

23 September 2022

Ms Michelle Levy
Chair, Quality of Advice Review
The Treasury
Langton Crescent
PARKES ACT 2600

Dear Ms Levy,

Thank you for the opportunity to provide feedback in relation to the questions raised in the **Quality of Advice Review Consultation Paper – Proposals for Reform (The Paper)**, released in August 2022. Challenger has taken a keen interest in this review having welcomed its inception and participated in the consultations undertaken to date.

Challenger's vision is to help provide customers with financial security for a better retirement. We are the country's leading and most recognised provider of retirement income products to Australian retirees and one of the fastest growing fund managers, with a multi-affiliate model.

Challenger is Australia's market leader in annuities with 84% market share and recognised by 93% of financial advisers as a leader in retirement income. The vast majority of Challenger annuity policies are sold by Australian financial advisers and are used by customers for regular and stable income in retirement. Challenger acknowledges the pivotal role financial advice plays in contributing to and strengthening the financial well-being of Australians, particularly as they transition from the accumulation to the retirement phase.

Challenger strongly supports the principle that simplifying the financial advice regulatory framework as it currently stands will better enable the provision of high quality, accessible and affordable financial advice. While past regulatory measures have been implemented with good intent, some of those changes in practice have had unintended consequences. Challenger believes the current approach of "compliance at any cost" has hampered the industry's ability to provide the level of financial advice consumers need and can afford, leaving many Australians without access to this critical service.

Challenger therefore welcomes the suggestions included in *The Paper*, including:

- 1) Broadening the accessibility of personal advice;
- 2) Outcomes focussed "good advice" test that centres on the content rather than the process of advice; and
- 3) Repealing numerous rigid compliance requirements such as Statements of Advice which provide little consumer benefit and materially increase the cost of advice.

Challenger provides its responses to the most material questions posed in *The Paper* below.

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?*

Challenger response

There are two substantive but inter-related issues underpinning this question. Firstly, broadening the definition of personal advice to be a "recommendation or opinion" provided to a client about a financial product by a provider who holds information about the clients' needs or objectives at the time the advice is provided. Secondly, reducing the compliance obligations that apply to the provision of personal advice.

Challenger believes the definition of financial advice cannot be expanded as proposed without removing the compliance obligations that currently exist in relation to personal advice. Otherwise, the proposed definition of personal advice will essentially become an additional regulatory overlay in an already overly complex regulatory system. Removing compliance requirements such as providing Statements of Advice (SoAs) and fee disclosure statements compliment the expansion of the personal advice definition.

The Paper rightly notes the distinction between personal advice and general advice is too uncertain. Challenger's own experience is providers err on the side of caution and won't provide customers with useful information or recommendations even if its requested. In turn, this creates frustration among customers and an overall poor customer experience, and disadvantages the customer who in many cases would benefit from useful information or a recommendation.

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?*

Challenger response

The three questions above are mutually inclusive in that regulatory uncertainty inhibits the provision of personal advice and, in turn, diminishes the ability of institutions like Challenger to help their customers. Challenger therefore welcomes the proposal to expand the definition of personal advice on the condition it is accompanied by a concurrent streamlining of compliance obligations as suggested above to facilitate greater accessibility and affordability of advice. It is the need to comply with multiple laws and regulations that creates fear that even minor breaches of the onerous compliance obligations can trigger significant penalties and reputational damage. Under the existing advice framework, Challenger does not provide advice even when customers demand it in the understandable belief it should be a core part of product providers service proposition. Ultimately, regulation should focus on trying to achieve the best possible outcomes for consumers.

Reforms to encourage institutional participation and remove obstacles for super funds to provide financial advice will facilitate the provision of more financial advice to consumers.

Challenger believes it would be able to provide good advice on relatively simple matters without significant compliance costs. The inability to currently provide advice hinders its ability to serve its customers. This is particularly important when people approach retirement, who would benefit most from affordable good advice. Only 22% of Australians aged 55-64 received financial advice in 2021¹.

¹ Challenger, Bridging the Retirement Advice Gap, 2022.

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?*

Challenger response

Challenger supports the need for strong consumer protections in relation to financial advice, however, the current system has created unnecessary complexity and cost and has ultimately disadvantaged consumers. Statements of Advice (SOAs) can stretch up to 180 pages in some instances and are rarely, if ever, read by consumers. The burden of preparing these voluminous disclosures falls onto a financial adviser, which increases the cost of financial advice with little or no benefit to the client.

Challenger agrees the misleading and deceptive conduct provisions in the ASIC Act are an appropriate deterrent against unscrupulous practices and serve to ensure providers embed and monitor strong risk controls in their businesses to minimise instances of compliance breaches. It's important to emphasise these risk controls serve as preventative measures against breaches, are regularly tested and feed into performance and governance processes up to the most senior levels in provider of advice.

Further, it should also be noted there are other consumer protections and grievance measures in place across the financial services industry, including but not limited to legislated codes of practice in relation to financial advice, the Australian Financial Complaints Authority (AFCA) dispute resolution framework, the recently announced compensation scheme of last resort, as well as improved education standards for financial advisers.

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?*

Challenger response

Challenger supports the general principle underpinning the concept of "good advice". That is, good advice focusses on the content and outcomes of the advice rather than prescribing onerous administrative requirements that govern the process of providing advice. The focus on providing good advice alongside reduced documentation requirements will materially reduce the time and cost required to provide advice to consumers. For advice given by a relevant provider, the requirement to act in the client's best interest will remain under the code of ethics and hence maintain the same level of quality advice provided to consumers today.

The quality of advice provided to consumers will depend on the definition and monitoring of the provision of good advice. To the extent that advice can be good advice, but not in the client's best interest there is the potential for a reduction in the quality of advice provided to clients.

Consider three option, A, B & C where A is better than B and B is better than C. Advice to move from C to B could be classified as good advice even when A is clearly better. At present, only A could be offered as advice, but the consumer might not receive any advice at all and remain with C. If advice was more affordable and resulted in the client moving from C to B, this is clearly in their interests and a better outcome than not receiving 'good advice' and remaining with C.

Good advice can reflect the simplicity of many situations and also provide more effective consumer protections, whilst not pretending to be the best or exhaustive advice. Good advice does not have to be 'best' to be in the interest of customers and improve outcomes for them.

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)?*

Challenger response

The regulatory settings proposed by the review will better support the provision of both limited and digital advice. This will boost the accessibility of advice, provide consumers with easier access to make informed decisions regarding their financial well-being and increase financial literacy. Technological solutions could be a key enabler to facilitate the delivery of financial advice, at scale, in a cost-efficient manner. For example, digital advice provided by superannuation funds could materially improve the outcome of their members as they transition to retirement, especially considering for many members their financial affairs are not complex. Through leveraging technology, the supply of affordable financial advice should increase significantly.

The proposed framework would also help facilitate a hybrid advice model where consumers initially engage with a digital advice framework and can be supported by human-based financial advisers if necessary. If the consumer reaches a point where the advice becomes complex, or other considerations are required, the consumer could receive additional support from a qualified financial adviser, who then will also benefit from the data collection and analysis undertaken by the digital advice process. This would ensure the advice is delivered in a cost-effective manner, whilst also improving the outcome for the customer.

Digital advice can also play an important role of collecting necessary customer financial information and storing it in a format that provide a digital audit trail improving the quality assurance process.

As a principle, regulations should support innovation for provision of financial advice where technology can remove many of the complexities in the advice process, ensure digitally enabled compliance controls, and deliver cost effective solutions to consumers regardless of their financial status.

10. *Do the streamlined 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?*
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?*
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?*

Challenger response

Challenger believes removing the disclosure requirements such as Statements of Advice (SoA) will have a positive impact on consumers by reducing the cost of providing financial advice and improve accessibility to financial advice.

There is limited evidence that the volume of disclosure documentation required under the current advice framework is beneficial, or even read and considered by consumers. The burden of preparing these voluminous disclosures falls onto a financial adviser, which increases the cost of financial advice with little or no benefit for the customer.

Streamlining the disclosure documents will reduce costs, increase affordability and should lead to more consumers receiving advice. It will also enable an improved focus on consumer outcomes for financial advice. Research conducted by KPMG on behalf of the Financial Services Council showed the removal of the SOA would reduce the cost of advice by approximately 17%²

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

Challenger response

We would support transitional arrangements to facilitate a smooth adoption of the proposed reforms over a minimum period of 12 months.

Conclusion

Challenger believes financial advisers play a pivotal role contributing to and strengthening the financial well-being of ordinary Australians, particularly as they transition from the accumulation to the retirement phase. The current financial advice framework focusing on advice inputs and related disclosure requirements, results in financial advice being expensive and not able to be delivered at scale by either individual financial advisers or financial institutions, such as superannuation funds. As a result, the current framework results in poor take up of financial advice, which disadvantages ordinary Australians who would benefit most from increased access to quality and affordable financial advice.

The Paper sets out sensible recommendations, which are principles-based and would simplify the regulatory framework, while balancing the need to make financial advice more accessible and ensuring robust consumer protections are in place to facilitate the best possible consumer outcomes.

Thank you for the opportunity to contribute to these important reforms and we would welcome further engagement on any of these perspectives.

Yours sincerely,



Stuart Kingham
Chief Commercial Officer
Challenger Limited

² FSC, White Paper on Financial Advice, 2021