

AFA QAR Member Webinar

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8 March 2023





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AFA National President



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AFA Chief Executive Officer

Housekeeping

- CPD will be available for this webinar
- As a webinar attendee you will remain on 'mute' throughout the session
- Questions will be answered throughout the session and at the end of the presentation - please use the Zoom Q&A function (not the chat function)



Q&A

Chat

Poll Question 1 - Quality of Advice Review

Let's get started by getting your feedback on how you feel about the QAR.

How supportive are you of the QAR Recommendations?

- Very Supportive
- Moderately Supportive
- Neutral
- Moderately Opposed
- Strongly Opposed

Quality of Advice Review – The AFA’s View

- The primary objective of this review was rightly to address access and affordability
- The AFA leadership have been strong supporters of the QAR from the start
- We have had extensive opportunity to engage with Michelle Levy and her team
- We welcome the final report and encourage all advisers to read it
- Whilst we don’t 100% support everything, we believe that it is an excellent blueprint for the future of the financial advice profession
- Some of the opposition has been misinformed and inaccurate. Some of the positioning has been deliberately misleading and manipulative
- We now have a battle in front of us to achieve meaningful change
- We will be promoting a package of quick wins, to help address the immediate need for a fix to what the Minister has described as a “hot mess”

Agenda

- Introduction
- QAR Recommendations
- Media, Political and Stakeholder Response
- Explaining the more Challenging Elements
- Seeking a Quick Win package
- Questions and Answers

The Recommendations



Quality of Advice Review – The Recommendations

- **Recommendation 1** – **Broadening the definition of personal financial product advice** to cover situations where the provider has access to the client’s financial situation, objectives or needs
- **Recommendation 2** – Retain **general advice** licensing, however remove the warning
- **Recommendation 3** – Only individuals who are **relevant providers** (financial advisers) can be **paid a fee or a commission for the provision of financial advice**. In all other cases personal advice can be provided by a non-relevant provider.
- **Recommendation 4** – Introduction of a **Good Advice Duty** that would apply to all providers of personal advice and require that the advice be “fit for purpose” based upon the purpose/reason for the advice, the scope, content and nature of the advice and the likely relevant circumstances of the client

Quality of Advice Review – The Recommendations

- **Recommendation 5** – Replace the existing Best Interests Duty with a **new true fiduciary BID** obligation that is rationalised and focussed on the outcome. **Removal of the safe harbour**
- **Recommendation 6** – Permitting super funds to provide personal advice to the members of the fund that takes into account their family situation and social security entitlements. And to **remove the restrictions on collectively charging advice fees**
- **Recommendation 7** – Update the law to **explicitly allow super fund trustees to pay a fee** from a members account to pay for personal financial advice about the member's interest in the fund at the direction of the member
- **Recommendation 8** – **Remove the obligation to provide fee disclosure statements** and enable renewal and consent to be done through a single 'consent form'
- **Recommendation 9** – Removal of mandatory requirement to provide **advice documents** (unless requested at or prior to giving the advice), subject to record keeping obligations

Quality of Advice Review – The Recommendations

- **Recommendation 10** – Allow providers of personal financial advice to make their **FSG** available on their website. They can continue to give FSGs to clients if they choose
- **Recommendation 11** – Introduction of consent requirements for **wholesale clients** so that they understand what protections they are relinquishing
- **Recommendation 12.1** – **Amend the DDO legislation** to limit the exemption enabling the recommendation to a client who is not in the TMD to relevant providers only
- **Recommendation 12.2** – **Exempt ‘relevant providers’ from the DDO obligations related to reporting of significant dealing, responding to additional product issuer reporting obligations and nil complaint reporting. This would only apply to relevant providers and not to non-relevant providers**

QAR – Conflicted Remuneration Recommendations

- **Recommendation 13.1** – Amend the conflicted remuneration provisions to explicitly provide that monetary and non-monetary **benefits given by the client** to the AFSL or a representative are not conflicted remuneration
- **Recommendation 13.2** – Introduction of a specific exception that **permits super fund trustees to pay** an AFSL or representative a fee for personal advice where directed by the client
- **Recommendation 13.3** – Remove the conflicted remuneration exceptions for benefits given by clients for **issue, sales or dealings in financial products**
- **Recommendation 13.4** – Removal of the **‘transaction only’ exemption** where advice has not been provided in the previous 12 months
- **Recommendation 13.5** – Removal of the conflicted remuneration exceptions for **agents and employees of authorised deposit taking institutions**

QAR – Conflicted Remuneration Recommendations

- **Recommendation 13.6** – The Government to undertake a separate review of **time share schemes** and their distribution
- **Recommendation 13.7** – **Retain the existing LIF exemption** for life insurance commissions and retain the 2 year clawback. A once off client consent is required, consistent with the current arrangements with the client signing the ATP
- **Recommendation 13.8** – Retain the existing exemption for benefits given for the **issue or sale of general insurance products**
- **Recommendation 13.9** – Retain the existing exemption for benefits given in relation to **consumer credit insurance**

The Response



Quality of Advice Review



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Government looks for ‘easy wins’ on financial advice

Aleks Vickovich and **Michael Read**

Updated Jan 20, 2023 - 11.49am,
first published at Jan 19, 2023 -
4.44pm



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Hopes of bold reform to make financial advice cheaper have been dashed after Assistant Treasurer Stephen Jones said the Albanese government was looking for “obvious and easy wins” and would not commit to implement Treasury’s plan to deregulate the troubled sector in full.

The government is expected to release and respond to the final report of Treasury’s Quality of Advice Review within weeks, having received a copy of the document from chairwoman and Allens lawyer Michelle Levy on December 16.

Quality of Advice Review

The Minister released the final report on 8 February 2023 to a vigorous response.

The response from Choice was dramatic:

CHOICE

MEDIA STATEMENT

WEDNESDAY 8 FEBRUARY 2023

“Recipe for another Royal Commission”

CHOICE response to release of the Quality of Advice Review

Quotes attributable to Alan Kirkland, Chief Executive Officer of CHOICE:

“This report is a recipe for another Royal Commission. The radical changes that it recommends will expose consumers to unacceptable risk when obtaining financial advice from a bank or super fund.”

Quality of Advice Review – The Big Wins

The obvious wins Include:

- Removing FDSs
- Rationalising fee consent
- Rationalisation of the Best Interests Duty and Related Obligations and removal of the safe harbour steps
- Removing the requirement to provide an advice document, unless the client requests
- Changing the FSG disclosure obligations to allow them to be posted on a website
- Removing additional DDO reporting obligations
- Retaining life insurance commissions, although we would have preferred an increase

Quality of Advice Review – The Negatives

The less attractive recommendations from an adviser's perspective are:

- Non-Relevant Providers being able to provide personal advice
- Greater flexibility with intra-fund advice

However, there are offsetting factors:

- Broadening personal advice to reduce the role of general advice
- Limiting the receipt of advice fees to only relevant providers
- Only relevant providers on the FAR can describe themselves as financial advisers
- Applying a Good Advice Duty to non-relevant providers
- Greater controls around wholesale client advice

Quality of Advice Review – The Likely Pushback

Consistent with every piece of reform over the last two decades, there will be strong views expressed, and some of it will be very oppositional to delivering reforms. We have been here before, and understand how it is likely to play out. Some of the opposition will centre around:

- Trashing the FoFA reforms
- Removing consumer protections
- Allegations of recommendations designed to benefit the Banks and Super Funds

Our response is as follows:

- This does not trash any of the FoFA reforms
- We have had many years of experience and we know what clients want and will pay for
- This is certainly not a clean win for the big institutions, but it is the clients that really count

Explaining the Challenges



Quality of Advice Review – Removal of FDSs

The removal of FDSs is not inconsistent with the original FoFA Proposals

When the FoFA reforms were first announced by Chris Bowen, the Minister for Financial Services, Superannuation and Corporate Law on 26 April 2010, there was no requirement to do an FDS. At that stage it was an annual opt-in obligation

It was only one year later in the next version, released by Bill Shorten, that the FDS was added as a compromise with the industry to allow opt-in every two years

The Hayne Royal Commission demanded annual renewal and for this to apply to all fee paying clients. Thus, we have gone back to the original FoFA proposal on frequency of opt-in, however with an annual FDS obligation thrown in as well

The removal of FDSs is consistent with the original FoFA proposal and removes substantial cost and duplication with product statements. Clients do not value FDSs

What does the Removal of Advice Documents Mean?

The removal of the mandatory requirement to provide advice documents is unlikely to have a uniform impact. The response to this is likely to be impacted by the following:

- A graduation of approach based upon advice complexity and client preference
- A divergent approach by licensees, influenced by their propensity for risk aversion

We would expect to see some implementation issues, as both licensees and advisers work out how to respond and how to meet the needs/expectations of their clients

It will result in an outcome where the provision of advice documentation can be optional and much reduced. It is expected that in many cases advice documentation in some form will continue, however be much briefer and more client centric

The requirement to complete the advice process and retain documentation will continue, so this will not remove everything that an adviser and their team must do in most cases

Impact on Intra-fund Advice

Intra-fund advice as a model is not well understood. It is not a different regulatory regime for the provision of advice. Currently SoAs, the Best Interests Duty and professional standards apply

Under Section 99F of the SIS Act, intra-fund advice is a means for providing financial advice that is collectively charged to the membership of the super fund (within the Admin fee). It is simple advice, with clear boundaries and is only of a once off nature

Intra-fund advice has a role to play, in enabling simple advice to be provided to people who could not otherwise access it or afford it. The problem that we see is that it disguises the cost of financial advice. In reality, the majority of people who access intra-fund advice are not the target market for financial advisers

The complication is that the QAR has recommended the removal of the constraints on what types of advice can be collectively charged

QAR and Non-Relevant Providers – The Reasons for Concern

The major concerns with the non-relevant provider proposal seem to be:

- Loss of clients by advisers
- Lack of a level playing field
- Fear of poor behaviour by non relevant providers and collateral damage for financial advisers

In our view these concerns could have been addressed by:

- Controls and limitations on the type of advice that can be provided
- Significantly higher education standards for non-relevant providers who are providing personal advice

QAR and Non-Relevant Providers – The Reasons for Concern

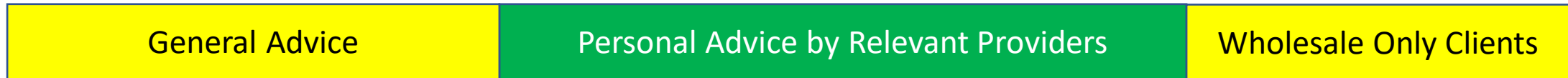
Whilst we have argued for limitations on the type of advice that can be provided by non-relevant providers, Michelle Levy has argued that it should be the licensee who decides what type of advice they can provide and how qualified they need to be

We would certainly not want non-relevant providers providing complex advice like retirement planning advice. They simply would not have the qualifications to provide this type of advice

Neither are we happy to leave the education standard up to the licensee. Lifting the education standard would increase the quality of the advice and create a pathway for people to come through the non-relevant provider role, but ultimately complete the qualifications required to be a relevant provider

Quality of Advice Review – The Advice Spectrum

The current advice spectrum of advice:



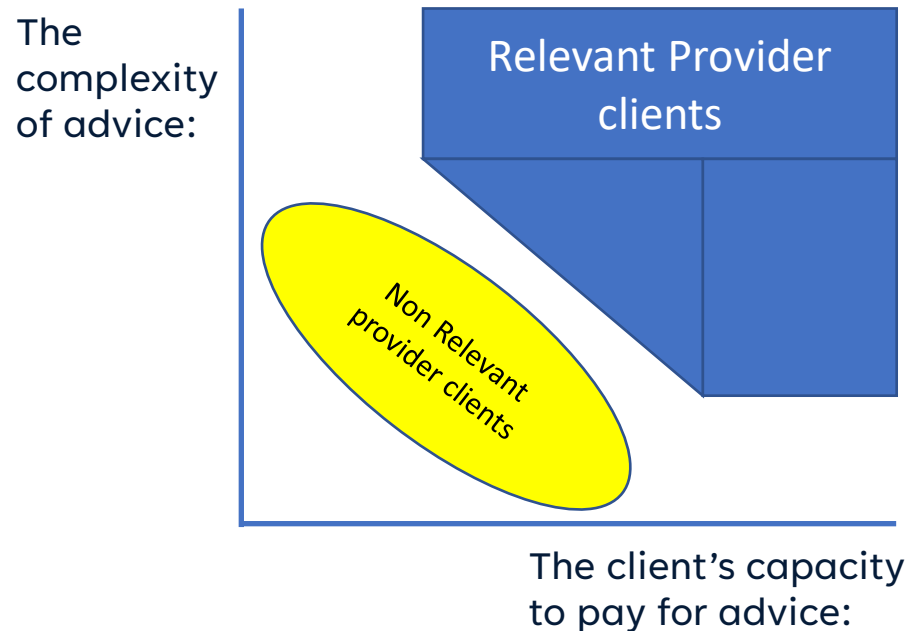
The future advice spectrum of advice:



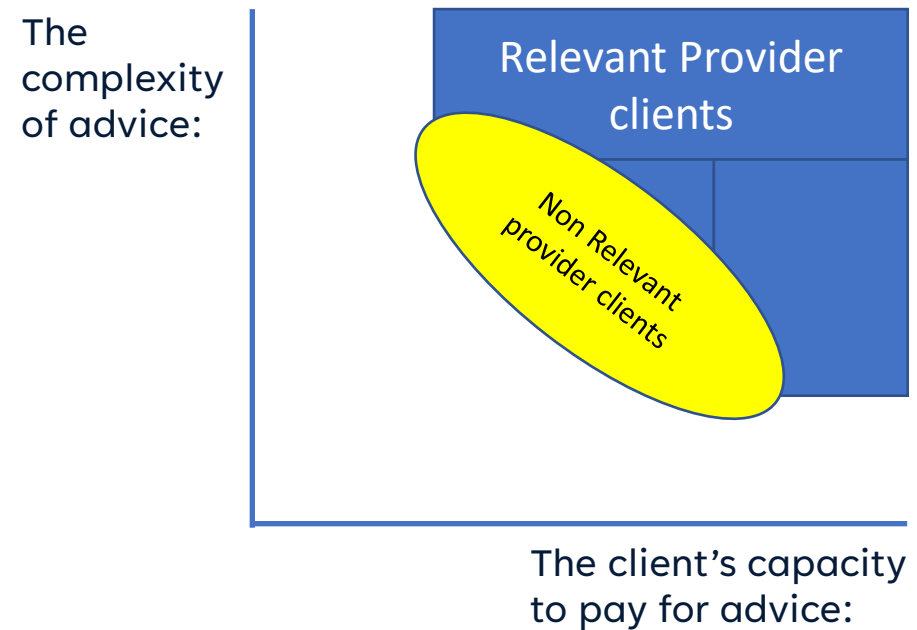
Who will get advice from a non-relevant provider

We do not anticipate that the clients of non-relevant providers will be the same as the clients of financial advisers, however this depends upon the controls and limits that apply:

A Good Outcome:



A Poor Outcome:



Non-Relevant Providers – Challenge Ourselves

We have and will continue to push back on limiting this to simple advice and demanding higher education standards, however if we fully oppose it then advisers need to ask themselves some questions, including:

- Are advisers willing to service these clients for a fee that they can afford?
- Do you turn clients away because their needs are too simple or they do not have the capacity to pay the fees that you require. There needs to be a solution for these consumers?

There is also a silver lining in this, in that the clients of non-relevant providers, with the benefit of basic financial advice, may be more likely to seek full advice in the future and have more money to invest when they do

The creation of the category of non-relevant providers might also create a pathway for more fully qualified financial advisers in the future

Poll Question 2 – Do you support the QAR recommendation to:

- Broaden the definition of personal advice and reduce general advice – YES / NO
- Remove Fee Disclosure Statements and rationalise client fee consent – YES / NO
- Rationalise the Best Interests Duty and remove the BID Safe Harbour – YES / NO
- Remove the mandatory obligation to prepare advice documentation – YES / NO
- Allow non-relevant providers to provide personal advice subject to a Good Advice Duty – YES / NO

A Quick Wins Package



Quality of Advice Review – Quick Wins

We will advocate for a quick wins package that Includes:

- Removing FDSs
- Rationalising fee consent
- Removing the requirement to provide an advice document, unless the client requests
- Rationalisation of the Best Interests Duty and Related Obligations and removal of the safe harbour steps
- Changing the FSG disclosure obligations to allow them to be posted on a website
- Removing additional DDO reporting obligations

How do we Get a Quick Wins Package Up

We are now in the world of politics on this and no major reforms come without a level of hard advocacy work. The way to achieve this depends upon the following:

- Unified support for the QAR and these quick wins. Let the media see us as a united profession with a clear view for the future that is indisputably good for clients. That is what the Joint Associations Working Group are doing
- Advocacy at multiple levels, including with local member. Yes your local member!
- Clearly articulating the consequences of taking no action
- Engaging with and addressing the forces and groups who are opposed and their arguments

Let's not waste this opportunity. It is genuinely the best chance that we have had for over a decade and it is the only show in town right now. Let's come together to make this happen

Questions and Answers

