

Review of Treasury’s final responses to the recommendations in the QAR Final Report

The table below sets out the 22 recommendations from the Quality of Advice report and notes the initial and final response taken by the Australian Government. Any recommendations that the Government will not adopt are shaded in grey.

Quality of advice review Final report		Australian government Initial response		Australian government Final response	
Recommendations		Details of response	QA Recom. accepted	Details of response	QA Recom. accepted
1.	<p>Personal Advice</p> <p>The definition of personal advice in the Corporations Act should be broadened so that all financial product advice will be personal advice if it is given to a client in a personal interaction or personalised communication by a provider of advice who has (or whose related body corporate has) information about the client’s financial situation or one or more of their objectives or needs.</p> <p>Personal advice means financial product advice prepared or adjusted for or directed to a particular client in circumstances where:</p> <p>a) the client tells the provider of the advice their financial situation or one or more of their objectives or needs; or</p> <p>b) the licensee responsible for the advice, or a related entity of the licensee, if the licensee is a body corporate, holds information about the client’s financial situation or one or more of their objectives or needs.</p>	<p>In conjunction with implementing recommendation 6, the Government will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including broadening the definition of personal advice.</p>	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	<p>The Govt will not proceed with this recommendation.</p>	<p>No</p>
2.	<p>General Advice</p> <p>General advice should continue to be a financial service, but the requirement for a general advice warning to accompany general advice should be removed.</p>	<p>In conjunction with implementing recommendation 6, the Government will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including removing the general advice warning.</p>	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	<p>The Govt will not proceed with this recommendation.</p>	<p>No</p>

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3.	<p>Relevant providers</p> <p>Amend the Corporations Act to provide that personal advice must be provided by a relevant provider where:</p> <p>a) the provider is an individual; and</p> <p>b) either:</p> <p style="padding-left: 20px;">i) the client pays a fee for the advice; or</p> <p style="padding-left: 20px;">ii) the issuer of the product pays a commission for the sale of the product to which the personal advice relates.</p> <p>In all other cases, personal advice can be provided by a person who is not a relevant provider.</p>	<p>In conjunction with implementing recommendation 6, the Govt will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including allowing non-relevant providers to provide personal advice.</p>	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	<p>A new class of financial adviser</p> <p>The Govt will introduce a new class of financial advice providers to increase the availability of affordable, simple personal advice.</p> <p>The new class of advisers:</p> <ul style="list-style-type: none"> • cannot charge fees or receive commissions; • will be required to meet the modernised best interest duty, ensuring personal advice provided is of a uniform quality standard; • will have additional guardrails introduced to enhance customer protections, including additional obligations on Australian Financial Services Licensees and legislated minimum competency standards for the adviser; and • the licensees will be wholly responsible for the advice provided. 	<p>Yes</p> <p><i>(Additional standards to be introduced which were not in QAR)</i></p>
4.	<p>Good advice duty</p> <p>A person who provides personal advice to a retail client must provide the client with good advice. Good advice means personal advice, that is, at the time it is provided:</p> <p>a) fit for purpose having regard to:</p> <p style="padding-left: 20px;">i) if the advice is:</p>	<p>In conjunction with implementing recommendation 6, the Govt will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including introducing a good advice duty.</p>	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	<p>A modernised and flexible best-interest duty</p> <p>The Govt will introduce a modernised and flexible best interest duty applicable to all advice providers to deliver high-quality advice that aligns with consumer's needs.</p>	<p>Yes</p>

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	<p>1) given in response to a request, question or inquiry from the client, the purpose of the client that the provider is aware of or should reasonably be aware of; or</p> <p>2) volunteered by the provider, the reason the provider reasonably considers the advice might be of use or benefit to the client;</p> <p>ii) the scope, content and nature of the advice; and</p> <p>iii) the likely relevant circumstances of the client; and</p> <p>b) In all the circumstances, it is good.</p> <p>If the advice is provided by a financial adviser (relevant provider), this duty applies to the financial adviser. In all other cases, this duty applies to the AFS licensee.</p>			<ul style="list-style-type: none"> The existing primary obligation to act in the best interests of the client and prioritise the client's interest in the event of a conflict remains the core of the renewed standard. There will be clearer legislative support for scaled or limited scope advice and advice where the provided has limited information. The existing best interest duty "safe harbour" steps will be removed. The ongoing duty to provide appropriate advice remains unchanged. The existing concessional treatment for personal advice provided by banks and general insurers on defined basic products will be maintained. 	
5.	<p>Statutory best interests duty</p> <p>The existing best interests duty and related obligations (the duty to give appropriate advice assuming the best interests duty is satisfied, the duty to warn the client if the advice is based on inadequate or insufficient information and the duty of priority if there is a conflict) should be replaced with a new statutory best interests duty.</p> <p>The new best interests duty would be a true fiduciary duty that reflects the general law and will not include a safe harbour.</p>	<p>The "Safe Harbour" steps, originally designed to protect financial advisers, will be removed from the Best Interest Duty with a consultation to determine implementation details and the implications of adopting the remaining parts of recommendation 5.</p>	<p>Yes — in principle</p>	<p><i>Refer to the response for Recommendation 4 above.</i></p>	<p>Yes</p>

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	This duty will apply only to financial advisers (relevant providers).				
6.	<p>Superannuation advice</p> <p>Superannuation fund trustees should be able to provide personal advice to their members about their interests in the fund, including when they are transitioning to retirement. In doing so, trustees will be required to take into account the member's personal circumstances, including their family situation and social security entitlements, if that is relevant to the advice.</p> <p>Superannuation fund trustees should have the power to decide how to charge members for personal advice they provide to members, and the restrictions on collective charging of fees should be removed.</p>	The restrictions on collective charging will be amended to allow superannuation funds to provide more retirement advice and information to their members.	Yes — in principle	<p>Expanding Superannuation advice</p> <p>The Govt will establish a comprehensive framework for superannuation advice by:</p> <ul style="list-style-type: none"> Legislating consistent rules on what advice topics can be paid for via superannuation. The same advice topics will apply to collectively charged advice and individually charged advice. Superannuation funds will be allowed to consider a broader range of a member's personal and household circumstances, such as debt, spouse's income or age pension eligibility. Providing legal certainty for funds to increase member engagement at key decision points in the retirement income journey by providing members with personalised 'nudges.' 	Yes
7.	<p>Deduction of adviser fees from superannuation</p> <p>Superannuation trustees should be able to pay a fee from a member's superannuation account to an adviser for personal advice provided to the member about the member's interest in the fund on the direction of the member.</p>	Superannuation trustees will be provided with legal clarity around current practices for the payment of adviser service fees.	Yes — in principle	The Govt is progressing draft legislation to clarify the legal basis for superannuation trustees reimbursing a member's financial advice fee from their superannuation account and associated tax consequences.	Yes <i>Measure progress through proposed legislative changes.</i>

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8.	<p>Ongoing fee arrangements and consent requirements</p> <p>The current provisions, which require a provider of advice to give a fee disclosure statement to the client to obtain the client's agreement to renew an ongoing fee arrangement and the client's consent to deduct advice fees, should be replaced. Providers should still be required to obtain their client's consent on an annual basis to renew an ongoing fee arrangement, but they should be able to do so using a single 'consent form'. The consent form should explain the services provided and the fee the adviser proposes to charge over the following 12 months. The consent form should also authorise the deduction of advice fees from the client's financial product and should be able to be relied on by the product issuer. The form should be prescribed.</p>	<p>Ongoing fee renewal and consent requirements will be streamlined into a single form, and the requirement to provide a fee disclosure statement will be removed.</p>	<p>Yes</p>	<p>The government is progressing in drafting legislation to streamline ongoing fee renewal and consent requirements and to remove the requirement to provide a fee disclosure statement.</p>	<p>Yes</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>
9.	<p>Statement of Advice</p> <p>The requirement to provide a statement of advice (or record of advice) should be replaced with the requirement for providers of personal advice to retail clients to maintain complete records of the advice provided and to provide written advice on request by the client. Clients should be asked whether they would like written advice before or at the time the advice is provided, and a request for written advice is required to be made before or at the time the advice is provided.</p> <p>This requirement will not apply to a person currently exempt from the requirement to provide statements of advice (e.g., a person who provides personal advice about general insurance products).</p> <p>ASIC should guide how advice providers may comply with their record-keeping obligations.</p>	<p>Statements of Advice will be replaced with a more fit-for-purpose advice record, with consultation to determine the final design of the replacement.</p>	<p>Yes — in principle</p>	<p>A principles-based advice record</p> <p>Statements of Advice will be replaced with a more fit-for-purpose, principle-based advice record, which must address the following four principles:</p> <ul style="list-style-type: none"> • subject matter/scope; • the advice; • reasons for the advice; and • the cost of advice to the client and benefits received by the adviser. <p>The existing requirement to give the record to the client will be maintained. The adviser's record-</p>	<p>Yes</p>

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				keeping obligations will be updated to ensure the key information informing the advice is recorded appropriately.	
10.	<p>Financial Services Guide</p> <p>Providers of personal advice should either continue to give their clients a financial services guide or make information publicly available on their website about the remuneration and any other benefits the provider receives (if any) in connection with the financial services they provide and their internal and external dispute resolution procedures (and how to access them).</p>	More flexibility will be provided in how financial service guide requirements can be met.	Yes	The Govt is progressing draft legislation to provide more flexibility on how financial service guide requirements can be met.	Yes <i>The measure is already progressing through proposed legislative changes.</i>
11.	<p>Consent requirements for wholesale clients</p> <p>The Corporations Act should be amended to require a client who meets the assets and income threshold and has an accountant's certificate to provide written consent to be treated as a wholesale client. The written consent should contain an acknowledgment that is given before they are provided with a financial product or service that:</p> <ul style="list-style-type: none"> the advice provider is not required to be a relevant provider, and accordingly, they will not have to comply with the professional standards; the advice provider will not have a duty to give good advice or to act in the best interests of the client under the Corporations Act; the advice provider is not required to give the client a product disclosure statement or financial services guide, and the client will not be entitled to complain about the advice under the AFS licensee's internal dispute resolution procedures or to AFCA. 	Standardised consumer consent requirements will be introduced to classify consumers as wholesale or sophisticated clients.	Yes — in principle	To be considered as part of the Treasury's review into Managed Investment Schemes .	Maybe <i>Further consideration on this matter will occur as part of a separate review.</i>

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	The existing consent requirements for sophisticated investors should be amended to require a written acknowledgement in the same terms.				
12.1.	<p>Design and Distribution Obligations (Distribution Requirements)</p> <p>Amend the DDO distribution obligations in the Corporations Act to limit the exception to the requirement to take reasonable steps to ensure the distribution of a financial product is consistent with its target market to personal advice provided by relevant providers.</p> <p>Where personal advice is provided by someone who is not a relevant provider, the AFS licensee should, like any other distributor, be required to comply with the distribution obligations and take reasonable steps to ensure the financial product is only recommended in accordance with the target market determination.</p>	In conjunction with implementing recommendation 6, the Government will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including amending the Design and Distribution Obligations (recommendations 12.1 and 12.2).	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	The Government will not proceed with recommendation 12.1.	No
12.2.	<p>Design and Distribution Obligations (DDO Reporting Requirements)</p> <p>Amend the DDO reporting requirements in the Corporations Act to remove the requirement for relevant providers to:</p> <ul style="list-style-type: none"> report significant dealings outside the target market to the product issuer; comply with the additional reporting obligations specified by the product issuer in the target market determination and report to the product issuer where there have been no complaints during the specified reporting period. 	In conjunction with implementing recommendation 6, the Government will explore expanding the provision of advice by other institutions by consulting industry and consumer stakeholders on recommendations, including amending the Design and Distribution Obligations (recommendations 12.1 and 12.2).	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	The Government will not proceed with recommendation 12.2.	No

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	<p>These exceptions will not apply to someone who is not a relevant provider.</p> <p>All providers of personal advice (including relevant providers) will need to report the number of complaints received during a reporting period (if there have been any) and describe the nature of these complaints to the product issuer.</p>				
13.1.	<p>Benefits given by a client</p> <p>Amend the conflicted remuneration provisions in the Corporations Act to explicitly provide that both monetary and non-monetary benefits given by a client to an AFS licensee or a representative of a licensee are not conflicted remuneration.</p> <p>This means that the prohibition on AFS licensees or their representatives accepting monetary and non-monetary benefits would only apply to benefits given by a product issuer, not to benefits provided by a client.</p>	<p>Certain exemptions to the ban on conflicted remuneration will be simplified and some removed, including clarifying that monetary or non-monetary benefits given by a client are not conflicted remuneration, along with the removal of consequential exceptions.</p> <p><i>(accept recommendations 13.1 and 13.3)</i></p>	Yes	<p>The government is progressing in drafting legislation to clarify that the monetary or non-monetary benefits given by a client are not conflicted remuneration, along with the removal of consequential exceptions.</p>	<p>Yes</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>
13.2.	<p>Client-directed payments from superannuation funds</p> <p>Remove the exception in section 963B(1)(d)(ii) and 963C(1)(e)(ii) of the Corporations Act and replace it with a specific exception that permits a superannuation fund trustee to pay an AFS licensee or its representative a fee for personal advice where the client directs the trustee to pay the advice fee from their superannuation account.</p>	<p>The restrictions on collective charging will be amended to allow superannuation funds to provide more retirement advice and information to their members.</p> <p>This will work with the industry to consider adopting and tailoring as needed recommendation 13.2 to implement recommendation 6.</p>	<p>Maybe</p> <p><i>(Further consultation required)</i></p>	<p>The Government is progressing with draft legislation to introduce a specific exception to the conflicted remuneration provisions that permit a superannuation fund trustee to pay a fee for personal advice where the client requests the trustee to pay the fee from their superannuation account.</p>	<p>Yes</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>
13.3.	<p>Removing exceptions for benefits given by clients for issues, sales or dealings in financial products</p> <p>If the recommendation that permits benefits (monetary and non-monetary) given by clients to an AFS licensee or a representative is accepted, the following exceptions to the conflicted remuneration</p>	<p>Certain exemptions to the ban on conflicted remuneration will be simplified and some removed, including clarifying that monetary or non-monetary benefits given by a client are not conflicted</p>	Yes	<p>The government is progressing in drafting legislation to clarify that monetary or non-monetary benefits given by a client are not conflicted remuneration, along with the removal of consequential exceptions.</p>	<p>Yes</p> <p><i>The measure has already progressed through proposed</i></p>

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	<p>provisions are no longer required and should be removed:</p> <ul style="list-style-type: none"> Section 963B(1)(d)(i) of the Corporations Act – monetary benefits given by the client for the issue or sale of a financial product; section 963C(1)(e)(i) of the Corporations Act – non-monetary benefits given by the client for the issue or sale of a financial product; and regulation 7.7A.12E of the Corporations Regulations – monetary benefits given to the provider by a retail client in relation to the provider dealing in a financial product on behalf of the client. 	<p>remuneration, along with the removal of consequential exceptions</p> <p><i>(accept recommendations 13.1 and 13.3)</i></p>			<p><i>legislative changes.</i></p>
13.4.	<p>Removing the exception for the issue of financial products where advice has not been provided in the previous 12 months</p> <p>Remove the exception in paragraph 963B(1)(c) of the Corporations Act, which provides for monetary benefits given for the issue or sale of a financial product where the AFS licensee or representative has not given financial product advice about the product (or class of product) for at least 12 months prior to the date the benefit is given.</p>	<p>Certain exemptions to the ban on conflicted remuneration will be simplified and some removed, including removing an exception to conflicted remuneration rules for the issue of financial products where advice has not been provided in the previous 12 months.</p>	Yes	<p>The government is progressing in drafting legislation to remove the exception of conflicted remuneration rules for the issue of financial products where advice has not been provided in the previous 12 months.</p>	<p>Yes</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>
13.5.	<p>Exception for agents or employees of Australian authorised deposit-taking institutions</p> <p>Remove the exceptions in section 963D of the Corporations Act and regulation 7.7A.12H of the Corporations Regulations for benefits given to an agent or employee of an Australian authorised deposit-taking institution for financial product advice about basic banking products, general insurance products or consumer credit insurance.</p>	<p>Certain exemptions to the ban on conflicted remuneration will be simplified and some removed, including removing an exception to conflicted remuneration rules for agents or employees of Australian Authorised Deposit-Taking Institutions.</p>	Yes	<p>The Government is progressing with draft legislation to remove the exception of conflicted remuneration rules for agents or employees of Australian Authorised Deposit-Taking Institutions.</p>	<p>Yes</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>

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13.6.	<p>Time-sharing schemes</p> <p>The Government should undertake a separate review of time-sharing schemes and their distribution to determine whether the regulatory framework for time-sharing schemes under Chapter 7 of the Corporations Act is appropriate. As part of this review, consideration should be given to whether the exception to the ban on conflicted remuneration for time-sharing schemes should be removed.</p>	<p>The Government will defer consideration of a review of time-sharing schemes (recommendation 13.6) until after the completion of the Treasury's review of the regulatory framework for Managed Investment Schemes.</p>	<p>Maybe — <i>Consideration deferred</i></p>	<p>The Government has deferred consideration of a review of time-sharing schemes until the Treasury's review of the regulatory framework for Managed Investment Schemes has been completed (as outlined in recommendation 11 above).</p>	<p>Maybe</p> <p><i>Consideration is deferred until the Treasury's review of Management Investment Schemes is completed.</i></p>
13.7.	<p>Life insurance</p> <p>Retain the exception to the ban on conflicted remuneration for benefits given in connection with the issue or sale of a life risk insurance product. Commission and clawback rates should be maintained at the current levels (60 per cent upfront commissions and 20 per cent trailing commissions, with a 2-year clawback).</p> <p>A person who provides personal advice to retail clients in relation to life risk insurance products and who receives a commission in connection with the issue or sale of the life risk insurance product must obtain the client's informed consent before accepting a commission. This consent should be recorded in writing and should be obtained prior to the issue or sale of the life risk insurance product. In order for the client to make an informed decision, the advice provider must disclose:</p> <ul style="list-style-type: none"> the commission the person will receive (upfront commission and a trailing commission) as a per cent of the premium; and the nature of any services the adviser will provide to the client (if any) in relation to the life 	<p>Standardised consumer consent requirements for life, general and consumer credit insurance commissions will be introduced.</p> <p><i>(accept recommendations 13.7 – 13.9).</i></p>	<p>Yes</p>	<p>The government is progressing in drafting legislation to introduce new standardised consumer consent requirements for life insurance commissions.</p>	<p>Yes.</p> <p><i>The measure is already progressing through proposed legislative changes.</i></p>

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	<p>risk insurance product (such as claims assistance).</p> <p>Consent will be one-off and apply for the duration of the policy.</p> <p>This requirement will only apply to life risk insurance products purchased after the commencement of this recommendation.</p>				
13.8.	<p>General insurance</p> <p>Retain the exception to the ban on conflicted remuneration for benefits given in connection with the issue or sale of a general insurance product.</p> <p>A person who provides personal advice to retail clients in relation to a general insurance product and receives a commission in connection with the issue or sale of the general insurance product must obtain the client's informed consent before accepting a commission.</p> <p>This consent should be recorded in writing and should be obtained prior to the issue or sale of the general insurance product. Consent is not required for any renewals of the same type of cover provided the client's original consent applied to the commission payable on any renewed cover.</p> <p>The advice provider must disclose details of the commission the provider will receive for the issue or sale of the general insurance product (including subsequent renewals) and any services the provider will provide to the client (if any). The disclosure of the commission amount can be set out in the form of a per cent range of the premium.</p>	Standardised consumer consent requirements for life, general and consumer credit insurance commissions will be introduced.	Yes	The government is progressing in drafting legislation to introduce new standardised consumer consent requirements for general insurance commissions.	Yes <i>The measure is already progressing through proposed legislative changes.</i>
13.9.	<p>Consumer credit insurance</p> <p>Retain the exception to the ban on conflicted remuneration for benefits given in relation to</p>	Standardised consumer consent requirements for life, general and	Yes	The Government is progressing draft legislation to introduce new standardised consumer consent	Yes

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	<p>consumer credit insurance. The current cap on commissions in relation to consumer credit insurance (of 20 per cent) should continue to apply.</p> <p>A person who provides personal advice to retail clients in relation to consumer credit insurance who receive a commission in relation to consumer credit insurance must obtain the client's informed consent before accepting a commission.</p>	<p>consumer credit insurance commissions will be introduced.</p>		<p>requirements for consumer credit insurance commissions.</p>	<p><i>The measure is already progressing through proposed legislative changes.</i></p>