RICEWARNER
Insight like no other

18 January 2021

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Dear Andrew

Promoting access to affordable advice for consumers

Rice Warner welcomes the opportunity to contribute to Consultation Paper 332 and we would be interested in participating in your stakeholder roundtables later.

About Rice Warner

Rice Warner is a trusted partner to many successful organisations operating in Australia's dynamic financial services sector. Our valued clients include superannuation funds, financial institutions, fund managers, life insurers, fund administrators, financial planning licensees and providers of financial software. These clients seek our consulting advice, research on products and markets, as well as our financial technology services.

Since 1987, our firm has built an unrivalled reputation for providing fact-based guidance to industry participants. Rice Warner has a rich heritage of independence and informed opinion leadership. This derives from our culture backed by our actuarial roots and unique research across the superannuation, wealth management and life insurance sectors.

Rice Warner holds an AFSL and works in the institutional (wholesale) marketplace. For many years, we have provided research and consulting services to ASIC.

Experience in financial advice

Rice Warner does not provide financial advice directly to consumers, but we assist financial institutions and superannuation funds with member services, including their delivery of financial advice.

Our activities in this field include:

- Developing the award-winning Beeline software for VicSuper to provide a seamless suite of support for members across different channels (self-directed, intra-fund advice and Comprehensive advice).
- Our Phoebe suite of calculators which is used as tools to support the delivery of all forms of Advice.

- Michael Rice was appointed by First State Super as a trustee director of State Plus following its acquisition of that business (2016-2019).
- Report for the Financial Services Council (FSC) on the **Future of Advice** (October 2020).

In conducting this work, we have realised that the processes around delivering all forms of financial advice have led to a prescriptive and costly regime. We understand the need to have high standards around education and proper processes around training, given the past poor performance of the financial services industry. However, the industry is now strangled with red tape and uncertainty.

We welcome ASIC's objective of promoting access to affordable financial advice.

Key findings of FSC Report

Early last year, we were commissioned by the FSC to analyse the financial advice regime and to recommend areas of improvement. We issued our final report to the FSC in October[1], split into four areas:

- The broad need for financial advice across the community, and at different life stages.
- The value of financial advice.
- The current regime and the need for change.
- A proposed model which seeks:
  - Simplification
  - Affordability
  - Accessibility
  - Consistency
  - Quality of advice.

Following publication of the report, the FSC and Rice Warner met with many industry bodies to discuss the findings. Our report was well received, particularly the suggested changes to the current regime. We stressed that these were set out to provide a framework for discussion and needed to be considered in more detail. ASIC's review provides the opportunity to do this.

Our findings can be summarised as:

1. The need for and value of appropriate financial advice are well documented and are accepted by all stakeholders.

2. The current regulatory regime was developed when conflicted remuneration was the norm, and many products provided poor value. Legislation has not been changed to take into account the advances in technology, nor the growth of organisations offering some forms of strategic advice (e.g. Money Coaches). The focus is still on protecting consumers from selecting the wrong product. Legislation is prescriptive and the compliance regime does not allow for any pragmatism or materiality in relation to the outcomes of the advice received.

3. The delivery of advice is not structured around the risks borne by consumers, so simple advice has the same complex and lengthy processes as high-risk advice.

[1] https://www.ricewarner.com/future-of-advice/

4. The legislative regime drives up the cost to consumers, to unsupportable levels in many cases. If advice were delivered in a cost-effective manner, this would improve trust in the sector. There are many people, including disadvantaged groups, who currently do not obtain Financial Advice because they cannot afford it. Any process that will lower the cost of advice while maintaining appropriate standards for the advice provided will benefit these people.

5. The government has attempted to improve standards by raising the education of financial advisers. However, the current approach, together with the change from a sales structure to a service structure, has led to a reduction in the number of financial advisers both through large numbers leaving the industry and fewer new advisers joining. This leads to lower levels of advice being delivered to the community – and at a cost which is too high for most consumers.

Current Regime

In our report for the FSC, we noted the disconnect between consumers' perceptions of advice and the legislative definitions. It is worthwhile pointing out the current range of industry definitions to show why consumers are confused:

- Education – Helping consumers understand topics (e.g. what is an equity; what taxes apply to superannuation).
- Information – Providing facts about products or services (e.g. setting out and explaining the fees of a product).
- Financial Product Advice – This is what is regulated by legislation and regulation. It is advice which evaluates, compares, or makes recommendations about one or more Financial Products.
- Financial Products – These are financial instruments or services defined as such in the legislation. Financial instruments not so defined fall outside the scope of the legislation and regulation.
- General Advice - This is advice provided without using any personal information about the consumer.
- Personal Advice – This is advice provided in relation to specific issues after considering personal information about the consumer.
- Scaled Advice - Personal advice about one or more topics (but is not expected to be Comprehensive, only specific to a topic).
- Intra-fund Advice - Scaled advice about one or more topics which includes personal information about the consumer and their interest in a single superannuation fund in which they are already a member.
- Comprehensive Advice considers all the personal circumstances of a consumer. This type of advice is often delivered on a retainer basis with regular updates of needs and wide-ranging annual reviews. In contrast, many consumers may be better served by arrangements which are more flexible and prioritise advice on major life events which by their nature have highly variable timing.

In addition, there are areas where consumers receive important strategic advice which falls outside the legal definitions. Examples are advice about budgeting, debt-reduction and saving. This is an important aspect of any financial plan – if you cannot spend less than you earn, you simply cannot save. While many financial advisers provide this advice under a formal Statement of Advice, it can be delivered by Money Coaches, Centrelink, Charities or accountants, without being bundled with advice on choice of products and therefore without needing the same compliance requirements.

We note ASIC's goal of redefining scaled advice and intra-fund advice as **Limited Advice**. 'Limited' has the connotation of being partial or incomplete and we suggest a term which encompasses being simple advice, one-off delivery, and low-risk for the consumer. 'Event-based' advice would be more appropriate.

Documents

Although it was outside the scope of the Report for the FSC, we noted the problem with the documentation required to deliver even simple pieces of advice. We consider Product Disclosure Statements (PDS) and Statements of Advice (SoA) to be incomprehensible for most consumers, and they should be replaced with shorter more legible documents.

Many of these documents are lengthy, particularly an SoA where a range of needs is addressed and a range of products might be compared. There is no flexibility in using these documents; the requirements are similar whether the advice is simple, single issue ('Limited') or complex. Further, there is no triaging based on the risks faced by a consumer, so simple risk-free advice has the same legal requirements as a high-risk plan or recommendations regarding complex products; this leads to higher costs than most consumers will bear.

Education

As with all other aspects of the financial advice regime, there is no differentiation between the type of advice and its complexity. Worse, the requirement of a three year degree in financial planning effectively shuts out of the market many potential practitioners, who may be more qualified! Examples are actuaries and accountants.

We agree that those financial advisers providing complex advice on a regular basis need to be properly educated. However, we would seek sensible changes:

- The law should recognise specialisation. A stockbroker need not be an expert on life insurance; a life insurance specialist does not need to understand investment markets.
- Those who are qualified in other relevant fields should be able to provide advice within minimal additional qualifications. For example, a superannuation actuary should be able to give advice to consumers approaching retirement without needing a tertiary degree in financial planning.
- Many aspects of scalable advice carry little risk for consumers, and the education and training of those delivering this advice need not be as thorough nor as complex as for those providing comprehensive advice.

We consider there to be many professions where education and qualifications are specific to the level of service being provided. A good example is the medical profession with generalist and specialist doctors, nurses, nurse practitioners, midwives, and paramedics. Many doctors objected when paramedics were established as a profession with authority to deliver complex therapies and dangerous drugs, but nobody objects today. People who are well trained in specific, limited disciplines can deliver a service that is at least as professional as that delivered by those with more comprehensive training. A similar approach is needed for financial advice.

Financial advice for retirees

This case study will illustrate for ASIC the difficulties facing people entering retirement. We believe the solution is to separate all the functions into:

- A comprehensive financial plan when approaching retirement (but simplified through new ASIC guidelines).
- Support over budgeting and saving during retirement which does not involve choosing between product providers (not deemed to be advice unless this service is included within the whole system as an advisory service but with much simpler requirements).
- Event-based advice at times such as change in family situation, retirement or considering aged care options.

Approaching retirement

It is useful to consider the circumstances of a couple approaching retirement, who want assistance on the complex environment of superannuation, tax, and social security. At this stage, the couple will need to deal with longevity and investment risks and might need to use home equity later in life for aged care or income support.

They will need to hold funds in liquid form for pension payments and will need to hold money in growth assets for inflation protection (and to benefit from ongoing investment returns), and they will also need to consider longevity protection. Many will also draw a lump sum at retirement to pay off debt or make home renovations.

Where does this couple go to get financial advice on these significant changes to their life? The logical place is their main superannuation fund. However, funds are not currently equipped to provide this for them, since:

- Retail funds do not provide intra-fund advice services.
- Industry funds can provide intra-fund advice, but they cannot deal with the member's assets outside superannuation, nor their partner's super.
- There are no default retirement products to use to move people from accumulation to pension phase.

Those superannuation funds providing advice to members for a one-off fee of $1,500 to $3,000 may be able to help them with the transition and selecting a suitable investment strategy in retirement. However, they will not bring the partner into the fund as this would require a different SoA and a comparison of the partner's current fund. Consequently, the common practice is to leave the partner in their own fund. Once this initial decision has been made, it is difficult to combine the couple into one fund later, as it is not possible to transfer an account-based pension directly into a different product.

Members also need to consider longevity protection and it is difficult to obtain this advice in the marketplace.

We consider that ASIC could set guidelines to help couples follow a simple process to move into a single fund at lower cost. The funds allowed could be the pension products of a member in a MySuper product, recognising that these are highly regulated and, in due course, will have a low chance of underperforming materially. A guidance note could lead to this service becoming relatively homogenous (for middle-Australia) and delivered more cheaply. The note could also discuss longevity products.

During retirement

Members will often need annual support around the following:

- Checking the levels of pension payments to be drawn.
- Assistance with budgeting and ensuring there is the right amount of cash in all their pension *buckets*.
- Moving money into cash to provide for upcoming pension payments.

As with the services of a Money Coach, we consider this service (Retirement Counselling) to be strategic and outside the current financial advice regime. These are operational matters relating to the implementation of the underlying financial plan. Funds should be able to provide this using a Call Centre and online tools. It could be delivered free (but financed as part of members' overall fees) and/or via a small annual payment from the member using the service.

Provided the fund sets this structure up properly, it should be able to be delivered without the need for any financial advice.

Advice during retirement

Members will need one-off advice when they encounter various events. We could call this Event-based advice and it could be provided as needed. For instance, the key events are:

- Divorce or death of partner – necessitating a revision of investment strategy.
- Declining cognition – perhaps require Power of Attorney and a revision of investment strategy.
- Requirement for Aged Care – advice on options.
- Declining pension account – use home equity to top-up income.
- Terminal illness – review estate planning and Will.
- Investment shocks – advice on implications and next steps.

This type of service is not available in the marketplace except as part of an expensive ongoing comprehensive service. However, with suitable guidance from ASIC, the industry could provide the service at a reasonable cost.

Improving the current regime

Definitions

The first step in simplifying the financial advice regime is to agree on standard definitions.

In the FSC Report, we suggested the following changes:

- Separate advice into the categories of **Strategic Advice** and **Financial Product Advice**.
- Define **General Information**: which will incorporate the existing definitions of Education, Information and General Advice. This better represents the perceptions of consumers that this material is all similar.
- **Personal Advice** would be simplified (for delivery purposes) by separating into Simple and Complex based on the extent of risk for the consumer.
  - Simple Personal Advice – This is advice that deals with well understood financial needs and Financial Products (such as MySuper) and specifically those that are nominated under DDO as being for average family consumers.
  - Complex Personal Advice – This is advice that is not Simple Advice but should also specifically include products and strategic topics that are known to be complex and/or risky.
- **Specialised Advice** – This is Complex Personal Advice relating to a specialist field which is outside the skillset of most practitioners due to complexity or a requirement for specific expertise. Examples include:
  - Investing in derivatives, CDC's or other complex asset classes.
  - Decisions on any choices available on retirement from a defined benefit fund such as a lifetime pension, a lump sum or a combination of the two.
  - Aged Care.
  - Advice on longevity products.
  - Advice on Self-Managed Super Fund's (SMSFs).
  - Advice for small businesses.

For Specialised Advice, it should be possible to develop an appropriate analysis of needs without needing to consider all other aspects of the consumer's well-being.

The advice could be provided on a specific event (for example, buying life insurance on the birth of a child) or it could be comprehensive and ongoing.

Delivery of financial advice

Once the definitions have been structured to be consumer-centric, all forms of financial advice could be categorised and there would be greater certainty for the industry on delivery. The Appendix to the FSC Report sets out some suggestions for discussion purposes.

As an example of how this could lead to greater efficiency, let us consider budgeting, saving and debt reduction. Many people and organisations have the skills to assist consumers with these matters. However, the compliance varies considerably.

It would be useful for ASIC to set up a guidance note for the delivery of this advice, which can then be followed by groups including Money Coaches, accountants, superannuation funds and financial advisers. As the service is low-risk to consumers and largely has homogenous and beneficial outcomes, we would expect the compliance requirements to be simple, clear and easy to follow. The educational standards could be broad and include all accountants, actuaries, and anyone with an understanding of basic accounting principles (including many financial planners).

Simple Personal Advice would include many basic services where the potential harm to a consumer is very low. Examples include:

- Savings and budgeting support (as described above).
- Mortgage broking. We recognise this is not currently defined as financial advice, but it ought to be, particularly for advice around investment properties.
- Life insurance needs and strategies.
- Debt consolidation and reduction.
- Savings (showing the value of an insurance bond; showing the value of savings due to compound interest).
- Superannuation contributions (value of additional contributions; impact of pre- or post-tax contributions).
- Asset allocation at various stages of life.
- Modifying an existing product by increasing premiums, adding contributions, or making a higher investment. These are simply adjustments within an existing strategy or plan.

The processes and documentation for Simple Personal Advice would be much simpler than the current requirements. Educational standards should be different but sufficient for the topics and products upon which advice is given.

Other matters

The Report for the FSC lists suggestions on other issues.

Finally, we note the industry is at an inflection point and is crying out for sensible change. We note that:

- Financial advice follows prescriptive processes even when the outcome is risk-free, and the advice is simple.
- No institutionally-owned licensee is profitable. This will lead to the departure of all the organisations that hold significant capital to pay for remediation.

- Many super funds question the legality of intra-fund advice and don't use this facility.
- Technology has advanced and it should be possible to deliver many forms of simple advice via online tools, and to deliver more complex advice using a combination of technology and personal contact. However, the legislation has not kept up with these changes.

The original intention of the Financial Services Reform Act (2001) was to harmonise the regulatory regime and produce a uniform licensing regime. That goal was achieved, but at the expense of being able to deliver simple advice. Twenty years on, it is time to review the system.

In summary, we believe that:

- The overall legislative and regulatory regime must be structured around the different levels of complexity and risk of products and the advice that is given regarding them.
- The compliance regime for a specific set of advice must be appropriate to the complexity, risk and specific requirements of that advice.
- The educational and practice standards for a specific set of advice must be appropriate to the complexity, risk and specific requirements of that advice.

This submission was prepared and peer reviewed for ASIC by the following consultants.

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