



Quality of Advice Review Member Briefing

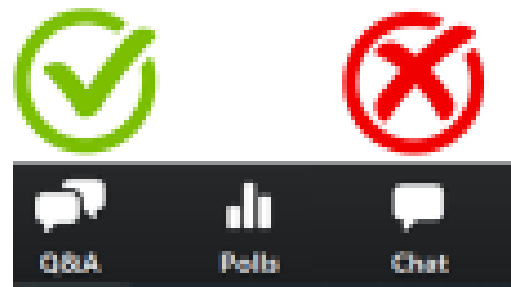
Phil Anderson | Chief Executive Officer

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Housekeeping

- 1 hour of CPD available, AFA will send members details in the next week
- As a webinar attendee you are on mute throughout this session
- Questions will be answered at the end of the presentation, please use the Zoom Q&A function (not the Chat function) to ask your question



Agenda

- Background to the Quality of Advice Review (QAR)
- Scope of the QAR – Terms of Reference
- QAR – Issues Paper
- QAR – The big opportunities
- AFA Events in 2022
- Questions

Quality of Advice Review Background



Quality of Advice Review - Background

The Government first signalled this review back in April 2021, when they also confirmed that the LIF review would be rolled into the QAR, however they did not release the draft terms of reference until 16 December 2021. From there the process has been:

- 4 February 2022 - Deadline for submissions
- 11 March 2022 – Appointment of Michelle Levy and release of the final Terms of Reference
- 25 March 2022 – Release of the Quality of Advice Review Issues Paper. Responses are due by 3 June 2022

The AFA is very supportive of this review, having called for a comprehensive independent review of the financial advice sector in 2020



Royal Commission recommendations

The QAR is directly linked to the following Banking Royal Commission recommendations:

- **Recommendation 2.3 – Review of Measures to Improve the Quality of Advice** - In three years' time, there should be a review by Government in consultation with ASIC of the effectiveness of measures that have been implemented by the Government, regulators and financial services entities to improve the quality of financial advice.
- **Recommendation 2.5 – Life Risk Insurance Commissions** - When ASIC conducts its review of conflicted remuneration relating to life risk insurance products and the operation of the ASIC Corporations (Life Insurance Commissions) Instrument 2017/510, ASIC should consider further reducing the cap on commissions in respect of life risk insurance products. Unless there is a clear justification for retaining those commissions, the cap should ultimately be reduced to zero.
- **Recommendation 2.6 – General insurance and consumer credit insurance commissions** – The review referred to in Recommendation 2.3 should also consider whether each remaining exemption to the ban on conflicted remuneration remains justified.



The Quality of Advice reviewer

About Michelle Levy – Partner at Allens

Michelle specialises in superannuation, life insurance, distribution and financial services law. Michelle's clients include the wealth management areas of each of the major banks, life insurance companies and industry and corporate funds.

Michelle is a regular contributor to various journals and publications including Financial Services Newsletter and the Superannuation Law Bulletin. She co-authored the LexisNexis FoFA Handbook.

We have already met twice with Michelle



Quality of Advice Review Terms of Reference



Quality of Advice Review – Terms of Reference

The final Quality of Advice Review Terms of Reference were released on 11 March 2022, and were largely consistent with the draft, however specifically excluded the following:

- The professional standards for financial advisers
- The Single Disciplinary Body, Reference Checking, Breach Reporting and the new Notify, Investigate and Remediate obligations
- Changes to the definition of wholesale clients and sophisticated investors and the income and asset thresholds that apply
- Financial services redress arrangements (IDR and AFCA)
- The application of taxation and privacy laws to financial advice

Quality of Advice Review – Terms of Reference

The final Quality of Advice Review Terms of Reference included the following:

2. The Review will consider how the regulatory framework could better enable the provision of high quality, accessible and affordable financial advice for retail clients. In particular, it will investigate:
 - 2.1. Opportunities to streamline and simplify regulatory compliance obligations to reduce cost and remove duplication;
 - 2.2. Where principles-based regulation could replace rules-based regulation to allow the law to better address fundamental harms and reduce the cost of compliance;
 - 2.3. How to simplify documentation and disclosure requirements so that consumers are presented with clear and concise information without unnecessary complexity;
 - 2.4. Whether parts of the regulatory framework have in practice created undesirable unintended consequences and how those consequences might be mitigated or reduced.



QAR – Terms of Reference (Cont.)

The final Quality of Advice Review Terms of Reference included the following:

3. The Review will include examination of:

3.1. The legislative framework for financial advice, specifically:

3.1.1. Key concepts such as ‘financial product advice’, ‘general advice’, ‘personal advice’, as well as how they are used, how they are interpreted by consumers, and whether they could be simplified or more clearly demarcated. The Review should also consider the role and bounds of advice that is scaled, intra-fund or limited in scope;

3.1.2. The safe harbour provision for the best interests duty, in line with Commissioner Hayne’s recommendation that ‘unless there is a clear justification for retaining (the safe harbour provision), it should be repealed’;

3.1.3. Financial advice documentation and disclosure requirements, including statements of advice;

3.1.4. Fee disclosure and consent requirements, including reforms to introduce annual renewal of ongoing fee arrangements (Royal Commission Recommendation 2.1);

3.1.5. The life insurance remuneration reforms, and the impact of the reforms on the levels of insurance coverage;



QAR – Terms of Reference (Cont.)

The final Quality of Advice Review Terms of Reference included the following:

- 3.1. The legislative framework for financial advice, specifically (cont):
 - 3.1.6. The remaining exemptions to the ban on conflicted remuneration, including in life and general insurance (Royal Commission Recommendations 2.5 and 2.6);
 - 3.1.7. The application of the advice framework to certain activities and professions, including consideration of Recommendation 7.2 of the Review of the Tax Practitioners Board.
- 3.2. Whether consent arrangements for sophisticated investors and wholesale clients are working effectively for the purposes of financial advice;
- 3.3. Actions undertaken by ASIC, including regulatory guidance and class orders; and
- 3.4. The role of financial services entities and professional associations.



QAR – Terms of Reference (Cont.)

The final Quality of Advice Review Terms of Reference included the following:

4. As relevant, the Review will have regard to:
 - 4.1. Structural changes and professionalisation of the sector;
 - 4.2. Best practice developments internationally;
 - 4.3. The level of demand for advice and the needs and preferences of consumers;
 - 4.4. Enabling innovation and the development of technological solutions, including the use of regulatory technology and digital advice;
 - 4.5. Opportunities to reduce compliance costs on industry, while maintaining adequate consumer safeguards;
 - 4.6. Other key regulatory developments, including the Consumer Data Right, the Retirement Income Covenant and the Design and Distribution Obligations as they apply directly to financial advice.



Poll Question 1 – Do you believe that the QAR will make a real difference?

Possible Answers:

- I am very optimistic that the QAR will make a real difference
- I am mildly optimistic that the QAR will make a real difference
- I am neither optimistic or pessimistic
- I am mildly pessimistic about the prospect that the QAR will make a real difference
- I am very pessimistic about the prospect that the QAR will make a real difference



Quality of Advice Review Issues Paper



Quality of Advice Review – Issues Paper

The Quality of Advice Review Issues Paper was released on 25 March 2022, and includes 83 questions that cover the following areas:

- Quality, affordable and accessible financial advice
- Types of advice, including general, personal, intra-fund, limited scope and digital
- Best Interests Duty and Related obligations
- Conflicted Remuneration, including LIF and other exemptions
- Adviser charging arrangements
- Disclosure documents
- Accountants providing financial advice
- Consent arrangements for wholesale clients and sophisticated investors
- Other measures to improve quality, affordability and accessibility



Quality of Advice Review

Key opportunities



AFA primary objectives

Our primary objectives from this important review are as follows:

- Reduce complexity
- Reduce the cost of financial advice and the cost of running financial advice businesses
- Improve the client centricity in the advice and service processes
- Ensure that financial advice is a sustainable profession

We appreciate that there is no single silver bullet and real change will only come with a comprehensive package of measures. We also need to appreciate that politicians will be reluctant, in the absence of clear evidence, to reduce consumer protections.

Our goal is to get as many of the high priority initiatives across the line as possible.



The key drivers

In our view, the key drivers of achieving these objectives are as follows:

- Reduce regulatory uncertainty
- Regulatory relief
- Process re-engineering/improvement
- LIF Review and retention/increase of life insurance commissions
- Sustainability of advice profession actions

Some initiatives will fit into multiple categories.



Reducing regulatory uncertainty

We believe that the key levers to reducing regulatory uncertainty are as follows:

- Better enabling the defining of the scope of advice, enabling limited scope advice
- Certainty on client data collection for limited scope advice
- Greater certainty on the use of RoAs (ASIC have already contributed to this)
- Clear articulation of requirements for Best Interests Duty compliance
- Clarity on the requirements for consideration of alternative strategies and products
- Certainty enabling shorter advice documents
- Increased certainty with how AFCA will judge complaints
- Introduction of a mechanism/forum to resolve regulatory uncertainty issues



Regulatory relief

We consider the key regulatory relief measures to be as follows:

- Remove the BID Safe Harbour, or repeal the ‘other steps’ obligation (Section 961B(2)(g)) and the ASIC record keeping class order (CO 14/923)
- Allow advisers to be professionals and demonstrate professional judgement
- Fix FDS problems, including timing issues, small differences and changing anniversaries
- Rationalise disclosure documents
- Annual Renewal. Suspend the client consent obligations for three years to allow this obligation to be automated, enabling one signature per client
- Fix the Financial Adviser Code of Ethics
- Allow broader use of Records of Advice
- Reduce the DDO regulatory obligations for financial advisers



Process Re-engineering/Improvement

In addition to the initiatives already discussed above, some of the key potential process reengineering initiatives are as follows:

- Greater access to client and product data through options such as the Consumer Data Right, ATO portal (or my.gov.au) and CentreLink
- Listening to the voice of existing consumers in terms of what consumer protections and advice process steps/actions add value and what don't
- Rationalise the record keeping obligations
- Better enabling the use of technology and artificial intelligence in the advice process
- Further rationalisation of the Annual Renewal process
- Maximising the standardisation of product provider admin and compliance processes
- Use of industry wide standard technology



Poll Question 2 – What area will drive the biggest improvement?

Possible Answers:

- Reducing regulatory uncertainty
- Regulatory relief
- Process re-engineering/improvement
- Confirming the continuation of life insurance commissions and fixing LIF
- Other (please specify in the Q&A function)



Sustainability of Financial Advice measures

Financial adviser numbers have been under pressure for over three years, with a high volume of exits and very limited new entrants. Important actions could include:

- Resolving the education standard debate and providing significantly enhanced recognition of prior learning and experience
- Actions to reduce the cost to operate, enabling improved business profitability
- Incentives for existing advisers to stay longer
- Incentives for businesses to appoint Professional Year candidates
- Promotion of financial advice as an important profession
- Improved support for specialist areas



Poll Question 3 – What will make the biggest difference for your business?

Possible Answers:

- Automation of the client fact find process
- Better automation and integration of the client meeting and advice preparation software
- Improved regulatory certainty in the preparation of advice
- Rationalising annual renewal and client consent
- Fixing the Code of Ethics
- Standardisation of systems, processes, and forms across product providers
- Other (please specify in the Q&A function)



Quality of Advice Review

Next steps



The QAR process and member input

Submissions in response to the QAR Issues Paper are due on 3 June 2022, however we anticipate that there will be further opportunity to contribute to the Review as the year progresses. The final report is due to be released on 16 December 2022:

- We expect that the Review team will issue an interim report that we will give us the opportunity to respond.
- We encourage member engagement in the QAR process, including making submissions in response to the QAR Issues Paper. We also encourage members to engage at a state level with your state committee on the QAR to discuss the opportunities for improvement.

Please also provide any feedback and suggestions to policy@afa.asn.au



AFA National Roadshow and Conference 2022



In 2022, the AFA will be going back to face-to-face events

It has been a long time since we have held a mainstream face-to-face event. The last conference was in Adelaide in August 2019 and the last Roadshow was in February 2020

- AFA National Roadshow - 5 mainland State Capitals – late May and early June
- AFA National Conference – Back to the RACV Royal Pines on the Gold Coast – 21 to 23 September 2022



Questions/Discussion



Access to webinar content

- Today's webinar recording, presentation slides and a CPD assessment quiz will be uploaded to afa.asn.au
- All registrants will receive an email confirming when available
- Get in touch at info@afa.asn.au if you have any questions

Thank you for joining us today



Thank you

