

Quality of Advice Review Secretariat
Financial System Division
The Treasury
Langton Crescent PARKES ACT 2600
Email: AdviceReview@treasury.gov.au

23 September 2022

Dear Sir/Madam

QUALITY OF ADVICE REVIEW – PROPOSALS PAPER

On 29 August 2022, Treasury released a proposals paper on the Quality of Advice Review (QAR).

Centrepoint Alliance Limited ('Centrepoint') supports the proposals paper.

Centrepoint is an ASX listed financial services company (ASX Code: CAF) which provides licensee services to over 1,300 financial advisers who in turn provide financial advice to over 130,000 Australian consumers. As a key participant in the industry, Centrepoint is well placed to provide input based on the advice professionals we support and their client feedback.

Centrepoint applauds the recommendations that Michelle Levy and her team have proposed. Moving away from the current prescriptive regulatory approach to a new principles-based approach is a breath of fresh air. As an industry we have been heavily regulated, so we feel this is our time to embrace change and demonstrate our commitment to professionalism.

We appreciate the opportunity to provide this submission to Treasury. If further information or discussion is required, please contact the writer via email at john.shuttleworth@cpal.com.au or by telephone on (02) 8987 3016.

Sincerely,



John Shuttleworth
Chief Executive Officer

Quality of Advice Review | Proposals Paper Response

Name/Organisation: Centrepoint Alliance Limited (Centrepoint)

Questions
Intended outcomes
1. Do you agree that advisers and product issuers should be able to provide personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?
<p>Yes. Many of the obligations that apply to the provision of personal financial advice should be removed to improve access to affordable, timely personal financial advice for consumers. We agree that changes need to be substantial to achieve this goal.</p> <p>We are encouraged by the focus on the quality of the advice over regulating or prescribing the advice process and documents. Changes to the definition of personal advice and simplifying or removing obligations including certain disclosure documents should also improve affordability and access to advice.</p> <p>The proposals would enable consumers to access personal financial advice from financial advisers, product issuers and digital advice providers. They will make it easier for banks, insurers and superannuation fund trustees to provide simple advice to their customers. The changes will need to balance the risks of harm and poor quality advice with accessibility and affordability. It is also important to ensure obligations are applied fairly and equitably to providers of personal advice.</p> <p>When implementing the proposals, we believe it is important that reforms are consistently applied to financial advisers, product issuers and superannuation funds. Whilst we agree that advice should be easier for consumers to access, the reforms should be equitable and not hold financial advisers to a higher standard than product issuers and superannuation funds.</p>

What should be regulated?

2. In your view, are the proposed changes to the definition of 'personal advice' likely to:

- a) reduce regulatory uncertainty?
- b) facilitate the provision of more personal advice to consumers?
- c) improve the ability of financial institutions to help their clients?

- a) Yes. By broadening the definition of personal advice to include where the provider has or holds information about the client rather than whether the provider considered that information, ambiguity is reduced. All personal conversations and interactions that include a recommendation or opinion will be personal advice. Providers will be able to have interactions with their clients without uncertainty if they have crossed from general advice into personal advice. If general advice was no longer a financial service, we would seek clarification that general advice may still be provided to groups of clients, such as in newsletters and the like, where the provider holds information about its clients.
- b) Yes. The change to the definition of personal advice along with the ability to provide advice in a form that suits the client will facilitate the provision of personal advice to consumers. The change to the definition of personal advice will increase the number of providers who will be providing personal advice to consumers. Financial advisers, product issuers and digital advice providers will be able to give simple personal advice more easily. Rather than trying to limit interactions to general advice to avoid the obligations that apply to personal advice currently, providers will be able to give personal advice.
- c) Yes. The changes will improve the ability of institutions to help clients. Institutions will be able to tailor the advice they provide to their clients by using the information they have about the client and asking questions. Clients will benefit by receiving the personal advice they need.

3. In relation to the proposed de-regulation of 'general advice' - are the general consumer protections (such as the prohibition against engaging in misleading or deceptive conduct) a sufficient safeguard for consumers?

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

By redefining personal advice, providers will be encouraged to give personal advice and general advice is likely to be less relevant. General advice such as in newsletters and seminars will have a place, the information is largely factual and educational in nature and unlikely to require additional safeguards for consumers.

How should personal advice be regulated?

4. In your view, what impact does the replacement of the best interest obligations with the obligation to provide 'good advice' have on:

- a) the quality of financial advice provided to consumers?
- b) the time and cost required to produce advice?

- a) Our view is the replacement of the best interest obligation with the obligation to provide good advice will not impact the quality of financial advice to consumers.

The Best Interests Duty s961B(1) requires an advice provider to act in the best interests of the customer. The safe harbour steps focus on the processes that a provider must follow in order to achieve the desired outcome – that is, advice that is in the best interests of the client. In administering this law ASIC has said it assesses if a reasonable advice provider would believe that the client is likely to be in a better position if the client followed the advice. 'Good advice' is defined as advice that would be reasonably likely to benefit the client having regard to the information that is available to the provider at the time the advice is provided. The proposed 'good advice' obligation is solely focused on the outcome, the quality of advice, rather than the process.

Further, under section 961G of the Corporations Act, advice may only be deemed appropriate if the best interests duty has been complied with. Minor process or documentation faults at any step can result in advice failing to meet the best interests duty and advice that with good consumer outcomes is deemed inappropriate. The removal of the best interests duty will focus efforts on achieving good outcomes for the client over process.

- b) Our view is the replacement of the best interests duty should reduce the time and cost to provide advice.

The safe harbour steps and the guidance described in ASIC's Report 515 to demonstrate compliance with each step is excessive, overly prescriptive and inflexible. Demonstrating compliance creates a high compliance burden which increases the time and cost to provide advice. By replacing the best interest duty and focussing on the quality of the advice will enable the provider to tailor their process to the needs and circumstances of the client and the complexity of the advice. For simple advice needs the time and cost to provide advice will be reduced. Providers are likely to follow many of the safe harbour steps in when giving more complex advice, however with the ability to determine how advice is then delivered to suit the client, the time and cost to provide this advice will also be reduced resulting in advice being more affordable and accessible to consumers.

The drafting of the 'good advice' legislation and subsequent interpretation and guidance will be critical in ensuring the potential benefits are realised. Aligning other obligations including the Code of Ethics will also be required.

5. Does the replacement of the best interest obligations with the obligation to provide ‘good advice’ make it easier for advisers and institutions to:

- a) provide limited advice to consumers?**
- b) provide advice to consumers using technological solutions (e.g. digital advice)?**

- a) Yes. Replacement of the best interests duty removes some of the barriers to providing limited or scaled advice. Without a prescribed process and with greater flexibility advisers and institutions are more likely to provide limited advice, especially where the advice needs are simple. For example, without safe harbour step 2 that requires an adviser to identify both explicit and implicit subject matters and attempt to expand the scope to all relevant areas, advisers will have the freedom to focus on the immediate need of the client.
- b) Yes. Replacement of the best interests duty and safe harbour steps should make it easier for digital advice providers to provide advice to consumers. Digital advice technology could help consumers with simple needs through low cost advice delivery. By enabling providers to determine the advice process to suit the complexity of the advice to be provided and with the ‘good advice’ obligation being the requirement not the process, innovation in digital advice is more likely to occur.

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

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

- a) Inconsistencies between the proposed ‘good advice’ obligation and the Code of Ethics standards that require advisers to act in the best interests of clients and consider the client’s broader circumstances would need to be addressed to facilitate the provision of limited advice by relevant providers. Failure to address this would create inequities between providers and relevant providers and reduce client’s choice of provider, with relevant providers likely to have a higher cost to provide the same advice or an unwillingness to provide limited advice to their clients.

Financial advisers have to navigate the complexity that arises from the different requirements of each product issuer. For examples each product issuer requires the use of their own forms for fee consents and applications, which increases complexity and cost and reduces consumers access to simple or limited advice from their adviser. Conversely, product issuers are able to more easily provide advice to their clients. Limited advice could be better facilitated by standardised forms across the industry that all product issuers must accept and use. Standardised forms would streamline the advice process and encourage advisers to provide more limited advice.

b) The simplification of the advice process will help advice providers better facilitate advice regardless of it being delivered digitally, face to face or through any hybrid models.

7. In your view, what impact will the proposed changes to the application of the professional standards (the requirement to be a relevant provider) have on:

a) the quality of financial advice?

b) the affordability and accessibility of financial advice?

a) The changes to the application of professional standards could impact on the quality of financial advice. While removing the requirement that any personal advice must be provided by a relevant provider (who meets the education and training standards, complies with the Code of Ethics and is registered with ASIC), the proposal acknowledges that certain advice should be provided by a professional financial adviser with a duty to act in the best interests of their client. The changes will need to address issues including what is an appropriate scope of advice where the individual is not a relevant provider and what advice should be given by a professional financial adviser. Proposal 4 discusses aligning the obligations with the risk of harm. This proposal notes that advice should be provided by a relevant provider where there is payment of a fee or a commission and where there is an ongoing advice relationship. Fees should not be the measure if superannuation fund trustees can utilise collective charging to cover the cost of providing advice to members. Inequity exists if super trustees can give more than simple advice without needing to meet the same standards as an adviser and increases the risk of harm to consumers.

b) The proposed changes to professional standards will increase the number of providers who can provide personal advice and increase the affordability and accessibility of consumers obtaining personal advice. The lower education requirements for those who are not required to be relevant providers and the likely lower wage for those providers means the cost to provide simple advice is likely to be reduced. Additionally the changes would provide more opportunities for individuals to join the advice industry and may encourage more individuals to become financial advisers, expanding the accessibility of financial advice.

8. In the absence of the professional standards, are the licensing obligations which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers?

a) If not, what additional requirements should apply to providers of personal advice who are not required to be relevant providers?

The broad obligations of a licensee to ensure that those providing personal advice are adequately competent, trained and supervised may be insufficient to ensure the quality of advice to consumers. There are questions about appropriate standards and access to education and training for individuals who are not relevant providers.

Under the proposal licensees are responsible for ensuring the staff providing personal advice are competent and appropriately trained. The transition to the current education standards for advisers requiring education at degree level or higher has reduced (if not eliminated) those providers offering diploma or certificate qualifications. This would need to be considered, or the industry would need to rely upon self-regulation of education standards where licensees may be determining the requirements, delivering the education, and assessing if the individual has met the requirements.

Broadening the ability for product issuers to provide personal advice may impact quality of advice unless all providers implement systems, training and their education standards to ensure that staff are adequately experienced and qualified to provide good advice. There is also a risk that different licensees will have different approaches to education and training which could result in inconsistent quality across the industry.

Providers will need to consider the limitations of their staff and where the complexity of the advice exceeds their capabilities ensure those giving advice are relevant providers.

Providers will employ staff to provide personal advice. These individuals are likely to have limited experience, especially outside the products of the licensee that employs them. Providers would continue to have obligations to manage conflicts of interest. It would be prudent to ensure staff receive training in ethics and conflicts of interest.

Superannuation funds and intra-fund advice

9. Will the proposed changes to superannuation trustee obligations (including the removal of the restriction on collective charging):

- a) make it easier for superannuation trustees to provide personal advice to their members?**
- b) make it easier for members to access the advice they need at the time they need it?**

Yes. The proposed changes to enable superannuation trustees to provide advice to members and to allow trustee discretion to decide how to change members for personal advice will:

- a) Make it easier to provide personal advice. Trustees will be able to provide advice to their members about retirement and take into account their personal circumstances extending to social security entitlements and aged care. Importantly trustees may also be able to decide how to charge members for personal advice and provide such advice without directly charging the member a fee. It follows that such advice could be provided by an individual who is not a relevant provider. This may be a good outcome for members who may not have otherwise accessed personal advice. It is important that clients with more complex needs receive the holistic advice at this critical life stage like retirement which may require additional financial advice that cannot be provided by a superannuation fund. The industry will need to work together to ensure consumers with additional needs can be referred to a relevant provider.
- b) Make it easier for members to access timely advice.

Disclosure documents

10. Do the streamlined disclosure requirements for ongoing fee arrangements:

- a) reduce regulatory burden and the cost of providing advice, and if so, to what extent?**
- b) negatively impact consumers, and if so, how and to what extent?**

a) Yes. Streamlining the disclosure requirements for ongoing fee arrangements should reduce the regulatory burden and cost of advice. The current Fee Disclosure Statement (FDS) and fee consent requirements have resulted in duplicate and confusing disclosure to consumers and an increase in complexity and administration for financial advisers. This ultimately adds to the cost of advice and reduces financial advisers' ability to provide advice to clients.

Removing the FDS would reduce administrative burden on financial advisers and product issuers and make the process of obtaining annual written consent easier for the consumer to understand.

However, the recommendation is for a single consent form covering each product issued by a product issuer. This does not go far enough and further streamlining the requirements by standardising consent procedures and consent forms used and accepted by all product issuers is needed to reduce the regulatory burden and cost of advice, but importantly to improve the service provided to consumer.

Consideration should also be given to how to explain the services and fees to be charged where more than one consent form is required (where fees are deducted from the products or more than one product issuer) to ensure that there is no confusion for consumers.

- b) There should be no negative impact on consumers. Rather, streamlining the requirements for ongoing fee arrangements with a simple fee consent that explains the services and fees over the following 12 months positively impacts the consumer.

11. Will removing the requirement to give clients a statement of advice:

- a) **reduce the cost of providing advice, and if so, to what extent?**
- b) **negatively impact consumers, and if so, to what extent?**

- a) Yes. Removing the requirement to give a Statement of Advice (SoA) to a client should reduce the cost of financial advice. The production of an SoA is a significant cost to financial advice businesses. Removing the requirement should reduce paraplanning and financial planning software costs and the cost to develop and maintain SoA templates (including strategy and product text). Further the removal of the requirement to provide SoAs would reduce the number of unadvised clients, it would reduce the cost associated with the acquisition of advice businesses where an SoA is required to be provided by the purchaser within a specified time period.
- b) No. Removing the requirement to give clients a SoA will not negatively impact consumers. SoAs are often lengthy documents that do not provide consumers with clear, concise and effective information. Instead advice could be provided efficiently and effectively by maintaining comprehensive and contemporaneous file notes and delivering advice in the form that suits clients. Where the advice is complex or the client requests further information, we expect financial advisers will provide their research, analysis and projections (where appropriate) to clients to help them in to make an informed decision.

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

- a) **reduce regulatory burden for advisers and licensees, and if so, to what extent?**
- b) **negatively impact consumers, and if so, to what extent?**

a) Yes. Enabling advisers to provide clients with a copy of the financial services guide (FSG) to client or direct clients to the required information on their website would provide flexibility. However, FSGs are generally already available on the licensee's and adviser's websites, so the regulatory burden may not be significantly reduced.

The regulatory burden for Licensees relates to the personalisation of FSGs to the adviser's individual authorisations and remuneration. Disclosure of remuneration at the Licensee level and the ability to refer clients to the Financial Adviser Register for information on the adviser's authorisations would reduce the need for personalised disclosure.

b) There is no negative impact on the consumer. Consumers are often provided with the FSG electronically already.

Design and distribution obligations**13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on:**

- a) **the design and development of financial products?**
- b) **target market determinations?**

The proposed amendments should have no impact on the design and development of financial products or the target market determinations (TMD). TMDs are designed to improve the likelihood that a product is appropriate for clients in the target market, and the increase the compliance by distributors with the TMD. As advisers have an exemption for personal advice providers where the acquisition is in the best interests of the client, then reporting those dealings outside the TMD does not provide valuable information to the product issuers in meeting their obligations.

The removal of the reporting requirements on financial advisers and licensees will reduce the cost to provide advice. Obligations are increasingly placed on financial advisers to provide information to product issuers to assist them to meet their compliance obligations. We support the intention to prevent product issuers from imposing additional reporting obligations on relevant providers through the TMD.

Transition and enforcement

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

Due to the broad and significant reforms, transitional arrangements will need to be adequate. Even with a reduction in regulations implementation will require changes to systems, processes, and technology. Many stakeholders will be involved including regulators, product issuer, licensees and advisers, service providers and technology providers. There will be dependencies to consider when implementing changes, and flow on effects where stakeholders are waiting on action from another stakeholder before they are able to implement the reforms. And as there will be multiple changes, it must be a sustainable level of reform. Even if the transition timeframe for a single change is adequate, where there are multiple changes occurring the pace of change may result in an excessive burden.

As an example, changing the fee consent obligations will require legislative change, release of guidance from ASIC, changes to the product issuers systems and processes, changes to the licensees’ systems and processes including monitoring and supervision arrangements, potentially drafting and adoption of standardised consent forms, technology changes for product issuers and licensees, plus a transition period for adviser implementation. At the same time, significant changes to the way advice is provided and records maintained will require a similar amount of change. Failure to manage change could have a significant and detrimental impact on advisers and their capacity to continue to provide services and advice to their clients during the transition.

General

15. Do you have any other comments or feedback?

Another significant contributor to the cost and inefficiencies of advice is the lack of integration between advice technology and platforms. Advisers use ‘advice software’ to capture client information, complete modelling, and prepare a statement of advice. Advisers implement agreed recommendations with a superannuation or investment platform. This requires information about the client and the investment portfolio to be duplicated into the product issuers systems. This is an inefficient and manual process and can result in errors.

Technology providers have been slow to provide better connectivity. We strongly recommend that an 'Open Advice' technology standard is established, modelled on Open Banking, where all technology providers must provide open application programming interface (APIs), to ensure portability of data. We believe that the combination of the proposed regulatory reforms with open APIs and data standards will create a highly efficient industry and reduce the cost of advice to consumers.