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Natasha Nguyen
Lawyer
Financial Advisers
Australian Securities and Investments Commission
Email: Natasha.nguyen@asic.gov.au

Section 1.01 ASIC Consultation Paper 284

Section 1.02 Example Statement of Advice for life insurance: Update to RG 90

Industry Fund Services (IFS) welcomes the opportunity to make a submission to this consultation paper.

Section 1.03 About IFS

IFS provides a range of services to not for profit superannuation funds. Our services include:

- providing financial advice to fund members;
- cross fund matching and consolidation of lost and inactive superannuation accounts, through our eligible rollover fund, AUSfund;
- providing insurance advisory services to funds; and
- collecting unpaid superannuation contributions on behalf of members.

IFS's Advice Solutions division currently provides advice services to members of 15 industry super funds. These services include advice about superannuation, including insurance within superannuation and retirement planning. Advice is delivered through a range of different channels including:

- general advice, for example seminars;
- generic financial calculators under ASIC's relief set out in ASIC Corporations (Generic Calculators) Instrument 2016/207;
- more sophisticated digital advice tools;
- scaled advice, delivered over the phone and in person; and
- comprehensive face-to-face financial planning.

Advisers are either employed by IFS, or employed by an industry superannuation fund and authorised by IFS to provide advice under the IFS Australian Financial Services Licence.

Our advisers are not and have never been paid commissions for advice.

Section 1.04 Disclosure of commissions

A key proposal of ASIC's review of Statements of Advice is stronger remuneration disclosure through prominent, upfront disclosure of commissions on the front cover of the example Statement of Advice, under a clear heading, and a detailed breakdown of commissions immediately before the authority to proceed section of the Statement of Advice, which the client is required to sign.

ASIC's 2014 surveillance of personal advice about life insurance found:

- unacceptable levels of poor quality advice – 37% of advice reviewed failed to comply with the laws in force at the time the advice was given; and
- a strong, statistically significant correlation between high upfront commissions and poor customer outcomes - 96% of poor advice was given by adviser paid upfront commissions.

Subsequent developments, including regulations made under the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017*, prescribe circumstances where commissions are, or are not, considered to be conflicted remuneration but do not ban commissions for advice about retail life insurance.

Given that advisers can still receive commissions for advice about retail life insurance, and the clear evidence that commissions are a cause of poor quality, non-compliant advice, IFS strongly supports requiring all advisers that receive commissions to include prominent, upfront disclosure of this on the front cover of Statements of Advice, and immediately before the authority to proceed. Mandating this will make it more likely clients will read and understand this information.

In the longer term, IFS supports banning all forms of commissions for life insurance advice.

Section 1.05 Structure of example Statement of Advice

IFS supports ASIC's use of methodologies and principles from the field of behavioural economics to inform the design on the example Statement of Advice. In the example, information about the clients' current insurances is presented on page 5 of the example Statement of Advice in the following order: Income protection, followed by life and TPD cover for Brad, and finally life and TPD for Zara. However, the recommended cover is presented on pages 3 13 and in a different order. This makes it difficult for the reader to compare the current and recommended insurances. We suggest that information about the clients' current and recommended insurances be presented in the same order to make it easier for the clients to compare the two.

Section 1.06 Timeframe for advice review

Page 8 of the Example Statement of Advice states that the advice should be reviewed annually. Insurance advice should also be reviewed if the situation of the insured changes. For example, should Brad and Zara have another child, separate, or experience a change in employment circumstances, a review of the advice would be appropriate. We suggest including this additional basis for review in the final example Statement of Advice.

Section 1.07 Does advice meet all legislative requirements?

We appreciate that the purpose of Consultation Paper 284 is to provide guidance on preparing Statements of Advice and that ASIC has not included in the example Statement of Advice all the information that ASIC would usually expect to find in the customer file.

IFS is concerned that the advice as described in the example Statement of Advice attached to Consultation Paper 284 may not comply with all legislative requirements for personal advice to retail clients. In particular, we are concerned that the advice may be scoped in a way that may not be consistent with the duty to act in the best interest of clients introduced in 2012, as part of the Future of Financial Advice reforms.

(a) Debt reduction

In the example, the clients owe \$440,000 and instructed their adviser that where possible, they would like all surplus cash to be used to reduce their mortgage. The example Statement of Advice then states that the clients:

- agreed that it is important to balance their need for insurance cover with their goal of paying down mortgage debt as quickly as possible; and
- would prefer any insurance premiums to be funded using their superannuation benefits (p 7).

We are concerned that it is not clear from the examples Statement of Advice how clients who identified paying off their mortgage as soon as possible as an objective received advice that completely scoped out this objective, without any warning of the risks and consequences of doing so, while simultaneously recommending that the client spend \$5,250 per annum on insurance premiums.

We suggest that the final guidance address this issue.

(b) Funding insurance through superannuation

Further, in the example, the clients are advised to use their superannuation contributions to fund the purchase of their life and total and permanent disability cover.

In Report 413 *Review of retail life insurance advice*, ASIC found:

In many files, we found that advisers were recommending policy bundles and a sum insured for each policy type resulting in an aggregate premium that was unaffordable to the client. The recommended strategy to manage this was to pay the insurance premium from the client's superannuation guarantee contributions (REP 413.230).

In Report 413, ASIC also noted:

- appropriate advice that complies with the best interests duty and related obligations should actively consider the long-term effects of insurance costs on clients' superannuation savings;
- the true costs and effects of this approach should be discussed with clients and justified; and
- advisers should consider a contribution strategy to supplement retirement savings depleted by the cost of insurance premiums (REP 413.231-233).

The example Statement of Advice attached to Consultation Paper 284 states that the clients' retirement savings are expected to decrease due to the increase in insurance premiums funded using their superannuation. It includes an estimate that Brad's superannuation will be \$17,730 and Zara's superannuation will be \$5,300 lower in 9 years (p 18).

We are concerned that this modelling is not consistent with the best interests duty and related obligations. In 9 years, the clients will be aged just 52 and 50 respectively. In our view, consistent with ASIC's guidance in REP 413, appropriate advice that complies with the best interests duty and related obligations should actively consider the *long term* effects of insurance costs on clients' superannuation savings. To achieve this, the modelling should estimate the impact of using superannuation contributions to fund insurance premiums on the clients' retirement savings *at retirement*.

Subsequently, the example Statement of Advice states that insurance premiums will represent 23% of Brad's superannuation contributions and that the adviser considered whether Brad should make additional contributions to offset the impact of the

premiums on his retirement savings (p 22). The example Statement of Advice states that the adviser does not recommend this given that the clients want to reduce their mortgage.

We are concerned that it is not clear from the Statement of Advice how advice to fund insurance premiums through superannuation was scoped to exclude advice about how to overcome the impact of this strategy on the clients' retirement savings, without adequate warning of the risks and consequences of doing so.

We suggest that the final guidance also addresses this issue.

Section 1.08 Requirement for adviser to talk through Statement of Advice with customer

At paragraph 49 of Consultation Paper 284, ASIC states that it expects an adviser will talk through Statements of Advice with customer. In practice however, this will not always be possible, because not all advice channels involve a human adviser at the point the advice is delivered, or at all. For example:

- Some advisers provide scaled advice through a two-stage process, consisting of a telephone call, followed by the production of a Statement of Advice which is emailed or mailed to the client.
- Digital advice tools also produce advice without any involvement of a human adviser.

Requiring the involvement of a human adviser is inconsistent with other guidance issued by ASIC, particularly guidance which recognizes the potential for digital advice to be a convenient and low-cost option for retail clients who would not otherwise seek advice. This includes Regulatory Guide 221 *Facilitating digital financial services disclosure* and Regulatory Guide 255 *Providing digital financial product advice to retail clients*.

ASIC's final guidance should clarify that in the above situations, a provider giving advice about insurance does not need to also provide a human adviser who talks each client through their Statement of Advice.

Section 1.09 Digital version of Statement of Advice

The consumer testing that underpins Consultation Paper 284 used paper versions of the example Statement of Advice. However, disclosures are increasingly being provided digitally. This development has been supported by Regulatory Guide 221, *Facilitating digital financial services disclosures*. We suggest that ASIC consider developing an example digital Statement of Advice to help the industry understand ASIC's expectations and thinking about the application of methodologies and principles from behavioural economics in the digital context.

If you have any questions about this submission please contact Chris Joiner.

Yours sincerely



Chris Joiner, CFP®

Executive Manager

Advice Solutions

M 0488 016 876

T 03 9657 4305

E cjoiner@ifs.net.au

W ifs.net.au