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by email to [AdviceReview@treasury.gov.au](mailto:AdviceReview@treasury.gov.au)

Dear Michelle

We are pleased to submit our Quality of Advice Review feedback and comments.

Thank you for taking the time to consider our submission, particularly as they relate to quality, affordability, and accessibility of advice to the Australian community and the value it delivers both financially and emotionally to their financial security and wellbeing.

Our underlying motivation is to deliver affordable advice without compromising the quality of advice.

We enjoyed meeting with members of the Quality of Advice team in our office on Thursday 12 May 2022 and sharing with them the advice process from a client's perspective, including sample advice documentation, some recent regulatory challenges, and some possible solutions to achieve a better client experience when seeking financial advice.

If you or other members of the Quality of Advice review team would like to meet with us, we would like to offer an open invitation to continue these valuable discussions, before your report is finalised.



## Introduction

Treasury is to be applauded for its ongoing efforts to ensure the interests of Australian consumers are protected when seeking financial advice. We agree with the objectives as enunciated in the Terms of Reference for the Quality of Advice Review.

We believe there is a difference between *strategic financial advice* and *financial product advice*. For us financial product is purely a mechanism to implement our strategic financial advice.

Post Hayne and Fasea, we think the time is now right to modernizing the complex rules based regulatory framework towards a more effective *principles-based regulatory framework*, without compromising quality and ensuring sufficient safeguards remain in place to protect the consumer. The Code of Ethics provides an excellent governance framework.

We endorse your view that the work of the Australian Law Reform Commission should be considered side-by-side with the Quality of Advice Review, to achieve clarity and certainty for all financial services stakeholders and professional bodies that regulate our emerging profession.

The existing AFSL licensing regime provides a robust governance and risk framework that allows financial advisers to focus on providing quality advice to their clients. We would advocate for this regime to continue. As a general statement, we believe it is not possible to operate an AFSL, manage a team, advice clients and be a professional investment manager. Each are separate and different disciplines requiring specialist skills and resources.

We would like to see more Australians seek advice, and this requires making it more affordable by simplifying advice without compromising quality. Advised Australians are generally more financially literate, make better financial decisions and are better prepared for a comfortable retirement, with a greater sense of well-being having a plan and path in place.

### 3.1 Quality of Advice

Quality of advice for providers includes **advisers**

- competence, knowledge, and experience
- trustworthiness, honesty, and diligence
- client care and priority interests
- robust governance, training, technology, resources, and administrative support
- outsourcing all other functions to specialist providers.

Quality of advice for **consumers is**

- easily understood
- appropriate for their personal circumstances, financial goals, and wellbeing
- affordable
- designed to put them in a better financial position over the longer term as advisers cannot control the outcome of investment markets for financial products.

Previous regulatory changes **have not improved** the quality of advice.

The Review could consider whether previous regulatory changes have increased the quality of advice by measuring whether

- more consumers are seeking financial advice
- the advice process and advice documentation has been simplified and made easier to understand
- advice has become more affordable
- what if any benefit did advised consumers obtain from the regulatory change?

### 3.2 Affordable Financial Advice

We believe advice is a continuum and most consumers do not seek comprehensive advice, rather multiple engagements focusing on single strategies. It is the role of the adviser to discover and assist clients to prioritise their financial goals.

Complex advice, being defined as either more than 2 strategies or across multi entities would range between \$6,000 to \$10,000.

Cost drivers of providing financial advice, particularly for a new client include

- multiple meetings with an adviser to discover, design and deliver appropriate advice
- paraplanners time to research, compare and model possible solutions
- paraplanners time to document advice
- PI insurance to provide a safety net for consumers
- technology to facilitate the advice process
- external consultants to assist with compliance, training, and investment research.

Costs as a percentage of total cost

|                       |             |
|-----------------------|-------------|
| Salaries              | 40%         |
| Technology            | 20%         |
| Training & Compliance | 20%         |
| Rent                  | 10%         |
| <u>PI Insurance</u>   | <u>10 %</u> |

Total 100%

The attribution of costs varies depending on the volume and nature of new regulatory requirements. Over the last 2 years we estimate an additional 20% of costs would be attributable to implementing

- ongoing fee arrangements, financial disclosure statements and annual opt-in
- fee consent for third parties
- breach reporting
- dispute resolution
- design and distribution obligations

with the balance attributable to the advice infrastructure.

If new reform obligations are not clear or easy to interpret and implement, an additional layer of legal and consultants' fees are added to the cost.

We believe technology (fintech) could be a possible solution, but only where the consumer is confident to self-serve and only for very limited advice scenarios, such as

- tips on budgeting and cashflow management
- investment portfolio solutions
- high level superannuation health check
- retirement calculators.

Most consumers prefer to consult with a “human “adviser before implementing financial advice.

Impediments to adopting technological solutions include

- reliance on third party technology partners as most advice business would rather partner with than build a technology solution
- licensee responsibility for technology algorithms
- keeping technology up to date with all legislative changes, thresholds, and investment outcome inputs
- meeting best interest duty, the catch all provision, without the need to ask a client an exhaustive list of questions.

### **3.3 Accessible Financial Advice**

If advice is most often sought about growing and optimising retirement benefits, protecting their livelihood, family and assets, then all adult employees are potential candidates. Another starting point could be counting the number of superannuation accounts with over \$50,000 balances. This cohort should be able to seek affordable advice.

For investment only purposes you could count the number of bank savings accounts with balances more than \$10,000.

People should seek financial advice as early as possible to assist them to make good financial decisions throughout their adult lives. By starting early, better long-term financial outcomes should be achieved reducing the burden of reliance on the government aged pension scheme later in life.

The barriers to accessing advice are the costs and complexities of providing single strategy advice.

Elements of the advice process, such as education and financial literacy could be provided separately. For this to occur current advice definitions would need to change by removing the general advice category and retaining factual information and personal advice only, viz

- (a) factual and educational information
- (b) personal advice (new client – Statement of Advice)
- (c) personal advice (existing client about an existing strategy or financial product - file note)
- (d) personal advice (existing client new strategy or new product – record of advice).

The cost to build, maintain and update technology is generally not within the remit of the average licensee, unless they are institutionally owned with deep pockets to invest in technology.

To provide a level playing field, non-institutionally owned licensees would need to “white label” technology and build their own front end to allow a potential client to engage with their adviser.

#### **4.1 Regulatory Framework**

As set out above in 3.3 we feel there should be a regulatory difference between providing advice to a new client and an existing client.

We recommend the general advice label be removed to avoid any confusion between general advice and personal advice. Factual and educational information could be delivered by a financial coach, with a restricted authority.

Yes, there should be different categories of financial advice and financial product advice for the purpose of

- financial advice is strategic advice and can include a class of financial product
- financial product advice is a financial product recommendation.

We would consider “*advice*”, provided to groups of consumers, who share common circumstances, to be classified as factual or educational information, as they would be required to make their own decision.

If general advice becomes information, the cost would be vastly reduced to c. 10 -20% of the cost of personal advice.

We would like to see a future advice landscape where there is

- trust between the regulators and the profession
- agreement across all regulatory bodies such as ASIC, ATO and AFCA on regulatory certainty
- maintaining current educational requirement for new entrants and ongoing CPD for existing advisers
- for existing advisers to be suspended until they pass the Adviser Exam rather than be considered as new entrants
- enable existing advisers to be reappointed once they have passed the exam
- adherence to the Code of Ethics (Fasea) and the 5 key Values.

The regulatory framework can be greatly simplified without compromising quality or consumer trust, as adherence to the current Code of Ethics and Values, provide for advisers to

- (a) behave ethically
- (b) take a client first approach
- (c) offer a quality process of advice
- (d) have a professional commitment to themselves, their clients and each other.

Financial educators could be regulated “under arrangement” with an Australian Financial Services Licensee, under a different category, to ensure educational services are provided

- (i) competently
- (ii) honestly
- (iii) fairly.

The cost of the educational service would need to be priced fairly for the services provided but would be vastly less than the cost of personal advice.

## **Intra Fund Advice**

As intra-fund advice is limited to existing members about their existing superannuation holding, we suggest the same concept should apply to all existing, outside the superannuation environment.

Intra-fund advice could be documented by a file note.

Where a member or client is seeking personal advice, this could be provided cost effectively, using technology or a hybrid offer, robo (plus a human adviser). This would provide a level playing field across all advice providers.

## **Limited Scope Advice**

We believe all advice is limited in scope to some degree.

Personal advice, whether it be a single strategy or multiple strategy, single product or multi product is limited in scope. Very rarely would a client seek comprehensive advice about every aspect of their financial circumstances.

Rather than categorising advice as “limited” or “comprehensive, we recommend the differentiator to be between a **new and existing client**, not comprehensive or limited scope advice.

If we agree advice is a continuum, professional advisers will have built a library of personal information about their existing clients and should be able to answer simple advice questions without the heavy regulatory burden which translates into costs. This concept is like the new telehealth service introduced by the government during COVID. To be eligible for GP tele health services patients must have had a face-to-face consultant with the GP or another GP in the same practice, in the 12 months before the tele-health services were provided.

We believe all advice is limited in scope, as clients would become paralysed by indecision if faced with too many options and alternatives at the one time.



## **4.2 Best Interests and Related Obligations**

We recommend relying on the requirements of the Code of Ethics to meet the client best interest duty. The safe harbour steps become redundant.

As recommended by the Hayne Royal Commission, the safe harbor steps should be removed and replaced with the Code of Ethics.

The safe harbor “tick-the-box-compliance approach” has created longer advice documents and increased advice costs and added uncertainty and created confusion.

Advisers should not be required to consider the target market determination for a financial product, as they are already providing advice in the client’s best interest when providing personal advice. Target market determination should only apply to unadvised clients.

## **4.3 Conflicted Remuneration**

We believe the remaining exemptions are appropriate, especially in relation to the LIF reforms. There is no differentiation of upfront commission paid by risk providers and claw backs and responsibility periods have addressed unnecessary product replacement or “churn”.

The profitability of advice firms was initially impacted by the reduction of upfront commissions however given the introduction of higher ongoing commissions, and increasing premiums, most businesses have since adapted to the new model. The current level of 60% upfront commission may not cover the cost of providing advice to clients. If commission was removed altogether, the level of underinsurance in Australia would increase.

If commissions were removed and clients paid an advice fee, we believe the cost of obtaining advice and insurance would be substantially higher.

It is highly unlikely clients would pay an advice fee to receive insurance advice and secondly if commissions were removed, it is highly unlikely that insurance companies would discount their premium accordingly.

We believe commissions should remain to maintain and hopefully increase the take up of insurance and protection for Australian families.

A recent APRA report from 2021, see following table, shows advised clients are more successful in making a claim than non-advised clients across all risk types. Non-advised clients may not fully understand the importance of full disclosure at the time of underwriting to enable insurers to pay a claim.

*Table 4: Claims admittance rate by cover type and distribution channel*

| Cover type      | Individual Advised |            | Individual Non-Advised |            | Group Super      |            | Group Ordinary   |            |
|-----------------|--------------------|------------|------------------------|------------|------------------|------------|------------------|------------|
|                 | Claims finalised   | % admitted | Claims finalised       | % admitted | Claims finalised | % admitted | Claims finalised | % admitted |
| <b>Death</b>    | 3,013              | 97%        | 1,312                  | 92%        | 10,961           | 98%        | 771              | 100%       |
| <b>TPD</b>      | 1,446              | 82%        | 86                     | 64%        | 18,396           | 89%        | 67               | 84%        |
| <b>Trauma</b>   | 4,308              | 87%        | 968                    | 85%        | *                | *          | 21               | 62%        |
| <b>DII</b>      | 10,089             | 95%        | 1,713                  | 89%        | 19,173           | 95%        | 2,528            | 94%        |
| <b>CCI</b>      | n/a                | n/a        | 3,384                  | 88%        | n/a              | n/a        | *                | *          |
| <b>Funeral</b>  | n/a                | n/a        | 13,262                 | 99%        | n/a              | n/a        | n/a              | n/a        |
| <b>Accident</b> | 15                 | 73%        | 2,899                  | 87%        | n/a              | n/a        | n/a              | n/a        |

#### 4.4 Charging Arrangements

We have no issue with being asked on an ad-hoc basis by a Superannuation Trustee to provide Statement of Advice evidence to support the payment of a once-off advice fee.

Ongoing advice arrangements should be simplified, now that we have annual opt-in providing a safeguard against fee-for-no-service continuing without the client's consent.

We suggest ongoing fee arrangements could be streamlined to only require an annual opt-in consent from client that discloses

- the annual fee for the next 12 months
- the services to be offered
- allow a 120-day renewal period from the anniversary date to provide a grace period for acceptance
- make the reporting period for all clients 1 July to 30 June, or part year if they join or leave during a financial year, as these fees are tax deductible.

All other ongoing fee arrangements are not required.

All product providers consent forms are not required. Like the AML regime, we would be happy to provide our client consent form on request.

## 4.5 Disclosure Documents

We believe Statements of Advice have failed the clear and concise test and become a legal compliance document rather than a client centric advice document.

A Statement of Advice for a **new client** should contain

- why the client has sought advice
- our recommendations
- why our advice is expected to put the client in a better position
- disclosure of our remuneration.

All other information gathered and considered in providing the advice should be retained in the working papers and saved for record keeping purposes.

Approximately 65% percent of the total advice cost is associated with scoping, researching, writing, presenting, and implementing the Statement of Advice.

Advice for an **existing client** could be vastly reduced if an adviser could respond, rather than provide an advice document, for simple questions such as

- should I top-up my super or put the money in my offset account
- should I put money into my super account or my spouse's
- should I be making any changes to my investment portfolio.

## 4.6 Accountants Providing Financial Advice

As Superannuation is complex and becoming a Trustee of a Self-Managed Superannuation Fund (SMSF) requires skill, knowledge, and diligence, we do not support accountants being able to advise on SMSF's.

For an SMSF to remain compliant it requires all trustees to understand the rules and obligations of running an SMSF in the best interests of its members.

Few trustees have this standalone skill or knowledge and generally benefit from the guidance of a specialist qualified SMSF adviser.

Making good financial decisions about such matters as death benefit nominations, starting a pension, managing member accounts and contributions, dealing with the death of a member, investing the assets of the fund, and considering whether the fund should hold insurance requires advice.

We recommend all SMSF advisers, whether an accountant or not, be required to hold a specialist SMSF qualification, and be licensed under an AFSL restricted authority.

#### **4.7 Consent Arrangements for Wholesale Client and Sophisticated Investor Classification**

We advocate advisers, under their AFSL, be required to make a full and proper assessment about clients, based on the client's financial knowledge, skill, and investment experience, together with a full disclosure of the protections lost, if the client is classified as a sophisticated or wholesale investor.

The accountants wholesale client certificate should be abolished as net worth is not a test of financial knowledge or investment experience.

Most clients should be treated as retail clients, unless the adviser assesses the client to have the requisite knowledge and experience to be designated as a sophisticated investor.

#### **5.0 Other measures to improve the quality, affordability, and accessibility of Advice**

As a licensee we continually work to **improve the quality** of advice, by supporting our advisers to undertake further professional and personal development and employing specialist external investment and compliance consultants to improve our processes to improve client outcomes.

These initiatives, together with implementing the tsunami of new regulatory obligations have **increased the cost of quality advice** and **adversely affected affordability and accessibility** of advice.

We believe licensee supervision, training and monitoring of advisers has vastly improved since the Financial Services Royal Commission. With fewer adviser's post Fasea, the war on talent has seen adviser remuneration packages increase, this coupled with growing professional indemnity insurance premiums, has contributed to a 20 – 30% increase in cost to provide advice.

This has resulted in few Australians being able to afford advice.

## **5.1 Key themes, measures, and recommendations to improve affordability and accessibility of advice**

### **1. Tax Deductibility of Initial Advice Fees**

Our observation is that clients seek advice about separate strategies on multiple occasions, allowing for their continuum of needs, this incurs multiple initial advice fees. Making initial advice fees tax deductible would provide immediate affordability and accessibility relief for clients.

Encouraging clients to seek advice early in their adult lives should improve their financial security and reduce their reliance on Government benefits later in life. This is a win-win for Government and consumers.

### **2. Simplifying advice documentation for new and existing clients**

Initiatives that could significantly improve the affordable and accessibility of advice and improve the client experience, include

- (a) introducing a letter of advice, in plain English, evidencing why a client has sought advice, our recommendation and why this puts them in a better position, together with a disclosure of any conflicts and fees (**new client**)
- (b) removal of advice documents as the only way as evidencing a client meeting and provision of advice by allowing a file note for ongoing advice (**existing client**)
- (c) changing the definition of advice thereby removing the necessity to provide an advice document (**a hold recommendation is not new advice**)
- (d) for existing clients, who have been in an ongoing advice relationship for over 12 months, we suggest a 'tele-wealth' or simplified "intra-fund" service as being acceptable, without the need to tick all the compliance requirements suitable for a new client (**12 month + client**)

### **3. A single authorised process for fee consent**

We no longer have an environment where clients are disengaged, and “fees-for-no-service” is being charged. We recommend product provider consent forms be abolished, however if they are to remain, we recommend an industry standard fee consent form that all product providers accept as a client’s consent. This was successfully implemented for Client Identification purposes under AML.

### **4. Regulatory certainty and clarity and an ongoing forum with the profession to resolve unintended consequences**

With increased trust between regulators and the profession and greater regulatory clarity and certainty across all stakeholders, much of the regulatory red tape can be removed.

If policy regulation is written in clear and concise language and the advice profession can implement with certainty, layers of legal costs, technology upgrades, change management training and lengthy advice documents can be removed, without compromising quality.

### **Summary**

We appreciate the opportunity to provide input into the Quality of Advice Review process.

If the process has been worthwhile for Treasury and ASIC, licensees and advisers would appreciate the opportunity to “have a seat at the table” whenever new or changed legislation is being considered. This is to ensure no unintended consequences flow from new regulation.

It is in all our interests to make financial advice more affordable and accessible.

If clients are better off financially and emotionally, through making better financial choices, the economy and the government are also beneficiaries through reduced reliance of government financial and medical benefits and services.

Many recent studies support the claim that financial issues affect mental health, relationships, and personal wellbeing. These are the hidden non-tangible, non-financial benefits of seeking financial advice. The advice process is designed to improve a sense of control and confidence that you are taking positive steps towards your own financial security.

Let's work together to provide a better financial future for our people and our country.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'MMote', written in a cursive style.

Margaret Mote  
Chief Executive Officer