

From the Desk of Director Marija Pajeska



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Response to Consultation Paper 332 – Promoting access to affordable advice for consumers

The Association of Securities and Derivatives Advisers of Australia (ASDAA) appreciates the opportunity to provide these comments to ASIC in respect of Consultation Paper (CP) 332 – Promoting access to affordable advice for consumers.

ASDAA represents the interests of its members, who are from the Securities and Derivatives advisory profession. Its members are comprised of individuals who are either directors, or employees, of small to medium sized firms which hold an Australian Financial Services Licence (AFSL), but are not a Participant Member of the Australian Stock Exchange.

In paragraphs 1 – 9 of CP332 ASIC sets out some of the triggers that it has identified through its research which lead a person to seek advice and the different types of advice that people have sought from their adviser which included advice on:

- investments, such as shares and managed funds;
- retirement income planning;
- growing their superannuation;
- budget and cash flow management; and
- aged care planning.

The above list is a very broad and yet limited list of the types of advice people seek.

Taking the different types of advice people seek into consideration, ASIC has asked for industry stakeholders to provide feedback as to what impediments exist for industry participants when providing good affordable personal advice. In relation to this point we provide the following comments:

- Financial Planners and Advisers Code of Ethics 2019 – We recognise that this Code of Ethics was intended to improve the educational, training and ethical standards of financial advisers however some of the standards have been taken too far and instead have caused an exodus from the industry. The exodus is attributable to a number of factors, including but not limited to the following:
 - advisers who have been in the industry for 10 years or more and have extensive experience, which in some parts of the financial services sector counts for more than any degree (ie. bachelor or higher), are being told that their experience and education counts for nothing and they now need to re-educate;
 - ethical standards relating to conflicts of interest are ambiguous and subject to interpretation and can be interpreted in many different ways depending on what argument the interested party is trying to prove;
 - we support the concept of the National Exam however treating every adviser as though they are a financial planner and have a complete and thorough knowledge of tax related advice and retirement planning advice is counter-productive and does not by any means support a financial advice industry that provides limited advice;

We encourage ASIC and Treasury to review the FX Global Code released by the Foreign Exchange Working Group, in particular Principle 3 which deals with the requirement for Market Participants to identify and address conflicts of interest. The approach taken by the Foreign Exchange Working Group in relation to conflicts of interest is summarised as follows:

‘Market Participants should eliminate these conflicts or, if this is not reasonably possible, effectively manage them so as to promote fair treatment of their Clients and other Market Participants, up to and including abstaining from undertaking the relevant activity or action due to the conflicts of interests.’

For the financial advice industry to survive, in particular in the limited advice space, the code needs to change to recognise that conflicts of interest exist and that they will be managed in order to ensure that services can be provided to clients whilst ensuring that fees payable and other matters are transparent. If a client is willing to pay fees to receive a particular service, then the client should be permitted and entitled to acquire that service without a back door exit (ie. the ability to accuse the financial adviser that a conflict of interest exists or existed on the basis that they were charged fees for the services rendered). ASIC and Treasury needs to give some sense of security to financial service providers that a client cannot simply make a claim on the basis of a conflict of interest existing if the client agreed to work with the financial service provider knowing those conflicts existed and were being managed.

ASIC itself applies this standard as it charges financial service providers for the privilege of being regulated by ASIC knowing that ASIC has a conflict of interest in the sense that it has the power to instigate an investigation on a particular sector or AFS Licensee and then has the discretion to determine how much to charge that sector or AFS Licensee for conducting the investigation. None of these fees are known or disclosed upfront. In fact they

are determined and charged six (6) months after the financial year has ended to which they apply.

- AFCA – We understand that AFCA is integral to the complaints resolution process in the financial services sector, however the biggest issue is that AFCA does not enforce its Rules relating to jurisdiction in the manner that they are meant to be enforced. It instead takes the liberty to investigate complaints:
 - where neither the licensee or its representatives had a documented client relationship with the complainant;
 - the complainant is wholesale by definition and has a history of dealing in the markets;
 - where the services provided do not constitute provision of financial services;

A financial adviser needs to quantify whether it is worth offering the services they provide when they are faced with dealing with institutions like AFCA which are client centric and have no interest in fully understanding the issues at hand but rather wish to provide a platform for clients to vent through whilst knowing that it will cost the financial service provider money, time and effort to liaise with AFCA.

Even if the financial services provider in the end prevails against the complainant, the AFCA complaints process itself is punishment.

We challenge you to name one other industry that is penalised for the right to conduct business on the basis that it is held liable for the costs associated for a complaint to be reviewed and assessed even in circumstances where the determination is in the favour of the financial services provider. If a client makes a complaint and the AFS Licensee disagrees with the allegations made by the client and decides to defend its position it will cost them in AFCA Fees a minimum of \$2,000 if they want a preliminary view to be formed by an independent party (being AFCA) and that does not include the cost of their time to put together responses, the cost of legal and/ or other professional fees that they incur to assist with the responses forwarded to AFCA.

So effectively even if the AFS Licensee is right and the complainant is wrong the AFS Licensee is penalised and treated like a criminal. How is that fair? How is it possible for any form of advice to be affordable (or within the cost parameters ASIC and Treasury believe the cost of advice should be) when technically every client poses an initial cost of business of a minimum of \$2,000 being the minimum cost related to defending a potential complaint made by a client.

AFCA is also enthusiastic to lodge a “systemic” complaint to ASIC about the financial service providers, even when it is crystal clear no such systemic concerns exist. It is not uncommon for AFCA to accuse an AFS Licensee of a systemic issue on the back of the AFS Licensee having one complaint lodged with AFCA (even in circumstances where a determination has been made in favour of the AFS Licensee). How is that a systemic issue? Does that not demonstrate that AFCA staff hold the view that financial service providers are generally doing the wrong thing and if so, under those circumstances how is AFCA providing a fair and equitable platform for complaints resolution?

- ASIC – We understand that ASIC has a responsibility to regulate the markets and financial services industry however some of the investigations conducted by ASIC itself are a deterrent and impediment to the financial advice industry.

Unfortunately, the harsh reality is that ASIC staff are also part of the problem. They form opinions in relation to the provision of advice based on a desktop review of documentation provided and yet they themselves do not and are not expected to meet the educational requirements set for a financial adviser.

ASIC needs to consider how it can improve the educational requirements and industry experience of its own staff, considering that some of the officers responsible for investigating matters may not have ever worked in the private sector or provided any form of financial product advice themselves.

These ASIC officers are passing judgement on the quality of advice provided and writing letters on ASIC letterhead and yet they themselves are not required to meet the same educational, training and ethical standards as the financial adviser. This in no way makes any sense.

The other issue we have noted is the unwillingness of ASIC staff to accept that limited advice exists and clients are seeking limited advice. In conducting their desktop reviews ASIC staff seem to cherry pick various information provided by clients and use that information to form an opinion on what they think should be the scope of advice when the information that was requested was not requested for the purpose of defining the scope of advice.

If ASIC staff, ie. those responsible for conducting investigations, are not willing to accept that limited advice exists and that clients are seeking limited advice then ASIC itself is the biggest deterrent and cause for the demise of limited advice.

Why would a financial adviser put themselves at risk of an ASIC investigation to service the need of clients for limited advice?

Another issue that has caused an increase in fees for the provision of financial services is the ASIC Industry Funding model. These fees are a direct cost of running a financial services business and hence need to be recovered by the income streams generated by the business which is basically the fees paid by clients for the services provided by the financial service provider. So effectively, ASIC itself has significantly contributed and is continuing to contribute (ie. each year the ASIC Industry funding fees have increased) to the increase in fees paid by clients.

- Professional Indemnity Insurance – The professional indemnity insurance sector has caused hurdles within the industry. The lack of availability of PI Insurance for those who provide advice other than financial planning advice is another cause of the reduction in availability of limited advice. This is caused by two factors being a hard insurance market (ie. PI Insurers are not willing to offer PI Insurance to those who provide advice other than financial planning advice) and the cost of PI Insurance (ie. if PI Insurance is too expensive then it may not make economic sense to conduct business).

AFCA's ignorance of its own Rules and the fact that AFCA now actively accepts wholesale client complaints has seen PI insurance providers vacate the non-

financial planning sector and those that do remain have significantly increased their PI insurance premiums to sky high levels that make a good proportion of AFSL's hand back their licenses and instead run their businesses as a Corporate Authorised Representative (CAR) under someone else's AFSL.

- Section 961B of the Corporations Act, the Advice Provider must act in the best interests of the client – We agree with the legal requirements defined in the Corporations Act for a provider to act in the best interests of the client. However, there is one point within these requirements that makes the provision of limited advice difficult and that is the requirement to conduct a reasonable investigation into the financial products that might achieve the client's objectives.

The issue here is that the scope of limited advice is not defined in a way where the client defines a particular objective. For example, the client may define the scope of advice as being trading a particular portfolio of assets in order to generate a reasonable return. The requirement to conduct a reasonable investigation into the financial products that might achieve the client's objectives is so broad that there is no cost effective way of achieving this when the concept of reasonable investigation is undefined.

The law itself needs to change so that limited advice can be provided to clients without an adviser being fearful of being challenged on whether or not the investigation they conducted was reasonable.

Another example would be where a client seeks limited advice into whether or not a particular MDA Service is suitable for them. This type of advice would not lead to any product comparison as the client is seeking advice on a particular service/ product (ie. the MDA Service offered by the provider) and yet there seems to be an underlying expectation that a comparison should be conducted.

Where clients seek advice about a specific financial product then the financial adviser should be exempt from conducting a reasonable investigation into the financial products that might achieve the client's objectives as this is outside the scope of advice sought by the client.

In summary, ASIC needs to consider the commercial aspect involved in operating a financial services business. All the points addressed above have a financial impact on the running costs of a financial services business and these running costs determine the cost of providing services to clients (ie. what it costs the client to receive the services offered).

The reforms that have been implemented over the last year have had one main objective and that is to create a profession. A profession is simply defined as:

a paid occupation, especially one that involves prolonged training and a formal qualification.

The harsh reality is that any sector that is perceived as a profession is associated with high cost structures and hence why in Australia on many occasions you find the Government subsidising these professions so as to make their services affordable and accessible by those who are not as well off. Examples are Medicare in the medical profession and Legal Aid in the legal profession.

Maybe the solution is a government funded advice service on the basis that the cost structure that ASIC and Treasury perceive as being a reasonable cost structure for the provision of personal advice is not consistent with the cost structure generated by the market taking into consideration the laws supply and demand.

Unfortunately it is inevitable that as supply diminishes and demand increases the main variable, being cost, will increase.

Our specific comments to each of ASIC's proposals in the Consultation Paper are detailed in Annexure A of this letter.

ASDAA appreciates the opportunity to provide this Submission to Treasury on these significant proposals. We would be happy to discuss any issues arising from our submissions on this issue, or to provide any further material that may assist. Should you require any further information, please contact Brad Smoling, Director of Communications, on (07) 5532 3930 or email brad@asdaa.com.au.

Yours Sincerely

Marija Pajeska
Compliance Director

ANNEXURE A: RESPONSE TO ASIC QUESTIONS

Promoting the delivery of limited advice

B1 area of focus: ASIC seeks feedback on the challenges and practical issues faced when providing limited advice to consumers. ASIC has also included questions aimed at understanding you and your business. This is to provide ASIC with a better understanding of the problems industry are facing (e.g. whether some problems are prevalent in some sectors of the industry or in some types of advice licensees).

ASIC Question		Response
B1Q1 – B1Q2 Questions for financial adviser		N/A
B1Q3 – B1Q4 Questions for advice licensee		N/A
B1Q5(a)	Please tell us about yourself and your interest in the issue of promoting access to good-quality limited advice.	<p>ASDAA represents the interests of its members, who are from the Securities and Derivatives advisory profession. Its members are comprised of individuals who are either directors, or employees, of small to medium sized firms which hold an Australian Financial Services Licence (AFSL), but are not a Participant Member of the Australian Stock Exchange.</p> <p>Members of the Securities and Derivatives advisory profession that provide personal advice only provide limited advice and therefore it is paramount that they are able to continue to freely provide the services that their clients request.</p> <p>ASIC and other stakeholders within the financial services industry need to understand that personal advice provided within the Securities and Derivatives advisory profession functions differently to that provided in the financial planning sector.</p> <p>Generally a financial planner will outsource this component of a client's portfolio in that they will provide recommendations to clients which include holdings in managed portfolios. Therefore they are outsourcing the specific management of assets to the Investment Manager appointed for each fund.</p> <p>Financial advisers in the Securities and Derivatives advisory profession are the Investment Manager for their clients and they perform this function on a fully disclosed basis and in a transparent manner. The client has to authorise all recommendations prior to implementation.</p> <p>Hence the clients that seek this type of service understand that the advice is limited in nature in that it is limited to the amount of money they wish to/ or have available to invest in the portfolio and both the adviser and the client understand that the investments are speculative in nature and that the sole objectives are to have capital growth and generate income.</p>

ASIC Question	Response
B1Q5(b)	<p>What do you think are the impediments to the advice industry providing good-quality limited advice?</p> <p>We refer to the comments we made in the cover letter and summaries those as follows:</p> <ul style="list-style-type: none"> • Financial Planners and Advisers Code of Ethics 2019 – The educational requirements defined in the code have led to a number of advisers exiting the industry as there has been a total disregard for the education they have completed and experience they have acquired • Financial Planners and Advisers Code of Ethics 2019 – The principles defined in the code relating to conflicts of interest are difficult if not impossible to manage in circumstances where limited advice is provided • AFCA – AFCA’s approach to handling complaints relating to limited advice and jurisdictional issues result in additional costs that most providers of limited advice are unable to justify, ie. the risk of a client making a complaint and the resulting costs arising from AFCA accepting the complaint and AFCA’s approach to reviewing and assessing the complaint. • ASIC – ASIC’s approach to investigating matters relating to the provision of advice and the absence of requirements for ASIC staff to have experience in providing financial product advice or meet the educational and training requirements set for financial advisers. We ask the question, if the client is satisfied with the advice provided then how can an ASIC staff member substantiate the existence of a problem? • ASIC – ASIC industry funding fees and annual increases • Professional Indemnity Insurance – The difficulty faced by AFS Licensees to acquire affordable PI Insurance and/ or find a PI Insurance Policy in circumstances where the advice provided <u>is not</u> financial planning advice. • Section 961B of the Corporations Act, Provider must act in the best interests of the client – The requirement to conduct reasonable enquiries into which financial products will achieve the client’s objectives are not feasible or necessary (in certain circumstances). Therefore, compliance with the best interest duties is difficult on the basis that what the financial adviser deems as reasonable may not be the same as what another person may deem as reasonable, even though the client may deem it reasonable.

	ASIC Question	Response
B1Q5(c)	How do you think industry and ASIC should address these impediments?	<p>There are a number of steps that ASIC and other industry Stakeholders need to take in order to address these impediments, including but not limited to:</p> <ul style="list-style-type: none"> • Provide clear guidance as to what constitutes limited advice and such guidance should not focus solely on the financial planning sector. • Provide separate safe harbour for complying with the best interest duties for providers of limited advice as not all of the current safe harbour provisions apply to circumstances where limited advice is provided. • Work on the Financial Planners and Advisers Code of Ethics 2019 to allow experienced adviser to remain in the industry and to have a National Exam structure that recognizes the fact that not everyone is a financial planner and therefore does not have the same knowledge regarding superannuation and taxation requirements as a financial planner. • Work on the Financial Planners and Advisers Code of Ethics 2019 to make conflicts of interests more manageable so as to allow for the provision of limited advice. • Work with AFCA to ensure that a proper assessment of client complaints are conducted prior to an AFS Licensee being contacted. AFCA should have a duty of care to establish the facts of the complaint, establish that a client-service provider relationship actually existed, that the client actually paid for the services to the licensee that are subject of the complaint. Why should an AFS Licensee be forced to pay fees to AFCA for a complaint where AFCA has done no work to establish the existence of a client relationship or the substance of the complaint? • Work with the PI Insurance market to ensure that insurance policies that meet the requirements of RG126 are available and affordable or alternatively provide details and guidance to industry as to what other alternative arrangements are available for industry instead of PI Insurance. • Work internally to ensure that ASIC staff responsible for investigating the provision of advice are properly experienced, qualified and trained (ie. they meet the same requirements as those met by financial advisers) to conduct such investigations and to form opinions about the quality and adequacy of the advice provided.

ASIC guidance on and example of limited advice

B2 Area of focus: ASIC seeks feedback from individual financial advisers, advice licensees and other stakeholders on:

- (a) its guidance on scaled advice in RG 244, and whether additional guidance would help you delivery good-quality limited advice; and
- (b) its examples of limited advice and whether additional examples would be useful.

ASIC Question about ASIC guidance on limited advice		Response
B2Q1(a)	ASIC is considering new formats for its guidance. What form of guidance would you find most useful for future ASIC guidance on limited advice? Some examples are listed below, please list in order of preference: (i) updates to regulatory guidance; (ii) podcasts and/or videos; (iii) a dedicated advice guidance webpage on the ASIC website; (iv) standalone examples on different topics; and/or (v) other guidance (please describe).	ASIC's guidance should come in different formats as not every Stakeholder is the same nor does every Stakeholder interpret or digest information in the same way. We are of the view that ASIC guidance should come in the following formats: <ul style="list-style-type: none"> • Updates to regulatory guidance which sets out the minimum standards that ASIC expects industry participants to take into consideration when providing financial product advice, working with clients to define the scope of advice, and maintaining records of advice. • Podcasts and/ or videos which include role plays where experienced and qualified financial advisers working with ASIC provide examples of interactions with clients that are acceptable versus those that are not. • An interactive platform for advisers to utilize in circumstances where they are not sure if what they are thinking will fall within the minimum acceptable standards for providing personal advice and acting in the clients best interest.
B2Q1(b)	Have you read RG 244?	Yes
B2Q1(c)	If you have read RG 244, did it help you to understand how to provide good-quality limited advice? If not, how could the guidance be improved?	Not really as the focus of RG244 is the financial planning sector and the provision of personal advice in the financial planner sector. ASIC needs to change the focus to true limited personal advice which excludes financial planning style advice. The type of limited advice clients generally seek are product specific or in reference to a particular matter. In such circumstances clients do not wish to divulge any of their other information and a financial adviser needs to know that they can interact with the client and provide the advice the client needs without fear of being accused of not properly investigating the client's circumstances and needs and failing to properly define the scope of advice.

ASIC Question about ASIC guidance on limited advice		Response
B2Q2(d)	Are there any specific parts of RG 244 guidance that you do not understand? If so, which parts?	<p>We had no issue understanding RG244, however did not feel that it properly covered or defined what limited advice is nor does it recognize how a client and adviser interact in a situation where a client seeks personal advice.</p> <p>If an adviser is expected to seek information from a client and then redefine the scope of advice based on the information sought then the adviser runs the risk of being accused that they have a conflict of interest as they are seeking to expand the scope of advice and increase the fees that they are going to charge thus failing to act in the client's best interest.</p>
B2Q2(e)	Is there other ASIC guidance on providing limited advice that would be useful? Please note the topics on which you think additional guidance would be useful.	Please refer to comments provided above.
B2Q2(f)	Given the issues you have identified in response to these questions, what do you see as potential solutions to help you provide good-quality limited advice?	Please refer to comments provided above.
B2Q2(g)	What do you see as the future challenges to providing good-quality limited advice? How do you think industry can best respond to and work through these challenges?	<p>Please refer to response provided in B1Q5.</p> <p>The best response industry can offer is for ASIC and Treasury to work with industry to understand what constitutes personal advice (as per client expectations) and for laws and standards to be amended to give certainty that a financial adviser can work within those parameters in order to provide the services requested by clients.</p>

ASIC Question about examples in appendix to RG244		Response
B2Q2(a)	Are the examples of providing good-quality limited advice in the appendix to RG 244 helpful? If not, why not?	<p>There is only one example included which relates to advice provided by the Securities and Derivatives advisory profession and that is Example 14, Advice from a stockbroker to an existing client. The example itself deals with a situation which most advisers know how to deal with and interpret so this example is not so relevant or helpful as it does not deal with limited advice, rather it deals with further advice provided to an existing client.</p> <p>If ASIC wants to provide useful examples it needs to tackle the hard scenarios such as,</p> <ul style="list-style-type: none"> • provision of limited advice to a client who seeks advice for investing a certain amount of funds in a portfolio of assets; • provision of limited advice in relation to a MDA Service where the advice is limited to the scope of advice defined in ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968; • provision of advice in relation to speculative investments where execution of instructions is time critical due to market volatility. <p>ASIC needs to recognise and accept that clients choose to invest money in speculative investments and that limited advice is at times necessary in such scenarios so examples relating to the financial planning sector are neither applicable nor helpful.</p>
B2Q2(b)	Should the examples in the appendix to RG 244 be expanded to include other topics? If so, which additional topics would you find helpful?	

Terminology – How ASIC talks about limited advice

B3 Area of focus: We seek feedback from individual financial advisers, advice licensees and other stakeholders on the best way to refer to 'scaled advice'.

ASIC Questions about terminology in RG244		Response
B3Q1	<p>We would like your feedback on how we refer to the advice that we currently refer to as 'scaled advice' in RG 244. Do you think that any of the following terms would be easier to understand:</p> <ul style="list-style-type: none">(i) limited advice;(ii) narrow-scope advice;(iii) piece-by-piece advice;(iv) transactional advice; or(v) episodic advice.	<p>We agree with ASIC that all advice is scaled to a degree so the term limited advice may be easier to understand.</p> <p>However, we do feel that ASIC is missing the point when it states</p> <p style="padding-left: 40px;">'Regardless of how the advice is scoped, the same rules apply to the provision of personal advice on a certain topic.'</p> <p>ASIC has to understand that the same rules can't apply and that is where the problem is. The scope of advice effectively defines the rules that would apply. If a client seeks personal advice on a particular financial product there should not be an underlying expectation on the financial adviser to research and provide alternative options to the client. The adviser should be able to provide advice to the client regarding the particular financial product and then ask the client if they would like information about other financial products.</p> <p>By allowing for an advisor to interact with the client in this manner will ensure that the advice is affordable and that the client receives the information they are seeking rather than being inundated with information they may not wish to receive.</p>
B3Q2	<p>Do you have any other suggestions for terminology we could use?</p>	<p>No.</p>

ASIC guidance on and examples of Statements of Advice

B4 Area of focus and feedback questions: ASIC seeks feedback on the example SOAs in RG 90 and RG 244 and any additional guidance we can provide about SOAs for limited advice.

ASIC Questions about ASIC guidance and examples on SOAs		Response
B4Q1(a)	Are the model example SOAs in RG 90 and the appendix to RG 244 helpful? If not, why?	<p>No, as they deal with matters relevant to the financial planning sector.</p> <p>ASIC needs to understand that a financial planner and a financial adviser provide different services to their clients and the manner in which they interact with their clients and the expectations of their clients are different.</p> <p>So, ASIC needs to better understand the industry it is responsible for regulating and providing guidance to in order to provide relevant guidance to all stakeholders rather than just one sector and expect everyone else to conform to those standards.</p>
B4Q1(b)	We are planning to review and revise our guidance in RG 90. What changes to RG 90 would make it more useful?	<p>For guidance to be useful it needs to be adaptable and applicable to all sectors of the industry. Therefore, providing <u>one example</u> relating to provision of personal advice and an SOA to a client of a financial planning operation will not provide guidance to a financial adviser or an AFS Licensee in providing services to its clients who are seeking speculative investment advice.</p> <p>ASIC needs to provide more than one example and take a practical approach in producing the examples, that is take into consideration:</p> <ul style="list-style-type: none"> • how clients and their advisers interact; • what services and advice do clients expect from their adviser; • how are clients paying for the advice; • how will clients interact with their adviser on a continual basis; • are the financial products speculative investment products; and • is the client seeking long term or short term investment advice. <p>All of these factors, and more, impact on how the financial adviser interacts with the client and what the advice and SOA looks like in the end.</p> <p>There is no way a one-size-fits all example can possibly provide relevant guidance to industry.</p>
B4Q1(c)	Is there any other guidance you would like on SOAs for limited advice?	

Affordability of personal advice

C1 Area of focus and feedback questions: ASIC seeks your feedback on the issues that affect the affordability of personal advice in Australia. We also seek to understand the experience of industry participants using an ROA, rather than an SOA.

ASIC Questions for financial advisers		Response
C1Q1(a)	What changes do you suggest to reduce the cost of personal advice for consumers?	Currently the cost of personal advice is commensurate to the amount of work, effort and research a financial planner or financial adviser needs to conduct into a client's personal circumstances in order to provide the advice sought by the client. It is also representative of the risk involved in that an adviser carries 100% of the risk relating to the advice provided on the basis that if the market does not perform or something goes wrong the client has the right to lodge a complaint with AFCA, free of charge, without any responsibility for establishing that the adviser was the cause of the issue, that they had been misled or that they unwillingly accepted the advice provided.
C1Q1(b)	Do you think technology could be better used to reduce the cost of advice? Please explain your response.	Yes, however ASIC's and other industry stakeholders unwillingness to accept template SOA's so that AFS Licensees can ensure that critical and standard information that relates to clients is in the form of a template makes it difficult for technology to reduce the cost of advice.
C1Q1(c)	How do you charge annual fees for ongoing advice (e.g. as a flat fee or a percentage of funds under management)?	N/A
C1Q1(d)	In the past year have you increased the minimum annual fees for ongoing advice? If yes, what was your minimum annual fee previously and what is it now? Please explain why you increased these fees.	N/A
C1Q1(e)	Have you changed your target market for advice over the last year? For example, have you changed your marketing focus from low or average net worth clients to high net-worth clients? If so, please explain the changes to your target market, including why these changes were made.	N/A

ASIC Questions for financial advisers		Response
C1Q1(f)	Apart from the issue of cost, what changes do you think would improve the availability of personal advice for consumers?	Please refer to comments provided in B1Q5(c)
C1Q1(g)	What has your experience been with using ROAs? Have you found the COVID-19 relief helpful? Do you think relief should be provided to make ROAs more readily available for financial advisers to use as an alternative to an SOA?	<p>An ROA is more useful as the focus of the document is the advice provided. It does not include legal information that clients do not necessarily read or sadly are not interested in.</p> <p>An SOA becomes a very detailed document as the AFS Licensee is required to provide all the legal information to the client in order to protect itself and have a means of evidencing that the relevant information has been provided to clients.</p> <p>We do feel that most information included in an SOA is useful however if you compare an SOA to a Wealth Management Plan (a document that industry has put together to provide to wholesale clients that outlines the clients circumstances, the advice, how the advice is intended to meet the clients objectives, relevant fees, and the reasons for the advice) the Wealth Management Plan serves as a more useful document as it gives the client the information they are seeking.</p>
C1Q1(h)	After your first meeting with a client, how long on average does it take to provide the client with an SOA? Is this too long? What factors contribute to the length of time it takes to provide a client with an SOA?	N/A
C1Q1(i)	What do you see as your business's future challenges to providing good quality affordable personal advice? How do you think financial advisers can best respond to and work through these challenges?	<p>We at ASDAA have outlined in response to B1Q5 what we feel are the challenges to the provision of good quality affordable personal advice.</p> <p>We feel that financial advisers alone cannot solve the problem and that the other stakeholders in industry have to work with financial advisers to provide them a platform that provides certainty and minimizes risk in order for them to provide good quality affordable personal advice.</p>

ASIC Questions for advice licensees		Response
C1Q2(a)	What costs inherent to the provision of advice most affect the ability of your business to provide lower cost personal advice? How could these costs be reduced?	<p>Currently the cost of personal advice is commensurate to the amount of work, effort and research a financial planner or financial adviser needs to conduct into a client's personal circumstances in order to provide the advice sought by the client.</p> <p>It is also representative of the risk involved in that an adviser carries 100% of the risk relating to the advice provided on the basis that if the market does not perform or something goes wrong the client has the right to lodge a complaint with AFCA, free of charge, without any responsibility for establishing that the adviser was the cause of the issue, that they had been misled or that they unwillingly accepted the advice provided.</p> <p>These costs can be reduced if other stakeholders (such as ASIC and Treasury) in industry work to provide a platform that provides certainty and minimizes risk in order for them to provide good quality affordable personal advice.</p>
C1Q2(b)	Do you think technology could be better used to reduce the cost of advice? Please explain your response.	Yes, however ASIC's and other industry stakeholders unwillingness to accept template SOA's so that AFS Licensees can ensure that critical and standard information that relates to clients is in the form of a template makes it difficult for technology to reduce the cost of advice.
C1Q2(c)	In the past year, has your business increased the minimum annual fees for ongoing advice? If yes, what was your minimum annual fee previously and what is it now? Please explain why you increased these fees.	N/A
C1Q2(d)	As an advice licensee, has your advice business changed its target market for advice over the last year? For example, has your financial advice business changed its marketing focus from low or average net-worth clients to high net-worth clients? If so, please explain these changes, including why these changes were made.	N/A
C1Q2(e)	What changes do you suggest to reduce the cost of personal advice for consumers?	Please refer to comments provided in B1Q5(c)
C1Q2(f)	Apart from the issue of cost, what changes do you think would improve the availability of personal advice to consumers?	Please refer to comments provided in B1Q5(c)

ASIC Questions for advice licensees		Response
C1Q2(g)	As an advice licensee, what has been the experience of your advice business using ROAs? Have you found the COVID-19 relief helpful? Do you think we should provide relief to make ROAs more readily available for financial advisers to use as an alternative to an SOA?	<p>An ROA is more useful as the focus of the document is the advice provided. It does not include legal information that clients do not necessarily read or sadly are not interested in.</p> <p>An SOA becomes a very detailed document as the AFS Licensee is required to provide all the legal information to the client in order to protect itself and have a means of evidencing that the relevant information has been provided to clients.</p> <p>We do feel that most information included in an SOA is useful however if you compare an SOA to a Wealth Management Plan (a document that industry has put together to provide to wholesale clients that outlines the clients circumstances, the advice, how the advice is intended to meet the clients objectives, relevant fees, and the reasons for the advice) the Wealth Management Plan serves as a more useful document as it gives the client the information they are seeking.</p>
C1Q2(h)	For financial advisers you employ or authorise, what is the average time it takes after they first meet with a client to provide the client with an SOA? Is this too long? What factors contribute to the length of time it takes to provide a client with their SOA?	N/A
C1Q2(i)	How do you calculate the price of the advice you provide to clients? What are the key features of the personal advice services you offer under your licence and for which fees are charged?	N/A
C1Q2(j)	Are you developing (or are you aware of others developing) new advice models, or methods of advice delivery, to make personal advice more affordable? If yes, please give details.	N/A
C1Q2(k)	Given the issues you have identified, what do you see as potential solutions to increase the ability of advice licensees to provide good-quality affordable personal advice?	Please refer to comments provided in B1Q5(c)

ASIC Questions for advice licensees		Response
C1Q2(l)	What do you see as the future challenges to providing good-quality affordable personal advice to clients? How do you think industry can best respond to and work through these challenges? For example, are there technological solutions to reduce the cost of providing advice while maintaining (or improving) the quality of advice provided to clients?	Please refer to comments provided in B1Q5(b) and B1Q5(c).

Strategic advice

C2 Area of focus: ASIC seeks feedback on your experience providing strategic advice.

ASIC Question		Response
C2Q1(a)	Do you currently offer strategic advice that does not make a financial product recommendation, or only makes a recommendation about a general class of financial products?	This type of advice is not relevant to the Securities and Derivatives advisory profession and as such we provide no comments.
C2Q1(b)	If yes, please provide details of the strategic advice you: (i) currently provide; and (ii) would like to provide in the future.	
C2Q1(c)	If no, please explain why you do not currently offer this type of advice to clients. Would you like to offer this type of advice in the future? If yes, what type of advice? If not, why not?	
C2Q1(d)	In your experience, which type of clients would benefit most from receiving strategic advice? Please explain your response.	
C2Q1(e)	Do you think it would be helpful to provide more examples of compliant strategic advice in our guidance? If yes, what examples would you like to see?	

Digital personal advice

C3 Area of focus: ASIC seeks feedback on your experience providing digital personal advice, and your views about the future of digital personal advice in Australia

ASIC Question		Response
C3Q1(a)	Do you currently offer digital personal advice? If yes, please provide details of the digital service(s) you: (i) currently provide; and (ii) would like to provide in the future	N/A
C3Q1(b)	If you do not currently offer digital personal advice, please provide details of the digital service(s) you would like to provide in the future.	N/A
C3Q1(c)	Have you read RG 255?	Yes
C3Q1(d)	If you have read the guidance in RG 255, did it help you to understand how to ensure that you provide compliant digital advice? How could the guidance be improved?	<p>The guidance provided in RG255 was helpful to the extent that it provides relevant information as to how digital advice can be provided and when providing digital advice how to deal with various constraints that exist within the framework.</p> <p>We note that the guidance was written at the early stages of digital advice becoming available in Australia and as such needs to be updated to reflect the current situation.</p> <p>We recommend that ASIC work closely with the Digital Finance Advisory Panel to update RG255.</p>
C3Q1(e)	In your experience, are there barriers to providing good-quality digital personal advice? Please explain your response.	N/A
C3Q1(f)	In your experience, are there specific types of clients that are more receptive to receiving digital personal advice? If so, please explain.	N/A
C3Q1(g)	Have you moved any of your clients across from non-digital to digital personal advice services? If yes, what have been the challenges in transitioning these clients over to digital personal advice services?	N/A

ASIC Question		Response
C3Q1(h)	Are there topics of advice or specific financial products that are well suited to digital personal advice? If yes, what are they and why?	Where clients are seeking advice about specific financial products then digital advice is highly beneficial as clients can work through relevant questions to develop an understanding as to whether or not the financial products are suitable for them. They can do this at their own pace.
C3Q1(i)	Are there topics of advice and specific financial products that are not well suited to digital advice? If yes, what are they and why?	Where clients need to engage with the adviser and work through their personal circumstances in order to define the scope of advice.

Other issues relating to access to affordable personal advice

C4 proposal: ASIC seeks feedback on issues, relating to the delivery of affordable personal advice, that are not covered in Sections B and C and that you would like to bring to our attention.

ASIC Question		Response
C4Q1	If there are any other issues you wish to raise in relation to this consultation paper please note them in response to this question.	We have no further comments.