting advice. Then, if they do become aware, it is not easy to find an adviser.

Q16 **How could advice be more accessible?**

As shown throughout this submission, if the delivery was based on the risk of harm to a consumer, much more advice under a simpler compliance regime could be given at a low cost.[18] Another concept is to expand the use of default products (such as MySuper) as this requires little input from a consumer and the advice can be delivered indirectly, supplemented by Simple Advice.

Q17 **Are there circumstances in which advice or certain types of advice could be provided other than by a financial adviser?**

The key here is the provision of strategic advice which helps a consumer. There are some current examples of education on strategies which don't require licencing, such as ASIC's MoneySmart website; Scott Pape's *Barefoot Investor* book; and the work of some financial journalists.

It would be much simple if there were simplified rules for helping consumers via calculators. At present, these need a complex SOA. One solution is to simplify intra-fund advice and to then broaden it beyond super (but not including product selection).

This submission outlines several circumstances in which some types of advice could be provided without an adviser.

Q18 **Could financial advisers and consumers benefit from advisers using fintech solutions to assist with compliance and the preparation of advice?**

YES! The fact that advisers make limited use of fintech solutions shows that the current law is a barrier. Clearly, advisers would benefit from technology, but the compliance risks are too high.

Q19 **What is preventing new entrants into the industry with innovative, digital-first business models?**

A good case study is Plenty Wealth. Actuary Greg Einfeld did try to provide advice digitally, but the laws are too prescriptive, and ASIC forced him to close the business despite the low risk of harm for consumers.

5.4 General and Personal Advice

Q20 **Is there a practical difference between financial advice and financial product advice and should they be treated in the same way by the regulatory framework?**

Yes there is, as is comprehensively explained in this submission. Strategic advice about what to do, how much to do, when to do it and which product categories provide which benefits adds significant value and does not involve product selection. Financial product advice is about the

[18] See Rice Warner report to FSC on the Future of Advice

selection and purchase of products. Financial product selection must be done in the context of the strategic advice, but strategic advice need not necessarily involve product selection.

The regulatory framework should recognise the differences between the two and structure regulation based on the risk of a consumer being harmed from taking or not using the advice. Much strategic advice is simple and beneficial, and it is not difficult to set up rules which ease the delivery. For example, advising whether a voluntary superannuation contribution should be made pre-or post-tax. Similarly, it should be relatively simple to support a consumer selecting a different asset allocation within an existing product or changing the amount of life insurance they need.

Selection of some products is relatively low risk. For example, moving from an accumulation fund to an account-based pension with the same superannuation trustee.

If ***risk*** is the main criteria, it will be possible to separate both financial advice and financial product advice into categories where the advice can be categorised around the risk of harm.

Q21 **Are there any impediments to a financial adviser providing financial advice more broadly (eg budgeting, home ownership, Centrelink pension)?**

The main impediment to an adviser giving advice outside the heavily prescribed regime is confusion about what can be delivered. Consequently, advisers are required by their licensees to package all advice into a single document (SOA). This can contain financial advice and other advice not so defined. The default position of licensees is to treat all advice as being comprehensive advice subject to the full gamut of regulation.

For example, an adviser could assist with budgeting without needing to provide any formal documentation. They can talk generally about where to invest any savings made following sensible budgeting - but this needs an SOA rather than simple information (education). Any decision to implement the advice (selecting a product) generally requires an SOA (unless you suggest a bank Term Deposit or an investment property)!

Many people approaching retirement need Simple Advice, but the current framework makes it difficult to deliver this.

Q22 **What types of financial advice should be regulated and to what extent?**

It is better to regulate all advice and to then categorise the rules around delivery based on risk to consumers. Only by regulating everything (including some products currently excluded such as mortgages on investment properties, budgeting, and bank savings products) can you set comprehensive rules. The rules do not have to be onerous for low-risk activities.

Q23 **Should there be different categories of financial advice and financial product advice and if so for what purpose?**

Yes - the categories should vary by risk. I expect most strategic advice and some product advice would be low-risk and fall under Simple Advice.

Q24 **How should the different categories of advice be labelled?**

Simple (low risk), Comprehensive (medium risk) and Complex (highest risk category).

Q25 **Should advice provided to groups of consumers who share some common circumstances or characteristics of the cohort be regulated differently from advice only provided to an individual?**

Yes.

Consumers should be separated into Mass Market (generally financially unsophisticated and vulnerable), Sophisticated (generally based on education, skills and experience) and Complex (those with complex circumstances and needs).

Where consumers have a common circumstance, such as membership of a MySuper fund, it should be possible to design common advice (or default structures) which broadly cover the group. An example is default life insurance which is not based on an individual's needs but is struck to provide a reasonable level of cover as a base.

Q26 **How should alternative advice providers such as financial coaches or influencers be regulated?**

Under a risk-based model addressing groups of consumers, it should be possible to categorise all advisers together. Therefore, financial coaches and influencers follow similar rules to any other adviser. Note that the type of advice provided by these groups may be Simple so the degree of regulation will naturally be lower. The rules for advisers providing simple, low-risk advice would be significantly less onerous than for those providing complex advice and would not extend to requiring a three-year degree qualification.

Q27 **How does applying and considering the distinction between general and personal advice add to the cost of providing advice?**

The main problem is confusion about where something fits. The ASIC versus Westpac case mentioned in the Issues Paper highlights industry confusion. The problem would be overcome if the definitions suggested in this submission were adopted.

5.5 Intra-fund advice

Q28 **Should the scope of intra-fund advice be expanded?**

It would be more sensible to redefine simple (risk-free) advice (within and outside superannuation). People often want advice about a single issue, but this is hampered by the "know your client" rules. The expression intra-fund advice is a subset of Simple Advice.

Q29 **Should superannuation trustees be encouraged or required to provide intra-fund advice to members?**

As this form of advice is beneficial for members, trustees should be encouraged (but not compelled) to provide it. The current types of intra-fund advice are delivered reasonably cost-effectively (though this could be improved).

Q30 **Are there any other changes to the regulatory regime necessary to assist superannuation trustees to provide intra-fund advice or to engage more actively with their members particularly in relation to retirement issues?**

Expansion into other areas cannot be done under current legislation. This will be a problem when the **Retirement Income Covenant** is implemented as sensible advice (which Trustees are required to give) necessarily requires consideration of matters beyond the member's interest in

the fund. The current proposal to provide 'guidance' but not advice is essentially unworkable because it will confront the same confusion as exists between General and Personal advice.

Once a member has retired, there will be ongoing advice needs, particularly when circumstances change. Neither the industry nor the current legislation is well suited to these needs. Much of this advice could be commoditised and delivered electronically for the most part. That would require a large investment as well as changes to legislation to accommodate it.

Q31 **To what extent does the provision of intra-fund advice affect competition in the financial advice market?**

Intra-fund advice has a minimal impact on competition.

Intra-fund advice does provide a lower price point than comprehensive personal advice and to that extent might be considered to enhance competition. The reality though is that people using intra-fund advice are not choosing between it and comprehensive advice, they are choosing between intra-fund advice and not receiving advice at all.

Q32 **Do you think limited scope advice can be valuable for consumers?**

YES! Throughout life, consumers have needs for specific advice from time to time. There is significantly more demand for limited scope advice than there is for comprehensive advice.

Q33 **What legislative changes are necessary to facilitate the delivery of limited scope advice?**

The simplest measure is to define "scaled advice" (single issue one-off Simple Advice) and allow it to be offered more widely. Note, strategic advice is usually beneficial, and the rules could be liberalised. Thought needs to be given as to the likely problems of expanding this where NEW products are recommended.

Q34 **Other than uncertainty about legal obligations, are there any other factors that might encourage financial advisers to provide comprehensive advice rather than limited scope advice?**

Financial advisers try to build an ongoing relationship with clients. They grow their business by charging an annuity fee structure. They enhance and cement their standing with their clients by positioning themselves and providing comprehensive advice. The provision of comprehensive advice also provides justification for the fees they need to charge to cover the costs caused by the regulatory regime they are forced to follow. Most practices are not efficient at providing one-off advice.

5.6 Digital Advice

Q35 **Do you agree that digital advice can make financial advice more accessible and affordable?**

YES! ASIC has struggled to manage the emergence of digital advice as it lacks pragmatism and has been trapped with outdated legislation. This is an opportunity for much needed change.

Q36 **Are there any types of advice that might be better suited to digital advice than other types of advice?**

Simple low-risk strategic advice would be more cost-effective if delivered electronically - or if advisers could rely on digital tools to help them.

Many consumers need advice on a single topic. They may need this advice on a variety of topics several times throughout their life rather than dealing with every topic every time they seek advice. Digital advice can be tailored to a specific topic and easily matched to a consumer's personal circumstances.

Q37 **Are the risks different from digital advice or advice received from a financial adviser?**

The risks are the same regardless of the delivery system. Some forms of advice are complex and need to be delivered by a professional; others are simple and can be automated. It should be possible to label all advice appropriately (see Appendix).

Q38 **Should different forms of advice be regulated differently (eg advice provided by a digital advice tool from a advice provided by a financial adviser?**

No. The regulation should be the same, but the requirements for specific types of advice should depend on the risk of harm to consumers.

Q39 **Are you concerned that the quality of advice might be compromised by digital advice?**

No. This will expand the take-up of some forms of financial advice and be beneficial for consumers.

Q40 **Are there any changes to the regulatory framework necessary to facilitate digital advice?**

Yes. This submission opines that the framework needs to be rewritten to think about the risk of harm to consumers, rather than the current prescriptive and bureaucratic processes, which prevent much valuable advice being given.

Q41 **If technology is part of the solution to make advice more accessible, who should be responsible for the advice provided?**

If all delivery of advice is regulated, those regulated (currently an AFSL holder) are responsible. Note that an organisation using a digital tool could rely on the provider of the tool to hold the AFSL.

Q42 **In what ways can digital advice complement human-provided advice and when should it be a substitute?**

A financial adviser could collect information and consumer preferences from a digital tool and use them as part of their advice.

Where a super fund, investment platform or ASFL-holder has information on a consumer, this might make it easier for them to deliver new single-issue advice (cost-effectively).

Digital tools are already providing single issue advice as a substitute for human advisers managing everything from fact finds to analysis of options to the provision of an SOA. Most comprehensive advice provided by human advisers also already contains elements prepared by digital tools – e.g. financial projections and investment modelling – that the adviser includes in their advice report.

5.7 Best Interest and Related Obligations

Q43 **Do you consider that the statutory safe harbour or best interests duty provide any benefit to consumers or advisers…?**

The statutory safe harbour does not help either consumers or advisers in its current form as its practical effect is not to provide a safe harbour but rather to require extensive compliance measures.

The statutory safe harbour measures are not needed for Simple Advice.

Advisers, as professionals, should always act in the best interests of their clients. This should be embedded in their Code of Ethics/Conduct.

Q44 to Q46 No comment.

Q47 **Do you consider financial advisers should be required to consider the target market determination for a financial product before providing personal advice about the product?**

Yes – in fact, the DDO legislation requires it.

If a consumer falls outside the stated target market, the adviser should explain why the product is still appropriate for them.

5.8 Conflicted Remuneration

Q48 **To what extent has the ban on conflicted remuneration assisted in aligning adviser and consumer interests?**

The ban on conflicted remuneration has improved the alignment of adviser and consumer interests. However, advisers need their businesses to be profitable so there are areas where consumers do not get value. An example is someone with small investable assets where the adviser cannot recover their costs from the fee charged. Another example is the use of asset-based fees which benefit advisers when markets rise.

If there is an expansion of financial advice into digital channels or a broader base for intra-fund advice, then consumers would have a choice and the market would become more competitive.

Q49 **Has the ban contributed towards improving the quality of advice?**

No. See the answer to Question 3. It has simply increased fees and reduced availability of advice for many who cannot afford to pay. It has improved the overall quality of advice by removing some conflicted and inappropriate advice but has not improved the quality of legitimate advice.

Q50 **Has the ban affected other outcomes?**

YES – under existing legislation and business structures, financial advice firms are unprofitable unless they shift to those willing and able to pay high fees (<15% of the population). There are many examples of large established advice businesses which have struggled with profitability.

Q51/52 No comment

Q53 **Has the capping of life insurance commissions led to a reduction in the level of insurance coverage or contributed to underinsurance?**

The capping of life insurance commissions has led to a shift from upfront to higher renewal commissions (and the maximum has become the norm). The long-term impact should not be significant for advisers – in fact, the value of their portfolio has increased.

Some advisers have exited the market and there has been a dearth of new entrants. However, the reduction in life insurance coverage is more impacted by recent increases in premiums and the costs of buying a comprehensive life insurance coverage for a family, which is not tax deductible outside superannuation.

Rice Warner has produced several reports on underinsurance. The population's lack of understanding of insurance needs together with affordability are the key reasons for underinsurance in Australia[19].

Q54 **Is underinsurance a present or emerging issue for any retail general insurance products?**

Many people who live in high-risk areas for fire or floods cannot buy household cover.

Q55 **What other countervailing factors should the Review consider when deciding whether to retain an exemption from the ban on conflicted remuneration?**

The only factor should be whether consumers are better off from having such an exemption. For example, will it lead to higher levels of advice and better outcomes?

5.9 Charging Arrangements

Q56 **Are consent requirements for charging non-ongoing fees to superannuation accounts working effectively?**

The existing structure is highly bureaucratic and inefficient. The Hayne request to ban deductions of advice fees from MySuper accounts is now law even though it was based on flawed logic. Hayne appears to have assumed that everyone in a MySuper account is there by default and they do not then need advice.

However, many people choose to join a MySuper account and transfer (rollover) from another fund. Some of them do so after receiving advice; others may start as an unengaged default member but choose to obtain advice later in their career. Banning these fees from MySuper accounts does not stop a member setting up a separate account (say a Cash account) and transferring money there to pay for any advice fees. This complies with the law but creates unnecessary paperwork.

The key issue here is what advice is provided. Most of the advice will be like the intra-fund advice modules already provided by the fund. If so, the fund could determine a reasonable cost for each of these services and pay advisers a flat fee for each upon agreement by the member that they received this advice.

[19] https://www.ricewarner.com/new-research-shows-a-larger-underinsurance-gap/

Q57 **To what extent can ongoing fee arrangements be streamlined, simplified or made principles-based?**

Members who receive financial advice on an ongoing basis cannot usually claim a tax-deduction for the service. Where some of the advice pertains to superannuation, it can be treated as a fund expense and claimed as a deduction by the fund. Paying this part of the fee from the fund also shifts it from reducing the member's disposable income.

It is messy in that ongoing advice could pertain to insurance, investments, and superannuation. This requires the fee to be separated for the superannuation advice before separately invoicing the member.

The structure could be simplified by keeping payment of the advice fee out of the super fund. Perhaps it could be paid directly by the member who could claim the amount as a personal concessional contribution. Alternately, allow a personal tax deduction (at the rate of 15%) for the superannuation component of the advice fee.

Q58 **How could these documents be improved for consumers?**

Set standard fees and forms across the industry.

Q59 **Are there other ways that could more effectively provide accountability and transparency around ongoing fee arrangements and protect consumers from being charged a fee for no service?**

The simplest way is to have payment of any ongoing fees made directly by the consumer.

Q60 **How much does meeting the ongoing fee arrangements, including the consent arrangements and FDS contribute to the cost of providing advice?**

Any paperwork adds cost, particularly where consumers need to complete forms. The extent will depend on the method of charging – for example, asset-based fees must be converted into dollars.

Q61 **To what extent, if at all, do superannuation trustees (and other product issuers) impose obligations on advisers which are in addition to those imposed by the OFA and FDS requirements…?**

Trustees can monitor that the advisers are licensed, and they can sight the member's consent prior to any payment. They can also limit the total of any annual payment.

However, they cannot verify the quality of any advice given.

Q62 **How do the superannuation trustee covenants, particularly the obligation to act in the best financial interests of members, affect a trustee's decision to deduct ongoing advice fees from a member's account?**

The trustee could take the view that financial advice which a member has requested is likely to be beneficial for a member. However, they cannot monitor the behaviour of a rogue adviser or one who delivers poor advice. This is a risk that could be mitigated by vetting and then limiting the number of advisers approved to provide advice to their members.

5.10 Disclosure documents

Q63 **How successful have SOAs been in addressing information asymmetry?**

SOAs have been completely ineffective in addressing information asymmetry. Consumers find them too complex, and they are never ***clear, concise and effective***! In my experience and that of financial advisers with whom I have discussed relevant matters, no consumer bothers to read the full SOA. This is a similar experience with bank mortgage documents where the length and jargon prevent any understanding of the detailed clauses.

A particular problem with SOAs is the large amount of prescriptive commentary required to satisfy regulations – without any thought about its comprehension by a consumer.

Q64 **How much does the requirement to prepare an SOA contribute to the cost of advice?**

The contents of an SOA are unrelated to the simplicity or otherwise of the advice provided, nor of the relative risk for a consumer.

Product providers and financial advisers fear the risk of being non-compliant and this is the dominant factor in preparing an SOA.

Much of the content of an SOA is marginally relevant or not considered by a consumer. Therefore, the time spent on preparing most SOAs is largely wasted.

Q65 **To what extent can the content requirements for SOAs and ROAs be streamlined or simplified…?**

If financial advice were structured around the risk of harm for consumers, many forms of financial advice could be greatly simplified. Most strategic advice is informative and beneficial. It could be documented reasonably briefly. Similarly, Simple Advice does not require complex documentation.

Complex advice requires more documentation, but current practices are not optimal. For example, does a life insurance adviser need to list all products available in the market and then highlight the one that is best for a consumer? It should be sufficient to give an example of three products for comparison purposes. After all, that is the most that anyone buying general insurance products would view. Further, the cheapest product is not necessarily the best but many advisers assume that this is best practice (and in the best interests of their clients).

Q66 **To what extent is the length of the disclosure documents driven by regulatory compliance or existing practices towards risk and compliance adopted within the industry?**

It is a mixture. The law is convoluted (and outdated) and ASIC has brought out several guidelines to follow. The industry has a fear of being non-compliant, so it adopts conservative policies. The result is voluminous documents and poor value for consumers.

Q67 **How could the regulatory regime be amended to facilitate the delivery of disclosure documents that are more engaging for consumers?**

We need to rewrite the legislation on the lines set out in this submission. Fiddling within the current law will not address the key issues!

Q68 **Are there any types of advice that are better suited to reduced disclosure documents. If so, why?**

It is easier to deal with Simple Advice. This does not need to know everything about a client, and it is much easier to deal with a single one-off issue than to build an ongoing commercial arrangement.

Much strategic advice can be explained simply – but the law or industry practice prohibits this today.

Q69 **Has recent guidance assisted advisers in understanding where they are able to use ROAs rather than SOAs, and has this led to a greater provision of this simpler form of disclosure?**

My initial reflection is why does a profession need so much guidance from a regulator on how to apply the law? Does this not show the problems with existing legislation and regulation?

Q70 **Are there elements of the COVID-19 advice related relief for disclosure obligations which should be permanently retained?**

No comment.

5.11 Accountants providing financial advice

Q71 **Should accountants be able to provide financial advice on superannuation products outside the existing AFSL regime and without needing to meet the education requirements imposed on other professionals wanting to provide financial advice? If so, why?**

Yes. Accountants are already well-trained and should be able to provide strategic advice or advice on simple products without further education.

Accountants should receive some further education to provide advice in more complex areas. Providing advice on investment selection and structuring, for instance, should be restricted to those with relevant AFSL authorisation.

The current restrictions extend beyond accountants. I am semi-retired following an extensive career in superannuation consulting. Despite being a qualified actuary with extensive experience in investment markets, superannuation, and life insurance (and previously being an Authorised Representative), I am not legally able to provide advice to consumers.

I would like to provide pro-bono advice to people approaching or in retirement but would need to undertake a three-year degree in financial planning first. Consequently, I and others in my situation will not bother!

Q72 **If an exemption was granted, what range of topics should accountants be able to provide advice on? How can consumers be protected?**

Accountants are experts in budgeting and tax. This gives them a basis for providing strategic advice and some Simple Advice types (eg superannuation contribution strategy). It would not be unduly difficult for the professional bodies to work with their members to develop some guidelines and standards on delivering advice.

Q73 **What effect would allowing accountants to provide this advice have on the number of advisers in the market and the number of consumers receiving financial advice?**

As accountants are well qualified and subject to a Code of Ethics,[20] they are well suited to delivering advice. Further, many consumers use an accountant for helping with tax returns or preparing small business accounts. Therefore, they already have a level of trust in the community. It is likely that the number of advisers and consumers using advice would expand greatly – with my normal caveat that the law needs to be changed to facilitate this!

Q74 **Is the limited AFS licence working as intended?**

Several accountants do provide advice on SMSFs. As there are about 600,000 of these funds, this suggests the limited licence is used extensively. Expansion of accountancy skills into other forms of advice would likely increase consumer use of financial advice.

Q75 **Are there other barriers to accountants providing financial advice about SMSFs apart from the limited SMSF regime?**

Self-directed members will occasionally require advice on investments or life insurance. Accountants cannot assist them with these queries unless they are separately trained to become investment experts.

5.12 Wholesale and Sophisticated Investors

Q76/77

These rules were put in place to allow product providers to attract investors without full compliance. The logic was that a sophisticated investor would be able to understand the issues.

The rules are based on a consumer's income or asset size. Realistically, there is little correlation between investment competency and income. Many high-income consumers are poor savers and investors, and many low-income consumers make the most of what income they have.

If the rules were changed to be centred on risks, then consumers would not need to be categorised except for very complicated pieces of advice.

5.13 Other measures

Questions 78 to 83 cover this.

I have no specific comments on these.

[20] CPA Australia members have a responsibility to act in the public interest. Members must comply with the fundamental principles of **integrity, objectivity, professional competence, due care, confidentiality and professional behaviour in all your dealings**.

Appendix A Delivery of each type of advice

A.1 Budgeting and short-term savings

These activities are currently outside the financial advice legislation. The period for achieving the savings goal is up to five years.

TABLE 1 Savings

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Cash flow budgets	Low	N/A	Strategy	Savings	N/A	Review annually	Cash flow spreadsheet or online App.	Accountant Money Coach
Prioritising repayments	Low	N/A	Strategy	Savings	N/A	Review annually	Cash flow spreadsheet or online App	Accountant Money Coach
Saving via ADI (smaller amounts) – holiday, whitegoods, car deposit	Low	Low	Product	Savings	N/A	1 to 2 years	Online App.	ADI
Saving via ADI (larger amounts) – mortgage deposit (for principal residence), school fees	Low	Low	Product	Savings	N/A	3 to 5 years	Online App.	ADI
Saving other than an ADI (eg mortgage trust)	Medium	Low	Product	Savings	N/A	3 to 5 years	Strong warning on lack of capital guarantee.	Financial institution, Money Coach, Adviser
Debt Consolidation and elimination	Low	Low	Product	Savings	N/A	Immediate	Consultant	Accountant, Adviser, Money Coach, Centrelink, Charities

A.2 Superannuation

See Table 5 for Retirement.

TABLE 2 SUPERANNUATION

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Contribution strategy	Low	Low	Strategy	Simple Advice	Financial Product Advice	Long-term	Record of Advice	Super fund, Adviser, Accountant
Consolidating accounts into MySuper	Low	Low	Product	Simple Advice	Financial Product Advice	Immediate	Record of Advice	Super fund, Adviser
Consolidating accounts (platform)	Medium - High	Medium-High	Product	Comprehensive Advice	Financial Product Advice	Immediate	Statement of Advice	Super fund, Adviser
Investment strategies within MySuper fund	Low to Medium	Low	Strategy/ Product	Simple Advice	Financial Product Advice	Long-term	Record of Advice	Super fund, Adviser
Investment strategies to indexed model portfolios[21]	Medium	Low	Product	Simple Advice	Financial Product Advice	Long-term	Record of Advice	Adviser, Financial institution
Investment strategies – model portfolios	Medium - High	Medium-High	Product	Comprehensive Advice	Financial Product Advice	Long-term	Statement of Advice	Adviser
Investment strategies – personalised assets	High	High	Product	Complex Advice	Financial Product Advice	Long-term	Statement of Advice	Adviser
Defined benefits	Low-Medium	High	Product	Complex Advice	Financial Product Advice	Long-term	Statement of Advice	Actuary, Specialist adviser
SMSF: Establishment	High	Medium	Strategy	Complex Advice	Financial Product Advice	5-40 years	Statement of Advice	Specialist, Accountant

[21] These are mainstream diversified indices.

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
SMSF: Managing product but not giving investment advice	Medium-High	Medium-High	Product	Complex Advice	Financial Product Advice	5-40 years	Statement of Advice	Specialist, Accountant
SMSF: Investment advice	Medium-High	Medium-High	Product	Complex Advice	Financial Product Advice	20+ years	Statement of Advice	Specialist, Adviser

A.3 Life insurance

TABLE 3 **Life Insurance**

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Determining the need (quantum) of life insurance	Low	Low	Strategy	Simple Advice	Financial Product Advice	3 years or longer	Record of Advice	Adviser, Software, Super fund
Life insurance: Review market and compare product differences	Low	Medium	Product	Simple Advice	Financial Product Advice	Immediate	Record of Advice	Adviser, Software
Life insurance: Implement new product	Low	Low	Product	Simple Advice	Financial Product Advice	10+ years	Record of Advice	Adviser, Software, Super fund
Life insurance: Product renewal or upgrade	Low	Low	Product	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software, Super fund
TPD Cover - Need	Low	Low	Strategy	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software, Super fund

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
TPD - Review market and compare product differences	Low	Medium	Product	Simple Advice	Financial Product Advice	Immediate	Record of Advice	Adviser, Software, Super fund
TPD Cover - Implement new product	Low	Low	Product	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software, Super fund
TPD Cover - Product renewal or upgrade	Low	Low	Product	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software, Super fund
Income Protection Cover - Need	Low	Medium	Strategy	Simple Advice	Financial Product Advice	1 year	Record of Advice	Adviser, Software, Super fund
Income Protection Cover: Review market and compare products	Low	Medium	Product	Comprehensive Advice	Financial Product Advice	10 - 20 years	Statement of Advice	Adviser, Software, Super fund
Income Protection Cover: Implement new product	Low-Medium	Low-Medium	Product	Simple Advice	Financial Product Advice	Immediate	Record of Advice	Adviser, Software
Income Protection Cover: Product renewal	Low	Low	Product	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software
Trauma - Need	Low	Medium	Strategy	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software
Trauma – Review market and compare products	Low	Medium	Product	Comprehensive Advice	Financial Product Advice	10 years	Statement of Advice	Adviser, Software
Trauma - Implement new product	Low	Medium	Product	Simple Advice	Financial Product Advice	Immediate	Record of Advice	Adviser, Software
Trauma - Product renewal or upgrade	Low	Low	Product	Simple Advice	Financial Product Advice	3+ years	Record of Advice	Adviser, Software

A.4 Investments

TABLE 4 Investments

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Mortgage on Investment Property	Medium	Low-Medium	Product	Simple Advice	N/A	10+ years	Record of Advice	Mortgage broker, Software
Investment Strategy: Managed cash products	Medium	Low	Product	Simple Advice	Financial Product Advice	2-5 years	Record of Advice	Adviser, Software
Investment Strategy: Broad scope	Medium	Medium	Strategy	Comprehensive Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser, Software
Investment Strategy: Broad scope including gearing and/or derivatives or equivalents	Medium-High	High	Strategy	Complex Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser, Specialist
Managed Funds: Single manager or asset class	High	Low-Medium	Product	Comprehensive Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser
Managed Funds: Multi-manager or diversified portfolio	Medium	Low-Medium	Product	Simple Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser, Software
Shares	High	Medium-High	Product	Comprehensive Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser, Specialist
Traditional ETFs	Low	Medium	Product	Simple Advice	Financial Product Advice	5+ years	Record of Advice	Adviser
Complex ETFS	High	High	Product	Complex Advice	Financial Product Advice	5+ years	Statement of Advice	Adviser, Specialist

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice Categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Tax and gearing	High	Medium	Strategy	Complex Advice	Financial Product Advice	5-10 years	Statement of Advice	Adviser, Accountant, Specialist

TABLE 5 RETIREMENT

Financial Advice Description	Consumer Risk	Complexity	Product or Strategy?	New Financial Advice categorisation	Old Financial Advice Categorisation	Time frame	Requirements	Delivery
Consolidating retirement accounts	Medium	Medium	Product	Comprehensive Advice	Personal Financial Product Advice	Immediate	Statement of Advice	Adviser, Software
At Retirement – strategy about options including access to Age Pension	Low	Medium	Strategy	Simple Advice	Personal Advice	25 years	Record of Advice	Specialist, Software
At retirement - product	Medium	Medium	Product	Comprehensive Advice	Financial Product Advice	25 years	Statement of Advice	Adviser, Super fund using software
During retirement - strategy	Low	Low	Strategy	Simple Advice	Personal Advice	1 year	Record of Advice	Specialist, accountant, adviser
Aged Care	Medium-High	High	Strategy	Complex Advice	N/A	3-10 years	Statement of Advice	Specialist
Estate Planning	Low	Low	Strategy	Complex Advice	N/A	Until life expectancy	Statement of Advice	Specialist, Lawyer