



AUSTRALIAN INSTITUTE of
SUPERANNUATION TRUSTEES

22 November 2019

Mr Stephen Glenfield
Chief Executive Officer
Financial Adviser Standards and Ethics Authority
Level 21, 133 Castlereagh Street, Sydney
NSW 2000

Email: consultation@fasea.gov.au

Dear Mr Glenfield,

In brief:

AIST supports the intent of the Code in encouraging higher standards of behaviour and professionalism in the financial advice industry however AIST seeks further clarification within the guidance on how the code applies to the provision of scaled and in particular intra-fund advice.

FASEA consultation on *draft FG002 Guidance to the Code of Ethics*

The Australian Institute of Superannuation Trustees (AIST) welcomes the opportunity to respond to this consultation.

We are supportive of FASEA providing additional guidance in order to assist in the understanding of the Code however submit that there remains insufficient clarity on how aspects of the Code will apply to the provision of scaled (particularly intra-fund) advice.

More guidance is needed on how the code applies to the provision of intra-fund advice

As noted in RG 244¹ all advice is scaled to some extent – advice is either less or more comprehensive in scope along a continuous spectrum. The premise that all advice is scaled is in contrast to the Code guidance which suggests that an adviser needs to always take into account a client's broader and long-term future circumstances.

This is illustrated by Standard 2 guidance which states that to act in a client's best interests' you need to take into account the client's broader, long-term interests and likely future

¹ ASIC, RG 244 Giving information, general advice and scaled advice (2012), available from <https://asic.gov.au/regulatory-resources/find-a-document/regulatory-guides/rg-244-giving-information-general-advice-and-scaled-advice/>

circumstances. This concept is further outlined in the guidance that ‘you will need to inquire more widely into the client’s circumstances.

If a much broader conversation is expected with the member, then this would significantly increase the cost to provide advice. This may act as a powerful disincentive to a member to seeking advice. It also does not recognise that comprehensive advice is not needed by all members. The need to be able to offer cost-effective scaled advice is fundamental, particularly given research that has shown that Australians express a preference for piece-by-piece advice rather than holistic or comprehensive advice².

Legislation recognises the need for scaled advice. Section 961B (2) of the *Corporations Act* relates to the subject matter of advice sought by the client and the circumstances of the client relevant to the subject matter of the advice. It is this section that allows for a client seeking scaled advice and that the inquiries made by the adviser will be tailored to the advice sought whilst still acting in the best interests of a client. Therefore, it is unhelpful that the proposed Code of Ethics Guidance prescribes a different version of acting in a client’s best interest whereby an adviser may follow the steps in 961B (2) when providing scaled advice and still not comply with the Code of Ethics.

Examples

The examples within the guidance provide a practical way of illustrating how an adviser should be adhering to the Code. Given that superannuation and retirement advice is the most common type of advice received³ (representing approximately one third of industry revenue for the year 2016-2017) it would be helpful if there were more examples that related to this topic. In contrast there are numerous examples relating to SMSF and stockbroking.

General advice

Throughout the Guidance and Code there is no reference to general advice, except for example 11 (lack of informed consent to general advice). If an example is to be included, we advocate that more guidance is needed, given that general advice encompasses a wide range of activities that are of value to consumers. Unconflicted general advice is an efficient way for superannuation

² ASIC, REP 224 Access to financial advice in Australia (2010), available from <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-224-access-to-financial-advice-in-australia/>

³ Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, Background paper: Some features of the Australian Financial Planning Industry (2018), available from <https://financialservices.royalcommission.gov.au/publications/Documents/features-of-the-australian-financial-planning-industry-paper-6.pdf>

funds to deliver simple advice to a high volume of members facing similar issues. Examples of member services categorised as general advice include:

- Retirement planning seminars
- Online calculators
- Call Centres
- Newsletters and research reports.

Value of advice

Finally, we wish to raise that there is still insufficient clarity in what is meant by Standard 7 which states:

You must satisfy yourself that any fees and charges that the client must pay to you or your principal, and any benefits that you or your principal receive, in connection with acting for the client are fair and reasonable, and represent value for money for the client.

Given that value for money is very subjective it remains unclear what is meant by this aspect of the Code and no further guidance is provided except for stating that it is an integral part of dealing fairly with a client and acting in their best interest.

For further information regarding our submission, please contact Zach Tung, Policy and Regulatory Analyst on 03 8677 3851 or at ztung@aist.asn.au.

Yours sincerely,



Eva Scheerlinck
Chief Executive Officer

The Australian Institute of Superannuation Trustees is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$1.4 trillion profit-to-members superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.