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Decimal Response to ASIC Digital Advice Guidelines

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1 Executive Summary

This document provides ASIC with industry feedback on their Digital Advice Guidelines.

Decimal has invested over ten years of effort and millions of dollars to develop and refine Australia's first fully compliant, end-to-end robo advice solution. It is already used with confidence by large Australian enterprises to provide their members with digital financial advice, with over $3 billion in funds being provided with advice via the Decimal platform.

With this experience, Decimal is uniquely qualified to provide ASIC with responses to the specific questions which we have done in Section 2. Decimal has also taken the opportunity to raise four other important considerations:

- **Personal versus General advice**: Clarification is requested in relation to using digital advice for consumers to consolidate their accounts.
- **Omni channel digital advice**: Clarification is requested when a human adviser applies non-digital discretion in conjunction with digital advice
- **Ongoing digital reporting, post advice**: Clarification is requested when algorithms are involved in ongoing digital reporting, post receiving digital advice.

It is crucial that these guidelines are not interpreted as an impost and inhibit the take-up of digital advice, given its benefits. Technology designed properly for digital advice should already incorporate adherence to these guidelines. However, there are likely to be many questions in relation to the guidelines as robo advice expands in many directions. Therefore, it will be crucial for the regulator to be as responsive and collaborative as possible.

The opportunity is that the technology itself can be used to automatically monitor compliance, and indeed help perform any required rectification very efficiently and effectively.

Compliance audits carried out by human advisers have been an ongoing challenge to the industry and its many stakeholders. There is an opportunity for digital advice to 'get off on the right foot' because many of the seemingly intractable challenges associated with auditing manually-produced advice documentation are not applicable to digital advice. For example, within digital advice there is no post-editing of an advice document. Hence every input, action and output is captured and tracked. Making that information available to the licensee's compliance officers, or indeed to the regulator, can be as simple as granting them appropriate login access.

2 Decimal response to specific questions

This section provides Decimal's comments against specific ASIC proposals.

2.1 Proposal A1

We propose to release draft Regulatory Guide 000 Providing digital financial product advice to retail clients (RG 000) to assist digital advice providers in complying with the law.

Decimal Feedback

A1Q1: Overall, is the proposed guidance helpful? If not, why not?

Yes, both helpful and timely. Importantly, the guidance will perhaps need to be updated more frequently than other regulations. This is because take-up of digital advice will accelerate and the scope of the digital advice will broaden over time. We believe these factors will contribute to a need to continually review and update the regulations. Continual change brings its own challenges, but we believe it is inevitable and expectations need to be set among all stakeholders for ongoing refinement.

A1Q2 Is our proposed guidance (in Section D of the draft regulatory guide) helpful in assisting digital advice providers to provide scaled advice that is in the best interests of clients? If not, why not?

The helpfulness of the guidance around scalable advice will depend on the scope of the advice. If the advice is limited to only the client's main account, i.e. only their main super and/or main non-super account, and/or main insurance policies, then the scalable advice guidelines assist and suffice. If, however, the client has multiple accounts, without a specific role for each account, then it is in the interests of the client, and the industry as a whole, to look to consolidate. Scalable advice, as it stands, will require clarification in relation to the opportunity to use consumer-driven digital advice to address the account consolidation problem.

Specifically, in relation to paragraph 000.69 referring to 'reconstructing' an algorithm over a seven-year timeframe. It is simply not plausible or practical to achieve this. It is not just the algorithm, but the structure of the assumptions that drive the algorithm that would have to be reconstructed. For example, by 'structure of assumptions' it could mean that the structure of fees driving the products involved has changed. This, in turn, would have changed the algorithm code, and indeed could have changed the structure of the databases housing the assumptions. Hence, a complete copy of the code base, all the databases, and all the data feeds would have to be wholly archived every time something has changed.

A robust and comprehensive alternative is to automatically archive a 'drilldown' report, in conjunction with the generation of a digital SOA. This report is designed to fully unpack the algorithm and every assumption contributing to its calculations. This enables, at any time in the future, to fully diagnose or investigate any potential anomaly and potentially correct, with accuracy, any wrong advice.

2.2 Proposal B1

We propose to require that a digital advice licensee has at least one responsible manager who meets the minimum training and competence standards for advisers. To assist existing AFS licensees that may not have a responsible manager who meets these standards, we propose a transition period of six months.

Decimal Feedback

B1Q1: Do you agree with this proposal? Please provide supporting arguments.

Please note that we are commenting as a technology company and not as a current or potential licensee. We believe there should be consideration for a digital advice licensee to have at least two responsible managers. One who meets the minimum training and competence standards for advisers and another who has experience managing technology operations. Even if licensees wholly outsource the operation of technology, there is accountability in relation to the advice technology platform on behalf of the licensee.

We agree with the specifics outlined below in relation to the proposed responsible manager, but we believe that similar standards need to be devised for a second responsible manager accountable for the technology operations.

We do not have comment to add in relation to the specific questions below.

B1Q2: Do you agree that, if the changes proposed in the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2015 become law, at least one responsible manager should:

a. *meet the new higher training and competence standards (i.e. have a degree or equivalent, pass an exam, complete a professional year and undertake continuing professional development); and*

b. *(b) comply with the proposed ethical standards (i.e. comply with a code of ethics and be covered by an approved compliance scheme)?*

B1Q3 Are there any aspects of the proposed higher training and competence standards in the Corporations Amendment (Professional Standards of Financial Advisers) Bill 2015 that should not apply to at least one responsible manager of a digital advice licensee?

B1Q4 Is the proposed transition period of six months long enough for existing AFS licensees to comply with the requirement to have a responsible manager who meets the minimum training and competence standards? If not, why not?

B1Q5 Please provide feedback on any costs or benefits that may apply to your business under the proposal.

2.3 Proposal C1

We propose to issue guidance on the ways in which we think digital advice licensees should monitor and test the algorithms underpinning the digital advice being provided.

Note: See RG 000.68–RG 000.70 of the draft regulatory guide for more details.

Decimal feedback

C1Q1 Do you think we should be more detailed in our guidance on the ways in which we think digital advice licensees should monitor and test algorithms? If so, what additional guidance should we provide?

We believe that over time there will be justification for the guidelines in this area to be more detailed, and we think it is important to set expectations going forward. The reason to hold off is simply to enable all stakeholders to gain more experience working with digital advice. For example, the depth and breadth of the advice topics that we are supporting has a direct impact on the varied depth and breadth of testing required, and we review it continually. Hence, attempting to apply too much detail too soon could be counter-productive. We welcome and invite ASIC to collaborate and learn as we believe it is crucial to get the specificity around testing regulations right.

C1Q2 Please provide feedback on any costs or savings to your business as a result of this proposed guidance.

As a digital advice technology provider, and not a licensee, the costs to us are negligible because we have incorporated all the key elements into the original platform design and its development. We believe this guidance has the potential to provide significant savings in terms of taking digital advice to market, as it has the potential to help address the risk concerns of existing licensees looking to add digital advice to their existing advice channel options.

C1Q3 Do you think we should introduce a self-certification requirement which would require digital advice licensees to certify that their algorithms have been adequately monitored and tested?

Yes, we do believe in the benefits of self-certification and that it could be introduced. However, its introduction should be only after a period where all stakeholders, and ASIC, have had a better opportunity to become familiar with how algorithms are being monitored and tested. This will enable ASIC to be confident when providing clear and detailed guidelines around the self-certification requirements. If there is ambiguity, it has the potential to intimidate existing licensees taking on digital advice if they feel they might not be complying adequately. The challenge is always around the scope of test cases, frequency of testing, and overlaying product and other differences on the test cases.

C1Q4 Should we require independent third-party monitoring and testing of algorithms? If so, in what circumstances would this be warranted?

If the licensee is using a third-party technology provider for their digital advice offering, then independent third-party monitoring and testing of the algorithms is effectively already in place because the provider is obligated to test their algorithms independently of the licensee. This can be part of the guidelines, even though any sourcing of technology would naturally entail independent testing. If, however the licensee was developing their own digital advice technology in-house, then third-party monitoring and testing of their algorithms should be mandatory.

The challenge is to specify the level of detail. The outcome of an algorithm can be triggered by many events, ranging from small PDS changes like fees, changes in model portfolios, or economic assumptions, through to major regulatory changes. It would not be possible to apply potential outcome materiality to limit the trigger for engaging a third-party to re-run a complete bank of tests, as well as ensure that the test cases are appropriately representative. Hence, the level of detail around the comprehensiveness of the tests would need to be appropriate before any requirement was made mandatory. It would be counter-productive to mandate third-party testing, but allow that testing to be below a minimally sufficient level.

3 Personal versus General advice

Clarification is requested in relation to using digital advice for consumers to consolidate their accounts.

Consumer-driven digital advice is the ideal vehicle to address the major industry challenge of super consolidation, but the regulations around scaled and personal advice might require review or clarification.

The benefits and challenges around account consolidation are well understood and the root cause is currently a catch 22:

- it is too complex and potentially risky for a consumer to attempt to do it themselves, yet
- it is uneconomic for an adviser to help all segments of consumers.

Even if it were increasingly economic for an adviser to provide personal advice around product consolidation, for the mass majority of consumers without any special requirements, it is paradoxically hard to evidence the benefit, quantitatively or qualitatively, of one mainstream product over all others.

A digital algorithm, under personal advice, would have the same challenge of recommending and justifying a particular product over others. This is because, for the particular client's situation, there is likely more than one product that can serve the client's personal purpose, and cost differences to the client relatively immaterial. Hence, simply demonstrating this personalised comparison to the client is the ideal role of digital advice. In other words, to use digital advice to produce a personalised comparison of products to the consumer, but not making a recommendation and making it clear that the consumer is making the choice. Clear regulation is required to enable this and it may well be an example where a regulation must be applied differently in a 100% consumer-driven digital advice context. This is because within a digital advice context it is possible to evidence that a specific product recommendation was not made.

To manage the risks, the other important element to making the above work is leverage the triage capabilities of digital advice three ways:

1. disqualify any clients whose requirements or current accounts are special in any way and indeed try to triage the client to an adviser who ideally specialises around their particular needs
2. quarantine any existing accounts from being consolidated that have any risk of loss of benefit – for example super accounts with insurance benefits
3. quarantine any accounts that are complicated such that it is impossible to normalise a comparison or in a way that a non-financially literate person could not interpret the comparison.

The opportunities afforded by digital advice itself will amplify the need to address the account consolidation challenge. This is because for many other advice topics, if the client has multiple accounts, especially for no discernible reason, then it becomes exponentially difficult to apply algorithms based on universal rules, and hence they will be stopped from digital advice and told why. Yet they will rightfully expect a digital advice driven solution to consolidating their multiple accounts, especially given they did not choose to open them for uniquely discernible reasons.

An example of why a digital advice algorithm has difficulty working with multiple accounts of the same type is any advice topic involving the withdrawal of funds, e.g. advice to withdraw a calculated amount of cash (e.g. to pay off a mortgage) or transfer a calculated amount from super to TTR or ABP. Exactly how to much to withdraw from one account over another is difficult to automate based on universal rules. This is because there could be all sorts of reasons for choosing to withdraw some or all required funds from one or other existing accounts. It could be for tax reasons, fee savings reasons or as a reason to close an account or two in the process. The materiality of the direct dollar reasons could be hard to judge and apportion.

Hence the mutual objective for the client, the industry and the national good is to consolidate redundant duplicate accounts.

4 Omni-channel digital advice

Clarification is requested when a human adviser applies non-digital discretion in conjunction with digital advice

The regulations define digital advice as wholly digital, implying no human adviser intervention.

However, the more potentially impactful the 'transaction', then the availability of human based support becomes more important. When assistance is desired, or required, then immediate and seamless access to an adviser will be required, lest the customer chooses to not bother to continue. For the access to be immediate and seamless, either data would have to pass from one technology to another; or the consumer and adviser are both looking at the same data, and accessing the same algorithms, to avoid waiting for any assistance.

If the adviser's access to the technology allows manual intervention, but the intervention is based on the outcome of an algorithm, then is this advice still constituted as digital advice?

This definition is critically important because if the guidelines are expected to apply as long as at least a component of the advice is algorithmic, then this needs to be clear, including how the human adviser's intervention needs to be logged and audited in conjunction with the algorithmic portion of the advice. We don't believe that the guidelines should be allowed to be bypassed simply because there was an element of human intervention in conjunction with any automated processing.

For example, an algorithm could be deployed to calculate the optimum amount of super to transfer to a TTR and the optimum amount of income to draw. The technology could also perform all the required triage steps. It could be that a human adviser is deployed to simply round the amount to be transferred based around the output of the algorithm. Whilst it is of course possible to apply a rounding rule, that could also be overwritten if the client has multiple super accounts, if the total balance of a particular super account is just under the optimum amount, and it is opportune to simply close that account and retain the others.

Insurance needs analysis is another example where it could be wholly algorithmic but could also offer the opportunity for an adviser to intervene and round up or down, or adjust based on a variety of reasons.

Rather than create complications, either in the guidelines or in practice, we believe it is critical that the same guidelines apply as long as a level of automation is involved in the advice, irrespective of the level of adviser intervention – whether it is nil, minor or significant.

The worst outcome would be to enforce the intervention of a human adviser, even when it is not warranted and not requested by the consumer, in order to bypass the scope of the regulations.

5 Ongoing reporting post advice

Clarification is requested when algorithms are involved in ongoing digital reporting, post receiving digital advice.

Once a client has received digital advice, which invariably involved inputting at least some aspects of their financial goals or objectives, they would rightfully expect progress against those objectives to be available, and available digitally.

Seeking clarification is not to suggest that digital monitoring and reporting should be a mandatory requirement, but rather, if ongoing tracking and reporting is to be automated and available digitally, then many of the guidelines could equally apply. This is because monitoring and reporting against objectives would still involve extensive data manipulation and calculations and these justify the same level of rigour, validation and audit trail.

For example, the original advice might have involved generating a future projection based on a variety of variables and assumptions. After an elapsed period, an indication of how actual progress compares to the original projection would be expected. Unless progress was on track, then supplementary calculations would be of benefit. For example, regenerating a new future projection based on updated starting assumptions, or generating suggestions as to what the consumer could do to get back on track. Because the consumer is not overtly seeking advice when receiving or accessing their ongoing reporting and monitoring, then the regulations need to be clear in this area.