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16 May, 2016

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Australian Securities and Investments Commission

By email: brooke.stewart@asic.gov.au

Dear Ms Stewart,

Consultation Paper (CP) 254 - Regulating digital financial product advice

Thank you for the opportunity to provide comments on Consultation Paper 254.

About SuperEd

SuperEd is focused on helping super fund members plan for their retirement and take the actions necessary to achieve a better and more sustainable income in retirement. We do this through the provision of affordable online advice solutions encompassing forecasting, education and coaching, planning, advice and personal investment management.

General comments

As a startup business providing digital financial advice, SuperEd has had to navigate through the current regulatory framework to develop our advice solution. The absence of guidance in a number of key areas has caused delays in determining the most appropriate approach to our end to end advice process. Therefore SuperEd is supportive of ASIC's efforts to provide additional guidance to the provision of digital financial advice in Australia.

Feedback on proposals and questions

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.

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

SuperEd is supportive of ASIC's efforts to provide additional guidance to the provision of digital financial advice in Australia. The draft Regulatory Guide covers a number of the key areas where providers of digital advice require guidance. The guidance outlined in areas such as adequate risk management systems and scaled advice is welcome.

There are two additional areas where SuperEd would encourage ASIC to consider providing guidance to digital advice licensees.

The first area is the provision of 'regulatory style' information. Our research has shown that users take between 5-10 seconds to evaluate whether they will continue past a website's landing screen. In addition our research has shown that a landing screen which provides 'regulatory style' content and asks a user to click and view terms and conditions or a document (e.g. FSG) causes more than 50% of the users to exit the website immediately. This is not an optimal outcome when the goal is to provide more advice to more Australians.

Early in the user journey there is a trade off between an optimum user experience and the provision of 'regulatory style' content. The provision of this type of content wording in static documentation at the start of the advice process is often without any context for the user (e.g. why are you telling me about who I can complain to when I haven't even started to engage with you regarding my advice issue).

We believe the digital environment offers the opportunity to provide the relevant information to the user in different ways than the use of a single static document. For example information about the licensee and the types of advice they can provide could be made available at the start of the process at all users, whereas information regarding the complaints process could be made available only if the user reaches the appropriate 'trigger point'. SuperEd believes this approach would aid the user's understanding and improve their experience.

SuperEd suggests ASIC provides additional guidance on the flexibility available to digital advice licensees when providing this 'regulatory style' information to users.

The second area where ASIC to consider providing guidance to digital advice licensees is when should the obligation to provide a Statement of Advice occurs.

Our discussions with super funds have indicated that almost all their members 'play around' (entering false data) with their online calculators and tools till they become comfortable with how the calculator or tool works. Only then do they input their correct information. Obviously this process is different to what happens during the provision of advice face to face.

One of the key challenges for a digital advice licensee is to distinguish between those users 'playing around' and those users who are ready to purchase the advice. Users may have multiple interactions over days/weeks with the digital advice solution before they are ready to purchase. Sometimes these sessions can be interrupted unexpectedly, e.g. connection is lost.

The digital advice licensee providing personal advice has an obligation to provide an SoA to the user when certain criteria are met. However, even if these criteria are met, the licensee may find it difficult to determine when the user has finished 'playing around' and is now ready to purchase the advice. The user experience will be poor if an SoA is automatically produced each time the user ends a session on the chance that that is their final position. One option is to restrict the need to provide an SoA until the user indicates by way of a positive action (e.g. clicking a button) that they have finished and are ready to purchase.

SuperEd believes ASIC should consider providing guidance on when an SoA is required to be made available to the user.

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?

We found the proposed guidance covering scaled advice useful. The guidance is consistent with the approach SuperEd has taken to:

- designing our user experience
- developing our end to end advice process
- designing our 'triage' process so only appropriate users continue in our advice solution (and the remainder are actively forwarded to alternative advice channels (e.g. call centre))
- implementing our quality assurance process to test advice output

We believe additional guidance by way of examples as to how scaled advice can be provided using digital advice would be beneficial.

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.

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

SuperEd agrees that each digital advice licensee should have at least one responsible manager who meets the minimum training and competence standard (RG146). Our experience has been that the responsible manager has had a vital role in the development of our digital advice solution.

By way of example some of the key areas the responsible manager has been responsible for have included:

- Defining the end to end advice process. This has included:
 - Selection of advice offered as personal advice and general advice
 - Information required to be captured from the user (fact finding)
 - Education / coaching material available for each advice topic
 - Creation of advice documentation (e.g. Statement of Advice) content
 - Determination where in the user experience different disclosure needs to occur
- Creating the advice process business requirements which were then 'coded' by the technology team
- Preparing the testing plan (including scope, individual scenarios) for the technical development, sourcing independent output and assistance to validate test results, and ultimately signing off the test output prior to approval for each release to go live

In addition, the responsible manager monitors all regulatory and other announcements to determine the impact on the existing SuperEd advice solution, and determine if any changes are required.

Many of these responsibilities are consistent with the areas outlined in the Regulatory Guide.

Our experience is the actions outlined above require an individual to have the appropriate training and competency standards.

In addition, SuperEd's experience is that these actions could not be performed effectively by a person who was not part of a digital advice licensee team; e.g. 'rented' for their training and competency standards but not part of the organisation on a day to day basis.

As outlined in the Regulatory Guide (RG 000.58) at the heart of each digital advice businesses is technology. We agree with your position that it is important to have the appropriate expertise within each licensee to manage the technology function.

We would suggest ASIC consider whether each digital advice licensee should, in addition to having a responsible manager who has the appropriate training and competency standards in advice, have a responsible manager who has the appropriate expertise in technology.

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

We believe that should the Bill outlined above become law, at least one responsible manager within each digital advice licensee should meet the training and competency standards, and ethical standards.

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?

All aspects of the proposed higher training and competence standards should apply to at least one responsible manager of each 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?

We believe that the proposed transition period of six months is sufficient.

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

SuperEd has an Australian Financial Service Licence, and a responsible manager who meets the minimum training and competence standards for advisers. Therefore we will incur negligible additional costs in complying with the proposal.

Proposal C1 - We propose to issue guidance on the ways in which we think digital advice licensees should monitor and test algorithms underpinning the digital advice being provided.

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?

SuperEd agrees that guidance on how digital advice licensees should monitor and test algorithms is beneficial. We believe:

- sections RG000.68-70 clearly set out ASIC's expectations regarding monitoring and testing algorithms
- the level of detail provided to explain each expectation is sufficient, and
- the scope of the expectations is appropriate

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

SuperEd currently complies with the monitoring and testing algorithm expectations as listed in sections RG000.68-70. Therefore we will not incur any additional costs to comply with the proposed guidance.

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?

SuperEd is broadly supportive of the introduction of a self-certification requirement for digital advice licensees. This support is conditional on the self-certification requirement being reasonable and not unduly onerous on licensees.

Our view is that a reasonable certification process is unlikely to impose a significant additional administrative strain on a licensee. The process surrounding the development of a licensee's algorithm (including formal requirements, extensive documented testing, quality assurance of outputs, etc) is consistent with a certification framework.

This self-certification could be implemented as an additional requirement for digital advice licensees as part of their annual certification to ASIC.

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

SuperEd doesn't believe that requiring independent third-party monitoring and testing of algorithms is necessary in most circumstances.

We believe that the decision to commission a third-party should be left to the individual licensee. Licensees will commission third-party assistance for a variety of reasons.

These reasons could include:

- to further mitigate risk surrounding the advice algorithm and supporting processes
- as a requirement of their board, clients or PI insurer
- as a marketing advantage

Digital advice licensees may be reluctant to commission a third-party to monitor and test their algorithm. A key reason will relate to protection of intellectual property.

Each digital advice solution is likely to be powered by a different algorithm. Many of these algorithms will have a level of unique intellectual property. In the case of SuperEd two trade marks surrounding our advice algorithm have been successfully applied for.

The firms who are the natural providers of independent algorithm testing services (e.g. actuarial firms) also provide services in the digital advice market. These services include the provision of retirement income and other calculators. Many digital advice licensees will be reluctant to 'open the bonnet' and allow potential competitors to examine their algorithms.

SuperEd provides our services primarily to superannuation funds. Our experience is that these funds will undertake their own due diligence of our advice algorithms (using their internal technical and compliance teams) to satisfy themselves as to their robustness before our advice solution is made available to their fund's members. This due diligence is independent of whether the fund will be providing digital advice under our AFSL or 'white labeling' our advice algorithm using their licence. We would expect our competitors will also be subject to the same due diligence process.

Therefore we don't believe there is any benefit to the public or digital advice licensees themselves for ASIC to require independent third-party monitoring and testing of algorithms. This decision should be left to the individual licensee.

Our high level estimate of the initial cost of third party certification of our advice algorithm is likely to be in the order of \$70-110,000. Additional certification would be required for each major release (likely at least quarterly). This ongoing certification would be, depending on the scope of the release, in the order of \$20-\$40,000. Therefore our estimated first year costs of third party certification of our advice algorithm would be in the order of \$210,000.

The only circumstances we believe ASIC should require a licensee to use an independent third-party to certify their advice algorithm would be if ASIC had cause to believe the advice algorithm may be producing non-compliant advice.

If you would like to discuss any aspects of the content of this submission, please do not hesitate to contact me on 0422 003 582 or by email scott_machin@supered.com.au.

Yours sincerely

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SuperEd Pty Ltd