



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 244

Giving information, general advice and scaled advice

December 2012

About this guide

This guide is for Australian financial services (AFS) licensees, authorised representatives and advice providers who give information and advice to retail clients, and explains:

- the differences between giving factual information, general advice and personal advice; and
- how to meet the advice obligations in Ch 7 of the *Corporations Act 2001*, including the best interests duty and related obligations, when giving 'scaled' advice (i.e. personal advice that is limited in scope).

Our guidance aims to facilitate access for retail clients to good quality information and advice about all financial products.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in December 2012 and is based on legislation and regulations as at the date of issue.

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

A key objective of the Government's Future of Financial Advice (FOFA) reforms is to facilitate access for retail clients to financial product advice, including 'scaled' advice (i.e. personal advice that is limited in scope). This regulatory guide sets out ASIC's guidance in light of these reforms.

The guidance and examples set out in this guide are for *all* Australian financial services (AFS) licensees, authorised representatives and advice providers who give information and advice to retail clients.

Our guidance seeks to:

- explain the differences between giving factual information, general advice and personal advice (see Sections B and C);
- provide guidance on how you can give scaled advice that complies with the obligations in Ch 7 of the Corporations Act, including how to comply with the best interests duty and related obligations, introduced as part of the FOFA reforms (see Section D);
- explain the importance of communicating to a client the service that is being provided to them (see Section E);
- explain that the Corporations Act is generally neutral about how advice is delivered (see Section F); and
- provide industry-specific examples of giving factual information, general advice and scaled advice (see the appendix).

ASIC guidance and Government FOFA reforms

- RG 244.1 This regulatory guide provides guidance for *all* Australian financial services (AFS) licensees, authorised representatives and advice providers who give information and advice to retail clients about financial products. It builds on and replaces our guidance previously published in Regulatory Guide 200 *Advice to super fund members* (RG 200) on giving information and advice about superannuation to retail clients. We have now withdrawn RG 200.
- RG 244.2 This regulatory guide has also been updated in response to the Government's Future of Financial Advice (FOFA) reforms, which seek to facilitate access for retail clients to financial product advice, including 'scaled advice' (i.e. personal advice that is limited in scope).
- RG 244.3 The *Corporations Amendment (Future of Financial Advice) Act 2012* and the *Corporations Amendment (Further Future of Financial Advice Measures) Act 2012*, containing the final FOFA reforms, commenced on 1 July 2012.

RG 244.4 This regulatory guide sets out our guidance on how to give factual information, general advice and scaled advice that complies with the law, including the best interests duty and related obligations, introduced as part of the FOFA reforms and now contained in Div 2 of Pt 7.7A of the *Corporations Act 2001* (Corporations Act).

Improving access to good quality information and advice

RG 244.5 This regulatory guide aims to improve Australian retail clients' access to good quality information and advice about all financial products by giving guidance to AFS licensees, authorised representatives and advice providers on giving information, general advice and scaled advice.

RG 244.6 Our research has found that many Australian consumers would like more information and advice about investment issues. ASIC's Report 224 *Access to financial advice in Australia* (REP 224), released in December 2010, found that a third of Australians 'are now expressing a preference for piece-by-piece advice rather than holistic or comprehensive advice'.

Note: See REP 224 at paragraphs 53 and 62. A copy of this report can be downloaded at www.asic.gov.au/reports. The original data was taken from *Advice and limited advice report*, Investment Trends, Sydney, December 2009.

RG 244.7 Many AFS licensees are already providing scaled advice that is limited in scope and complies with s945A of the Corporations Act. Under s945A, advice must be appropriate for the client. Section 945A will be repealed on 1 July 2013, and is replaced by the best interests duty and related obligations.

RG 244.8 While many AFS licensees are already giving scaled advice, they are not uniformly providing good quality advice. In March 2012, we released Report 279 *Shadow shopping study of retirement advice* (REP 279). This report found that, 'while the majority of advice examples we reviewed (58%) were adequate, 39% of the advice examples were poor, and two examples were good quality advice (3%)'.

RG 244.9 The scope of most of the advice we reviewed in the shadow shopping research was limited in some way. When reviewing advice examples, we saw some evidence of the scope of the advice being inappropriate. In several instances, particular topics were excluded from the scope of the advice, to the potential benefit or convenience of the adviser, and to the significant detriment of the client.

Note: In this regulatory guide, references to 'client' mean 'retail client' as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations 2001 (Corporations Regulations).

RG 244.10 For example, our research found that some advice providers excluded the consideration of a client's debts from their retirement advice. However, if these debts were significant, retirement advice could not have been properly

provided without taking this into consideration. In such a situation, a client might mistakenly think that the advice about their retirement was comprehensive, and that all of their relevant circumstances had been taken into account.

- RG 244.11 REP 279 outlined that, even for advice on retirement planning that is very limited in scope, there are some issues that cannot reasonably be excluded from the scope. For example, it would be difficult for an advice provider to recommend significant extra salary sacrificing to superannuation without some understanding of the client's cash flow and other financial commitments.
- RG 244.12 Advice providers whose advice examples were rated as 'good' by us had a clearly defined scope, and assisted the client to form realistic and measurable objectives about their retirement and to implement strategies to try to achieve them. We saw evidence of multiple strategies being compared and evaluated, good budgeting and cash flow projections, and realistic discussions about what clients could fund in their retirement. Good written and personal communications ensured that clients were aware of their options, while the Statements of Advice (SOAs) were logical, well structured and easy to understand.
- RG 244.13 This regulatory guide applies to all advice, not only advice about retirement issues. However, we think that the findings in REP 279 are useful for all advice providers across the industry.

Current ASIC guidance

- RG 244.14 Other ASIC regulatory guidance also deals with the distinctions between factual information, general advice and personal advice, and on how to give scaled advice. This includes:
- (a) Regulatory Guide 36 *Licensing: Financial product advice and dealing* (RG 36);
 - (b) Regulatory Guide 84 *Super switching advice: Questions and answers* (RG 84); and
 - (c) Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175). This has been updated to reflect the introduction of the best interests duty and related obligations, and to be consistent with this regulatory guide.

Note: We will review, in light of the FOFA reforms, our other regulatory guidance about providing advice.

Class order relief for superannuation trustees

RG 244.15 We have previously given licensed superannuation trustees and their authorised representatives class order relief from the requirements in s945A where personal advice is provided about a member's existing interest in their fund: see Class Order [CO 09/210] *Intra-fund superannuation advice*.

Note: References in this regulatory guide to sections (s), parts (Pts), and chapters (Chs) are to the Corporations Act, unless otherwise specified.

RG 244.16 [CO 09/210] gives relief from s945A, and therefore the class order will cease to apply when s945A is repealed on 1 July 2013.

Overview of our guidance

RG 244.17 Our guidance seeks to:

- (a) explain the distinction between giving factual information, general advice and personal advice (see Sections B and C, as well the examples in the appendix);
- (b) provide industry-specific examples of giving factual information, general advice and scaled advice (see the appendix, as well as the shorter examples in the body of this guidance);
- (c) provide guidance about how to give scaled advice that complies with the personal advice obligations in Ch 7, including the best interests duty and related obligations (see Section D);
- (d) explain the importance of communicating to a client the service that is being provided to them (see Section E); and
- (e) explain that the Corporations Act is generally neutral about how advice is delivered—that is, the law is generally the same, regardless of whether advice is provided by telephone, email, internet, video conferencing, face-to-face, or in any combination of these or other ways (see Section F).

Examples in our guidance

RG 244.18 In this regulatory guide, we have used a number of examples. These examples are for illustration and are confined to their particular facts. Different facts are likely to produce different results in terms of whether the law has been complied with.

Other obligations for AFS licensees

RG 244.19 Our guidance should be read in conjunction with our other guidance for AFS licensees on how you can comply with your obligations under Ch 7.

- RG 244.20 If you are considering providing factual information and advice to your clients, you may also need to consider:
- (a) common law obligations, such as the duty of care and fiduciary duties;
 - (b) contractual obligations;
 - (c) compliance with relevant industry standards and codes;
 - (d) regulatory requirements under the Corporations Act, including those in Ch 7 about licensing, disclosure obligations and the requirement to:
 - (i) do all things necessary to ensure that you provide services efficiently, honestly and fairly;
 - (ii) ensure adequate representative training;
 - (iii) manage conflicts of interest; and
 - (iv) maintain dispute resolution systems;
 - (e) regulatory requirements under Div 2 of Pt 7.10 of the Corporations Act and the *Australian Securities and Investments Commission Act 2001*, which:
 - (i) prohibit, among other things, misleading or deceptive conduct; and
 - (ii) impose implied warranties in contracts for the supply of financial services;
 - (f) where relevant, trustee duties and obligations under the *Superannuation Industry (Supervision) Act 1993* and at common law; and
 - (g) where relevant, responsible entity duties and obligations under Ch 5C of the Corporations Act for operating managed investment schemes.

Some guiding principles for giving information, general advice and scaled advice

- RG 244.21 Our guidance aims to facilitate access to good quality personal advice by helping AFS licensees to provide scaled advice services, where this would be helpful to their clients
- RG 244.22 In our experience, AFS licensees that are currently offering scaled advice to clients have invested significant resources into training and setting up systems to ensure that the advice delivered complies with the law. Licensees should also consider using factual information or general advice to help customers better understand the products offered—for example, the basic features of different products or current interest rates.
- RG 244.23 To assist AFS licensees that give information, general advice and/or scaled advice to their clients, Table 1 sets out some guiding principles in relation to the issues discussed in this guidance. These principles apply to information and advice about all financial products.

Table 1: Guiding principles for giving information, general advice and scaled advice

Issue	Guiding principles
Giving factual information (see Section B)	You can provide factual information to a client even if you have personal information about the client and use that information to determine what factual information to provide.
Giving general advice (see Section C)	<p>You can provide general advice to a client even if you have personal information about the client.</p> <p>We will not consider general advice to be personal advice if you clarify with the client when you give the advice that you are not giving personal advice, and you do not in fact consider the client's relevant circumstances (i.e. their objectives, financial situation or needs).</p> <p>We will not take action where you give personal advice merely because you give general advice using personal information about a client's relevant circumstances to choose general advice that is relevant and useful to them (in certain circumstances, as discussed in Section C).</p>
Giving scaled advice (see Section D)	<p>Advice is provided along a continuous spectrum. You can scale all types of advice, including advice about complex issues. The inquiries you make, as an advice provider, will need to reflect the nature of the matters you are considering.</p> <p>Some points to consider when giving scaled advice are:</p> <ul style="list-style-type: none"> • the rules that apply to 'scaled advice' and 'comprehensive advice' are identical; • scaled advice can include advice on a single topic or advice on multiple topics; • scaled advice is not lesser quality advice; • scaled advice does not mean that the advice provider who gives the advice can have lower training standards; and • while processes can be used to help you provide scaled advice, you need to use your expertise and skills as an advice provider to deliver good quality scaled advice.
Communicating the service you are providing (see Section E)	<p>You must ensure that you communicate clearly to clients the service you are providing (i.e. information or advice). If you are giving scaled advice, you need to communicate clearly the advice you <i>are</i> providing and the advice you <i>are not</i> providing, and the implications of this.</p> <p>For example, when giving scaled advice, it should be very clear in your SOA (if you are required to give one) what advice you have provided and what advice you have <i>not</i> provided, the implications of this, and why you have taken this approach.</p> <p>We consider that scaled advice will be unlikely to meet the best interests duty and related obligations if the client does not understand any of the significant limitations or qualifications that apply to it.</p>
Delivering the information or advice (see Section F)	<p>The Corporations Act is neutral about technology. This means that you can give factual information and advice by telephone, email, internet, video conferencing, or face-to-face, or in any combination of these or other ways.</p> <p>The way we regulate advice is the same, regardless of the way you deliver the advice or how you scale the advice. This is because, in general, the same rules apply to all advice on the same topic, regardless of how it is delivered. However, different modes of communication may give rise to different challenges about whether a client understands the advice they are being given, and what the limits of the advice are.</p>

B Giving factual information

Key points

You do not need to hold an AFS licence to give factual information to clients.

This section gives guidance that:

- providing good quality factual information is to be encouraged and can be a very useful service for consumers;
- we will not consider factual information given by you to be financial product advice if you clarify with the client at the outset that you are providing factual information, and that the information is not intended to imply any recommendation or opinion about a financial product;
- you can provide factual information to clients even if you have personal information about the client. We will not consider this to be personal advice merely because you have some personal information about your client; and
- if you have personal information about a client, it is possible to adjust the factual information you give to that client to ensure that the information is relevant to them.

Factual information or advice?

What is factual information?

RG 244.24 Factual information is objectively ascertainable information, the truth or accuracy of which cannot reasonably be questioned: see RG 36.21. Good quality factual information can often be useful for clients wishing to better understand the financial products or strategies available to them.

RG 244.25 You do not need to hold an AFS licence to give factual information to clients.

Note: For further discussion about the difference between factual information and financial product advice, see RG 36. Where necessary, we will be updating the guidance in RG 36 to ensure consistency with this regulatory guide.

What is financial product advice?

RG 244.26 Financial product advice generally involves a qualitative judgement about—or an evaluation, assessment or comparison of—some or all of the features of a financial product: see RG 36.18.

RG 244.27 If a communication is a recommendation or a statement of opinion, or a report of either of these things, that is intended to, or can reasonably be regarded as being intended to, influence a client in making a decision about a

particular financial product or class of financial product (or an interest in either of these), it is financial product advice: s766B.

- RG 244.28 If you carry on a business in Australia of giving financial product advice that is a financial service, you *do* need to hold an AFS licence, unless an exemption applies.

Example B1: Providing factual information about financial products on a website

Scenario

An organisation without an AFS licence includes on its website a list of financial products of a particular class available from third-party product providers, together with some objectively ascertainable factual information about specific product characteristics, with the aim of providing useful information for consumers to assist them to make a decision about the class of financial product.

Commentary

Because the information is factual and does not involve a qualitative judgement about, or an evaluation or assessment of, the features of the products, it is not financial product advice.

Factual information is not general or personal advice

- RG 244.29 Factual information may be likely to be advice if it is presented in a way that is intended to, or can reasonably suggest or imply an intention to, make a recommendation about what a client should do: see RG 36.31.
- RG 244.30 We will not treat factual information given by you as general or personal advice if:
- (a) you clarify at the outset that you are giving the client factual information where there is a reasonable likelihood of doubt; and
 - (b) the information is not intended to imply any recommendation or opinion about a financial product.
- RG 244.31 It is good practice to take reasonable steps to ensure that a client understands upfront that you are providing factual information, and not general or personal advice. This will avoid confusion and help the client to understand what service they are getting. However, if it is clear to the client that you are providing them with factual information, it is unnecessary to clarify that you are giving factual information: see Example 14 in the appendix.
- RG 244.32 The appendix contains examples of giving factual information to clients about a range of issues: see Examples 1 and 4–14. See also Section E, which sets out guidance about communicating clearly with your client about the service you are providing.

What if you have personal information about a client?

- RG 244.33 You can provide factual information even if you have personal information about a client. We will not consider this to be personal advice merely because you have some personal information about the client.
- RG 244.34 It is possible to adjust the factual information you give, using the personal information you have about the client, so that the factual information you provide to the client is relevant and useful to them.
- RG 244.35 The test for whether you are giving personal advice includes:
- (a) firstly, whether you are in fact giving financial product advice—that is, whether you are making a recommendation about a financial product (see RG 244.27 for the full definition); and
 - (b) secondly, whether you have considered the client’s relevant circumstances in relation to giving or directing the advice, or whether a reasonable person might have expected you to do so (s766B(3)).
- RG 244.36 The test is *not* whether you merely possess information about the client’s relevant circumstances.

Example B2: Providing factual information about an alternative financial product

Scenario

A client contacts an insurer’s call centre and requests a quote for comprehensive car insurance. Noting the client’s car is old and of low value, the call centre operator mentions the possibility of third party property damage cover and explains the difference between it and comprehensive cover. At the client’s request, the call centre operator provides a quote for the annual premiums for each product.

Commentary

This is factual information. Although the call centre operator has been provided with some personal information about the client, and has used this information to provide relevant information to the client about an alternative product, the operator has not given an opinion or made a recommendation that is intended to, or that could be reasonably regarded as being intended to, influence a decision about a financial product.

Example B3: Using personal information to ensure that the factual information you give is relevant to the client

Scenario

A client tells their adviser that they have recently lost their job, and they are worried about finding a new one. The client is 50 years old and struggling to pay their mortgage. The client asks if they will be able to access their superannuation early to assist with their mortgage repayments.

The adviser provides details of the circumstances in which it may be possible for the client to access their superannuation early, in a case of 'severe financial hardship', and tells the client how they can apply to the Department of Human Services to stop foreclosure of their mortgage. The adviser also explains the implications of the client making such withdrawals from their superannuation (e.g. it will lead to a decrease in their retirement savings and tax may be payable).

Commentary

The adviser has used information about the client's personal circumstances to ensure that the factual information given to the client is relevant and useful, without providing financial product advice.

This example illustrates that, if you have personal information about a client, this will not, by itself, mean that the information you give them is personal advice. The type of information given by the adviser is factual because it is objectively ascertainable and offers no recommendation or statement of opinion intended to influence the client.

Using personal information about clients in this way does not mean that advice is being provided. Instead, the adviser is using personal information to ensure that the factual information that is provided to the client is useful and relevant to the client.

C Giving general advice

Key points

If you hold an AFS licence, you can give general advice to clients, provided that you give a general advice warning under s949A(2).

This section gives guidance that:

- we will not consider general advice to be personal advice if you clarify with the client when you give the advice that you are not giving personal advice, and you have not considered the client's relevant circumstances (i.e. their objectives, financial situation or needs) in giving the advice; and
- we will not take action where you give personal advice merely because you give general advice using personal information about a client's relevant circumstances to choose general advice that is relevant and useful to them (in certain circumstances, as discussed below: see RG 244.48–RG 244.49).

If you are a financial product issuer, you do not need an AFS licence to give general advice about your products. This is because you can rely on the licensing exemption for product issuers in reg 7.1.33H of the Corporations Regulations (if you comply with the relevant conditions: see RG 244.42).

Giving general advice under an AFS licence

- RG 244.37 As a general rule, if you carry on a business in Australia of giving general advice to clients that is a financial service, you must hold an AFS licence with an authorisation to give general advice, or be an authorised representative of such a licensee, unless an exemption applies.
- RG 244.38 If you are licensed to give general advice, you must warn the client that:
- (a) the advice has been prepared without taking into account their objectives, financial situation or needs;
 - (b) the client should, therefore, consider the appropriateness of the advice, in light of their own objectives, financial situation or needs, before acting on the advice; and
 - (c) if the advice relates to the acquisition, or possible acquisition, of a particular financial product, the client should obtain a Product Disclosure Statement (PDS) (if required) relating to the product and consider the PDS before making any decision about whether to acquire the product: s949A(2).
- RG 244.39 You do not need to follow the exact wording in s949A(2) to give a general advice warning: s949A(3). You can use your own words. What is required is that clients are *warned* about the items listed in RG 244.38, and that the warning is given to clients at the same time and by the same means as the advice is provided: s949A(3).

Note: For further guidance about using your own words to give a general advice warning, see RG 175.64–RG 175.67.

RG 244.40 We have given relief to financial services providers to allow them to give a shorter, simpler general advice warning when they provide oral general advice: see Class Order [CO 05/1195] *Simplified warning for oral general advice*. Under this relief, you only need to give a simplified warning once in any telephone conversation or face-to-face meeting when giving clients general advice.

Note: For more information, see Information Release (IR 05-62) *ASIC announces simpler warnings for oral general advice* (30 November 2005).

Licensing exemption for financial product issuers

RG 244.41 If you are a financial product issuer, you do not need an AFS licence or authorisation to give general advice about the products you issue or the class of products you issue: reg 7.1.33H.

RG 244.42 There are some conditions for this licensing exemption. You must:

- (a) advise the client that you are not licensed to give general advice about your product;
- (b) recommend that the person obtain a PDS, if appropriate, and read it before making a decision; and
- (c) if giving advice about the offer, issue or sale of a financial product, notify the client about the availability or otherwise of a cooling-off regime that applies to the acquisition of the product (or product of the same class or interest in the product): reg 7.1.33H(1)(c).

General advice is not personal advice

RG 244.43 Advice may be regarded as personal advice if it is presented in a way that means a reasonable person might expect you to have considered one or more of the client's objectives, financial situation or needs: see RG 175.36. General advice about a financial product will not be personal advice if you clarify with the client at the outset that you are giving general advice, and you do not, in fact, take into account the client's objectives, financial situation or needs.

RG 244.44 When you are giving general advice to a client, in addition to giving a general advice warning, it is good practice to take reasonable steps to ensure that the client understands upfront that they are getting general advice and not personal advice. You should take reasonable steps to ensure that the client understands that you have not taken into account their objectives, financial situation or needs in giving the general advice. This will avoid confusion and help the client to understand the nature of the advice they are getting.

Note: Examples 1 and 4–13 in the appendix show how an adviser can explain to the client that they are receiving general advice and not personal advice.

- RG 244.45 See also Section E, which sets out our guidance on communicating clearly with your client about the service you are providing.

What if you have personal information about a client?

- RG 244.46 If you have personal information about a client, this will not, by itself, mean that the general advice you give them is personal advice: see RG 175.51.
- RG 244.47 You can use personal information about a client to give general advice that is more relevant to a client. However, you must ensure that you do not, in fact, consider the client's relevant circumstances when you prepare and give the general advice. If you do, you will be giving personal advice. You cannot avoid this by giving a general advice warning to the client.

Example C1: Using personal information to ensure that the general advice provided is relevant to the client

Scenario

A superannuation fund would like to provide a brochure containing general advice about retirement planning issues to some of its members via a mailout. The general advice would be most relevant to members aged 55 and over.

Commentary

The fund can use personal information that they have about their members' age to send the brochure to members who are 55 and over. Using the personal information about fund members in this way does not mean that the fund is providing personal advice. Instead, the fund is using personal information to provide general advice to a particular audience.

Example C2: General insurance—Increasing excess

Scenario

A client calls an insurer to seek a quote for comprehensive car insurance for a new vehicle and indicates that they, their spouse and their adult children will all use the vehicle. The insurer provides a quote. The client indicates that the premium is more than they would like to pay and asks for advice on how to reduce the premium. The insurer outlines that it is possible to elect to reduce the premium by increasing the basic excess payable—and that this is a popular way of reducing insurance premiums—and the client decides to take up this option.

Commentary

In this example, the insurer does not inform the client about the option to reduce the premium by restricting the age of drivers for the vehicle—since the client has stated that their adult children, who are under 25 years of age, will be driving the vehicle. The insurer has used personal information about the client to give general advice that is relevant to the client.

Example C3: General insurance—Third party cover**Scenario**

A client contacts an insurer's call centre and requests a quote for the best value comprehensive car insurance. Noting that the client's car is old and of low value, the call centre operator mentions the availability of third party property damage cover, and explains the difference between this and comprehensive cover. The client asks the call centre operator which policy would be best for them. The call centre operator says that, although they cannot provide advice about what is right for the client, generally third party property damage policies are a popular choice among people with older cars. At the client's request, the call centre operator provides a quote for the annual premiums for each product. The client purchases the third party property damage policy.

Commentary

In this example, the insurer has been provided with some personal information about the client, and has used this information to identify an alternative product and provide more relevant general advice to the client.

RG 244.48 We will not take action where you give personal advice merely because you give general advice using personal information about a client's relevant circumstances to choose general advice that is relevant and useful to them.

RG 244.49 This only applies if:

- (a) you do not, in fact, consider the client's relevant circumstances when you prepare the advice; and
- (b) it is unlikely that the client would expect the advice provided to reflect a consideration of their relevant circumstances.

Example C4: Interactive web-based program**Scenario**

An interactive web-based application is promoted as providing advice about superannuation funds. The web interface includes a general advice warning. The program is designed to lead the user to one of a finite set of webpages containing recommendations about a superannuation fund. There is no reference in the advice to the superannuation fund being appropriate for the particular client. The website merely states that it is a good fund in general terms. The page that a user lands on depends on the answers to a set of detailed interactive questions about their relevant circumstances.

Commentary

In this example, the operator of the website does have personal information about the client when the recommendation is displayed. The personal information does not determine the content of the advice since all the advice is already on the website before the system is used. The provider considers the personal information only to determine which of the pages containing financial product advice the client is directed to.

However, this is personal advice. It would not be within ASIC's no-action position because it is likely that the client would expect, from being asked for detailed personal information, that the provider is seeking information about all their relevant circumstances in order to make a recommendation that is appropriate for them. The presence of a general advice warning does not alter this.

D Giving scaled advice

Key points

All personal advice is ‘scaled’ or ‘limited in scope’ to some extent—advice is either less or more comprehensive in scope along a continuous spectrum.

This section gives guidance that:

- the same rules, including the best interests duty and related obligations, apply to all personal advice on a particular topic, regardless of the scope of the advice;
- you must use your judgement and expertise as an advice provider to ensure that the scope of the scaled advice you provide meets your legal obligations, including the best interests duty and related obligations;
- you can adjust the level of your inquiries about the client’s relevant circumstances to reflect the nature of the advice being provided; and
- having appropriate processes in place to guide you when you give scaled advice will help you comply with the law, including the best interests duty and related obligations.

Giving personal advice

RG 244.50 Retail clients rely on personal advice and may suffer significant loss if the advice is not of good quality. For this reason, Div 2 of Pt 7.7A imposes specific obligations—collectively referred to in this guide as the best interests duty and related obligations—on persons who provide personal advice:

- (a) to act in the best interests of the client when providing them with personal advice (s961B);
- (b) to provide the client with appropriate advice (s961G);
- (c) to warn the client if the advice is based on incomplete or inaccurate information (s961H); and
- (d) to prioritise the interests of the client (s961J).

Note: For further guidance on the best interests duty and related obligations, see our guidance in Section E of RG 175.

RG 244.51 The obligations in Div 2 of Pt 7.7A generally apply to the individual providing the personal advice. In this guide, we refer to this person as the ‘advice provider’. This is in contrast to the obligations in Pt 7.7, which apply to the ‘providing entity’—that is, the AFS licensee or authorised representative that provides financial product advice.

Note: If there is no individual that provides the advice for the purposes of Div 2 of Pt 7.7A, which may be the case if advice is provided through a computer program, the legal person (e.g. a corporate licensee or authorised representative) that provides the advice is required to comply with the obligations in Div 2 of Pt 7.7A: s961.

RG 244.52 In addition, AFS licensees must take reasonable steps to ensure that their representatives comply with s961B, 961G, 961H and 961J: s961L.

Note: The obligations in Div 2 of Pt 7.7A apply from 1 July 2013 unless an AFS licensee elects to comply with Pt 7.7A earlier by lodging a notice with ASIC: Form FS92 *Notification of intention to comply with Future of Financial Advice provisions*. If Div 2 of Pt 7.7A does not apply, the obligations in s945A and 945B will apply to the licensee and its authorised representatives until 1 July 2013: see the attachment to RG 175.

How this guidance relates to our guidance in RG 175 about the best interests duty

RG 244.53 We have updated RG 175 to include guidance on complying with the best interests duty and related obligations.

RG 244.54 It is important to note that the same rules apply to all personal advice on a particular topic: there are *not* two sets of rules—one for ‘comprehensive’ advice, and one for ‘scaled’ advice that is more limited in scope: see also RG 175.393.

RG 244.55 This means that the guidance in RG 175 about complying with the best interests duty and related obligations is relevant and useful for those who are providing, or are considering providing, scaled advice.

RG 244.56 This guide provides specific and practical guidance and examples about complying with the best interests duty and related obligations when you are giving scaled advice. We have set out below guidance about the aspects of the best interests duty that are most relevant to consider when you are giving scaled advice.

RG 244.57 This guidance does not discuss in detail our guidance on the best interests duty and related obligations generally. For further information on how to comply with these obligations, see Section E of RG 175.

Scaled advice that complies with your legal obligations, including the best interests duty

RG 244.58 You can give scaled advice that is limited in scope that meets your legal obligations. This is because what you must do to meet the legal requirements, including the best interests duty and related obligations, can be ‘scaled up’ or ‘scaled down’ depending on the nature of the advice.

Note: One of the key objectives of the FOFA reforms is to improve access to good quality advice by facilitating scaled advice: see *Future of financial advice—Information pack*, 28 April 2011.

RG 244.59 When you are considering how the best interests duty and related obligations apply in the context of giving scaled advice, remember that:

- (a) all advice is scaled to some extent—advice is either less or more comprehensive in scope along a continuous spectrum (i.e. there are *not* two categories of advice: ‘scaled’ and ‘comprehensive’ advice); and
- (b) the same rules apply to all personal advice on the same topic, regardless of the scope of the advice. Scaled advice does not equate to lesser quality advice for clients or lower training standards for advice providers. All advice providers who give personal advice, whether scaled or more comprehensive, must meet the training requirements in Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146).

RG 244.60 You can give scaled advice:

- (a) if your AFS licence authorises you to provide advice that is broader in scope—for example, you have multiple authorisations on your licence for financial products about which you can give advice;
- (b) to existing, new and potential clients. You may need to ask a new client more questions about their relevant circumstances to ensure you have sufficient information on which to base your advice. You need to make sure that the information you have about the relevant circumstances of existing clients is up to date; and
- (c) to the same client, on multiple occasions, including after having previously given the client relatively comprehensive advice, general advice or factual information.

Note: See Examples 1 and 14 in the appendix, which provide an illustration of a client receiving factual information and advice about the same issue on different occasions from the same adviser.

Practical guidance and examples about complying with the best interests duty when you are giving scaled advice

RG 244.61 Section 961B(1) requires that advice providers act in the best interests of their clients in relation to the advice given. Section 961B(2) provides a ‘safe harbour’ that advice providers may rely on to prove that they have complied with s961B(1). If an advice provider can show they have taken the steps in s961B(2), they are considered to have met the best interests duty.

RG 244.62 Consumers who seek financial advice, including scaled advice, expect that the advice provided will leave them in a better position.

RG 244.63 When assessing whether an advice provider has complied with the best interests duty, we will consider whether a reasonable advice provider would believe that the client is likely to be in a better position if the client follows the advice provided. For further detail, see RG 175.228–RG 175.235.

Note: Leaving a client in a better position can include providing the client with advice that is not product specific. This might include the advice to do nothing; see RG 175.238(d). Example 3 in the appendix of this regulatory guide illustrates this concept.

RG 244.64 We have set out in Table 2 some guidance to assist you in meeting the requirements of the best interests duty and related obligations when you are giving scaled advice. It includes a summary of some issues that we think are important for advice providers to consider when they are giving scaled advice to clients. We have also provided some examples from our regulatory experience, including from REP 279.

Note: In addition to the general best interests duty, there is a modified set of obligations (modified best interests duty) that apply when an advice provider gives advice about basic banking products only or general insurance products only (s961B), or gives advice about a combination of basic banking and general insurance products, or general insurance and other products (reg 7.7A.1). How the best interests duty applies to basic banking and general insurance products is set out in RG 175.247–RG 175.250. We have also provided examples in the appendix to illustrate how you can meet the modified best interests duty when giving scaled advice: see Examples 12 and 13.

Table 2: What advice providers can do to help ensure they meet their legal obligations, including the best interests duty and related obligations, when giving scaled advice

As an advice provider, you will ...	What this means in summary	For further guidance
Use your judgement and training to decide whether, by limiting the scope of the advice, you can provide scaled advice that meets your legal obligations.	<p>In many cases, you can give scaled advice that is more limited in scope (e.g. for certain advice about less complex issues and for clients with less complex relevant circumstances) and comply with your legal obligations, including the best interests duty and related obligations.</p> <p>Either you or your client can <i>suggest</i> limiting or revising the subject matter of the advice. However, you (as the advice provider) must use your judgement when deciding on the scope of the advice. You must determine the scope of advice in a way that is consistent with the client's relevant circumstances and the subject matter of the advice they are seeking.</p>	See RG 244.65–RG 244.68 and RG 175.261–RG 175.280
Adjust the level of your inquiries to reflect the nature of the advice being provided.	<p>To meet the safe harbour for the best interests duty, you must identify the client's relevant circumstances. You can adjust the fact-finding process (i.e. the inquiries you make about the client's relevant circumstances) to be either limited or expanded. For example, when a client's relevant circumstances are straightforward, the scale of your inquiries may be quite limited. In general, as the complexity of a client's relevant circumstances increases, it is likely that you will need to expand the scale of your inquiries.</p>	See RG 244.69–RG 244.73 and RG 175.281–RG 175.297
Implement systems that will help you decide whether scaled advice can be provided to a client in a way that meets your legal obligations.	<p>One approach you can use when deciding if you can provide a client with a limited scope of advice is to perform a 'triage' or filtering process.</p> <p>For example, we would expect you to ask a series of questions to determine how advice that is limited in scope can be provided to a client in a way that complies with your legal obligations, including the best interests duty and related obligations.</p>	See RG 244.74–RG 244.80 and RG 175.236–RG 175.241

As an advice provider, you will ...	What this means in summary	For further guidance
Communicate clearly to the client the type of advice service you are offering.	<p>You must take reasonable steps to explain to a client the limited scope of the advice you are giving in a way that will be clear to the client.</p> <p>For example, this could involve explaining the scope of your advice to them, and that you will not be considering any other issues. This will help the client understand what advice they are getting and ensure there is no misunderstanding about what they are, and are not, being advised on.</p> <p>It is also good practice to give a simple and accurate explanation about why the scope of the advice has been limited.</p>	See Section E

Advice providers can give scaled advice

RG 244.65 Section 961B(2)(b)(i) of the safe harbour for meeting the best interests duty requires an advice provider to identify the subject matter of the advice that has been sought by the client (whether explicitly or implicitly). It is possible to limit the scope of advice within this subject matter to a single issue. Either you or your client can suggest limiting the subject matter of your advice. However, you must use your judgement when deciding on the scope of the advice. As an advice provider, you must determine the scope of advice in a way that is consistent with your client's relevant circumstances and the subject matter of the advice they are seeking: see RG 175.265.

Note: The note to s961B(2) states that advice providers can give scaled advice: see RG 244.71 for further details.

Examples about limiting the scope of the advice

RG 244.66 We have set out below a number of examples to illustrate the principles discussed above. Many of these examples are drawn from our experience in preparing REP 279.

RG 244.67 The first of these examples is consistent with feedback from industry that clients often seek advice in response to a life event, and this is how the request for advice is framed. If the subject matter of advice sought by the client is implicit, you will need to discuss with your client the subject matter of the advice that they are seeking.

Example D1: Implicit and explicit request for personal advice

Scenario

A client visits their financial planner and requests advice about retirement planning. The planner asks the client a series of questions to determine what advice the client would like, because a request for 'retirement planning advice' may be an implicit request for advice on a range of topics, including whether the client will have enough income to retire at a certain age, consideration of a transition-to-retirement (TTR) strategy, what pension product the client should purchase, and whether the client should pay down debts before they retire.

Commentary

It is unclear from the client's initial request what advice the client is seeking. For the planner to be able to identify the subject matter of the advice the client is seeking, they need to ask further questions to determine whether the client would like a more comprehensive financial plan for retirement, or whether scaled advice with a more limited scope could meet their needs (e.g. they want an answer to a specific question about retirement).

Example D2: Personal advice on a single issue**Scenario**

A client sees an adviser because they want to increase their wealth. The adviser recommends an investment strategy. In doing so, the adviser discusses the risk of the client losing their income and assets, which could affect the client's ability to increase their wealth.

The adviser is not skilled in the area of risk insurance (e.g. life insurance or income protection insurance), and notifies the client of this fact. Restricting the scope of the advice to exclude consideration of risk insurance products would not meet the best interests duty and related obligations. The adviser refers the client to a specialist risk adviser. The client agrees to seek the specialist risk advice and make a final decision about whether to implement the investment strategy after considering the specialist advice.

Commentary

The adviser has acted in the best interests of the client by giving the client advice on the subject matter they requested and, in addition, identifying another subject matter of advice that it would be in the best interests of the client to receive, and referring the client to a specialist adviser to seek advice on this issue.

Example D3: Declining to give scaled advice**Scenario**

An adviser working for ABC Superannuation Ltd is dealing with a client who is a member of the superannuation fund operated by XYZ Superannuation Ltd. The client asks for advice about whether to switch to the superannuation fund operated by ABC Superannuation Ltd. The client says they want to pay lower fees and generate better returns.

The adviser tells the client that it is also important to compare the insurance provided by each fund, but that the adviser is not able to provide such advice. The client says they are not going to bother seeking advice from someone else about insurance.

Commentary

The advice provider must not give the advice. The adviser could provide factual information to the client about the costs and returns of each financial product, and the availability and cost of insurance in each product.

RG 244.68 The above example illustrates that, when you are deciding on the scope of advice to provide to your client that meets the best interests duty and related obligations, you need to ensure that you do not reduce the scope of advice to exclude critical issues that are relevant to the subject matter of the advice. For example, you must not restrict the scope of your advice by omitting critical issues because they are too difficult to resolve quickly. This point is also illustrated by the following example.

Example D4: Reducing the scope of personal advice to exclude an important issue

Scenario

A client goes to an adviser for advice about how to boost their retirement savings. The client has an interest in a defined benefit superannuation fund, but the adviser limits the scope of the advice so that it excludes advice about whether the client can increase their superannuation through their defined benefit fund.

Commentary

This advice would not be in the client's best interests, and would not be appropriate advice. To meet their legal obligations, the advice provider should either expand the scope of the advice to consider the client's interest in the defined benefit fund, or not give the advice.

Example D5: Identifying the subject matter of personal advice

Scenario

A client visits an advice provider, and says that they would like some advice about when they can retire. Instead of providing this advice, the advice provider gives the client advice that involves a portfolio rebalance. This advice does not relate to the subject matter of advice sought (either implicitly or explicitly) by the client.

Commentary

When determining the scope of advice, an advice provider must ensure that the advice relates to the subject matter that was requested by the client, whether explicitly or implicitly. Advice providers must not adjust the scope of the advice to suit the topics or subject matter that the advice provider gives advice on, rather than in response to the advice the client has sought.

Example D6: Inappropriate retirement advice

Scenario

A client requests advice from an advice provider about how to secure their living standards in retirement. The advice provider excludes consideration of the client's debts or Centrelink benefits in providing them with advice.

Commentary

In this example, the advice provider has not acted in the best interests of the client. If the client's debts were significant, retirement advice could not have been properly provided without taking these factors into consideration.

This example illustrates that an advice provider must not determine the scope of the advice in a way that is inconsistent with the client's relevant circumstances and the subject matter of the advice they are seeking.

Advice providers can adjust the level of inquiries to reflect the nature of the advice sought

- RG 244.69 Section 961B(2)(b)(ii) of the safe harbour for the best interests duty requires an advice provider to identify the client's relevant circumstances in relation to the subject matter of the advice being sought (often referred to as the 'fact find'). Identifying the client's relevant circumstances requires an advice provider to use their judgement and complete reasonable inquiries into the client's relevant circumstances: see RG 175.283.
- RG 244.70 In addition, s961B(2)(c) of the safe harbour requires an advice provider to make reasonable inquiries to obtain complete and accurate information if it is reasonably apparent that information obtained about the client's relevant circumstances is incomplete or inaccurate.
- RG 244.71 You can adjust the level of inquiries to reflect the nature of the advice sought. This is recognised in a note to s961B(2), which states:
- The matters that must be proved under subsection (2) relate to the subject matter of the advice sought by the client and the circumstances of the client relevant to that subject matter (the client's relevant circumstances). That subject matter and the client's relevant circumstances may be broad or narrow, and so the subsection anticipates that a client may seek scaled advice and that the inquiries made by the provider will be tailored to the advice sought.
- RG 244.72 This means that the fact-finding process (i.e. inquiries into the client's relevant circumstances) can be either limited or expanded, depending on the subject matter of the advice sought and the relevant circumstances. For example, when a client's circumstances relevant to the subject matter of the advice are straightforward, the scale of your inquiries may be quite limited. As the complexity of a client's circumstances relevant to the subject matter of the advice increases, you will generally need to expand the scale of your inquiries.
- RG 244.73 Table 3 sets out some factors that are relevant to how the requirement to identify the subject matter of the advice, and the client's relevant circumstances, can be scaled.

Table 3: Factors relevant to the scalability of the requirement to identify the subject matter of the advice and the client's relevant circumstances

Relevant factor	Effect on level of inquiries required
Nature of the advice given	In general, less extensive inquiries are likely to be necessary when the advice is for a relatively simple purpose, and more extensive inquiries are likely to be necessary when the advice involves complex financial products or strategies.
Capacity of the client to understand the advice they are receiving	More inquiries about the client's requirements and objectives are likely to be necessary when it is evident to you that: <ul style="list-style-type: none"> • the client has a limited capacity to understand the subject matter of the advice; • the client has expressed conflicting objectives; • the client is confused about their objectives (or has difficulty in articulating them); or • there is an apparent mismatch between the client's objectives and the advice or product being considered by the client.
Potential impact on the client of inappropriate advice	More extensive client inquiries are likely to be necessary when the potential negative impact on the client is likely to be relatively serious if the advice is inappropriate and inconsistent with the client's relevant circumstances (and the client follows the advice).

You are more likely to meet the requirements of the best interests duty when giving scaled advice if you have adequate processes in place

RG 244.74 You must ensure that the advice you give your client complies with the best interests duty and related obligations. We think you are more likely to be able to demonstrate that you have met these obligations if you have adequate processes in place.

RG 244.75 These processes will assist you to decide in which situations you can provide good quality scaled advice that complies with your legal obligations.

Note: This is consistent with our guidance at RG 175.236–RG 175.241 about how advice processes can assist advice providers to meet their obligations under the best interests duty, more generally, and is also consistent with the Revised Explanatory Memorandum to the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011: paragraph 1.23.

RG 244.76 When giving scaled advice, your processes could include the following steps:

- identifying less complex advice topics about which you can give good quality scaled advice that is in the client's best interests;
- identifying more complex advice topics for which you may offer more comprehensive advice (or refer clients to another advice provider who can provide this advice);
- creating a checklist of questions to assist you in deciding whether a particular client is suited to receiving scaled advice (i.e. as part of the 'triage' or filtering process: see RG 244.78). For example, for some

advice topics, scaled advice is more likely to meet the best interests duty and related obligations for clients with less complex, relatively straightforward relevant circumstances; and

- (d) creating a checklist of questions to ask a client when giving scaled advice on a particular topic to ensure that all the necessary information is gathered during the fact-finding stage.

RG 244.77 We are more likely to take the view that processes for complying with the best interests duty are not effective, and that the best interests duty in s961B(1) is not being complied with, if a one-size-fits-all approach is adopted in providing advice—that is, the processes do not allow the client’s relevant circumstances to be taken into account, or result in advice that does not reflect the client’s relevant circumstances: see RG 175.239.

‘Triage’ or filtering process

RG 244.78 One approach you can use when deciding on the scope of advice needed to comply with the best interests duty and related obligations is to perform a ‘triage’ or filtering process to determine what advice can be delivered to the client in a way that meets the obligations. This triage process could form part of the inquiries to determine the client’s relevant circumstances and the subject matter of the advice sought.

RG 244.79 For example, to meet the best interests duty and related obligations, we would expect you to ask a series of questions to identify the subject matter of the advice sought by the client and to determine the scope of advice by reference to what is in the best interests of the client. As we have said above, we think that you can implement systems that will assist you in making these decisions.

Example D7: Online advice about superannuation contributions that does not comply with the best interests duty and related obligations

Scenario

A client inherits \$40,000 when their grandfather passes away. The client is 36 years old, has a mortgage, works full time (earning \$85,000 per year), and has \$66,000 in superannuation.

The client uses an online ‘superannuation contributions advice’ service to see whether they should contribute the lump sum inheritance to superannuation. This service does not gather information about their relevant circumstances. The program simply calculates and displays the benefits and costs of paying \$40,000 into their fund, including the effect on their retirement balance and tax liability, and this is not clearly explained to the client.

The subsequent Statement of Advice (SOA) includes the outcomes of the calculation and also contains generic advice highlighting some of the potential advantages and disadvantages for the client of investing the lump sum into superannuation. However, it does not consider the client’s

relevant needs, such as the ability to access the money in the medium term, or their investment timeframe. The SOA includes a disclaimer warning the client that their full financial circumstances have not been considered, and that this may create risks if they follow the advice.

Commentary

We consider that the advice is inappropriate and the advice provider has not acted in the best interests of the client. The advice is provided without taking into account the client's relevant circumstances in relation to the subject matter of the advice (i.e. whether the client should contribute the lump sum to superannuation). It does not identify the subject matter of the advice sought by the client, and the advice model does not provide an early filter or triage to redirect clients for whom the advice model may be inappropriate. The advice does not consider the client's need to access the money, or their investment timeframe, and does not weigh up the relative financial benefits of putting the money into superannuation against using it to pay down debt.

We consider these to be serious omissions.

Example D8: Online advice about superannuation contributions that complies with the best interests duty and related obligations

Scenario

A client inherits \$40,000 when their grandfather passes away. The client is 36 years old, has a mortgage, works full time (earning \$85,000 per year) and has \$66,000 in superannuation. The client uses two online advice services.

This *first model* includes a concise client fact-find, collecting the answers to a series of key questions about their relevant circumstances. This process identifies that the client may need to access the money in the medium term, and that they have significant debts. The model also calculates the financial benefits of paying down debt versus making a superannuation contribution.

The resulting SOA indicates the relative advantages and disadvantages of each strategy and makes a recommendation. It points out that, because access to the money in the medium term is important to the client, and given the client's age, another financial product, such as a savings account or mortgage offset account with a redraw facility, may be more suitable for the client than contributing the money to superannuation.

The *second model* also determines that the client may need access to the money in the short to medium term, and that they have mortgage debt. This identifies that making a superannuation contribution may be inappropriate for the client's needs. However, the advice service cannot provide advice or calculations on short- or medium-term investments, or on debt repayments.

The client is prompted to contact the adviser's call centre to discuss what advice will be appropriate for their needs. During this telephone call, the client is informed that they should also consider the benefits of other options, including a short-term savings account or paying a lump sum into their mortgage offset account.

The limitations of the online advice and the call centre advice are explained, because they do not consider all the client's relevant circumstances. The adviser recommends that the client uses other services on the adviser's website for some general advice about the benefits and drawbacks of different options, and also that they seek personal advice from a financial adviser, which may be limited to advice on what to do with the inheritance, or may involve more comprehensive advice.

Commentary

Both of these online advice services are designed to filter clients based on their relevant circumstances. This triage or filtering process may be delivered in a variety of ways, such as online, by telephone, or through other channels. We consider that advice providers who implement these types of processes are more likely to be able to demonstrate that they have met the best interests duty and related obligations when they provide advice.

Example D9: Using a triage or filtering process when deciding whether to give scaled advice about transition to retirement

Scenario

An adviser offers advice on a transition-to-retirement (TTR) strategy that is designed for clients with relatively straightforward relevant circumstances who are seeking advice about TTR.

To determine whether the advice service can be provided to a particular client in a way that meets the advice provider's legal obligations, the adviser asks a series of questions before proceeding to give the scaled advice. These include questions about the client's health, and whether the client receives government benefits, fringe benefits or pays child support, as well as other questions.

If the client's health is problematic, or the client answers 'yes' to any of the other questions, they are offered a more comprehensive advice service. In addition, the adviser asks the client about debts that the client has, and discusses debt reduction as an alternative strategy to TTR. The adviser refers the client to a more comprehensive advice service if the client indicates that they would like to consider this approach as an alternative to a TTR strategy.

Commentary

The adviser uses a series of questions to determine whether a particular client is suited to receiving scaled advice on TTR, or whether a more comprehensive advice service would be in the client's best interests. We consider that advice providers who implement these types of processes are more likely to be able to demonstrate that they have met the best interests duty and related obligations when they provide advice.

See also Example 9 in the appendix, which provides a scenario about giving factual information, general advice and scaled advice about TTR to a client.

Example D10: A filtering process to deal with debt**Scenario**

An advice provider gives a scaled advice service on superannuation contributions. Initially, the advice provider asks the client a number of questions about their relevant circumstances, including about their income, contributions history and whether they have any debt. If the client says that they do have debt, the advice provider explores the level and nature of the debt, and the client's capacity to service the debt. If the debt is significant (according to criteria previously set by the AFS licensee), they refer the client to another advice provider who can give more comprehensive advice.

Commentary

This example illustrates that the triage or filtering process may have multiple steps. For example, the first question is whether the client has any debt, and, if they do, the extent of the debt is explored further before deciding whether or not the advice provider will give scaled advice or refer the client to more comprehensive advice.

- RG 244.80 The examples in the appendix illustrate how an adviser can discuss with the client a number of options for getting personal advice that may be quite limited or more comprehensive: see, in particular, Examples 6, 9 and 10.

What does s961B(2)(g) require when you are giving scaled advice?

- RG 244.81 Section 961B(2)(g) of the safe harbour for the best interests duty provides that an adviser needs to take 'any other step that at the time the advice is provided would reasonably be regarded as being in the best interests of the client, given the client's relevant circumstances'.
- RG 244.82 This provision does not prevent you from giving scaled advice. As stated above, it is possible to provide scaled advice in a way that is consistent with the best interests duty, and the law generally, and this includes s961B(2)(g). What you will need to do to meet your obligations under this provision will depend on the subject matter of the advice that you are giving and the client's relevant circumstances.
- RG 244.83 As with the other obligations imposed on advice providers in Div 2 of Pt 7.7A, an advice provider cannot contract out of s961B(2)(g) or limit the steps they need to take by disclosing that they will not take those steps: see RG 175.343. However, being clear on the scope of the advice provided, or the inquiries an advice provider has made into the client's relevant circumstances under s961B(2)(b), is not contracting out: see RG 175.343. The examples in the appendix clearly illustrate how an advice provider can determine the scope of the advice in a way that complies with s961B(2)(g).
- RG 244.84 Our guidance in RG 175.340 sets out some additional steps that an advice provider may need to take to meet the requirements of s961B(2)(g). It is not an absolute requirement that these steps are undertaken in all cases—whether or not they are required will vary depending on the circumstances.

E Communicating the service you are providing

Key points

This section gives guidance that:

- you must take reasonable steps to ensure that you communicate clearly to clients the type of service you are providing—that is, whether you are giving them information, general advice or personal advice;
- if you are giving scaled advice, you must explain what advice you *are* providing and what advice you *are not* providing; and
- we consider that scaled advice will be unlikely to meet the best interests duty and related obligations if the client does not understand any of the significant limitations or qualifications that apply to the advice.

RG 244.85 You must take reasonable steps to ensure that you communicate clearly to clients the type of service you are providing—that is, whether you are giving them information, general advice or personal advice. We have illustrated how you can do this in the examples in the appendix: see Example 1 and Examples 4–14.

RG 244.86 What constitutes reasonable steps will depend on the circumstances. In some circumstances, it may be self-evident to a client what service they are receiving, but, in other cases, an explanation will be required.

Communicating the scope of personal advice

RG 244.87 A key issue that arose in our findings in REP 279 was a lack of clear communication to clients about the scope of the advice that they were receiving.

RG 244.88 It is critical that the scope of personal advice is clearly communicated to the client—for example, whether you are providing a full financial plan or just focusing on one or two areas. REP 279 found that sometimes the limited scope of the personal advice was not explained at all to the client—that is, when the advice was quite limited, the client thought they were getting much more comprehensive advice.

RG 244.89 You must explain clearly to clients what personal advice *is* and *is not* being provided, and the implications of this. Any limits to the scope of the advice must be explained in such a way that a reasonable person would understand the limitations of the advice, including in the SOA.

RG 244.90 You do not need to list every possible topic of advice that *is not* being provided to the client. However, you must explain any topics of advice you

are not providing, if they are relevant to the client and within the subject matter of the advice sought by the client. It is also good practice to explain clearly why this potentially relevant advice is not being provided. For an illustration of how you can do this, see the SOA to Examples 2 and 3 in the appendix.

RG 244.91 As noted at RG 244.60(a), you can give scaled advice on one issue even if you are authorised to provide personal advice on a wide range of topics. However, you must clearly explain what advice you are providing if this would not be self-evident to clients.

Example E1: Multiple authorisations

Scenario

XYZ Advice Services is authorised to provide personal advice on a wide range of financial products. XYZ also provides a limited personal advice service, which focuses on a single advice topic for clients with relatively straightforward relevant circumstances.

Adam, aged 35, calls XYZ and says he needs some help to decide whether to change his investment options in his superannuation. He is currently in the balanced option, but is worried about the share market and would like some advice about switching to an option that has more of his savings allocated to cash investments.

Although XYZ Advice Services can advise on other financial products (e.g. insurance and managed investments), the XYZ adviser communicates clearly to Adam that he will only be receiving advice that day on investment options for superannuation.

Commentary

This is an example illustrating how the scope of the advice can be clearly communicated to a client.

Example E2: Explaining the scope of advice in an SOA

Scenario

An advice provider is providing personal advice to a client, and the advice does not cover income protection insurance. The advice provider sets out in the SOA how the advice is limited in scope: 'My advice to you will not cover income protection insurance requirements as you have advised me that your employer provides generous income protection insurance for all staff and you are happy with this and do not want any advice from me on this topic at this time'.

Commentary

This is an example of ensuring that the scope of the advice is clearly communicated to the client.

How this guidance relates to your obligations under the best interests duty

- RG 244.92 It is unlikely that personal advice will meet the best interests duty and related obligations if the client does not understand any of the limitations or qualifications that apply to the advice.
- RG 244.93 You should have processes in place to ensure that clients clearly understand any such limitations. Ensuring clarity in this way will also assist you to avoid engaging in misleading and deceptive conduct.

F Delivering the information or advice

Key points

This section gives guidance that:

- we want to facilitate increased access to factual information and advice for clients using a variety of delivery methods and channels, including by telephone, email, internet, video conferencing and face-to-face, or in any combination of these or other ways; and
- there are a number of options for delivering factual information and advice.

Using different ways to give information or advice

RG 244.94 The Corporations Act is neutral about technology. This means that you can give factual information and advice by telephone, email, internet, video conferencing or face-to-face, or in any combination of these or other ways.

RG 244.95 The way we regulate advice is the same, regardless of the way that you deliver the advice. This is because, in general, the same rules apply to all advice, regardless of how it is delivered. However, different modes of communication may give rise to different challenges about whether a client understands the advice they are being given, and what the limitations of the advice are.

RG 244.96 For example, in an online context, you need to consider:

- (a) making clear the nature of the advice being given (e.g. whether the advice is general advice, or personal advice that takes into account the client's relevant circumstances);
- (b) if the advice is personal advice, explaining what the advice does and does not cover in language that most clients can understand; and
- (c) using a triage or filtering process to determine whether scaled advice can be delivered online to a particular client.

Note: See also Examples D7 and D8 in Section D for an illustration of online advice models.

RG 244.97 It is up to you to determine how you want to give factual information and advice to your client. Factors to consider include:

- (a) whether you are operating a high-volume business, which might lend itself to giving factual information or advice by telephone, email or internet; and

- (b) the complexity of the factual information or advice you are offering—
for example, giving factual information or advice on simple topics might be better suited to the telephone, email or text-based internet applications, while more complex advice might be better suited to a face-to-face meeting or video conferencing.

RG 244.98 The examples in the appendix illustrate some different delivery methods and channels that you can use when giving factual information and advice to clients about financial products (e.g. the client in Example 6 receives information and advice via email).

Appendix: Examples of giving information and advice

RG 244.99 In this appendix, we provide examples of factual information, general advice and scaled advice: see Table 4.

An important note about these examples

- RG 244.100 When you are reading these examples, it is important to keep in mind that:
- they are intended to be helpful illustrations of our high-level guidance in Sections B, C, D, E and F of this regulatory guide;
 - they are not intended to be scripts that advisers can or should follow when they are giving information or advice to their clients. For brevity, some factors (e.g. risk profiling) are only touched on briefly in the examples, whereas, in a real advice situation, it is likely that the issue would be dealt with in more detail; and
 - many of the examples include an SOA. These include fee disclosure, as required under s947B(2)(d), 947B(2)(h), 947C(2)(e), 947C(2)(i), 947D(2)(d), 1013D(1)(m) and 1017D(5A) (and related regulations): RG 175.168. Fees charged by superannuation funds will be affected by the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012. This legislation has not yet been passed by Parliament, and therefore these changes have not yet commenced and are not reflected in the example SOAs.

Table 4: Examples of giving factual information, general advice and scaled advice

Who the client contacts	Information or advice being sought by the client	
Financial planner	How to invest an inheritance	Example 1
	The adequacy of their retirement savings	Example 2
	A retirement savings health check	Example 3
Superannuation fund	Whether to change investment options	Example 4
	The insurance available within their superannuation fund	Example 5
	Making extra contributions to their superannuation fund	Example 6
	Whether to pay a windfall into superannuation or use it to pay off some of their mortgage	Example 7
	The effect of accessing funds through superannuation or a mortgage redraw on the age pension	Example 8
	Whether to adopt a transition-to-retirement strategy	Example 9
	How long their account-based pension product will last	Example 10
How to nominate a beneficiary	Example 11	
Insurer	What level of motor vehicle insurance to purchase	Example 12
Bank	Which basic deposit product to invest in	Example 13
Stockbroker	What shares to invest in	Example 14

Example 1: How to invest an inheritance

William contacts Emma, his financial planner, for information and advice about investing an inheritance.

Factual information

In this example, Emma doesn't need to operate under an AFS licence because no financial product advice is being given.

William	Hi Emma, this is William Boyd. I haven't spoken to you since last year. I was wondering if you'd have a few minutes to give me some information. I have recently received a cash inheritance. I would like some information about possible options for investing it. I don't want to invest it in property, though, because I plan to use the money to buy another house in a few years time.	
Emma	There are many investment options and structures for people wishing to invest a lump sum. Making the right decision can be hard. I am happy to provide you with some factual information about these options, and if you would like advice after that I can set up an appointment for you.	<i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Emma clearly tells William upfront that she will not be giving any financial advice.</i>
William	That's fine, thanks.	
Emma	<p>One option is to pay off debts such as a mortgage, personal loan, car loan or credit card debts. Paying off a loan will save interest, although you may incur exit fees and it may have taxation consequences if the loan is for investment purposes.</p> <p>There are a lot of investments to choose from—too many to cover now, but I can give you some information about some of the more common options.</p> <p>First-home saver accounts can be used by people who are saving to buy or build their first home.</p>	
William	I have already bought and sold a property.	
Emma	<p>Right, in that case, term deposits are similar, in that they provide a fixed interest rate for a specified term, but are not limited to first-home savers. The term can range from one month to a few years. It is normally possible to withdraw the money before the end of the agreed term; however, early termination fees may apply.</p> <p>Another option is shares. Shares can be purchased in companies of different industries, such as mining, financials, real estate and healthcare. This means risk can be spread across different sectors.</p> <p>Investing in assets indirectly through managed funds is another option. A managed fund pools the money of a number of investors together and an investment manager invests the money. Investors are usually paid an income periodically. The value of the investment rises and falls with the underlying assets. These generally include cash, fixed interest, property or shares.</p>	<p><i>You can give factual information to a person, even though you know some personal information about them. In this example, Emma has personal information about William, but this doesn't stop Emma from giving William factual information.</i></p> <p><i>Emma is using personal information she knows about William to ensure that the factual information she gives is relevant to him.</i></p>

Emma	<p>Depending on the underlying assets chosen, a managed fund may be conservative or risky. Managed funds allow access to investments that individuals might not be able to access as a retail investor. The convenience of managed funds usually comes at a price: higher fees, in some cases, less liquidity and reliance on others to manage the money.</p> <p>William, if you want more information on the options I have discussed, please visit our website. You may also like to visit ASIC's website for consumers and investors, MoneySmart, at www.moneysmart.gov.au, which has a lot of valuable information.</p>	<p><i>Emma is giving factual information only, because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence William.</i>
William	<p>Thanks. I will have a look at these websites and I will call you if I have any further questions.</p>	

General advice

In this example, Emma is operating under an AFS licence because she is providing general advice: see s911A.

William	<p>Hi Emma, this is William Boyd. You gave me some information last week about possible options for investing a cash inheritance I have recently received. I would like to know how I should invest it. I don't want to invest it in property, though, because I plan to use the money to buy another house in a few years time.</p>	
Emma	<p>Hi William. I would be happy to provide you with some general advice about the different options that we discussed last week, but I won't be able to consider whether it is appropriate for you. If you want personal advice, you can make an appointment with me and we can sit down and go through your financial and personal circumstances.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Emma clearly tells William upfront that she will not be giving any personal advice. General advice given by an AFS licensee must be accompanied by a general advice warning, but we have given relief to facilitate the use of short oral warnings like this: see RG 244.40.</i></p>
William	<p>Okay, that sounds fine. I just want to know some general options.</p>	
Emma	<p>Yes, I'll take you through the investments we generally recommend to our clients. Generally, for clients who receive an inheritance, I would recommend that they first pay off loans such as personal loans, car loans or credit cards. Reducing this debt will free up cash flow. Before paying off any debt, I advise clients to consider whether early termination or legal fees apply.</p> <p>Where a client requires access to funds, is saving for a short-term goal or is a conservative investor, I would advise to invest in a term deposit. A term deposit is a relatively safe investment type. It provides a fixed interest rate for a specified term. The term can range from one month to a few years. This means the client can choose a term that meets their needs. It is normally possible to withdraw the money before the end of the term, but early termination fees may apply.</p>	<p><i>At this point, Emma would provide a Financial Services Guide, if William did not already have one.</i></p>

Emma	<p>For clients who are willing to accept higher risk for the potential of greater long-term returns, I would recommend shares, or managed fund investments.</p> <p>Shares can be appropriate for clients who have a long-term investment timeframe, a high risk tolerance, a need for capital growth, a high surplus income or a high net asset position. People can purchase shares in companies of different industries, such as mining, financials, real estate and healthcare. This means risk can be spread across different sectors easily.</p> <p>Some clients prefer to have their investments professionally managed. This can suit people who have a small asset base but want diversification, or who are looking for an investment that is convenient to manage. In these instances, I would recommend a managed fund. As we discussed last week, a managed fund pools the money of a number of investors together. An investment manager invests the money. Investors are usually paid a periodical income distribution. The value of the investment rises and falls with the value of the underlying assets.</p> <p>As you can see, there are a lot of options. As I said, these are the options that we generally recommend to clients. Would you like to get some personal advice?</p>
William	<p>Thanks, that is a lot to consider. I think I would like to make an appointment to come in and get some personal advice about what I should do.</p>
Emma	<p>Great, we can set that up now. To help me understand what your investment aims are, I will send you some documents with some questions that you can fill out and return to me before our meeting.</p>

Scaled advice

In this example, Emma needs to operate under an AFS licence because she is providing personal advice: see s911A. Emma must give personal advice that is compliant with Div 2 of Pt 7.7A.

Emma	<p>Hi William, just a quick call to confirm a few more things. Thank you for completing the documents I sent you. I have already reviewed your situation and just need to clarify a few details with you before I can form my recommendations.</p>
William	<p>Okay.</p>
Emma	<p>According to the documents you completed:</p> <ul style="list-style-type: none"> • your grandmother died in September last year. You have inherited \$150,000 from the sale of her home. This is currently held in your cash account at Big Bank; • you are 27 years old, and single, with no dependants; • you recently started a job as an engineer, after graduating, and earn \$50,000 a year, plus super; • you have a car loan of \$40,000, which is fully financed at 10.99% per year with a loan term of seven years. Your monthly repayment of \$685 is in addition to your living expenses; • you have previously owned your own home, but sold it last year;

Emma	<ul style="list-style-type: none"> • you live at home with your parents, but would like to own your own home again in the next two years; • you estimate your living expenses to be approximately \$20,000 per year; • you have \$2,000 in a savings account, separate to your inheritance that you would like to retain. You have no other assets, apart from the savings account and a car; • you do not need cash flow generated from the investment for living expenses. Surplus cash flow can be reinvested; • you would like to use some of your inheritance to cover travel costs to Europe in 12 months. This has a cost of \$30,000; and • you would also like to preserve some of the inheritance, about 10%, so that if you decide to do further study in the future, there are funds available to you. <p>Does this sound right?</p>	
William	Yes, that's right.	
Emma	<p>Okay. I just need to run you through an exercise to measure your tolerance to risk and return expectations.</p> <p>[Emma then completes a risk profile exercise resulting in a 'Growth' outcome. As part of the risk profile exercise, Emma explains to William the characteristics of different asset classes, such as growth and income returns, the importance of diversification and ensuring the chosen risk profile meets William's personal needs and circumstances.]</p> <p>You stated in your answers that you are seeking advice about your inheritance. Where I identify other areas that I think you should address, do you want me to provide recommendations on those areas?</p>	<p><i>It may be necessary to collect some information, to understand the client's situation, that you later do not use. In this example, Emma does not know at this point what strategies or products she will ultimately recommend so it may be appropriate to assess William's risk profile, even though it is not used later.</i></p>
William	No, I just want advice on how to invest my inheritance.	
Emma	<p>That is fine, William, but I must warn you that failing to provide advice on aspects relevant to your personal situation could have risks. For example, in the event of long-term illness, having insufficient insurance will affect your lifestyle.</p> <p>[At a subsequent face-to-face meeting, Emma discusses the following with William.]</p> <p>Okay, I have prepared my recommendations for you. I have limited my advice to only the investment of your inheritance money. I haven't reviewed your whole financial situation, but if you would like advice in any other areas, I may be able to help you.</p> <p>I recommend that you use \$40,000 to pay off your car loan. The interest repayments on your car loan are not tax deductible; therefore, you are not deriving any benefit from it. If you pay out your car loan you will save approximately \$17,514 in interest payments over the life of the loan and have an extra \$685 per month which can be invested.</p>	<p><i>Emma has used her judgement to decide that the scope of advice can be limited in this way. If William's relevant circumstances were more complex (e.g. if he had a spouse and/or financial dependants, or a terminal illness), the advice provided here would need to reflect this to meet the best interests duty and related obligations.</i></p>

Emma	<p>You have advised that you would like to preserve some of the capital received from your inheritance for future study and some for a house deposit. Therefore, I recommend that you invest \$80,000 in an ABC Bank 12-month term deposit:</p> <ul style="list-style-type: none"> • \$15,000 to cover your study costs; and • \$65,000 to use as a deposit for your house purchase in two years time. You can roll over this amount for a second 12-month term if required. <p>A term deposit will provide you with modest returns, enabling the capital to grow over time. It is important for you to grow your capital to keep pace with rising education costs. I have recommended a 12-month term due to your uncertainty about the timing of your study, and to allow flexibility if you decide to purchase your house sooner. The ABC Bank 12-month interest rate is 4.40% per year, providing you with an annual pre-tax return of \$3,520 for an \$80,000 deposit. It is possible to achieve higher returns with a longer duration; however, early termination fees will generally apply if money is withdrawn before the end of the term.</p> <p>You have also advised that you would like to use your inheritance for a European holiday in 12 months time at a cost of \$30,000. I recommend that you invest \$30,000 from your inheritance in an ABC Bank term deposit, with a maturity of six months, at an interest rate of 4.35%. At the end of the six-month period, you will be able to access the \$30,000 to pay for your travel costs, plus receive interest of approximately \$650 (before tax). As agreed, this advice has been limited to the investment of your inheritance money. However, during this exercise I have noted that you have a surplus income of approximately \$13,000 per year after tax and living expenses. If you pay off your car loan, you will also have an extra \$685 per month. If you would like me to provide you with advice in relation to this money, or any other aspect of your financial situation, I can do so.</p> <p>Do you have any questions about this plan?</p>	<p><i>The advice in this example contains a lot of information and data. Emma should check that William understands the advice and, if it appears that William is confused about the advice he is receiving, Emma should explain the advice further, as necessary.</i></p>
William	<p>No. The plan sounds great—it's exactly what I want and what I feel comfortable with.</p>	
Emma	<p>Great. I will send you some information about the term deposits that I mentioned.</p>	<p><i>No Statement of Advice is required because the advice relates to deposit products that fall within an exemption in reg 7.7.10(a).</i></p>

Example 2: The adequacy of retirement savings

Mirna, 65, contacts Tim (her adviser) for personal advice about whether she can afford to retire with her present level of superannuation savings, and what payments she will be entitled to from Centrelink.

Scaled advice: Investigation of circumstances and objectives

In this example, Tim needs to operate under an AFS licence because he is providing personal advice: see s911A. Tim must give personal advice that is compliant with Div 2 of Pt 7.7A.

Tim investigates Mirna's circumstances, asking her:

- if she has a spouse;
- her age;
- if anyone else is financially dependent on her;
- if she has any known health issues;
- if she is currently employed and, if so, her estimated total income from employment in the past year;
- if she currently makes any extra contributions to her super;
- how much her employer is currently contributing to super;
- if she owns her home;
- what her assets (including superannuation and other investments) and liabilities are;
- how much she needs to meet her current annual cost of living requirements;
- what income in retirement she thinks will be sufficient;
- if she has any large expenditure plans;
- if she has any life insurance; and
- if she has a current will.

Tim also assesses Mirna's attitude towards investment risk.

As a result of these questions, the discussions during their meeting and some further research, Tim determines that Mirna:

- is 65 and single;
- has no financial dependants and is in good health;
- receives a working salary of \$50,000 a year before tax, not including employer super contributions of 9%;
- has a superannuation balance of \$150,000, currently invested in the High Growth option. She has a default level of life insurance within her super of \$12,000, which costs \$52 per year. The insured amount decreases slightly each year, reducing to nil at age 75;
- does not make extra super contributions;
- owns her home (worth \$550,000), having repaid her mortgage six years ago;

- has recently spent \$20,000 on home renovations, leaving her with cash savings of \$30,000. These savings have built up since repaying her mortgage. Mirna wishes to retain her cash savings in her bank account because she plans to use these funds for a holiday and wants to have easy access to them;
- is unsure how much she has been spending to meet her cost of living requirements, but she thinks she will need to have a retirement income of about \$33,000 a year;
- has a current after-tax income of approximately \$42,000 a year. Based on Mirna's accumulation of cash savings since repaying her mortgage six years ago, it seems that she has been managing on around \$33,000 a year;
- plans to take an extended holiday in the first year of retirement, which she estimates will cost \$10,000;
- on approaching retirement, has a conservative approach to investments and does not want to lose money in retirement; and
- has a current will, leaving her estate equally to her two adult children. Mirna has advised her superannuation fund that her benefits should be paid to her estate when she dies.

If Mirna had a mortgage or other debt, this should not be ignored when providing retirement planning advice.

Often clients do not know how much they spend; however, this factor cannot be ignored when it is essential to the client's objective of finding out 'can I afford to retire?'.

Scaled advice: Scope of advice

Tim uses his judgement to determine that the advice can be limited to:

- the adequacy of Mirna's superannuation savings to provide a retirement income;
- what her retirement income is likely to be, based on her current savings and Centrelink entitlements; and
- how long her money will last in retirement.

Tim notes Mirna is in the High Growth investment option, and decides to provide her with advice on changing this investment option, based on their risk profile discussions and Mirna's change of personal circumstances—retiring and commencing a pension from her superannuation.

By asking questions and talking with Mirna about her personal circumstances (i.e. using his judgement), Tim decides that the scope of the advice will be strategic only (apart from advice about changing investment options, which relates to the strategic advice) and will not include other aspects such as insurance, taxation or estate planning affairs. This is because:

- it would be difficult for Mirna to obtain any additional insurance at her age and the premium would be expensive;
- Mirna wants to retain her existing life insurance because the cost is minimal and she sees it as a little bit of extra money that her estate could use to pay for her funeral. The adviser has warned Mirna that the cover gradually reduces to nil between now and reaching age 75;

Tim is using his judgement to determine the scope of advice that is provided to Mirna.

If Mirna's personal circumstances were more complex (e.g. if she had a spouse and/or financial dependants, or a terminal illness), the advice provided would need to reflect this to meet the best interests duty and related obligations.

Tim has decided that consideration of insurance can be excluded. The risk and potential downside to not having additional insurance is not essential to the subject matter of the advice.

- based on current rules as a senior Australian, Mirna will not have a tax liability once she is fully retired. Her income is made up of a small amount of bank interest, tax-free superannuation pension income and the age pension; and
- Mirna has a will and has made a nomination of beneficiaries on her superannuation fund.

Tim explains the scope of the advice to Mirna.

Scaled advice: Recommendations

Tim recommends that Mirna change her current High Growth investment option to the Conservative option. This is based on the risk profile questions and assessment conducted by Tim, which indicate that:

- Mirna does not want to lose money in retirement; and
- Mirna is commencing a new phase in the lifecycle of her superannuation, from building her super to paying a pension and being reliant on this source of income in retirement.

Tim recommends that Mirna take a more conservative approach to her investment choice at retirement.

This is because Mirna's current superannuation has significant exposure to growth assets, and there is a risk that she might need to draw down on assets with depressed values to meet pension payments. This is not desirable because Mirna does not have the ability to rebuild this wealth again.

Based on 6.5% annual returns from a 'conservative' pension fund, Tim estimates that Mirna's income at retirement will be just under \$26,000. This is made up of superannuation and Centrelink payments. Tim predicts Mirna's superannuation will run out at age 90, based on this level of drawdown.

There is a \$7,000 gap between Mirna's desired annual retirement income goal and her projected annual retirement income. Tim estimates if she increases her pension drawdown for a total annual income of \$33,000 (including Centrelink benefits), her superannuation will run out by age 79, leaving her reliant on the age pension after that.

Tim then presents a number of steps Mirna can take to try to make her super last for longer into retirement, while also closing the gap between her desired income and what she can realistically achieve. He advises that potential strategies are to:

- reduce her income goal, which would involve reassessing her living standards;
- reduce her spending in the first year of retirement;
- switch to a less conservative investment option and accept more risk; or
- delay retirement and make additional superannuation contributions.

Because Mirna cannot meet her stated objectives, Tim is discussing realistic alternatives with her.

Mirna does not feel that delaying retirement is an option for her; therefore, this option is discounted. However, in her discussions with Tim she understands that she needs to balance her cost of living needs with longevity of capital.

Mirna and Tim agree that Mirna will reduce her income goal to \$29,000 a year. Tim predicts Mirna's superannuation will run out at age 86.

Mirna is now comfortable that she can afford to retire. Mirna wants some time to digest the advice and advise her employer of her retirement plans. She will also monitor her spending more closely over the coming weeks as she makes the arrangements to retire to ensure she is comfortable with her revised income goal of \$29,000 per year.

In their discussions, Tim and Mirna expect that in retirement she will spend less on things like train fares, work clothes and buying lunch. Also, her pensioner concession card will provide savings on her current expenses, such as rates, utilities and medical expenses. ASIC has a budget planner tool available at www.moneysmart.gov.au/tools-and-resources/calculators-and-tools/budget-planner

Scaled advice: Statement of Advice

STATEMENT OF ADVICE

XYZ Advice Limited

1 December 2012

Ms Mirna Betros
1 Sydney Road
Sydney NSW 2000

Dear Mirna

Can you afford to retire now?

Thank you for meeting with me to discuss your financial needs. You have asked for my advice about the adequacy of your retirement savings. In particular, you have the following questions:

- If you retire now, what is your retirement income likely to be, based on your current retirement savings and Centrelink age pension benefits?
- How long will your money last in retirement?

Information about you

- You are aged 65, single, have no financial dependants and are in good health.
- Your employment salary is \$50,000 a year before tax plus employer superannuation contributions of 9%. You do not make any extra contributions to superannuation.
- Your superannuation balance is currently \$150,000 invested in the High Growth option of the ABC Superannuation Fund. You have \$12,000 of life insurance within your super at a cost of \$52 per year. The insured amount decreases each year, reducing to nil at age 75.
- You own your home (which you have indicated is worth around \$550,000), having repaid your mortgage six years ago.
- You recently spent \$20,000 on home renovations, leaving you with cash savings of \$30,000. You wish to retain access to these savings in your bank account.
- You estimate you need a retirement income of \$33,000 per year. This compares to your current after-tax income of approximately \$42,000 per year. Based on your accumulated savings since repaying your mortgage six years ago, it seems that you have been managing on around \$33,000 per year.
- You plan to take an extended holiday in the first year of retirement and estimate you will need \$10,000. You will use your cash savings for this expenditure. You have no other capital expenditure plans.

- You are a conservative investor and do not want to lose money in retirement.
- You have a current will and have made a nomination of beneficiaries on your superannuation benefits.

My advice

We agreed my advice will only cover the following topics:

- the adequacy of your superannuation savings to provide a retirement income, including what your retirement income is likely to be, and how long your superannuation will last; and
- an investment choice recommendation for your superannuation savings.

My advice will not include other aspects such as insurance, taxation or estate planning affairs for the following reasons:

- Obtaining additional insurance at your age will be difficult and expensive.
- You wish to retain your existing life insurance because the cost is minimal and you see it as a little bit of extra money that your estate could use to pay funeral expenses. You are aware that the cover will gradually reduce to nil between now and reaching age 75.
- Based on current rules as a senior Australian, you will not have a tax liability once you are fully retired.

You have a current will and have made a nomination of beneficiaries on your superannuation benefits.

Adequacy of retirement savings

Based on 6.5% annual returns from a 'conservative' pension fund, I estimate that your income at retirement will be just under \$26,000. This is made up of the minimum superannuation pension drawdown and Centrelink payments. On this level of income I estimate your superannuation will run out at age 90.

There is a shortfall of \$7,000 between this amount and your desired retirement income goal. If you increased your superannuation pension drawdown for a total annual income of \$33,000 (including Centrelink benefits), I estimate your superannuation will run out at age 79.

The options available to you are:

- delay retirement and make additional superannuation contributions;
- reduce your desired retirement income goal;
- reduce your spending in the first year of retirement; or
- switch to a less conservative investment option and accept more risk.

You told me that delaying retirement is not an option. However, you have said that you understand the need to balance your cost of living needs with longevity of capital. Following our discussions on the options available to you, we agreed that you will:

- reduce your income goal to \$29,000 a year. On this level of income I estimate your superannuation will run out at age 86. Note that this expected duration is based on an average return. Actual returns may be higher or lower in any year and this will affect how long the income stream will actually last; and
- change your investment option (see advice below).

I think that this advice is in your best interests because your revised retirement income goals will allow your pension to last until you are 90.

Results are shown in today's dollars, which means they are adjusted for inflation. We make the following default assumptions on inflation: 2.5% each year due to the rising cost of living, and a further 1% each year due to rising community living standards.

Investment choice

I recommend you change your investment option from the High Growth to Conservative investment option. I think that this advice is in your best interests because:

- Your responses to the risk profile questions and our subsequent discussions identified you are a conservative investor who does not want to lose money in retirement. A conservative option has a less exposure to shares and property and a higher exposure to fixed interest and cash. In a conservative option, the chance of a loss is still possible and predicted to occur in one year over a 20-year period. This is considerably less, however, than your current High Growth option where the chance of loss is predicted to occur every 4–5 years over a 20-year period.
- You are commencing a new phase in the lifecycle of your superannuation from building your super to paying a pension and being reliant on this source of income in retirement.
- It is appropriate to take a more conservative approach to investment choice at retirement. If you remain in the High Growth option, you will have a significant exposure to growth assets. You may have to draw down on assets with depressed values to meet pension payments. This is not desirable because, as a pensioner, you do not have the ability to rebuild this wealth again (assuming returning to work is not an option).

Remuneration and conflicts of interest

The fee for our meeting and for preparing this Statement of Advice is \$XX (including GST). No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you act on this advice and change your investment option to the Conservative option, the fees payable to your superannuation fund will be \$XX. This is lower than the fee that you are currently paying to your superannuation fund as a member of the High Growth option.

Acting on this advice

To act on this advice, you need to decide when you officially retire and:

- notify your employer;
- contact Centrelink and register for your age pension benefits; and
- contact your superannuation fund for assistance with the relevant paperwork.

Should you have any questions, please call me on (02) 9999 9999.

Yours sincerely

Tim Smith
Authorised Representative
XYZ Advice Limited
ABN 12 345 678 910, AFS licence 123456

This case study is based on ASIC's MoneySmart retirement income calculator. For the assumptions, go to www.moneysmart.gov.au/tools-and-resources/calculators-and-tools/retirement-planner.

Example 3: A retirement savings health check

Bruno and Rosa contact Tim, an adviser, to obtain personal advice about whether they are on track with their finances in the lead-up to their retirement. They are not interested in product advice.

They want to know if they are on track financially to meet their retirement goals or whether they need to be saving more. They would like to retire in five years and they estimate they need \$55,000 a year to meet their expenses.

Scaled advice: Investigation of circumstances and objectives

In this example, Tim needs to operate under an AFS licence because he is providing personal advice: see s911A. Tim must give personal advice that is compliant with Div 2 of Pt 7.7A.

Tim investigates their circumstances, asking:

- their age and marital status;
- if they have any financial dependants;
- if they have any known health issues;
- if they are employed, and, if so, their current income;
- how much their employer is currently contributing to their superannuation;
- if they currently make any extra contributions to their superannuation;
- what their assets (including home, superannuation and other investments) and liabilities are;
- how much they need to meet their current annual cost of living requirements;
- what income in retirement they think they will need;
- if they have any large expenditure plans; and
- if they have a current will.

As a result of these questions and the discussions during their meeting, Tim confirms that:

- Rosa, aged 59, and Bruno, aged 57, are married;
- they have no financial dependants and are in good health;
- Rosa earns \$110,000 a year, plus 9% superannuation guarantee contributions;
- Bruno earns \$58,000 a year, plus 9% superannuation guarantee contributions;
- Bruno attended a retirement planning seminar provided by his superannuation fund about a year ago. Following this seminar, Bruno and Rosa started salary sacrificing into their superannuation. Rosa is salary sacrificing \$10,000 a year and Bruno is salary sacrificing \$5,000 a year;
- Rosa's superannuation balance is \$515,000, with the age-based default level of \$18,000 life insurance at a cost of \$52 a year;
- Bruno's superannuation balance is \$150,000, with the age-based default level of \$22,000 life insurance at a cost of \$52 a year;

- Bruno and Rosa own their home (which they estimate is worth \$760,000), having repaid their mortgage five years ago;
- Bruno and Rosa own the following investment assets:
 - cash savings of \$135,000; and
 - a share portfolio of \$35,000;
- they are unsure about their current cost of living needs;
- they would like to retire in five years and estimate they will need \$55,000 a year for their retirement income;
- based on their accumulated cash savings since repaying their mortgage five years ago, it seems that they have been spending around \$70,000 per year;
- they plan to take an overseas holiday in 18 months time which will cost \$30,000;
- when they retire they estimate they will spend \$50,000 on home renovations and \$20,000 on a new car; and
- they have a current will and a valid nomination of beneficiaries with their superannuation fund.

Tim points out that their current income (after tax and salary sacrifice contributions) is approximately \$116,000 a year. This is more than double their estimated retirement income needs.

In the course of discussions, it becomes clear that although there is a gap between Bruno and Rosa's current after-tax income, accumulated savings and desired retirement income, this can be explained by their spending in recent years on holidays, a car upgrade and assisting their children with university fees.

In preparation for this meeting, Bruno and Rosa reviewed their superannuation statements from the past few years. Following the recent retirement planning seminar they attended, they adjusted their investment choice to a moderate investment option, as they do not want to lose money in retirement.

Often clients do not know how much they spend. However, this factor cannot be ignored when it is essential to the client objective 'are we on track to meet our retirement goals?'

Scaled advice: Scope of advice

Tim decides to provide advice limited to:

- whether Bruno and Rosa are on track to meet their goal of retiring in five years with an income of \$55,000 a year; and
- how long their money will last in retirement.

Tim discusses with Bruno and Rosa that the scope of the advice will be strategic only. It will not include their existing financial products, investment choice, insurance, taxation or estate planning affairs for the following reasons:

- Bruno and Rosa have made their own investment choice and are comfortable with this aspect of their superannuation;
- they are comfortable having minimal insurance at this stage in their life and do not want additional cover;
- they have current wills and have made a nomination of beneficiaries on their superannuation accounts; and

Tim decides the scope of the advice by using his judgement to establish that the scope of the advice is consistent with Bruno and Rosa's relevant circumstances and the subject matter of advice that they are seeking.

In this example, Tim provides strategic advice, but not product advice, and complies with the law, including the best interests duty and related obligations.

The risk and potential downside to not having additional insurance is not essential to the subject matter of the advice.

- as senior Australians (based on current rules), Bruno and Rosa will not have a tax liability once they are fully retired, because their income will be made up of a small amount of bank interest, share dividend income, tax-free superannuation pension income and the age pension.

Tim warns that, failing to provide advice on these aspects, could have risks. For example, in the event of long-term illness, having insufficient insurance will impede their current retirement goals.

Because the advice has been scaled and areas have been left out, a clear explanation must be provided.

Scaled advice: Recommendations

Tim explains to Bruno and Rosa that they are on track to meet their retirement goals—they just need to keep doing what they are doing.

Based on 6.3% annual returns from a ‘moderate’ superannuation fund investment option, Tim estimates that their income at retirement in five years will be approximately \$55,000 a year. Once they each reach the age when they can apply for the age pension, they are likely to qualify for a part age pension entitlement. Their planned capital expenditure can be met from their cash savings.

Tim estimates their superannuation will run out when Rosa reaches age 90 and Bruno reaches age 88, based on this level of drawdown. At this point, they would be fully reliant on a Centrelink age pension.

Tim tells the Bruno and Rosa they could further improve their retirement position by implementing a transition-to-retirement strategy. At their request, Tim provides an overview of how this strategy works and how it becomes more beneficial for those aged 60 and over.

Tim provides Bruno and Rosa with some educational material on this strategy and they agree to meet again in nine months, as Rosa approaches age 60.

Bruno and Rosa will continue with their current arrangements. However, Tim suggests they contact him again:

- if their personal circumstances change—for example, things like prolonged illness or redundancy would affect their income and therefore their retirement plans;
- as Rosa approaches age 60, on how a transition-to-retirement strategy could enhance their retirement capital;
- if they wish to review their situation again at any time in the future to ensure they remain on track with their retirement plans; and
- 12 months before they retire to ensure they prepare for retirement and explore their income stream options and investment choices, as they transition from accumulating super to living off it.

Bruno and Rosa are pleased to know they are on track and pay the agreed fee to Tim for this advice.

Even though Bruno and Rosa are on track to meet their desired goals, Tim highlights a strategy that is in their best interests to consider. They do not wish to proceed now, but agree to do so as Rosa reaches age 60.

Tim highlights the circumstances when they should seek advice again in the future as it is in their best interests to do so.

Statement of advice

STATEMENT OF ADVICE

XYZ Advice Limited

1 December 2012

Mrs Rosa Esposito and Mr Bruno Esposito
77 Sydney Road
Sydney NSW 2000

Dear Rosa and Bruno,

Are you on track to meet your retirement goals?

Thank you for meeting with me to discuss your retirement planning. You have asked for my advice on whether you are on track to meet your retirement goals. In particular, you would like to know:

- Can you afford to retire in five years time with an income of \$55,000 per year based on your current circumstances?
- If not, what can you do to achieve this?
- How long will your money last in retirement?

Information about you

- Rosa, you are aged 59 and married to Bruno, aged 57.
- You have no financial dependants and are both in good health.
- Rosa earns \$110,000 per year plus 9% superannuation guarantee contributions.
- Bruno earns \$58,000 per year plus 9% superannuation guarantee contributions.
- You are both salary sacrificing into your superannuation accounts. Rosa is salary sacrificing \$10,000 per year and Bruno is salary sacrificing \$5,000 per year.
- Rosa's superannuation balance is \$515,000, with the age-based default level of \$18,000 life insurance at a cost of \$52 per year.
- Bruno's superannuation balance is \$150,000, with the age-based default level of \$22,000 life insurance at a cost of \$52 per year.
- You jointly own your home (worth approximately \$760,000) after repaying your mortgage five years ago.
- You jointly own the following investment assets:
 - cash savings of \$135,000; and
 - a share portfolio of \$35,000
- You would like to retire in five years time and estimate you will need \$55,000 per year for your retirement income.
- Your current income (after tax and salary sacrifice contributions) is approximately \$116,000 per year. This is more than double your estimated retirement income needs.
- Based on your accumulated cash savings since repaying your mortgage five years ago, it seems that you have been spending around \$70,000 per year.
- During our discussions, it became clear that the gap between your current after-tax income, accumulated savings and desired retirement income was explained by your spending in recent years on holidays, a car upgrade and assisting your children with university fees.
- Your capital expenditure plans include an overseas holiday in 18 months time which will cost \$30,000. When you retire, you estimate you will spend \$50,000 on home renovations and \$20,000 on a new car.
- You have current wills and have each made a nomination of beneficiaries on your superannuation benefits.

My advice

We agreed my advice will cover the following topics:

- whether you are on track to meet your goal of retiring in five years with an income of \$55,000 per year; and
- how long your money will last in retirement.

My advice will be strategic only. It will not include other aspects such as your existing financial products, investment choice, insurance, taxation or estate planning affairs for the following reasons:

- You recently attended a retirement planning seminar hosted by your superannuation fund and changed your investment choice to a moderate option. This is because you want to minimise investment volatility as you approach retirement. You have told me you do not wish to receive advice on this topic and you are comfortable with this aspect of your superannuation.
- You have told me you understand you have minimal life insurance and are comfortable with this decision at this stage in your life. You do not want additional insurance cover. During our meeting I explained that failing to seek advice on insurance is a risk for your personal situation. In the event of long-term illness, having insufficient insurance may affect your current retirement goals.
- You have current wills and have made a nomination of beneficiaries on your superannuation accounts.
- Based on current rules, as senior Australians you will not have a tax liability once you are fully retired because your income will be made up of a small amount of bank interest, share dividend income, tax-free superannuation pension income and the age pension.

Adequacy of retirement savings

Bruno and Rosa, as explained during our meeting, you are on track to meet your retirement goals—you just need to keep doing what you are already doing. I believe this is in your best interests for the reasons set out below.

Based on 6.3% annual returns from a 'moderate' superannuation fund and your current levels of salary sacrifice I estimate you will achieve your retirement income goal of \$55,000 per year in today's dollars and adjusted for inflation when you plan to retire in five years time. Also, once you each reach age pension age, you will likely qualify for a part age pension entitlement. Based on this level of income, increasing each year in line with consumer prices and community standards, I estimate your superannuation savings will run out when Rosa reaches age 90 and Bruno reaches age 88. At this 'point, you will be fully reliant on a Centrelink age pension, which in today's dollars is \$30,284 for a couple and \$20,087 for a single person (including the full pension supplement entitlement). If you qualify for the age pension (full or part) you will also be entitled to a Pensioner Concession Card.

I have allowed for your planned capital expenditure in 18 months time and at retirement to be met from your cash savings.

As discussed during our meeting, you could further improve your retirement position by implementing a transition-to-retirement strategy. I have provided you with a brochure on this strategy.

Acting on this advice

For now, you should continue with your current arrangements. However, I suggest you contact me again in the future for advice:

- if your personal circumstances change—for example, things like prolonged illness or a redundancy would affect your income and therefore your retirement plans;

Results are shown in today's dollars, which means they are adjusted for inflation. We make the following default assumptions on inflation: 2.5% each year due to the rising cost of living, and a further 1% each year due to rising community living standards.

This case study is based on ASIC's MoneySmart retirement income calculator. For the assumptions, go to www.moneysmart.gov.au/tools-and-resources/calculators-and-tools/retirement-planner

- as Rosa approaches age 60 to receive advice on how a transition-to-retirement strategy could enhance your retirement capital;
- if you wish to review your situation again at any time in the future to ensure you remain on track with your retirement plans; and
- 12 months before you retire to allow sufficient time to prepare for the important lifecycle stage where you transition from accumulating your superannuation to relying on it to provide you with an income in retirement. At this point in time, I can provide you with personal advice on the most appropriate income stream option(s) and investment choices.

Remuneration and conflicts of interest

The fee for our meeting and for preparing this Statement of Advice is \$XX (including GST). No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

Should you have any questions, please call me on (02) 9999 9999.

Yours sincerely

Tim Smith
Authorised Representative
XYZ Advice Limited
ABN 12 345 678 910, AFS licence 123456

Example 4: Changing investment options—Call centre conversation

Jim contacts his superannuation fund for information and advice about changing investment options.

Factual information

In this example, the operator does not need an AFS licence because no financial product advice is being given.

Jim	Hi. I am Jim Walker, a member of ABC Superannuation Fund. I haven't really given much thought to my investment options until now, but think it's a good time to consider these in light of what's happened since the global financial crisis. I'm only 32. Please can you tell me whether I am in the right option?	
Operator	Hi, Jim. I'll take you through our investment options then. Just so you know upfront, I can give you some factual information about the investment options in our fund, but I'm unable to give you any financial advice about what you should do. If you would like to obtain personal advice about which investment option is right for you, I can refer you to a financial adviser.	<i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Jim upfront that they will not be giving any financial product advice.</i>
Jim	That's fine—I just need some information at the moment.	
Operator	<p>The ABC Superannuation Fund has four different types of investment options you can invest in.</p> <p>Our investment options are Cash, Balanced, Growth and High Growth.</p> <p>Our Cash option invests 100% in cash deposits with Australian deposit-taking institutions. Historically, this option has earned the lowest average returns, slightly better than inflation.</p> <p>Our Balanced option invests 60% to 70% in shares and property. The rest is invested in fixed interest and cash. This option aims for moderate average returns. It sometimes produces a negative return. This depends on market performance.</p> <p>Our Growth option invests 70% to 80% in shares and property. The rest is invested in fixed interest and cash. Historically, these higher-risk investments have earned higher returns. Compared to the Cash and Balanced options, this is more likely to, and has had, negative returns in several years depending on market performance.</p> <p>Our High Growth fund invests 80% to 90% in shares or property. The rest is invested in fixed interest and cash. Historically, these higher risk investments have earned the highest returns over the long term. However, in a number of years, the investments have had, and can be expected to have, negative returns depending on market performance. The negative returns can be significant, and it can take many years for any later returns to make up for any losses.</p>	<p><i>This operator is giving factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence Jim.</i> <p><i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Jim as a member of their fund, but this doesn't stop the operator from giving Jim factual information.</i></p>

Operator	Members need to be aware that past performance is not necessarily a guide to future performance. The information about returns I've just discussed can change. Members should continue to monitor their super's performance. We have more information about the investment options available to members on our website.	<i>A 'past performance warning' is appropriate in the context of information about performance returns. You can provide information in a variety of ways. This example started with a phone call and ends with Jim looking at the fund's website.</i>
Jim	Thanks, that's given me a good overview. I'll jump on the internet now and have a look at your website.	
Operator	Great. How about I call you in about a week to see if you have any questions?	<i>There's no correct way to end a call. It's up to you to work out if, and how, you want to follow up with clients.</i>
Jim	Thanks. I'd appreciate that.	

General advice

In this example, ABC Superannuation Fund is not licensed because it is relying on the exemption for product issuers to give general advice without an AFS licence where that advice is about its own superannuation fund on certain conditions.

Jim	Hi. I am Jim Walker, a member of ABC Superannuation Fund. I haven't really given much thought to my investment options until now but think it is a good time to consider these in light of what's happened since the global financial crisis. I'm only 32. I don't know which investment option might suit me.	
Adviser	<p>I'll take you through our investment options, Jim.</p> <p>Just so you know upfront, I can tell you what we generally recommend for our members, but I won't be considering your personal financial circumstances. If you are after personal advice, we can refer you to a financial adviser.</p> <p>I also need to mention that ABC Superannuation Fund is not licensed to give you advice about the fund, so we recommend that you get a Product Disclosure Statement and read it before making a decision. We can send you one in the mail, or you can find it on our website.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Jim is clearly told upfront that he will not be given personal advice.</i></p> <p><i>ABC Superannuation Fund needs to provide this warning because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its fund).</i></p>
Jim	Okay, thanks—I'll check it out on your website.	
Adviser	<p>For most people, superannuation is a long-term investment. The amount of super they have when they retire will depend on how long they've had super for, how much they or their employer has contributed to your super, what fees and costs are charged, what taxes are paid, the investment options they select and how it performs.</p> <p>The ABC Superannuation Fund has four different types of investment options.</p> <p>[The adviser then provides the same factual information given in the factual information conversation set out above.]</p>	

Adviser	<p>Members need to be aware that past performance is not necessarily a guide to future performance. The information about returns I've just discussed can change. Members should continue to monitor their super's performance. We have more information about the investment options available to members on our website.</p> <p>We typically recommend that members between 18 and 30 invest in our High Growth option and members between 30 and 45 invest in our Growth option. The value of these options will go up and down more than other options but they have the potential to produce higher returns over the long term.</p> <p>As our members get to seven to 10 years from retirement, we generally recommend that they move some or all of their super to more conservative investment options, like a mix of our Cash and Balanced funds, to help protect accumulated super.</p> <p>It is also worth considering the consequences of choosing one option over another. If a person chooses an option that has produced a higher return in the past—such as our Growth and High Growth options—the suggested timeframe for staying in that investment option will be longer. It's also more likely that they'll need to be prepared for times when the option produces a negative return. However, a possible benefit of choosing this type of option is that the person may achieve a higher retirement balance.</p> <p>On the other hand, if a person decides to choose an option that experiences fewer ups and downs, but has produced lower returns historically—such as our Cash or Balanced option—this decision could result in a significantly lower final retirement balance.</p> <p>As I stated earlier, please note that this advice is general and it may not be right for you.</p>	<i>A 'past performance warning' is appropriate in the context of information about performance returns.</i>
Jim	Thanks, that has been really helpful. I might do some more research and come back to you if I want to change the investment option I'm in.	
Adviser	Sure, Jim. I'm glad I was able to help you. If you have any further questions or there's anything else I can help you with, please let me know.	

Scaled advice

Because this example involves personal advice, the ABC Superannuation Fund needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Jim	Hi. I am Jim Walker, a member of ABC Superannuation Fund. I haven't really given much thought to my investment options until now but think it is a good time to consider these in light of what's happened since the global financial crisis. I'm only 32. I don't know which investment option is best for me.
Adviser	<p>Hi Jim, I can take you through our investment options and give you some personal recommendations about our investment options that you might like to consider.</p> <p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder. The adviser will also confirm that the client has a copy of the current version of the Financial Services Guide, if required.]</p>

Adviser	<p>But I need to let you know that I can only give you advice about your interest in the ABC Superannuation Fund. This means that I will only be considering your choice of investment options in the ABC Superannuation Fund. If you have another super fund or want to seek advice about other financial products or issues about ABC Superannuation Fund, you should seek other advice that also considers these issues.</p>	<p><i>You should make the scope of the advice you are giving clear. In this example, ABC Superannuation Fund makes it clear that the scope of the advice is limited to Jim's interest in that fund.</i></p> <p><i>The adviser has indicated to Jim that he might want to consider getting advice that looks at his overall financial position.</i></p>
Jim	<p>That's fine. I am only interested in getting advice about what investment option in the ABC Superannuation Fund I should choose now, not anything else.</p>	
Adviser	<p>Thanks Jim. I now have your information in front of me. You're:</p> <ul style="list-style-type: none"> • 32; • have a current super balance in ABC Superannuation Fund of \$42,000; and • are currently invested in our Balanced option. <p>On this basis, I have a few additional questions to ask you. This will help me to calculate the impact of different options:</p> <ul style="list-style-type: none"> • What is your current before-tax income? • Is your employer paying the standard superannuation guarantee amount into super for you? <p>Are you contributing anything yourself on top of that into your super?</p>	<p><i>This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.</i></p> <p><i>The adviser asks Jim a number of questions to determine whether advice that is limited in this way can meet the best interests duty.</i></p>
Jim	<p>I'm on \$50,000 a year and I get my standard super. I'm not doing anything else to contribute at the moment. I don't really want to make any extra contributions.</p>	
Adviser	<p>Okay. I also need to get a sense of what kind of investor you are. How have you felt about the volatility experience by the Balanced option over the last few years?</p>	
Jim	<p>I know super is a long-term investment, but I am concerned about the amount of volatility I've experienced lately in the Balanced option. I've considered switching a couple of times into a lower risk option.</p>	
Adviser	<p>I can understand that. However, before you switch, it's important to be aware of the potential consequences.</p> <p>If you switch to an option that experiences fewer ups and downs, but produces a lower return over time, this could have a significant impact on your final retirement balance. This is relevant to you, because it's likely that it'll be many years before you retire and need to access your super.</p> <p>If you choose a higher-risk option that has produced higher returns in the past, it's more likely that it will produce a negative return in some years.</p> <p>Let me give you two examples.</p>	

Adviser	<p>If you leave your super in the Balanced option and keep making your superannuation guarantee contribution, and you retire at say age 67, you'll have approximately \$393,000 when you retire. This would mean that you would have enough for a pension from your super fund of \$38,935 until you turn 90.</p> <p>If you switch to the Moderate option, you'll have \$349,634 at age 67. This would mean you would have enough for a pension from your super fund of \$33,374 until you turn 90.</p> <p>All these results are stated in today's dollars.</p>
Jim	That is quite a difference.
Adviser	<p>That's true. You also need to understand that if you stay in the Balanced option, it's likely you'll continue to see some volatility over the short to medium term. The Balanced option is likely to produce a negative return once every four years. Over the past 10 years, its returns have ranged from negative 14%, to positive 17%.</p> <p>On the other hand, the Moderate option is likely to produce a negative return once every five years. Over the past 10 years, its returns have ranged from negative 10%, to positive 13%. This is just an example of how moving between the two investment options may affect your long-term super savings.</p> <p>You also need to be aware that past performance is not necessarily an indication of future performance. The returns I've just discussed with you can change and should only be considered as one of a range of possible outcomes.</p>
Jim	I understand. What if I move to a higher risk option?
Adviser	<p>If you switch to the Growth option you'll have approximately \$443,000 available by age 67.</p> <p>This would give you a pension of \$41,671 until you turn 90.</p> <p>According to the ABC Superannuation Fund PDS, the Growth option is likely to produce a negative return once every three years. Over the past 10 years, its returns have ranged from negative 20% to positive 22%.</p>
Jim	Thanks for that. Based on everything you've told me, I now think I'd be comfortable to move my super into the Growth option. Now that you've explained how the options compare in terms of risk and return, I will feel more comfortable if negative returns happen.
Adviser	<p>Okay. You need to understand that moving from the Balanced option into the Growth option involves taking on more growth assets like shares, compared to defensive assets like fixed interest.</p> <p>This means the investment risk in your portfolio will increase, and there is a real chance your decision will mean you can achieve higher annual returns in some years, but also lose money in other years. You need to be personally comfortable with this. For example, if there are losses in the next couple of years, it may take time to recover these losses, depending on how quickly the market recovers.</p> <p>And of course, as I said, investment returns can change over time.</p>

A 'past performance' warning is appropriate in the context of giving information about performance returns.

Switching investment options carries some risks. You should always be upfront about risks.

Adviser It is also important to keep in mind that, generally, it is not appropriate to maintain the same investment option throughout your working life. We recommend that members review their investment options every five years to ensure that it is still an appropriate option for them.

My advice is based on the information you have provided to me. If you have provided me with incomplete or inaccurate information, you risk making a decision that may not be appropriate for your circumstances. For example, if your contribution rates are different then, of course, the calculations will change. I'm now going to forward you a short Statement of Advice outlining what we've discussed and my recommendations.

Statement of Advice

STATEMENT OF ADVICE

ABC Superannuation Fund Limited

ABN 12 345 567890 AFS licence no. 123456

1 December 2012

Jim Walker
1 Sydney Road
Sydney NSW 2000

Dear Jim,

Changing investment options

You spoke with one of our representatives today about whether to change the investment option you have with the ABC Superannuation Fund.

Information about you

- You are aged 32.
- You have a current super balance in ABC Superannuation Fund of \$42,000.
- You are currently invested in the Balanced option.
- You earn a gross amount of \$50,000 per year.
- Your employer is contributing the standard superannuation guarantee amount.

You do not currently make any extra contributions to your superannuation and don't want to make any extra contributions at this stage.

Our advice

Based on your age, your investment timeframe until retirement, your preparedness to accept the risk of your balance going down through a more aggressive asset allocation and the fact that a change in portfolio is more likely than not to result in a potentially significant improvement in the value of your portfolio at retirement, we recommend you place your superannuation into the Growth option.

Why I have made this recommendation

I think it is in your best interests to change your investment option to the Growth option. This is because superannuation is a long-term investment for you and we recommend that you invest according to the appropriate timeframe. In your case, this would be based on your current age and time remaining until retirement, and your willingness to take on the potential ups and downs which come with the desire to go into an option that aims for higher returns.

As we discussed on the phone, one way to increase your final superannuation balance is to invest your super in a higher growth option. As an example of the effects of moving between the two portfolios, if you leave your super in the ABC Superannuation Fund Balanced option, based on the assumptions of an earning rate of 7.5% per year until you retire at 67 and 8% thereafter, according to our calculations, you will have approximately \$393,000 available at the age of 67. This would mean that you would have enough for a pension from your super fund of \$38,935 until you turn 90.

If you switch your superannuation to the ABC Superannuation Fund Growth option, based on an assumptions of an earning rate of 8% per year until you retire at 67 and 8.5% thereafter you will have approximately \$443,000 at the age of 67. This would mean you would have enough for a pension from your super fund of \$41,671 until you turn 90. This exercise shows that a difference as small as 0.5% per year on your returns can have a significant impact on your final super balance. This example is only intended to provide a model to show a possible effect of changing investment options and does not take into account your retirement needs.

Risks of acting on this advice

It is important to understand that moving from one option to another involves taking on more growth assets like shares, compared to defensive assets like fixed interest. This means the investment risk in your portfolio will increase. Also, as we discussed over the phone, relative investment returns can definitely change over time and you need to be aware of this.

It is also important to keep in mind that, generally, it is not appropriate to maintain the same investment option throughout your working life. We recommend that members review their investment options every five years to ensure that it is still an appropriate option for them.

What this advice does, and does not, cover

Please note that the above recommendation is based on the information you have provided to me and only relates to whether to change the investment option you are currently invested in through the ABC Superannuation Fund. This advice does not take into account all of your personal circumstances—for example, other superannuation you may have outside your ABC Superannuation Fund. If you have provided me with incomplete or inaccurate information, you risk making a decision that may not be appropriate for your circumstances. If you have another super fund or want to seek advice about other financial products, you should seek other advice.

Remuneration and conflicts of interest

This advice was provided at no additional cost to you. It is part of our overall member service. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you follow this advice, ABC Superannuation Fund will receive an annual management fee of \$XX (including GST) which is the management fee for the Growth option. This is the same as the management fee that ABC Superannuation Fund currently receives for your investment in the Balanced option.

Acting on this advice

To act on the advice, just complete the enclosed form and return it to.

Should you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

ABC Superannuation Fund
5 Harbour Street
Sydney NSW 2000

Phone number: (02) 9999 9999

ABC Superannuation Fund Limited, ABN 12 345 567890, AFS licence no. 123456, is the trustee and licensee responsible for the ABC Superannuation Fund.

The projections in this example have been estimated using ASIC's current superannuation calculator, available at www.moneysmart.gov.au/to-ols-and-resources/calculators-and-tools/superannuation-calculator, and adopting the assumptions underlying that calculator.

Example 5: Insurance—Call centre conversation

Ruchi contacts her superannuation fund for information and advice about her insurance within the fund.

Factual information

In this example, DEF Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Operator	Good afternoon, you've called the DEF Superannuation Fund. How can I help you?
Ruchi	Hi, my name is Ruchi. My husband and I just bought a new house. I want to know whether I need to increase the insurance cover in my superannuation account with DEF Superannuation Fund. I'm concerned that if something happens to me, he might not have enough money to pay off our mortgage. My member number is 98765SR. Can you help me?
Operator	<p>Thanks very much for your call, Ruchi.</p> <p>Just so you know upfront, I can give you some factual information about insurance within the DEF Superannuation Fund, but I can't give you personal financial product advice about what you should do. If you would like to receive personal advice, I can refer you to a financial adviser.</p>
Ruchi	That's fine.
Operator	<p>DEF Superannuation Fund provides members with life insurance and total and permanent disability—or 'TPD'—insurance.</p> <p>We do not offer income protection or trauma insurance.</p> <p>Life insurance pays a lump sum after the death of the person insured. This is important, particularly if they have dependants, because it provides their family with funds to help maintain their lifestyle in the event of their death. If they die a lump sum may be paid. Their family and other dependants may use this money to service or pay out any outstanding debts and pay for day-to-day living expenses.</p> <p>TPD insurance provides a lump sum payment if the insured person is totally and permanently disabled. Depending on the policy, they may be paid a TPD benefit if they can't work. TPD insurance can be used to help cover rehabilitation costs, repayment of debts, the cost of living or to replace income the insured person would have earned if they could still work. Payments are not usually made until the insured person has been off work for at least six months, and the insurer and the trustee believe that they are unlikely to work again.</p> <p>If a claim is made, the amount that would be payable is the balance of the member's superannuation account, plus the level of cover for life cover or the level of cover for TPD cover.</p>

It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Ruchi is clearly told upfront that she will not be given any personal advice.

You can give factual information to a caller even though you know some personal information about them. In this example, DEF Superannuation Fund has personal information about Ruchi as a member of its fund, but this doesn't stop the operator from giving Ruchi factual information.

This operator is giving factual information only because:

- *the information can be objectively determined as being accurate; and*
- *the communication doesn't contain a recommendation or statement of opinion that is intended to influence Ruchi.*

Operator	For example, if the current life and TPD cover on your superannuation account was \$100,000, the amount payable would be the balance of your superannuation account plus \$100,000 for life cover or \$100,000 for TPD cover.
Ruchi	So, what happens if I have a serious accident at work and I can't work anymore?
Operator	The TPD cover may be payable if your circumstances meet the eligibility criteria in your policy. In that case, you will be paid the balance of your account, plus the level of cover you have for TPD, either through a lump sum or through pension payments.
Ruchi	If I decide to increase my cover, how do I do this?
Operator	<p>To increase your cover, you would need to give us further medical information.</p> <p>We have an insurance calculator on our website that can give you an idea of how much additional life and TPD insurance cover you might need and the cost of that additional cover.</p> <p>You can also see the latest version of the superannuation Product Disclosure Statement on our website, or we can send one out to you. This has information on increasing the insurance level in your existing superannuation product.</p> <p>We would be happy to help you further after you have looked at the information.</p>
Ruchi	Thank you for that. I'll look at your website and call you if I have any other questions.

This example highlights that you can provide information in different ways (i.e. over the phone, on the internet or by post). It's up to you to decide how you want to deliver information.

General advice

In this example, DEF Superannuation Fund has an AFS licence authorising it to provide general advice: 911A.

Adviser	Good afternoon, you've called DEF Superannuation Fund. How can I help you?
Ruchi	Hi, my name is Ruchi. My husband and I just bought a new house. I want to know whether I need to increase my insurance cover in my superannuation account with DEF Superannuation Fund. I'm concerned that if something happens to me, he might not have enough money to pay off our mortgage. My member number is 98765SR. Can you help me?

Adviser	<p>Thanks very much for your call, Ruchi.</p> <p>Just so you know upfront, I can only give you advice about what we generally recommend to our members. I will not be considering your individual circumstances so I can't give you any personal advice.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Ruchi is clearly told upfront that she will not be given personal advice. General advice given by an AFS licensee must be accompanied by a general advice warning, and we have given relief to facilitate the use of short oral warnings like this: see RG 244.40.</i></p>
Ruchi	That's fine.	
Adviser	[The adviser gives Ruchi the same factual information provided in the factual information conversation set out above.]	
Ruchi	So, what happens if I have a serious accident at work and I can't work anymore?	
Adviser	The TPD cover may be payable if your circumstances meet the eligibility criteria in the relevant policy. In that case, you will be paid the balance of your account, plus the level of cover you have for TPD, either through a lump sum or through pension payments.	
Ruchi	How do I know if I have enough cover?	
Adviser	<p>As I have explained, I can't give you personal advice, but I can tell you what we generally recommend. At a minimum, members need to ensure that their cover meets their debts and expenses.</p> <p>However, to ensure that our members have enough life and TPD cover, we recommend that they consider all of their debts and expenses, not just debts such as their mortgage and basic living expenses.</p> <p>For example, other debts may include credit card debt, car loans and personal loans. Other expenses may include future education expenses for children, funeral expenses, and other major future expenses like rehabilitation costs if the member becomes disabled.</p> <p>In addition to repaying debt and covering expenses, members may also want to think about whether they need to replace the income they would have earned if they continued working.</p> <p>For this reason, we also recommend that members think about whether they need an additional lump sum of money invested to earn an income, if they are no longer working.</p> <p>We offer additional cover for members who think they need it.</p>	
Ruchi	Thank you for that. I'll have to work out whether I need any additional insurance cover.	

Adviser	<p>Okay, Ruchi. Some other things we recommend people also consider include the policy wording and other options that may be available within the cover.</p> <p>You can see our latest version of the superannuation Product Disclosure Statement on our website, or we can send one out to you. It has information on increasing your insurance level in your existing superannuation product.</p> <p>You can also use the insurance calculator on our website to help you work out the level of cover you might need. After you've looked at the Product Disclosure Statement, you can apply for a quote online or you can contact the call centre.</p> <p>Please note that you will have to decide whether this advice meets your needs, as I haven't considered your personal circumstances. If you would like some personal advice about what level of insurance cover is right for you, I can arrange for a meeting with one of our financial advisers.</p>
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Scaled advice

Because this example involves personal advice, the DEF Superannuation Fund needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Adviser	Good afternoon, you've called DEF Superannuation Fund. How can I help you?
Ruchi	Hi, my name is Ruchi. My husband and I just bought a new house. I want to know whether I need to increase the insurance cover I already have in my superannuation account with DEF Superannuation Fund. I'm concerned that if something happens to me, he might not have enough money to pay off our mortgage. My member details are 98765SR. Can you help me?
Adviser	<p>Thanks very much for your call, Ruchi.</p> <p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder. The adviser will also confirm that the client has a copy of the current version of the Financial Services Guide, if required.]</p> <p>I'll just get your information up in front of me. Then I'll be able to give you some specific advice on what you could do about your insurance cover.</p>
Adviser	<p>You need to be aware though that I can only give you advice about your account with DEF Superannuation Fund.</p> <p>If you have insurance in another super fund, I would need to recommend that you get financial advice that looks at your overall financial position. I won't be considering your whole financial situation or other insurance options. Are you happy with this?</p>

You should make the scope of the advice you are giving clear. In this example, DEF Superannuation Fund makes it clear that the scope of the advice is limited to Ruchi's interest in that fund.

The adviser has indicated to Ruchi that she might want to consider getting advice that looks at her overall financial position.

Ruchi	That's fine. I don't have any other super or other life insurance. I'm happy to just get advice about my insurance through DEF Superannuation Fund.
Adviser	<p>Okay then. Before I give you advice about what level of insurance you need within the DEF Superannuation Fund, I will give you some information about life insurance and total and permanent disability (TPD) insurance. Life insurance and TPD insurance are benefits that form part of your superannuation interest in the DEF Superannuation Fund. I will explain the main features to you.</p> <p>[The adviser then gives Ruchi the same factual information provided in the factual information conversation set out above.]</p>
Ruchi	How much cover do I have under my super?
Adviser	The current life and TPD cover on your superannuation account is \$130,000. The \$130,000 is not a combined total—the amount payable would be the balance of your superannuation account plus \$130,000 for life cover or \$130,000 TPD cover.
Ruchi	So, what happens if I have a serious accident at work and I am unable to work anymore?
Adviser	The TPD cover may be payable if your circumstances meet the eligibility criteria in your policy. In this case, you will be paid the balance of your account, plus \$130,000 as TPD cover, either through a lump sum or through pension payments.
Ruchi	If I decide to increase my cover, how do I do this?
Adviser	<p>You would need to give us further medical information.</p> <p>I can step you through the process now by asking a number of questions to help us determine your insurance needs.</p>
Ruchi	Yes, that would be helpful.
Adviser	<p>I will use your existing details from our system, which says your age is 40 and your current cover with your account is \$130,000 life and TPD cover, as I previously explained. You also have a balance of \$80,000 in your account.</p> <p>Now, can you tell me what debts you have currently that you would need cleared in the event of death or a TPD event? For example, a lot of people have credit card debt, car loans, personal loans and/or a mortgage.</p>
Ruchi	We owe \$200,000 on the mortgage, plus \$5,000 on our credit cards.
Adviser	Would you want to clear the entire mortgage? Keep in mind your husband is likely still working.
Ruchi	Yes, if I passed away or was disabled, I don't think he would want to have to deal with that.

This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.

The adviser asks Ruchi a number of questions to determine whether advice that is limited in this way can meet the best interests duty and related obligations.

Adviser	Do you have any potential lump sum amounts you would like to cover in the event of death or disablement—for example, funeral expenses for death or medical expenses for disablement? Also, will there be school fees or other lump sum expenses that would need to be covered for any dependants?
Ruchi	We have a daughter who is in her last two years of school—that's about \$10,000 a year. And I suppose we would need to cover a funeral. Because we have private health cover and my husband is still working, we would probably be able to handle medical expenses.
Adviser	Standard funeral expenses are about \$10,000. Let's move on to income. We suggest you look at this from the perspective of how much your husband would need to run the household if you passed away, or how much you would need to continue covering family expenses if you were disabled. Can you tell me: <ul style="list-style-type: none"> • what your current income is? • in light of your family living expenses and your income, what proportion of your income you would need to replace?
Ruchi	Well, my income is \$50,000 a year. I can save a fair bit of that when it's combined with my husband's income. If he cut his expenses to a minimum, we could probably make do on three-quarters of that income.
Adviser	So, 75% of \$50,000 a year is \$37,500 or \$3,125 per month.
Ruchi	That sounds okay.
Adviser	Now, we need to think about how long this income stream would need to last. The amount of TPD insurance you should take out will depend on how long you would want this income stream to last. We can look at two different scenarios to illustrate this. Both of these scenarios will assume that the lump sum of money would earn 7% income, that inflation is 3% and that community expectations of living standards rise by 1% a year. In the first scenario, we will assume that you would need \$37,500 a year for the rest of your life, which would be for 50 years, assuming you lived until you were about 90. In this case, you would need approximately \$964,866 in TPD cover. In the second scenario, we make the same assumptions, except that you only need an income of \$37,500 a year for 27 years, when you will be eligible for the age pension. In this case, you would need approximately \$687,263 in TPD cover.
Ruchi	Which is better for us?

Adviser	<p>Well, that depends on you. If you think that you could comfortably adjust your lifestyle to handle a TPD event by depending entirely on your husband's income and any increases in government benefits, then you might look at saving money on premiums by choosing a lower duration that ceases when you reach retirement age at 67.</p> <p>On the other hand, if you think it might be difficult for you to adjust to a lower income, then you might need to consider an income stream that goes all the way to your life expectancy of around 90 years of age.</p>
Ruchi	<p>I think that having an income stream to age 90 is excessive. I think I would be able to live off the age pension after I turn 67.</p>
Adviser	<p>Okay. Finally, we need to consider existing assets and life and TPD insurance that would be available from DEF superannuation to help support your needs.</p>
Ruchi	<p>We have about \$20,000 in cash. And, if I was disabled or passed away, we would be likely to sell our second car, which would give us another \$15,000. Like I mentioned earlier, I don't have any insurance other than this account.</p>
Adviser	<p>Okay, I'll quickly collate the information you have given me.</p> <p>I think you need \$235,000 to cover lump sums, plus \$687,263 to cover income less \$35,000 for liquid assets. This comes to \$887,263. You already have \$130,000 plus a balance of \$80,000 in your superannuation, which would be paid out. This means you need to increase your cover by \$677,263. It is important to remember that the premiums payable will increase when your level of cover increases.</p> <p>When considering insurance through your superannuation, you should also check that your nominated beneficiaries are up to date—insurance paid through superannuation is not covered under your will, unless you specify your estate as your beneficiary.</p> <p>Another factor to consider is that DEF Superannuation Fund has a policy of boosting superannuation death benefits by an amount that used to be commonly referred to as an anti-detriment payment. If you are comparing benefits between funds, please take this into consideration.</p> <p>Lastly, the increases in the insurance levels we have discussed will be dependent on you providing the specified medical information and final acceptance by our underwriter.</p> <p>I will put all this together into a Statement of Advice with an accompanying quote and Product Disclosure Statement with application forms. I'll forward this to you and check back in a week after you've had a chance to look at the material.</p>
Ruchi	<p>Thanks for your help. I'll read all that and make a decision.</p>

Statement of Advice

DEF Superannuation Trustees Limited ABN 10 101 010 101

AFS licence no: 101010

STATEMENT OF ADVICE

1 December 2012

Mrs Ruchi Sidhu
1 Sydney Road
Sydney NSW 2000

Dear Mrs Sidhu

Insurance

You spoke with one of our representatives today about whether to increase the level of insurance you have within your DEF Superannuation Fund account. This advice is limited to your interest in the DEF Superannuation Fund and insurance against death or total and permanent disablement within it.

This advice considers your personal information only and, other than your marital and family status, it excludes your husband's circumstances. You have advised us that you do not hold any form of insurance other than your current insurance within the DEF Superannuation Fund.

This Statement of Advice sets out advice we gave you about whether to increase your cover of these two types of insurance.

Information about you

We have calculated your insurance needs based on the following information you have provided:

- You have existing insurance for life and TPD in the amount of \$130,000.
- The balance of your superannuation account is currently \$80,000.
- You have debts of \$205,000, including your mortgage and credit cards, which you would like paid out on your death or permanent disablement.
- You have a daughter who has two years left in high school. You wish to provide an income of \$20,000 in order to fund her education in the event of your death or permanent disablement.
- You would like the provision of \$10,000 in the event of your death for funeral expenses.
- You have private health cover and your husband is working, therefore you do not want medical expenses to be considered in the calculation of your cover.
- You currently earn an income of \$50,000 per year and consider 75% of this amount (\$37,500 or \$3,125 per month) for 27 years adequate to supplement your husband's income in the event of your disablement. Calculated on the assumption that the lump sum of money earns 7% income, inflation is 3%, and community living standards increase at 1% per year, the total amount comes to \$325,000.
- You and your husband have \$20,000 saved, and your second car (valued at \$15,000) would most likely be sold in the event of your death or total and permanent disablement.

Our advice

Based on the information you have provided, the required cover for life and TPD amounts to \$922,263. As you are already covered for \$130,000 with a superannuation account balance of \$80,000 (which would be paid out), and liquid assets of \$35,000, an increase of \$671,263 is required for life and TPD cover.

We recommend you consider taking out the following additional level of insurance cover within the DEF Superannuation Fund.

- Life and TPD total cover of \$712,263. The increase to your premium will be \$XX per week, to be paid from your superannuation account. If you close your account or do not have enough in the account to pay the premiums, this insurance will no longer apply.
- These premiums will be an expense deducted from the balance of your account and, as such, will affect your long-term retirement savings balance. The above premiums combined are currently less than the value of your superannuation guarantee contributions. However this can change if you later have less salary or the premiums increase.
- Assuming acceptance of your increased levels of insurance by our underwriter, we would also recommend you update your nominated beneficiaries for your superannuation account since life insurance paid through superannuation cannot be directed by your will (unless you specify your estate as beneficiary).

We think that this advice is in your best interests because this level of cover will allow you to meet your financial commitments should you die or become totally and permanently disabled.

How does life insurance work?

Life insurance pays a lump sum upon death of the person insured. Upon your death, including from illness or accident, a lump sum is available, and your family and other dependants can use this money to service or pay out any outstanding debts and pay for day-to-day living expenses.

How does TPD insurance work?

TPD insurance provides a lump sum payment if you're totally and permanently disabled. Depending on your policy and the relevant legislation, you are covered if you can't work again. TPD insurance can be used to help cover rehabilitation costs, repayment of debts and the cost of living for you and your dependants. Payments are not usually made until you have been off work for at least six months, and the trustee and insurer believe that you are unlikely to work again based on the definition in the particular policy and the trust deed.

Acting on this advice

I have enclosed an accompanying quote, Product Disclosure Statement and application form that asks you to provide medical information about yourself. Subject to the medical information received by you, the premiums quoted may increase and also affect the advice in this Statement of Advice.

To act on the advice just complete the enclosed application form and post it to DEF Superannuation.

Reviewing your insurance cover

We also recommend to our members that insurance should be reviewed every five years (for you, this will be in December 2017) as your personal circumstances may change.

For example:

- financial dependants may become independent;
- your level of debt may change;
- your superannuation value should increase; and
- generally, insurance premiums become more expensive as we age and our need for insurance will likely decrease.

Remuneration and conflicts of interest

This advice was provided at no additional cost to you. It is part of our overall member service. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you act on this advice, the premium is \$XX as per the quotation attached to this Statement of Advice.

If you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

DEF Superannuation Fund
[Address]

Telephone:(02) 9999 9999

DEF Superannuation Fund Limited, ABN 10 101 010 101, AFS licence 101010 is the trustee and licensee responsible for the DEF Superannuation Fund.

Example 6: Making extra contributions—Email advice

Jane contacts her superannuation fund for information and advice about making extra contributions to her superannuation.

Factual information

Note the use of email in this example. It is entirely up to you to work out how you want to communicate with your clients.

In this example, XYZ Superannuation Trustees Limited does not need an AFS licence because no financial product advice is being given.

Email from Jane	<p>Hi,</p> <p>I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.</p> <p>Can you tell me the best way to do this?</p> <p>Kind regards,</p> <p>Jane Smith</p>	
Email from fund	<p>1 December 2012</p> <p>Hi Jane,</p> <p>Thank you for your query.</p> <p>I can give you some factual information about making extra contributions to your superannuation this financial year, but I'm unable to provide you with any advice about contributing to your superannuation fund. If you would like personal advice about contributing to superannuation, I can set up a meeting for you with someone from our financial advice team.</p> <p>Information about making extra contributions to your superannuation</p> <p>Below I have set out information about the different ways people can make contributions to their superannuation. If after reading through these options you have any questions, please feel free to give us a further email or call us.</p> <p>There are a number of ways members can make extra superannuation contributions in 2012–13.</p> <p>Members may be able to:</p> <ul style="list-style-type: none"> • salary sacrifice part of their salary to superannuation; • make a personal contribution and claim a tax deduction; • make a contribution with after-tax money (non-concessional contribution); • take advantage of the Government's Co-Contribution Scheme; and/or • make a contribution towards their spouse's superannuation and receive a tax rebate. <p>More information on these options is provided below. Please note that the information relates to the 2012–13 financial year only.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Jane is clearly told upfront that she will not be given any personal advice.</i></p> <p><i>In this example, only factual information is given because:</i></p> <ul style="list-style-type: none"> • the information can be objectively determined as being accurate; and • the communication doesn't contain a recommendation or statement of opinion that is intended to influence Jane. <p><i>You can give factual information to a caller even though you know some personal information about them. In this example, XYZ Superannuation Fund has personal information about Jane as a member of its fund, but this doesn't stop Michael (the super fund employee) from giving Jane factual information.</i></p>

**Email
from
fund****Salary sacrificing**

Salary sacrificing allows a person to contribute a portion of their before-tax salary directly into superannuation. Salary-sacrificed contributions are taxed at a flat rate of 15%—which, for some people, is lower than they would otherwise pay on their salary. Individuals need to check with their employer if they are able to salary sacrifice.

In addition, people who are on lower incomes who salary sacrifice may be eligible for a refund of the tax contribution paid from their superannuation in the next financial year, if the following conditions are met:

- their income is below \$37,000 (after certain adjustments); and
- at least 10% of their income is from employment or business.

Tax deductions for personal contributions

People who receive less than 10% of their total income* from employment (self-employed persons and retirees often fall into this category), may be entitled to claim a tax deduction for personal contributions made during the year.

* Total income in this email is defined as assessable income, reportable fringe benefits and reportable employer superannuation contributions.

Making after-tax (non-concessional) contributions

People who are not eligible to get a tax deduction, are able to make after-tax contributions to their superannuation. This involves contributing superannuation from money that they have already paid tax on, such as salary paid into a bank account.

Making a co-contribution

If a person has a total income that is less than \$31,920, and they contribute \$1000 to their superannuation as a personal after-tax contribution, they may be eligible to receive \$500 more in extra superannuation as a co-contribution from the Government. If their total income is between \$31,920 and \$46,920, they may still be eligible to receive an extra superannuation contribution from the Government, but the amount is reduced on a sliding scale until their total income reaches \$46,920.

To be eligible for a co-contribution for contributions made in 2012–13, there are further criteria to be met based on age, sources of total income and residency status. Co-contributions are not available on contributions where the contributor has claimed a tax deduction on the contribution.

Making a contribution on behalf of a spouse

Persons who have a spouse whose total income is less than \$10,800 in 2012–13, can make a contribution to their spouse's superannuation and receive a tax rebate of 18% on any contribution, up to a maximum rebate of \$540 (based on making a \$3,000 contribution). A reduced rebate is available if the person's spouse has total income of between \$10,800 and \$13,800 in 2012–13.

Email from fund	<p>Caps on what you can contribute to your superannuation</p> <p>People who are considering making extra contributions to their superannuation need to keep in mind that there are caps on the amount of contributions they can make to superannuation in any one year. For example, the contributions cap on all tax deductible contributions in 2012–13 is \$25,000. Tax deductible contributions include salary sacrifice, compulsory 9% superannuation guarantee employer contributions, personal contributions for which a tax deduction has been claimed and some other less common contributions. For after-tax contributions, the cap in 2012–13 is \$150,000; however, depending on an individual's circumstances, this amount may vary.</p> <p>If a person makes contributions over the set limits, there may be significant adverse taxation consequences.</p> <p>Other important things to keep in mind</p> <p>When considering contributing to superannuation, it is important to remember that a person's age, employment status and previous contribution history can affect how much they are able to contribute, and in what manner they can make contributions.</p> <p>Another important factor to keep in mind is that once a person makes a contribution to superannuation, it is unlikely that they will have access to their superannuation until they retire. The financial benefits of contributing to superannuation, versus directing the money elsewhere, will depend on an individual's personal circumstances.</p> <p>If you wish to consider any of these options in the context of your personal financial circumstances, you will need to talk to a licensed financial adviser.</p> <p>Thanks again for your query.</p> <p>Michael</p>
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General advice

In this example, XYZ Superannuation Trustees Limited has an AFS licence authorising it to provide general advice: 911A.

Email from Jane	<p>Hi,</p> <p>I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.</p> <p>Can you tell me s the best way to do this?</p> <p>Kind regards,</p> <p>Jane Smith</p>
Email from fund	<p>1 December 2012</p> <p>Hi Jane,</p> <p>Thank you for your query.</p>

**Email
from
fund**

We can give you some information and tell you what we generally recommend for our members, but you do need to understand that this advice will be of a general nature only—it won't look at your personal circumstances. If you need personal advice about your superannuation contribution options, we can refer you to a financial adviser.

Making extra contributions to superannuation

Below I have set out information about different ways people can make extra contributions to their superannuation. I have also set out some general advice about what we generally recommend for our members; however, as I stated above, these are general recommendations that do not take into account your personal circumstances.

There are a number of ways members can make extra superannuation contributions in 2012–13.

Members may be able to:

- salary sacrifice part of their salary to super;
- make a personal contribution and claim a tax deduction;
- make a contribution with after-tax money (non-concessional contribution);
- take advantage of the Government's Co-Contribution Scheme; and/or
- make a contribution towards their spouse's superannuation and receive a tax rebate.

More information on these options is provided below. Please note that the information relates to the 2012–13 financial year only.

Salary sacrificing

Salary sacrifice allows a person to contribute a portion of their before-tax salary directly into superannuation. Salary-sacrificed contributions are taxed at a flat rate of 15%—which, for some people, is lower than they would otherwise pay on their salary. Individuals need to check with their employer if they are able to salary sacrifice. We generally recommend that members should consider salary sacrificing if they are taxed at more than 15% and want to make extra contributions to their superannuation.

In addition, people who are on lower incomes who salary sacrifice may be eligible for a refund of the tax contribution paid from their superannuation in the next financial year, if the following conditions are met:

- their income is below \$37,000 (after certain adjustments); and
- at least 10% of their income is from employment or business.

We recommend that members who are considering salary sacrificing should think about whether they could still comfortably meet their other commitments. This is because salary sacrificing requires them to give up some income and put it into superannuation instead. Depending on income and tax rates, salary sacrificing can be tax effective and help build an individual's superannuation faster.

It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Jane is clearly told upfront that she will not be given personal advice. General advice given by an AFS licensee must be accompanied by a general advice warning.

Michael is saying that salary sacrificing can be beneficial, but has not gone as far as saying that salary sacrificing is right for Jane. Jane needs to consider whether it would be a good option in her circumstances.

**Email
from
fund****Tax deductions for personal contributions**

People who receive less than 10% of their total income* from employment (self-employed persons and retirees often fall into this category) may be able to claim a tax deduction for personal contributions made during the year. We recommend that members who think they may qualify for this tax deduction should consider this approach, and obtain further advice that considers their personal circumstances.

* Total income in this email is defined as assessable income, reportable fringe benefits and reportable employer superannuation contributions.

Making after-tax (non-concessional) contributions

This involves contributing to superannuation from money a person has already paid tax on, such as salary paid into a bank account.

Making a co-contribution

In the 2012–13 financial year, if a person's total income is less than \$31,920, and they contribute \$1000 to their superannuation as a personal after-tax contribution, they may be eligible to receive \$500 more in extra superannuation as a co-contribution from the Government. If their total income is between \$31,920 and \$46,920, they may still be eligible to receive an extra superannuation contribution from the Government, but the amount is reduced on a sliding scale until their total income reaches \$46,920.

To be eligible for a co-contribution for contributions made in 2012–13, there are further criteria to be met based on age, sources of total income and residency status. Co-contributions are not available on contributions where the contributor has claimed a tax deduction on the contribution. We recommend that members who meet the eligibility criteria should consider making extra contributions to superannuation from their after-tax income to receive the Government co-contribution.

Making a contribution on behalf of a spouse

People who have a spouse whose total income is less than \$10,800 in 2012–13, can make a contribution to their spouse's superannuation and receive a tax rebate of 18% on any contribution, up to a maximum rebate of \$540 (based on making a \$3000 contribution). A reduced rebate would be available if their spouse has total income of between \$10,800 and \$13,800 in 2012–13.

Individuals with a spouse earning a low income who would qualify for the spouse contribution tax offset need to consider whether making the contribution to their spouse's superannuation gives a higher tax rebate than salary sacrificing into their own superannuation. We recommend that members who think they may qualify for this tax rebate should consider this approach, and obtain further advice that considers their personal circumstances.

Alternatives to contributing to superannuation

Another important factor to keep in mind is that, once a member has put money into their superannuation, it is unlikely that they will be able to access it until they retire. The financial benefits of contributing to superannuation, or directing the money elsewhere, will depend on each member's personal circumstances.

**Email
from
fund**

In considering whether make any additional contributions to superannuation, we encourage people to think about lifestyle expenses and other commitments like a mortgage or personal loans. For example, those with credit card debts or a large amount to pay off the mortgage on their home, should consider whether these debts should be paid off before putting money into superannuation, which they probably won't be able to access until retirement.

We generally recommend that members who have 30 years or more until retirement should consider repaying non-deductible debt before making extra contributions to their superannuation. Members who have a mortgage should consider putting any extra money into a mortgage redraw facility. Reducing their mortgage in the form of a lump sum will give additional flexibility, because they can draw on this money if they have the need later on.

Other important things to keep in mind

When considering contributing to superannuation, it is important to remember that age, employment status and previous contribution history can affect how much a person can contribute, and how they can make contributions.

Caps on superannuation contributions

People who are considering making extra contributions to their superannuation need to keep in mind that there are caps on the amount of contributions they can make to superannuation in any one year.

For example, the contributions cap on all tax deductible contributions in 2012–13 is \$25,000 for all individuals. Tax deductible contributions include salary sacrifice, compulsory 9% superannuation guarantee employer contributions, personal contributions for which a tax deduction has been claimed and some other less common contributions.

If a person makes contributions over the set limits, there may be significant adverse taxation consequences.

This advice has been prepared without taking into account your objectives, financial situation or needs. Therefore, you should consider the appropriateness of the advice in light of your own objectives, financial situation or needs before acting on the advice.

Thanks again for your query.

Michael

General advice by an AFS licensee must be accompanied by a general advice warning.

Scaled advice

Because this example involves personal advice, XYZ Superannuation Trustees Limited needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Email from Jane	<p>Hi,</p> <p>I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.</p> <p>Can you tell me the best way to do this?</p> <p>Kind regards,</p> <p>Jane Smith</p>
Email from fund	<p>1 December 2012</p> <p>Hi Jane,</p> <p>Thank you for your query.</p> <p>It's great you're thinking about contributing more to your superannuation. We really encourage our members to do this.</p> <p>To help you get started, I can provide you with a couple of options.</p> <p>To get a comprehensive answer that takes your entire financial situation into account, we recommend coming in to chat with one of our advisers face to face, or we can arrange a video conference via a number of video conferencing programs. I can arrange this for you if that's something you would like to do.</p> <p>Alternatively, I can provide you with some limited personal advice by email. It won't take your entire situation into account, but it may still be helpful to you—as long as you understand the limitations. I'm only licensed to provide you with advice on your additional contributions within the XYZ Superannuation Fund. However, making a fully informed decision about any extra superannuation contributions requires looking at many other important things that I cannot consider as part of this advice. Please confirm that you are comfortable with this.</p> <p>If you are comfortable to proceed on this basis (i.e. limited advice about your contributions to XYZ Superannuation Fund), please answer the following questions so that I can help answer your query:</p> <ul style="list-style-type: none"> • Do you want my advice to focus on additional contributions within the XYZ Superannuation Fund? • Are you married? • Can you confirm your age? (Our records indicate you are 33.) • Are you currently employed? If so, what is your estimated total income* from employment in 2012–13? • What is your estimated total income* from all sources for 2012–13?

Michael makes it clear to Jane that the advice is limited to her additional contributions within the XYZ Superannuation Fund. Michael has told Jane that she might want to consider getting advice that looks at her overall financial position.

	<ul style="list-style-type: none"> • Do you currently make any extra contributions to your superannuation, or have you made any extra contributions since 1 July 2010? • How much is your employer, or are your employers, currently contributing to superannuation? • Do you hold, or have you held, an Australian temporary resident visa? • From your personal budget—after living expenses, paying loans and other savings plans—how much could you set aside to put towards superannuation contributions? • Do you have any debts such as personal loans, credit cards or other debts including your home loan? <p>* Total income in this email is defined as your assessable income, reportable fringe benefits and reportable employer superannuation contributions.</p> <p>When considering how much extra to put towards your superannuation, keep in mind that any contributions you make will generally have to stay there until you retire.</p> <p>In addition, if you have debt commitments (such as mortgages and/or credit cards), it's important to weigh up the benefits of repaying debt first, before putting money into superannuation. If you require additional assistance with weighing up these issues, then you should consider getting financial advice that looks at your overall financial position.</p> <p>Please note that our advice carries a fee, which is \$XX.</p> <p>I will also send you our Financial Services Guide, together with a Statement of Advice, which will document my recommendations to you.</p> <p>Regards, Michael</p>	<p><i>This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.</i></p> <p><i>Superannuation funds can charge for their services—they just need to be upfront about their fees and disclose them in the Statement of Advice.</i></p>
<p>Email from Jane</p>	<p>Hi Michael,</p> <p>In response to your questions:</p> <ul style="list-style-type: none"> • I just want advice on making additional contributions within the XYZ Superannuation Fund. • I'm single. • I'm 33. • I've just retrained and I've been working as a nurse since February. • I will earn \$84,000 before tax in 2012–13 from my employment as a nurse. • My employer will contribute \$7,560 in superannuation guarantee contributions in 2012–13. • I have never made any extra contributions to super. • I am a permanent Australian resident. I have never held a temporary resident visa. • I don't have a budget at the moment, but I'd be happy to put in up to \$600 per year. • I don't have a personal loan or home loan. My credit card balance is low so I am not that concerned about it. 	<p><i>This question and answer process is part of making inquiries into Jane's relevant circumstances, and can also form part of a 'triage' process to determine whether scaled advice is right for Jane. For example, if Jane had said that she received income from an unusual source (e.g. a family trust), then she would have been referred to an adviser for advice face to face or via video conference: see RG 244.78.</i></p>

Email from Jane	<p>I am happy to go ahead based on your fee.</p> <p>Thanks,</p> <p>Jane</p>
Email from fund	<p>1 December 2012</p> <p>Hi Jane,</p> <p>Thank you for your responses to my questions.</p> <p>Based on your responses, I've prepared a Statement of Advice for you, which contains my recommendations.</p> <p>I've attached the Statement of Advice to this email.</p> <p>I've also attached our Financial Services Guide for your information.</p> <p>Regards,</p> <p>Michael</p> <p><attachment: Statement of Advice to Jane on making extra contributions to her super></p> <p><attachment: Financial Services Guide></p>

Note that the Financial Services Guide is not set out in full for the purposes of this example.

Statement of Advice

XYZ Superannuation Trustees Limited ABN 12 345678910

AFS licence no: 123456

STATEMENT OF ADVICE

1 December 2012

Jane Smith
1 Sydney Road
Sydney NSW 2000

Dear Jane,

Extra contributions

You emailed one of our representatives today about a good way for you to contribute more money to your account with the XYZ Superannuation Fund.

This advice is limited to making additional contributions and your interest in the XYZ Superannuation Fund. It is provided by XYZ Superannuation Trustees Limited.

Information about you

- You are single.
- You are aged 33.
- Your total income is about \$84,000 per year.
- You are employed.
- Your employer will contribute \$7,560 in superannuation guarantee contributions during 2012–13.
- You have never made any extra contributions to superannuation.
- You are a permanent Australian resident and have never held a temporary resident visa.

- You have informed me that you do not have any personal loans, or a home loan, and that your credit card balance is low.
- You have not completed a budget, however you estimate that you will be able to afford to contribute approximately \$600 after-tax superannuation during the 2012–13 financial year.

Please let us know if this information is incorrect as it could affect our recommendations.

Our advice

Even small differences to the amount you place into superannuation can help your final superannuation balance. One way to boost your superannuation is to pay part of your salary into your super. You can do this from before-tax or after-tax income.

If you contribute to superannuation from your after-tax income, you will put \$600 into your superannuation.

However, another option is to pay before-tax income into your superannuation. This is called salary sacrificing. If you choose to salary sacrifice this amount, it would be paid directly to your superannuation account from your pre-tax income.

After-tax income of \$600 is equivalent to \$976 pre-tax income at a 38% marginal tax rate. Once the \$976 pre-tax income is contributed to your superannuation account, contributions tax of effectively 15% is deducted and your net contribution would be \$829.

Recommendation

I recommend that you make a before-tax (salary sacrifice) superannuation contribution of \$976 in 2012–13, as this will result in a higher net benefit than contributing \$600 to superannuation from your after-tax income.

- Benefit to superannuation by contributing after tax: \$600.
- Benefit to superannuation by contributing before tax: \$829.
- Difference: \$229.

I think that this advice is in your best interests because:

- it will meet your stated objective of making extra contributions to your superannuation; and
- by salary sacrificing your extra contributions, you will be able to contribute \$229 more to your superannuation (compared with if you had contributed the same amount from your after-tax income).

Under both scenarios, we estimate your after-tax income (after the additional superannuation contribution is deducted) will be approximately \$63,113 for the 2012–13 financial year (i.e. \$600 less than if you had not contributed anything to superannuation).

Contribution caps

Your pre-tax contribution cap for the 2012–13 financial year will be \$25,000. If you implement our advice and salary sacrifice an extra \$976 in 2012–13, this will not cause you to exceed your pre-tax contribution cap (also allowing for pre-tax superannuation guarantee payments of \$7,560).

Remuneration and conflicts of interest

The fee for my advice and for preparing this Statement of Advice is \$XX (including GST). No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you follow this advice, XYZ Superannuation Fund will continue to receive annual management fees of \$XX. This is the same fee as you are paying now.

Acting on this advice

To act on this advice, just complete the enclosed form and give it to your employer.

Should you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

XYZ Superannuation Trustees Limited

Address

Phone number: (02) 9999 9999

XYZ Superannuation Trustees Limited, ABN 12 345 678 910, AFS licence 123456, is the trustee and responsible entity for the XYZ Superannuation Fund.

Example 7: Paying a windfall into superannuation or mortgage

Harold contacts his superannuation fund for information and advice about whether to pay a windfall into superannuation or his mortgage.

Factual information

In this example, ABC Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Harold	Hello, my name is Harold Fung, and I'm 36. My grandfather has recently passed away and he left me \$40,000 in his will. I would be interested in discussing whether it would be better to pay off my mortgage or invest it in superannuation.	
Operator	Certainly, Harold. I am happy to answer your questions, but I can only provide you with factual information at this time. I'm unable to give you advice about what you should do in your specific circumstances.	<i>It is good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Harold upfront that they will not be giving any financial product advice.</i>
Harold	That's fine.	
Operator	How effective it is to pay off a mortgage depends on a number of factors. Depending on a person's age and individual financial circumstances, they may actually achieve more with money received from an inheritance if they were to invest it in other ways. But it is worth considering whether to pay off a mortgage.	
Harold	What can you tell me about paying off a mortgage?	
Operator	Most mortgages have a variable rate. The standard variable interest rate is around 5.80%, but the actual rate varies. Paying a lump sum into a variable rate mortgage reduces the amount of principal owed on the loan and, effectively, the amount of interest to be repaid to the lender. This means that, even if the same repayments are maintained, more of each repayment would go to paying off the principal since there is less interest to pay. This means that a lot of money can be saved and potentially the mortgage could be repaid ahead of schedule.	<i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Harold as a member of its fund, but this doesn't stop the operator from giving Harold factual information.</i>
Harold	Okay, that makes sense. How about investing the money into super?	
Operator	Depending on how long a person has worked and how much money they have accumulated in superannuation, an inheritance could provide a significant boost to retirement savings. There are some excellent calculators available on our website which illustrate just how much of a difference a windfall can make to an individual's retirement lifestyle.	<i>This example highlights that you can provide information in different ways (i.e. over the phone and on the internet). It's up to you to decide how you want to deliver information.</i>

Operator	<p>Making additional contributions to super, can help to increase a person's super balance at retirement. However, there are some things to be aware of when making further contributions to super.</p> <p>There are limits on the amount of money that can be put into superannuation without paying extra tax. In particular, a person can only contribute \$25,000 a year before tax under a 'salary sacrifice' arrangement, and the amount contributed by your employer must be counted towards that. The other thing to consider is that money in super is tied until the person reaches preservation age—currently age 65 for someone your age.</p> <p>People who earn less than \$46,920 per year may be eligible for the Government co-contribution if they put their money into superannuation. They can receive up to \$500 extra from the Government, depending on how much they contribute and their level of income for any financial year. The more they earn, the less they would be entitled to receive. Anyone who earns over \$46,920 will not be eligible to receive this co-contribution.</p>	<p><i>This operator is giving factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence Harold.</i>
Harold	That sounds really interesting. I guess I have to weigh up my options, as this money is a surprise and I really want to think about how best to use it.	
Operator	Of course. Would you like me to send out some information?	
Harold	I would appreciate that. Thanks for your time today. I may be in touch in the future.	

General advice

In this example, ABC Superannuation Fund is not licensed because it is relying on the exemption for financial product issuers to give general advice without an AFS licence if that advice is about its own superannuation fund on certain conditions: reg 7.1.33H.

Harold	<p>Hello, my name is Harold Fung, and I'm 36. My grandfather has recently passed away and he left me \$40,000 in his will. I would be interested in discussing whether it would be better to pay off my mortgage or invest this money in superannuation.</p>	
Adviser	<p>Hi Harold. We would be more than happy to help you.</p> <p>I have to tell you that I can only provide you with general advice at this time, which does not take into account your personal circumstances. I can, however, tell you what we would normally recommend for members. If you would like personal advice that takes your personal circumstances into account, I could have one of our advisers call you.</p> <p>I also need to mention that ABC Superannuation Fund is not licensed to give you advice about the fund. We recommend that you get a Product Disclosure Statement and read it before making a decision. We can send you one in the mail, or you can find it on our website.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Harold is clearly told upfront that he will not be given personal advice.</i></p> <p><i>ABC Superannuation Fund needs to provide this warning because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its fund).</i></p>
Harold	That's fine. I am thinking of speaking with an adviser for a more in-depth discussion, but for now, some additional information would be great.	

Adviser	<p>Okay, I will tell you what we generally advise people who have many years to go before retirement, and are in the usual situation where they have a variable rate mortgage and only have the 9% of salary payment that their employer has to pay going into their superannuation.</p> <p>People are often surprised how much of a difference making an additional contribution to super can make in the long run.</p> <p>However, there are some things that we generally advise members to be aware of when making further contributions to super.</p> <p>First, there are limits on the amount of money that can be put into superannuation without paying extra tax. Individuals can only contribute before tax under a 'salary sacrifice' arrangement up to \$25,000 a year at the moment, and the amount contributed by their employer must be counted towards that.</p> <p>And, of course, this money will be tied up in superannuation until preservation age, which is currently age 65.</p>
Harold	<p>Okay, I understand what you have said so far.</p>
Adviser	<p>People who earn less than \$46,920 per year are eligible for the Government co-contribution. They can receive up to \$500 extra from the Government, depending on how much they contribute and their level of income for any financial year. Of course, the more they earn, the less they would be entitled to receive. Anyone who earns over \$46,920 will not be eligible to receive this co-contribution.</p>
Harold	<p>Looks like I miss out on that incentive. What about paying my inheritance into the mortgage?</p>
Adviser	<p>That is what we would generally recommend to members in this situation. Reducing their mortgage in the form of a lump sum will give additional flexibility, because they can draw on this money if you have the need later on. This assumes that, if an individual puts extra money into their mortgage, they can later redraw it, while the lump sum is in the redraw account.</p> <p>The other thing to consider, in case interest rates go up, is that a lower mortgage means the higher interest rate will have less impact on repayments.</p>
Harold	<p>That makes sense. Are there any other options?</p>
Adviser	<p>An option that may be good for many people is to put the money into a mortgage redraw account, and then arrange with their employer for some of their salary to go into their superannuation account before tax, in addition to the 9% employer contribution.</p> <p>This will mean that their salary will go down, but they can withdraw amounts from their redraw account to supplement their income.</p> <p>The advantage is that the money going into superannuation in this way is subject to lower tax for most members</p> <p>Members must ensure that they don't use the money in their redraw account except to make up lost salary. If they do, once the money runs out, they might not be able to continue to meet expenses, and they won't have saved the money for later.</p>

Harold	I obviously still have a bit to think about before I make a final decision. I may get in touch with you if I feel I need more information on what I should do.
Adviser	We'd be happy to help you.

Scaled advice

Because this example involves personal advice, ABC Superannuation Fund needs to have an AFS licence authorising its advice providers to provide personal advice: see s911A. Bill must give personal advice that is compliant with Div 2 of Pt 7.7A.

Bill	Hi, is that Harold Fung? I'm Bill Smith, the financial adviser from ABC Superannuation Fund that you spoke to yesterday. [At this point, Bill would perform the appropriate identity checks to confirm that he is speaking with the account holder. Bill would also confirm that Harold has a copy of the current version of the Financial Services Guide, if required.]
Harold	Hi Bill. Thanks for calling back. As I was saying, my grandfather has recently passed away and left me \$40,000 in his will. I want to know whether it would be better to pay off my mortgage or invest this money in superannuation.
Bill	I'm sure I can help you with making this decision. Let me just recap on your details as you advised yesterday: <ul style="list-style-type: none"> • You are aged 36. • You have a mortgage of \$216,000 with a current variable rate of 6.80% per year. • You have 20 years remaining on your mortgage. • Your home loan allows you to make repayments that go into a redraw account. • You are working full time and earn \$85,000 per year. • You don't have any other debts, including no credit card debts, car loans or other personal loans. • You have a balance of \$66,000 in our ABC Superannuation Fund invested in the Balanced option, and you are not seeking advice about changing your option. • Your employer will not facilitate any 'salary sacrifice' arrangements for you. • You can withdraw money paid into your home loan redraw account at any time without paying fees. While the money is in the redraw account, it offsets the amount owing on your mortgage for calculating interest.
Harold	Yes, that's all correct.

This is an example of some of the inquiries an adviser would need to make of a client when giving personal advice on this issue.

Bill	Okay, that's good. I also need to let you know that I can only give you advice about your interest in the ABC Superannuation Fund, as discussed. I am not considering anything else, so if you would like advice on other issues, you should consider getting more comprehensive advice that looks at your overall financial position. Is this okay?	<i>In this example, ABC Superannuation Fund makes it clear that the scope of the advice is limited to Harold's interest in that fund. Bill has suggested to Harold that he might want to consider getting advice that looks at his overall financial position if there are other issues that he would also like advice about.</i>
Harold	That's fine for the moment, thanks.	
Bill	That's good. I will limit my advice to whether to use your inheritance of \$40,000 to make contributions to superannuation or keep the money in your redraw account. I charge a fee of \$XX for this advice.	
Harold	Okay, that's fine.	
Bill	<p>ABC Superannuation Fund's Balanced option has an earning rate over the last 10 years averaging 7% per year after fees and taxes. At the moment, every dollar you put in your redraw account is saving you interest at a rate of 6.80% a year.</p> <p>It's not possible to be sure what the future rate of earnings in ABC Superannuation Fund will be because past performance is not necessarily a guide to future performance. Nor can we be sure what future interest rates will be. Returns and interest rates, like we've been discussing, can definitely change depending on market conditions.</p>	<i>A 'past performance' warning is appropriate in the context of giving information about performance returns.</i>
Harold	Okay, I'll keep that in mind.	
Bill	<p>While the current interest rate applies on your loan, you are getting a slightly better return if you put your money into superannuation. However, you should be aware that you are almost 30 years away from attaining preservation age, and if you pay money into superannuation, unlike paying into a redraw account, you probably won't be able to access that money until then.</p> <p>Also, while interest rates can change, they are not going to change from year to year nearly as much as the returns on your superannuation. In some years, superannuation accounts will actually lose money, but any money you pay off the mortgage will always save you some interest. In this sense, investing in paying off your mortgage is less risky.</p> <p>There is another big advantage to paying off your mortgage, and that is, if you need the money in the redraw account, you can get it back.</p>	
Harold	Okay, thanks for making it clear. I think I would like to have access to my money in case of unforeseen emergencies, so I think putting the money into my mortgage redraw account makes more sense for me.	
Bill	Please give me a call if you have any more questions. I will also forward you a Statement of Advice, setting out what we have discussed today.	

Statement of Advice

ABC Superannuation Trustees Limited ABN 12 34567890

AFS licence no: 123456

STATEMENT OF ADVICE

1 December 2012

Mr Harold Fung
100 Sydney Street
Sydney NSW 2000

Dear Harold

\$40,000 inheritance—Pay into superannuation or mortgage?

This Statement of Advice contains my recommendation to pay \$40,000 you received through an inheritance into a redraw facility that is currently part of your mortgage account.

My advice is limited to this recommendation and does not take into account any other related financial issues at this time.

Information about you

- You are 36 years of age.
- You have a mortgage of \$216,000 with a current variable rate of 6.80% per year and 20 years remaining.
- Your home loan allows you to make repayments that go into a redraw account and the money there is deducted from how much money you owe when calculating interest.
- You are currently employed on a salary of \$85,000 per year.
- You have a balance of \$66,000 in the ABC Superannuation Fund held in the Balanced option and want to remain in that option.
- Your employer will not facilitate 'salary sacrifice' arrangements for you that allow you to accept a lower salary and the employer to use the money to pay into your superannuation fund.
- You have no debts (including credit card debts, car loans or other personal loans) other than your mortgage, and no assets outside of your home and super benefits.

My advice

I have compared keeping the money in your redraw account with contributing the money to superannuation, and I recommend that you put the \$40,000 in your redraw account.

Why I have made this recommendation

I think that this advice is in your best interests because:

- by paying the \$40,000 into your redraw mortgage account, you could potentially pay out the loan earlier, and reduce the overall amount of interest you would need to pay; and
- given you are around 25 to 30 years away from retirement, it would provide you with more flexibility about how you use this money in the shorter term.

In the redraw facility, you are effectively receiving an after-tax return of 6.80% per year, based on the current interest rate applicable to your mortgage. The Balanced option of the ABC Superannuation Fund returns an average of 7% after fees and taxes. This difference of 0.2% is worth about \$80 a year. However, by paying the \$40,000 into your mortgage redraw account, you are making a significant contribution to paying out the mortgage, and you could potentially pay out this loan years earlier. In the long term, this will give you the option to invest more into superannuation as you approach retirement.

Putting money into a mortgage is also more flexible, because it is possible to take that money back through a redraw facility if you need it (although, of course, this will reduce the benefit you get from having paid the money off the mortgage).

Acting on this advice

To act on this advice, you should transfer your \$40,000 inheritance to your mortgage redraw account.

I suggest that you contact me in the future for advice:

- if the mortgage is almost paid off, interest rates change, your employer changes its policy on salary sacrifice arrangements, you change jobs, or you take on any personal loans or other debt, because you may need to review whether you should put the money into your superannuation fund or look at some other option; and
- if you do not want to fully pay off your mortgage so that you can keep the redraw account as a source of ready finance. For example, if interest rates were to fall, or you can get a better rate on your mortgage, then it might be worth looking again at making superannuation contributions. If you can establish an arrangement for your employer to contribute before tax to superannuation, this might make you better off, as long as you keep within the maximum amount to which you can make contributions without paying extra tax.

Remuneration and conflicts of interest

I am remunerated by fee for service. This Statement of Advice is provided for a fee of \$XX inclusive of GST. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

You will need to check with your bank about any terms and conditions (including fees) associated with using your mortgage redraw account.

Should you have any questions, please telephone me on (02) 9999 9999.

Yours sincerely

Bill Smith
Financial Adviser
ABC Superannuation Trustees Limited
5 Harbour Street
Sydney NSW 2000

Example 8: Superannuation and Centrelink payments—Effect on age pension of accessing funds through superannuation or a mortgage redraw

Fernando telephones his superannuation fund for information and advice about the effect on the age pension of accessing funds through superannuation or a mortgage redraw.

Factual information

In this example, ABC Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Fernando	Hi, I'm Fernando Gonzalez and I'm a member of the ABC Pension Fund. I need \$25,000 to update my kitchen. I don't have any available cash and I'm wondering whether I should make a lump sum withdrawal from my pension account or whether I should use my home loan redraw facility to maximise my age pension entitlements. I'm 67. Can you help?	
Operator	Hi Fernando. I'm happy to answer your questions, but I can only give you factual information at this time. I'm unable to give you financial advice about what you should do.	<i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Fernando upfront that they will not be giving any financial advice.</i>
Fernando	That's fine. I just need some basic information at this point.	
Operator	The age pension is means tested. Among other things (such as a person's age, gender, marital status and residency status), Centrelink uses an income test and an assets test to determine a person's eligibility for the age pension and the amount of age pension they are entitled to receive. Whichever test produces the lower amount of age pension entitlement is the test that applies. It is also important to remember that, if an individual's circumstances change, the test that applies may also change.	<i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Fernando as a member of their fund, but this doesn't stop the operator from giving Fernando factual information.</i>
Fernando	Okay, that makes sense so far.	
Operator	The value of a pensioner's home is not assessable under the assets test. It does not affect age pension entitlements if they redraw funds from their mortgage and spend the money on improvements to their own home. But, if a person uses a mortgage redraw facility, they will have to make additional repayments to cover the extra amount borrowed.	

Operator	<p>The balance of an account-based income stream product, such as the ABC Pension Fund, is used in calculating the amount of a part pension you are entitled to under the assets test. A reduction in the balance is likely to result in a higher age pension entitlement.</p> <p>It is also important to note that, while the age pension entitlement is likely to be higher if the money is drawn from the pension account, drawing money from the pension account will mean that the money in the account is likely to be used up sooner than it would otherwise be.</p>	<p><i>This operator is giving factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence Fernando.</i>
Fernando	<p>Thanks for that. It's given me a good idea of how these things work. I'll get back to you if I need more information.</p>	

General advice

In this example, ABC Superannuation Fund is not licensed because it is relying on the exemption for financial product issuers to give general advice without an AFS licence if that advice is about its own superannuation fund on certain conditions: reg 7.1.33H.

Fernando	<p>Hi, I'm Fernando Gonzalez and I'm a member of the ABC Pension Fund. I need \$25,000 to update my kitchen. I don't have any available cash. I'm wondering whether I should make a lump sum withdrawal from my pension account, or use my home loan redraw facility to maximise my age pension entitlements. I'm 67. Can you help?</p>	
Adviser	<p>Hi Fernando. I'm happy to answer your questions, but I'm only authorised to give you general advice. I can tell you what we'd generally recommend to our members. I can't give you personal financial advice that takes into account your personal circumstances. If you want personal advice, we can refer you to a financial adviser.</p> <p>I also need to mention that ABC Superannuation Fund is not licensed to give you advice about the fund. We recommend that you get a Product Disclosure Statement and read it before making a decision. We can send you one in the mail, or you can find it on our website.</p>	<p><i>It's good practice to be clear about the service you are offering—are you giving factual information or advice? In this example, Fernando is told upfront that he will not be given personal advice.</i></p> <p><i>ABC Superannuation Fund needs to provide this warning because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its fund).</i></p>
Fernando	<p>Okay, that sounds fine. I'm currently receiving a part age pension based on an assessment under the assets test. I'm single, own my own home and have no other income.</p>	
Adviser	<p>That sort of information is relevant for you to consider, Fernando, but, in what I am explaining today, I won't be considering that but just talking about what we tell people in general.</p> <p>[The adviser gives Fernando the same factual information provided in the factual information conversation above.]</p>	

Adviser	<p>For people who are asset tested, taking a lump sum from an assessable asset (such as your interest in ABC Pension Fund) to spend on an asset such as their principal home (that is not counted under the assets test) will be likely to result in increased age pension payments.</p> <p>However, it does depend on each individual's personal circumstances. For example, it is possible that the income test may become the dominant test, and because of this, we recommend that members either seek personal advice or talk to Centrelink before making any decisions.</p> <p>It is also important to keep in mind that, while the age pension entitlement is likely to be higher, if the money is drawn from a pension account, this will mean that money in the account is likely to be used up sooner than it would otherwise be.</p>
Fernando	<p>Thanks for that. It's given me a good idea of how these things would affect someone in my position. I'll get back to you if I need advice that looks at my circumstances specifically.</p>

Scaled advice

Because this example involves personal advice, ABC Superannuation Fund needs to have an AFS licence authorising its advice providers to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Fernando	<p>Hi, I'm Fernando Gonzales and I have an ABC Pension Account. I need \$25,000 to update my kitchen. I don't have any available cash and I'm wondering whether I should make a lump sum withdrawal from my pension account or whether I should use my home loan redraw facility to maximise my age pension entitlements. I'm 67. Can you help?</p>
Adviser	<p>Hi Fernando. Yes, I think I can help you.</p> <p>You need to be aware that I am only going to give you advice about the two options you have identified, taking into account your objective of maximising your age pension entitlement. I won't be considering anything else, so if you would like advice on other issues, you should consider getting more comprehensive advice that looks at your overall financial position. Are you comfortable with this approach?</p>
Fernando	<p>That sounds great, thanks.</p>

You should make the scope of the advice you are giving clear. In this example, ABC Superannuation Fund makes it clear that the scope of the advice is limited to Fernando's interest in that fund.

The adviser has indicated to Fernando that he might want to consider getting advice that looks at his overall financial position.

Adviser	<p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder. The adviser will also confirm that the client has a copy of the current version of the Financial Services Guide, if required.]</p> <p>Let me just get your details up in front of me. Then I'll be able to give you specific advice on which option would be better for you in terms of the effect on your age pension entitlements.</p> <p>You are 67 and started your pension in 2010 at age 65 with \$240,000. You have a balance of \$260,000 in your ABC Pension Account, an account-based income stream product. You are currently drawing the minimum amount of 5% of the balance per year.</p> <p>I have some more questions for you:</p> <ul style="list-style-type: none"> • Do you have any assets other than your pension account? • What income do you have besides your superannuation pension and any age pension you currently receive? • Do you have a spouse? 	<p><i>This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.</i></p>
Fernando	<p>I'm single. I'm currently receiving a part age pension of \$461.50 a fortnight, based on an assessment under the assets test. My entitlement at the moment is based on my assessable assets outside of super—being \$100,000—none of which I can use to access funds. I don't have any other income.</p>	<p><i>These are the pension rates as at September 2012.</i></p>
Adviser	<p>If you use your home loan redraw facility, you will not alter your current age pension entitlement. You will owe more money, but you can't deduct this in working out your assets for the assets test.</p> <p>If you draw the funds from your pension account, you will reduce the level of assets you are treated as holding and will therefore be entitled to a higher part pension under the assets test.</p> <p>So, your assessable assets are the account balance of your pension fund plus \$100,000—therefore, \$360,000. As you're aware, the value of your home is not assessable under the assets test.</p> <p>If you use the funds from your pension account, your balance and your level of assessable assets will be reduced by \$25,000.</p> <p>I calculate that, if you draw down \$25,000 from your pension account, your part pension will be \$499.00 per fortnight, which is an increase of \$37.50.</p> <p>You need to remember that drawing the funds down from your pension account will mean that the pension will not last as long. Is the full \$25,000 required for your renovations?</p>	<p><i>The adviser has performed calculations to show that the income test will have no effect on the client's entitlement to the part age pension (i.e. under the income test the full age pension is available, and because that entitlement is greater than that under the assets test, it is the assets test that will apply). The adviser does not discuss the detail of the calculations in the conversation with the client but has taken steps to be sure that it is the assets test that will apply.</i></p>
Fernando	<p>Yes, I have had three quotes and this is the best option for my money.</p>	
Adviser	<p>That's fine. I asked the question because, although your Centrelink part pension will increase, the overall benefit to you over time will reduce because you have withdrawn part of your capital from your super fund pension account. As we discussed earlier, you are currently drawing the minimum amount of 5% of the balance per year. Because you have withdrawn part of your capital, if you wish to continue drawing the minimum of 5%, you will need to revise your payments from the pension account to a lower amount.</p>	

Adviser Now, the calculations I have done are based only on the current rules for superannuation and pension entitlements, and these could change. However, in my opinion, looking at the options in terms of which option will result in you getting more age pension, a lump sum withdrawal from your superannuation would be better. We charge a fee of \$XX for each lump sum drawdown—this is less than the pension increase you will receive.

Another aspect you should consider is how much extra interest you would pay if you used your mortgage redraw facility, and compare this with how much you may lose from getting less earnings in your pension account because the balance is lower.

I will send you a Statement of Advice that sets out the advice I have just given you.

Fernando Thanks for that. I'll look forward to receiving it.

Statement of Advice

ABC Superannuation Trustees Limited ABN 12 34567890

AFS licence no: 123456

STATEMENT OF ADVICE

1 December 2012

Mr Fernando Gonzales
1 Martin Place
Sydney NSW 2000

Dear Fernando

Effect on your age pension of accessing funds through superannuation or a mortgage redraw

You asked for advice today about whether you should pay for your home renovations from your pension account or from your home mortgage redraw facility. This advice is limited to issues specifically relevant to the question that you have asked us—that is, which of these two options would be better for you, including in terms of the effect on your age pension entitlement.

Information about you

- You are 67 years of age and single.
- You started your ABC Pension Account, an account-based income stream, in 2010 at age 65 with \$240,000.
- You currently have a balance of \$260,000 in your ABC Pension Account and are drawing the minimum annual amount of 5% of the balance of your account.
- You have \$100,000 in assets outside of your ABC Pension Account, but no available cash.
- You have no income outside of your ABC Pension Account drawdown and your part age pension entitlement, which is currently \$461.50 per fortnight.
- Your objective is to access \$25,000 from either your pension account or your mortgage redraw facility, whichever will enable you to receive the higher entitlement to an age pension and otherwise be better off.

Our advice

We recommend that you draw down a lump sum from your ABC Pension Account to fund the \$25,000 you need for home renovations. The reason we recommend this is that, according to our calculations, if you use funds from your pension account, you will reduce the amount of your assets that are assessable under the Centrelink assets test and will be entitled to a pension of \$499.00 per fortnight, which is \$37.50 more than you are receiving now. As you have no other sources of income, you will continue to be assessed under the Centrelink assets test rather than the income test.

We think that this advice is in your best interests because:

- it meets your stated needs and objectives of maximising your pension payments; and
- if you were to use funds from your home mortgage redraw facility, your age pension entitlement would not alter, but you would have to make payments into the mortgage account to repay the additional \$25,000 borrowed.

Some important things to consider before you act on this advice

You should be aware that a consequence of drawing the funds from your pension account is that your pension will not last as long as it otherwise would have. One way of overcoming this would be to consider reducing your pension, because the minimum required drawdown will be based on a lower balance.

Another aspect you should consider is how much extra interest you would pay if you used your mortgage redraw facility, and compare this with how much you may lose from getting less earnings in your pension account because the balance is lower.

Remuneration and conflicts of interest

This advice was provided at no additional cost to you. It is part of our overall member service. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you act on this advice, there is a charge for each lump sum drawdown of \$XX (which is less than the increase to your pension as a result of following this advice).

Acting on this advice

To act on this advice, please complete the enclosed drawdown form, requesting a lump sum drawdown of \$25,000, and forward it to the ABC Pension Account.

Should you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

ABC Superannuation Fund
5 Harbour Street
Sydney NSW 2000

Example 9: Transition to retirement

Martin contacts his superannuation fund for information and advice about a transition-to-retirement (TTR) strategy.

Factual information

In this example, ABC Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Martin	Hi. I'm Martin Chew, a member of the ABC Superannuation Fund. I'm 60 and working full time and I don't want to retire yet. I'm concerned that I've not really accumulated enough in super, but I don't have any spare money to put into super after I have paid my expenses each month. Is there anything I can do now that would help?	
Operator	Hi Martin, thanks for calling. Just so that you know upfront, I can give you some information, but I can't give you any advice. If you would like personal advice that takes into account your personal circumstances, we can set up a meeting for you to talk to one of our financial advisers.	<i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Martin upfront that they will not be giving any financial advice.</i>
Martin	That's fine. I just want information at the moment.	
Operator	<p>It sounds like you're concerned about not having enough super when you retire, but you don't have any spare cash flow or savings to add to super now.</p> <p>In this situation, one strategy that many people consider is a transition-to-retirement—or TTR—strategy. This can be a good strategy for people aged between 55 and 64 who are still working. Would you like some more information on this strategy?</p>	<i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Martin as a member of the fund, but this doesn't stop the operator giving Martin factual information.</i>
Martin	Yes thanks.	
Operator	<p>For some people, a TTR strategy can be used to increase the amount they have in their superannuation account at retirement, while maintaining the person's take-home pay. A person using a TTR strategy pays a part of their income into super (this is called 'salary sacrificing'), and they make up the difference by drawing down income from a TTR pension account.</p> <p>Salary sacrificing allows a person to contribute a portion of their before-tax salary directly into superannuation. Salary-sacrificed contributions are taxed at a flat rate of 15%—which, for some people, is lower than they would otherwise pay on their salary. Individuals need to check with their employer if they are able to salary sacrifice.</p> <p>For people with compatible personal circumstances, a TTR strategy can reduce their taxable income, so they pay less tax, even though they are still receiving the same take-home pay.</p>	<p><i>This operator is giving factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence Martin.</i>
Martin	Would I end up with less money to live on? I couldn't afford that.	

Operator	For people who have compatible personal circumstances, a TTR strategy can be set up so that the person ends up with the same amount of money to live on.
Martin	All right, thanks. How do I find out if TTR would work for me?
Operator	Martin, I suggest you have a look at the ABC Superannuation Fund website, which has more detailed information about how a TTR strategy works. You should also have a look at the Product Disclosure Statement, which I can send to you. In addition, we can set up an appointment for you to get some personal advice about whether TTR is right for you.
Martin	Thanks, that's given me a good start. I'll have a look at the information on the website and give it some more thought. I'll think about getting advice later.
Operator	Great. Please give us another call if you would like any further information.

You can provide information in a variety of ways. This example started with a phone call and ends with Martin looking at the fund's website.

General advice

In this example, XYZ Superannuation Trustees Limited has an AFS licence authorising it to provide general advice: 911A.

Martin	Hi. I'm Martin Chew, a member of the ABC Superannuation Fund. I'm 60 and working full time and I don't want to retire yet. I'm concerned that I've not really accumulated enough in super, but I don't have any spare money to put into super after I have paid my expenses each month. Is there anything I can do now that would help?
Adviser	Hi Martin, it sounds like you're concerned about not having enough superannuation when you retire, but you don't have any spare cash flow or savings to add to superannuation now. In this situation, one strategy that many people consider is a transition-to-retirement—or TTR—strategy. This can be a good strategy for people aged between 55 and 64 who are still working. Would you like some more information on this strategy?
Martin	Yes, that would be great.
Adviser	Just so you know upfront, I can give you some information and tell you what we generally recommend for our members about a TTR strategy but this does not consider your personal financial circumstances. It is only one strategy you could consider. I am not saying that this strategy is compatible with your personal circumstances, or that is an appropriate strategy for you. If you are after personal advice, I can set up a meeting with one of our financial advisers.
Martin	That's fine. I'm happy just to get some general ideas at this stage.

You need to be upfront about the service you are offering—are you giving factual information or advice? In this example, Martin is clearly told upfront that he will not be given personal advice. General advice given by an AFS licensee, must be accompanied by a general advice warning, but we have given relief to facilitate the use of short oral warnings like this: see RG 244.40.

Adviser	<p>[The adviser starts by giving the same information about TTR set out in the factual information conservation above.]</p> <p>We recommend that our members who want to keep working after they reach 55, and who want to boost their super, but can't afford a reduction in take-home income, should consider a TTR strategy.</p> <p>TTR can result in significant tax savings. For people who have compatible personal circumstances, it is a good way to boost their superannuation when they are close to retirement.</p> <p>If you're interested in more information about TTR, I suggest you have a look at the ABC Superannuation Fund website or at the Product Disclosure Statement, which I can send to you. Or we can set up a further appointment for you to get some advice about whether a TTR strategy is right for you.</p>
Martin	<p>Thanks, that has been helpful. I'll do some reading on it and get back to you if I want to get some more advice about whether TTR would suit my situation.</p>

Scaled advice

Because this example involves personal advice, the ABC Superannuation Fund needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Martin	<p>Hi. I'm Martin Chew, I'm a member of the ABC Superannuation Fund. I'm 60 and working full time and don't want to retire yet. I'm concerned that I've not really accumulated enough in super, but I don't have any spare money to put into super after I have paid my expenses each month. Is there anything I can do now that would help?</p>
Adviser	<p>Hi Martin, thanks for calling. It sounds like you're concerned about not having enough superannuation when you retire, but you don't have any spare cash flow or savings to add to superannuation now.</p> <p>I can provide you with a couple of options to help you answer your question.</p> <p>To get a comprehensive answer that takes your entire financial circumstances into account, we recommend coming in to chat with one of our advisers face to face or using our video conferencing facility. I can arrange this for you if that's something you would like to do. This advice service costs \$XX.</p> <p>Alternatively, I can provide you with some limited personal advice over the phone today that will only look at one strategy called a transition-to-retirement (or TTR) strategy to see if this can help you, but there may be other things you can do to improve the situation.</p> <p>We charge a fee of \$XX for the advice about whether you should implement a TTR strategy.</p> <p>What do you want to do?</p>
Martin	<p>Can you tell me a little bit more about the TTR strategy to help me decide which option to choose?</p>

You should make the scope of the advice you are giving clear. In this example, ABC Superannuation Fund makes it clear that, if Martin decides to go ahead with advice over the phone, the scope of the advice is limited to whether Martin should implement a TTR strategy.

The adviser has indicated to Martin that he might want to consider getting advice that looks at his overall financial position.

Adviser	<p>Sure. One strategy that many people in your situation consider is a transition-to-retirement, or TTR strategy.</p> <p>[The adviser gives Martin the same information set out in the factual information conversation above.]</p> <p>If you would like me to provide you with advice on a TTR strategy today, you need to know that there are certain issues I won't take into consideration. For example, my advice won't include strategies around budgeting or reviewing your superannuation provider—both of which could save you money.</p> <p>Also, if you decide to go ahead with this advice, it's also important to understand that I am only authorised to give advice about ABC Superannuation Fund products and about similar superannuation products generally. I am not able to give advice about any other specific products. However, in giving my advice, I will consider whether the ABC Superannuation Fund products that I recommend can meet your needs and objectives.</p>
Martin	<p>Okay, I understand. I'd like to get advice about the TTR strategy today.</p>
Adviser	<p>All right, thanks Martin.</p> <p>[At this point, the adviser will also confirm that Martin has a copy of the current version of the adviser's Financial Services Guide, if required. The adviser also confirms the standard identity checks.]</p> <p>Before we go on, I need to check a few things with you.</p> <ul style="list-style-type: none"> • What is your estimate of your likely income over each of the next five years from all sources, not just your salary, and how certain are you of that? • Do you have any other assets (including superannuation) outside of ABC Superannuation Fund? • Are you receiving any Centrelink entitlements? • Are you making any child support payments? • Do you have a spouse?
Martin	<p>I'm single, my current salary is \$110,000 a year, and my taxable income is the same. I guess it will increase at about 4% a year. I am pretty confident that's a good estimate. I don't have any other assets, including other superannuation. I don't receive any Centrelink payments, or pay any child support.</p>
Adviser	<p>That's fine, Martin. Let's look at whether it would make sense for you to commence a TTR strategy.</p> <p>Now I'll just get your information up in front of me. Okay, I can see that:</p> <ul style="list-style-type: none"> • you're 60 years old; • you have a current super balance of \$220,000; • you are currently invested in the Balanced option of the ABC Accumulation Account, which means 60–70% of your portfolio is invested in shares and property; and

This question and answer process is part of making inquiries into Martin's relevant circumstances, and can also form part of a 'triage' process to determine whether scaled advice is right for Martin. For example, if Martin answers 'yes' to any of these questions, he would be referred to an adviser for advice face to face or via video conference: see RG 244.78.

<p>Adviser</p>	<ul style="list-style-type: none"> • 100% of your \$220,000 account balance is from employer contributions and was subject to tax at 15% when received by the superannuation fund. <p>I also need to ask you some additional questions in order to advise whether TTR is suitable for you:</p> <ul style="list-style-type: none"> • Do you want to continue working full time and how long do you intend to continue doing so? • Do you have any debts such as personal loans, credit card debts or a mortgage? • Are you comfortable with keeping your investment in the Balanced option? • Do you think that you might need to draw down a lump sum from your super in the next few years? 	<p><i>This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.</i></p>
<p>Martin</p>	<ul style="list-style-type: none"> • I like working and intend to continue working full time until I'm at least 65. • I need my entire income to live on for the next few years so I can't consider reducing my take-home pay; • I do not have any debts, including mortgage, personal loans or credit card debts; • I'm happy to be invested in the Balanced option of the ABC Accumulation Account; and • as long as I can keep receiving the net income that I'm getting now, there should be no need to withdraw a lump sum until I am 65. 	
<p>Adviser</p>	<p>Okay, I'm now going to calculate whether you will be better off adopting a TTR strategy.</p> <p>First of all, I'm going to assume that you move most of your super into a TTR pension account, leaving \$50,000 in the Balanced option of the ABC Accumulation Account.</p> <p>Many pension funds offer a number of investment options. You have indicated that you are comfortable remaining in a Balanced option. Therefore, if you were to move most of your superannuation to a TTR pension account, I am going to assume that you will stay in the Balanced option. I will work out some figures based on the average return for that type of option—7% a year—and assuming that 9% tax is paid on the income earned in that option.</p> <p>Martin, it's important you understand that this is not a guaranteed return figure. These are just averages and are not necessarily going to be what you get—but, in my opinion, they are appropriate estimates of likely long-term returns.</p> <p>Another assumption I'm going to make is that your employer will allow you to pay a part of your salary before tax into your super. As we have discussed earlier, this is known as salary sacrificing. Because you are on a relatively high salary, contributing to superannuation in this way means you'll probably end up paying tax at a lower rate than you otherwise would have. The money saved in tax can then go towards boosting your superannuation balance.</p>	<p><i>A 'past performance warning' is appropriate in the context of giving information about performance returns.</i></p>

Martin	That sounds good. I know my employer helps people arrange for extra super contributions by salary sacrificing. But I am not really in a position to receive less income.
Adviser	I can understand that. If you implement the TTR strategy I have recommended for you, your take-home pay won't change. This is because you will be withdrawing a regular amount from your TTR pension account that will make up for the extra money you are contributing to superannuation from your salary.
Martin	Are there any other things I need to know about using this strategy?
Adviser	<p>You need to check that, if you salary sacrifice more, your employer won't reduce the superannuation contributions they would otherwise make for you.</p> <p>Also, you will be committed to drawing down between 4% and 10% of the balance from the TTR pension account each year until you retire, or another condition of release is met (such as reaching age 65).</p> <p>There will also be additional fees associated with establishing and running a TTR pension account. These fees will vary depending on which pension account you decide on. You should ensure that you compare the fees of the products you consider.</p> <p>You also need to keep your ABC Accumulation Account open to receive your salary-sacrifice payments and to maintain your group insurance cover. This means you will continue to pay fees for your ABC Accumulation Account in addition to fees for the TTR pension account you will need to open if you implement the TTR strategy.</p>
Adviser	<p>It's also important to review your TTR strategy at least once a year, because the laws around superannuation can change.</p> <p>Reviewing your TTR strategy will involve reviewing the amount you are sacrificing to superannuation, and the amount you are withdrawing from your TTR pension account. In particular, you'll have to ensure that:</p> <ul style="list-style-type: none"> • the amount you are drawing from your TTR pension account remains within the limits permitted (i.e. is between 4% and 10% of the balance); and • the combined amount of salary sacrifice and employer contributions does not exceed the cap on before-tax contributions to superannuation. This cap is currently \$25,000.
Martin	Okay, I'll keep that in mind to do a review, if I decide to implement the TTR strategy.
Adviser	<p>Martin, based on what we have discussed today, I recommend that you implement a TTR strategy that matches your after-tax income.</p> <p>As I have explained, in order to implement this strategy, you will need to open a TTR pension account.</p> <p>There are a range of TTR pension account products to choose from. I am only authorised to offer the ABC TTR Pension Account to you. There is a fee of \$XX to open the ABC TTR Pension Account and we charge an administration fee of \$XX per pension payment.</p>

The advice in this example contains a lot of information and data. The adviser should check that Martin understands the advice, if it appears that Martin is confused about the advice he is receiving.

<p>Adviser</p>	<p>I think that the ABC TTR Pension Account is well priced and good value for money based on a comparison of similar products. It has reasonable fees when compared to the average fee for TTR pension account products, and offers monthly pension payments and good features, like our quality online information portal.</p> <p>Of the 20 largest super funds, ABC Superannuation Fund ranks number 14 in terms of long-term performance measures, based on the Balanced option for funds that have continued in operation for 10 years and for which data is readily available. That is not to say, of course, that this will necessarily continue.</p> <p>There may be other TTR pension account products or other financial products that could suit you better so you may want to consider or seek advice on them.</p> <p>As I mentioned at the beginning, my advice today on TTR has been limited—it has not taken your entire financial situation into account.</p> <p>If you would like to receive advice about how a TTR strategy fits in the context of your entire financial situation, I can set up a meeting with one of our financial advisers.</p> <p>Or, if you choose, you can go ahead with setting up a TTR strategy, including establishing an ABC TTR Pension Account.</p>	<p><i>We say in RG 175.318 that one way an adviser can conduct a reasonable investigation into financial products for the purpose of s961B(2)(e)(i) is by benchmarking at appropriate intervals the product against the market for similar products.</i></p>
<p>Martin</p>	<p>I am very happy with the idea of TTR and ABC, so I think I will just go ahead with the ABC TTR Pension Account.</p>	
<p>Adviser</p>	<p>Okay Martin. I'm going to send you out a Statement of Advice which will explain my recommendations to start a TTR strategy and establish a TTR pension account with us. I'm also going to send you out some forms. If you choose to go ahead, please fill them out and send them back to us. Before going ahead though, you should also read the Product Disclosure Statement which I will also include with the Statement of Advice.</p>	

Statement of Advice

XYZ Advisers [ABN 12 34567890]

AFS Licence No. 123456

STATEMENT OF ADVICE

1 December 2012

Martin Chew
1 Brisbane St
Brisbane QLD 4000

Dear Martin

Whether you should commence a transition-to-retirement (TTR) strategy

You asked us for advice about commencing a TTR strategy. As we discussed on the phone, our advice only covers whether you should commence a TTR strategy and whether products offered by ABC Superannuation Fund are appropriate for you in implementing a TTR strategy.

This Statement of the Advice is provided by XYZ Advisers.

Information about you

- You are 60 years old and single.
- You like working and intend to continue working until you're at least 65.
- Your current salary is \$110,000 per year.
- You do not want to reduce your take-home salary.
- You have a current super balance of \$220,000.
- 100% of your \$220,000 account balance has already been taxed when it was received by the ABC Superannuation Fund.
- You do not have any debts such as personal loans, a mortgage or credit card debt.
- You can transfer all of your current superannuation balance across to a TTR pension account.
- You are currently invested in the Balanced option of the ABC Accumulation Account and would like to remain in the Balanced option if you implement the TTR strategy and establish a TTR pension account.
- You do not anticipate wanting to withdraw a lump sum from your super before you stop work or before you turn 65.
- Your purpose in considering TTR is to increase the amount you have in super without reducing your take-home pay.

Our advice

Even small differences to the amount you place into super can help your final superannuation balance. One way to boost your super is to pay a part of your pay into super (this is called 'salary sacrifice') and make up the difference by drawing down income from a TTR pension account. This gives you the benefit of reducing your taxable income, so you pay less tax, even though you are still receiving the same take-home pay.

This example Statement of Advice is quite long. Subheadings are used to make it clearer. You're not required to use these subheadings in all SOAs about transition to retirement but you do have to make it easy to understand. You should use your discretion about whether to include subheadings that will help the client understand the advice you are giving in each situation.

The following table sets out how the TTR strategy could benefit you:

Your TTR strategy

	Current (\$)	TTR strategy (\$)
Gross income	110,000	110,000
Minus salary sacrifice	0	-14,000
TTR pension income	0	8,610
Taxable income	110,000	96,000
Minus income tax and Medicare levy	-30,297	-24,907
Take-home pay	79,703	79,703
Super contributions: employer*	9,900	9,900
Super contributions: salary sacrifice	0	14,000
Investment returns**	15,400	15,400
Minus contributions tax	-1,485	-3,585
Minus TTR pension drawdown	0	-8,610
Minus tax on fund earnings**	-1,386	-315***
Net gain in super	22,429	26,790
Total tax paid	33,168	28,807
Combined tax savings		4,361

* The table shows the same employer contributions for your current situation and for your TTR strategy. Your employer does not have to pay super on amounts you salary sacrifice; however, most employers will continue to pay super on your gross earnings. You need to check this.

** The table shows investment returns based on earnings of 7% and an average tax rate of 9% on super fund earnings, and disregards returns on money invested during the year. These are average figures based on past performance. They are not an indicator of future returns, which means this is not a prediction that you will achieve these returns. Your result could be more or less.

*** The tax on earnings of the amount left in the ABC Accumulation Account being \$50,000, assuming that \$170,000 is moved to the TTR pension account.

If you salary sacrifice \$14,000 into superannuation and draw down \$8,610 from your pension fund, you will still have a take-home pay of \$79,703 (or \$3,057 per fortnight). Your tax will be lower by \$4,361, because you pay less tax on your reduced salary and, as you are over 60, you do not pay tax on your TTR income (\$8,610). The tax you save will be contributed to your super instead. Under this strategy, you will be better off by \$4,361 in the year you commence the TTR strategy. Compared with the option of doing nothing, this has real benefits for you.

To enable money to be available to provide for the pension, you would need to transfer money to a TTR pension account. We would recommend you transfer \$170,000, leaving \$50,000 in your current ABC Accumulation Account. In this way, you can provide some flexibility to make sure you can keep within the limits on superannuation contributions and the minimum drawdown amounts that must be taken from a TTR pension account for your age group.

We recommend that you read the PDS for details on all conditions of release as and when these apply.

Further, I note that, while implementing a TTR strategy may allow a net increase in your superannuation on retirement, it is likely that it will only make a moderate difference to your overall account balance. If you want to significantly increase your superannuation balance, you will need to consider other options, such as reducing your living expenses or working longer.

We recommend that you salary sacrifice \$14,000 into superannuation and draw down \$8,610 from the pension fund, which will leave you with the same take-home pay of \$79,703. We think that following this advice would be in your best interests because, overall, you will pay \$4,361 less tax, which will be contributed to your superannuation instead. Under this strategy, you will be better off by \$4,361 in the year you commence the TTR strategy.

Please note that this advice is based on the information you have given me, including how much income you will receive from your work salary and how much take-home salary you need.

ABC TTR Pension Account

You also wanted advice about whether the ABC TTR Pension Account would be an appropriate option to provide you with the TTR pension. I believe that it would be appropriate for you.

We think that opening an ABC TTR Pension Account is in your best interests because it:

- is well priced and good value for money based on a comparison of similar products;
- has reasonable fees when compared to the average fee for TTR pension account products; and
- offers monthly pension payments and good features, like our quality online information portal.

You should note that I am only authorised to advise about ABC Superannuation Fund products, so I cannot comment on whether there may be other products that may be better for you. I indicated to you that you should consider other options and may like to get advice from our financial advisory team or someone else about alternative TTR pension account products.

You indicated, when I provided advice to you, that you wanted to proceed with establishing an ABC TTR Pension Account. I have therefore attached a current copy of the Product Disclosure Statement for the ABC TTR Pension Fund.

How to set up an ABC TTR Pension Account

To set up the account, please complete the form you will find with the Product Disclosure Statement to transfer \$170,000 of your ABC Accumulation Account balance to an ABC TTR Pension Account and send it to us. This will leave \$50,000 in your ABC Accumulation Account to keep it open to receive your salary-sacrifice contributions and to retain your group insurance cover. You will need to arrange with your employer the commencement of the recommended salary sacrifice contributions.

Other benefits

A significant benefit of transferring most of your super fund balance to the ABC TTR Pension Account is that you will be paying no tax on pension account earnings, rather than the 15% tax you pay on super fund earnings.

Things to check

You should check that the reduction in your salary through salary sacrifice will not cause your employer to reduce their contributions to match your lower salary.

Reviewing your TTR strategy

It is important to review your TTR strategy at least once a year. As the laws around superannuation can change, it is important that your TTR strategy is reviewed yearly to make sure it remains compliant with the law at the time.

This will involve reviewing the amount you are salary sacrificing to superannuation, and the amount you are withdrawing from your TTR pension account. In particular, you will have to ensure that:

- the amount you are drawing from your TTR pension account remains within the limits permitted (i.e. is between 4% and 10% of the balance); and
- the combined amount of salary sacrifice and employer contributions does not exceed the cap on before-tax contributions to superannuation. This cap is currently \$25,000.

Remuneration and conflicts of interest

I am remunerated by fee for service. This advice is provided for a fee of \$XX inclusive of GST. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

If you act on this advice, the following fees will apply:

- There is a charge of \$XX for each lump sum drawdown.
- The annual management costs of XX%, which would equal \$XX based on your current balance, will be the same whether you hold funds in the ABC TTR Pension Account or the ABC Accumulation Account.
- There is a fee of \$XX to open the ABC TTR Pension Account and we charge an administration fee of \$XX per pension payment. These fees will go to ABC Superannuation Trustees.
- If you implement the TTR strategy that I have recommended, you will also need to keep your current ABC Superannuation Accumulation Account. You will continue to pay management costs on your ABC Accumulation Account in addition to the management costs on the ABC TTR Pension Account. The fees for the ABC Accumulation Account are \$XX.

Should you have any further questions, please phone me on (02) 9999 9999.

Yours sincerely

XYZ Advisers
5 Harbour Street
Sydney NSW 2000

Example 10: How long will my account-based pension product last?

Michael contacts his superannuation fund for information and advice about how long his account-based pension is likely to last.

Factual information

In this example, ABC Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Michael	Hi. I am Michael Long, a member of the ABC Pension Fund. I am calling because I am wondering how long my pension will last. I am 68 years old now—should I be doing anything to make my pension last longer?	
Operator	Hi Michael. I'll explain to you how the ABC Account-Based Pension works. Just so you know upfront, the information I'm about to give you is factual information about how your pension product works. I'm unable to give you any financial advice about how long your pension will probably last or whether the ABC Pension Account is the right product for you.	<i>It's good practice to be clear upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Michael upfront that they will not be giving any financial product advice.</i>
Michael	Okay then, that's fine for now.	
Operator	<p>There are a number of factors that could affect how long the ABC Pension Account will last for particular members. These include:</p> <ul style="list-style-type: none"> • the account balance; • the account returns and the order of account returns, after taxes and fees; • the amount of the pension withdrawn by the member each year; and • whether any lump sums are withdrawn. <p>The ABC Account-Based Pension is an account-based income stream product. These types of products provide you with a certain level of flexibility around investment.</p> <p>This also means that the member bears the investment risk associated with the returns on their pension fund.</p> <p>We offer five investment options: Cash, Conservative, Balanced, Growth and High Growth.</p> <p>The returns on the account will change depending on the investment option chosen by the member. For example, in times when the share market is rising in value, the High Growth and Growth options are likely to give better returns, which may result in the account balance lasting longer.</p> <p>On the other hand, when the share market falls, the High Growth and Growth options are more likely to lose money. In these cases, the accounts will not last as long as if the returns had been better. Does that make sense so far?</p>	<p><i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Michael as a member of its fund, but this doesn't stop the operator from giving Michael factual information.</i></p> <p><i>This operator is giving factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information can be objectively determined as being accurate; and</i> • <i>the communication doesn't contain a recommendation or statement of opinion that is intended to influence Michael.</i>
Michael	Yes, could you give me some more information about the cash options?	

Operator	<p>Sure. The Cash option is more likely to protect against losses when the share market is weak, but tends to have the lowest average returns, which have been only slightly better than inflation in most years.</p> <p>It's also important to remember that past performance is not necessarily a guide to future performance. The returns we've been discussing can change depending on market conditions.</p>	<i>A 'past performance warning' is appropriate in the context of giving information about performance returns.</i>
Michael	Okay, thanks. Apart from investment options, are there any other things that can affect how long someone's pension will last?	
Operator	<p>Another factor affecting how long the pension will last is the rate at which the funds are withdrawn. If a member withdraws lump sums and takes a higher regular payment amount, the money will run out more quickly. Members can select the level of income they wish to withdraw; however, there is a minimum amount that must be taken each year depending on the age of the member. Members aged between 65 and 74 must generally take a minimum pension of 5% of the total balance each year.</p> <p>It is possible for members to calculate how long their pension might be expected to last based on their balance, their current expenditure patterns and the amount they plan to draw down to support this, if they assume a particular rate of return.</p> <p>If you want more information about the fund and investment options, I suggest you visit our website. There is also a calculator on the website that you can use to estimate how long your pension might last.</p>	<i>This example highlights that you can provide information in different ways (i.e. over the phone and on the internet). It's up to you to decide how you want to deliver information.</i>
Michael	Thanks, that's given me a good overview. I'll have a look at the website now.	
Operator	Once you've looked at the website, you may have more questions that involve discussing your particular circumstances. You can talk to someone here who can discuss your pension matters in more detail if you'd like to do this or use our online chat facility.	

General advice

In this example, ABC Superannuation Fund does not need to be licensed because it is relying on the exemption for financial product issuers to give general advice without an AFS licence if that advice is about its own superannuation fund on certain conditions: reg 7.1.33H.

Michael	Hi. I'm Michael Long, a member of the ABC Pension Fund. I am calling because I am wondering how long my pension will last? I am 68 years old now—should I be doing anything to make my pension last longer?	
Adviser	<p>Hi Michael. First of all, you need to know that I'm not in a position today to provide you with personal advice regarding how long your pension will last. If you'd like to receive personal advice about this issue, I can refer you to a financial adviser or we can make an appointment to discuss further.</p> <p>However, I can give you some general advice about pension funds and what someone might consider when they're wondering about how long their money is going to last.</p>	<i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Michael is clearly told upfront that he will not be given personal advice.</i>

Adviser	It won't consider your personal circumstances. Are you happy for me to continue on that basis Michael?	
Michael	Okay, I'm happy to get some general advice at this stage.	
Adviser	I need to mention that ABC Superannuation fund is not licensed to give you advice about the fund, so we recommend that you get a Product Disclosure Statement and read it before making a decision about your investment choices. We can send you one in the mail, or you can find it on our website.	<i>ABC Superannuation Fund needs to provide this warning, because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its fund).</i>
Michael	Okay.	
Adviser	<p>Great, first I'll explain to you how the ABC Allocated Pension Account works and how features of this fund may benefit certain types of people more than others.</p> <p>[The adviser gives Michael the same information provided in the factual information section, set out above.]</p> <p>People who are suited to being in the ABC Allocated Pension Account, are those who like to maintain flexibility about how much money they withdraw.</p> <p>Members who prefer the flexibility of an account-based income stream should be aware that the money in their fund can run out more quickly depending on the rate of withdrawals. This means that the members who are suited to this type of product typically have good control over their spending patterns and have other financial resources they can fall back on if they use up the money in their account. This may include an entitlement to the Centrelink Age Pension.</p> <p>Furthermore, members of the ABC Account-Based Pension Account take on the risk of the fund's performance. This means that members need to make sure that they are in the most appropriate investment option for then considering the economic environment of the time.</p>	
Michael	All right, thanks. Can you tell me a bit about the different investment options available in the pension?	
Adviser	<p>I certainly can. There are five investment options in the ABC Account-Based Pension Account: Cash, Conservative, Balanced, Growth and High Growth. The account returns will depend on the investment option chosen by the member.</p> <p>[The adviser gives Michael the same information provided in the factual information section, set out above.]</p> <p>It's also important to remember that past performance is not necessarily a guide to future performance. The returns we've been discussing can change depending on market conditions.</p> <p>We generally suggest that members who considering their investment options should also take their age and time horizon into account.</p> <p>On average, a male member who is 65 will live another 22 or so years, although life expectancies are typically on the rise. If a member were to aim to cover only 20 years, they are likely to use up their pension in their final years and have none left. For this reason, we normally advise members to aim to have the same rate of pension in real terms for a few extra years beyond their life expectancy.</p>	<i>A 'past performance warning' is appropriate in the context of giving information about performance returns.</i>

Adviser	<p>We think that, generally, members around retirement age are more likely to be suited to the Balanced option. A more aggressive option means a greater risk of returns being unable to make up for significant losses in the short term. A more conservative option has less risk, but will probably lead to a lower pension being able to be drawn over the term of the arrangement.</p> <p>A member who is in their late 80s, or who is in poor health, may consider that they will not need the pension for as long and may prefer an investment option with less risk, such as the Cash option. We generally recommend that members who see their time horizon as likely to be less than 10 years move their pension into a more conservative investment option. This means that, when working out how long their pension will probably last, they have to take into account lower returns over that period.</p>
Michael	Thanks. That has been really helpful. I may think about what I want and come back to you if I need more information.
Adviser	Sure, Michael. I'm glad I was able to help you. If you have any further questions, or there's anything else I can help you with, please let me know.

Scaled advice

Because this example involves personal advice, the ABC Superannuation Fund needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Michael	Hi. I am Michael Long, a member of the ABC Pension Fund. I am calling because I am wondering how long my pension will last. I am 68 years old now—should I be doing anything to make my pension last longer?
Adviser	<p>Hi Michael, thanks for your call. I need to let you know that I can only give you advice about your ABC Account-Based Pension Account, and what you can do to make this Account last longer. Because my advice will be limited in this way, I won't be able to discuss topics that might help to ensure that you have enough money during retirement. For example, I won't consider things like moving to another pension fund, downsizing your home or going back to work to pay off any debts you may have.</p> <p>However, it's quite possible that some of these things could make a big difference to how much money you have during retirement—maybe more than the advice I can give you. I can refer you to someone who can provide more comprehensive advice if you'd prefer. Can you please clarify the advice you'd like?</p>
Michael	Okay, I understand. I will have to think about getting other advice, but I'd still like you to tell me about what I should do about my existing account to keep my pension going through my life, assuming I decide to stay in that account.

You should make the scope of the advice you are giving clear. In this example, ABC Superannuation Fund makes it clear that the scope of the advice is limited to Michael's interest in that fund. The adviser has suggested to Michael that he might want to consider getting advice that looks at his overall financial position.

Adviser	I'm going to need to learn a bit more about your situation before I can provide you with advice about your ABC Account-Based Pension Account. If there is anything material about your situation that I cannot consider when providing you with this advice, then I will need to refer you on to see an adviser for more comprehensive advice. Is that all right, Michael?
Michael	Yes, that makes sense.
Adviser	<p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder. The adviser will also confirm that the client has a copy of the current version of the Financial Services Guide, if required.]</p> <p>Thanks, Michael. I now have your information in front of me:</p> <ul style="list-style-type: none"> • you're 68 years old; • you have a current balance in your ABC Pension Account of \$280,000; and • you're currently invested in our Balanced option. <p>Now I need a few more details from you:</p> <ul style="list-style-type: none"> • Do you currently have a spouse? • What income do you currently need to meet your living expenses? • What is your health situation? • Are you in receipt of any Centrelink benefits? • Besides your ABC Pension Account, what other major assets do you own? • What other income do you receive, if any? • Do you have any debts, such as mortgages or credit cards? • Do you want to make any lump sum withdrawals from your account over the next few years?
Michael	<ul style="list-style-type: none"> • I am single. • I require around \$30,000 per year to cover living expenses. • I am in reasonably good shape and keep active. I don't drink or smoke and I play golf twice a week. I don't have any family history of major illnesses. My father lived until he was 90, so I feel like I have a few good years left in me. • I am receiving a full Centrelink Age Pension. • My only other major asset is my house. • I do not receive any other income besides my ABC Pension and Centrelink entitlements. • I do not have any debts. • I want to draw down extra funds to buy a new car this year, which I expect to cost around \$25,000. Also, I'm planning some home renovations this year. I'd like to factor in a withdrawal of around \$75,000 to pay for these.

Often clients do not know how much they spend; however, this factor cannot be ignored when it is essential to the client's objective of finding out 'how long will my pension last?'.

This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.

Adviser	<p>Thanks, Michael. Based on what you've told me about your situation, I can proceed to provide you with advice about your ABC Pension Account.</p> <p>You are currently drawing down \$15,000 from your ABC Pension Account, and receiving a full Centrelink Age Pension, which is approximately \$20,000 per year. Does that sound about right?</p>
Michael	Yes, that's correct.
Adviser	Would it also be correct to say that you'd like your cost of living to keep up with inflation and community living standards?
Michael	Yes, that's right.
Adviser	<p>Okay, great. Before I calculate how long your ABC Pension Account might last, I'd like to discuss some important information about your investment options.</p> <p>Investment risk and returns are important to understand because the amount earned on the account will change depending on the investment option you choose.</p> <p>As a member of the ABC Pension Account, you take on the risk of the fund's performance. You need to make sure you are invested in the most appropriate option for you, considering the economic environment of the time.</p> <p>For those who do not like to take on investment risk, there are other products available on the market, where the member does not take on the risk, but I am not going to be advising you about that today.</p> <p>In times when the share market is rising in value, the High Growth and Growth options are likely to provide better returns, which may result in the account balance lasting longer. However, when the share market falls, these options are more likely to lose money. In these cases, the accounts will not last as long as if the returns had been better.</p> <p>In contrast, the ABC Allocated Account Cash option is more likely to protect against losses when the share market is weak, but tends to have the lowest average returns, which have been only slightly better than inflation in most years.</p> <p>With this in mind, a member like you might be better suited to the ABC Allocated Account Balanced option to extend the life of your pension.</p>
Martin	Okay, I understand that so far. What are some other options?
Adviser	You could choose a more aggressive option, like the Growth option, with the aim of achieving higher returns to make your retirement capital last longer. However, during periods of market volatility, where you are required to crystallise losses to meet your regular pension payments, it can be difficult to recoup these losses because you have limited (or no) ability to contribute to super. This can lead to your retirement capital reducing more quickly than expected.

Adviser	<p>Alternatively, choosing a more conservative option with less risk, like the Cash option may result in your pension running out more quickly. Cash has historically produced a lower return over the long term when compared to higher risk options. These lower returns may not be able to cope with the withdrawals you are making over time. If this happens, you may need to consider reducing the amount of pension you are taking on a yearly basis.</p> <p>The Cash option might have been suitable for you if you didn't need your pension to last as long as you envisage now. Of course, if at any stage you see your time horizon as likely to be less than 10 years, then we will need to have a discussion about moving your money into a more conservative investment option like this.</p> <p>You need to be aware that past performance is not necessarily a guide to future performance. Relative returns, like we've been discussing, can change depending on market conditions.</p> <p>So, I need to make sure you are happy to remain in your current investment option—the Balanced option. In this option, 60–70% of your money is invested in shares and property. In recent years, these markets have experienced volatility, which means that, over a 12-month period your account could reduce as a result of negative returns. If this happens, it would mean that your pension would run out more quickly. Are you comfortable with this?</p>	<p><i>A 'past performance warning' is appropriate in the context of giving information about performance returns.</i></p>
Michael	<p>I am comfortable with that risk and understand the potential returns for the Balanced option, which I'd like to stay in at the moment. If anything changes, I can call you again for advice to change my investment option.</p>	
Adviser	<p>I'm glad you understand what I have explained. I can now provide you with advice about your account and how long it may last, based on your average changes in cost of living and community living standards which increase over time, current balance, investment option and drawdown patterns.</p> <p>As you've said, you'd like your annual drawdown to increase to keep pace with inflation and community living standards. I think we should factor in 3% for inflation and 1% for an increase in community living standards. I will also include lump sum drawdowns this year of \$25,000 and \$75,000.</p> <p>At present, you are invested in the Balanced option, which for the past 10 years has average returns of 7% after fees. My calculations for how long your pension will last are based on using a reasonable estimate of average return for the Balanced option, which is 7%. However, it is important to understand that the actual returns could vary quite a lot. If the Balanced option does not earn so much or suffers a loss, especially in the early years, then it could make your pension run out much more quickly.</p> <p>All right, Michael, based on everything we've discussed today, I've calculated that you will be able to meet your desired cost of living from a combination of ABC Pension Account income and Centrelink income until 2027, when you will be 83 years old. At that time, your pension income would run out and you would rely entirely on your Centrelink income to fund your lifestyle.</p>	

Michael	I'm worried I might live longer—my father lived to 90.	
Adviser	Would you consider changing your lifestyle to reduce your expenses?	<i>If Michael cannot meet his objectives, the adviser should discuss realistic alternatives with him.</i>
Michael	Yes, I had a few options for the car and renovations that were cheaper. How much longer would my pension last if I took a drawdown of \$45,000?	
Adviser	The account will last for your expected life span, paying a combined income of \$29,600 per year and leaving a small balance at the end of the year you turn 95. If you want the pension to last beyond 2027, I recommend that you consider this approach.	
Michael	I agree this is the best option for me—I would want to ensure my pension lasts until my mid-90s.	
Adviser	As we discussed earlier, you need to remember that my advice today has been limited to your interest in the ABC Pension Account. There are a lot of other things you will need to think about that might be relevant, such as providing for your family or dependants, whether or not you should downsize your home, or estate planning. If you need more information that takes into account all of your personal circumstances, you should consider getting more comprehensive personal advice. I'm now going to forward you a Statement of Advice, outlining what we've discussed and the opinions I have put to you.	

Statement of Advice

ABC Superannuation Trustees Limited ABN 12 34567890

AFS licence no: 123456

STATEMENT OF ADVICE

1 December 2012

Michael Long
1 Canberra St
Sydney NSW 2000

Dear Michael

How long your ABC Allocated Pension Account may be expected to last

You spoke with one of our representatives today about how long your ABC Allocated Pension Account could be expected to last.

You sought advice about what you should do about your existing account, including what investment option you should choose, with a view to extending the life of your pension, assuming you decide to stay in that account.

You should consider getting advice about other matters concerning your superannuation and other financial affairs. If you want any advice beyond the limited questions on which you sought advice, please call us and we will help you or refer you to someone who can provide this advice for you.

This Statement of Advice is provided by ABC Superannuation Fund and is limited to your interest in the ABC Allocated Pension Account.

Information about you

- You are aged 68.
- You are in good health and keep active. You anticipate that you will require your pension beyond the average life expectancy of Australian males aged 68 based on current life expectancy.
- You have a current balance in your ABC Allocated Pension Account, which is an account-based income stream product, of \$280,000.
- You wish to receive a combined annual income of approximately \$30,000 per year, with an increase for inflation and community living standards.
- You want to withdraw a lump sum of \$10,000 this year to purchase a car, reduced from your original intention of \$25,000.
- You want to withdraw a lump sum of \$35,000 this year to fund home renovations, reduced from your original intention of \$75,000.
- You are invested in the Balanced option of the ABC Allocated Pension Account and want to remain in that option.

Our advice

How long your ABC Allocated Pension Account will last will depend on:

- its starting balance;
- the investment earnings of the account, after fees and taxes, which will be influenced by the earnings rate of the investment option you have selected; and
- the amount you choose to draw down each year.

We advised you how long your pension would last, based on the following factors:

- your current balance of \$280,000;
- a net earnings rate of 7% per year, based on the 10-year average returns of the Balanced option in which you are currently invested;
- a combined annual income of \$29,600 (this amount includes your pension payment and a drawdown from your ABC Allocated Pension Account);
- an expected drawdown this year of a \$10,000 lump sum to pay for a new car; and
- an expected drawdown this year of \$35,000 to pay for planned home renovations.

At present, you are 68 and, according to the Australian Life Tables published by the Australian Bureau of Statistics, you have a projected life expectancy of another 16 years. This means that the average Australian male, now aged 68, can expect to live until the age of 84 based on current life expectancy. It is important to remember that many Australian males of your age may live much longer as life expectancies are generally rising. If you only plan for your pension to cover your life expectancy, you have a one-in-two chance of running out of pension. You indicated you wanted your pension to last until your mid-90s, given your good health.

Based on your current balance, and an earnings rate of 7%, if you withdraw the amounts outlined above, we advised you that the pension would last until you are 95 years old, with a small remaining balance. If you make larger lump sum withdrawals, or if inflation and community living standards increase more and you have to withdraw more in pension, your pension won't last as long. It is important to realise that these calculations are based on a reasonable estimate of average return, which is 7%. However, it is important to understand that the actual returns could vary quite a lot. If the Balanced option does not earn as much or suffers a loss, especially in the early years, then it could make your pension run out more quickly.

We think that this advice is in your best interests because it meets your stated objectives of ensuring your pension lasts until you are 95, and also allows you to make the lump sum drawdowns you require.

Remuneration and conflicts of interest

This advice was provided at no additional cost to you. It is part of our overall member service.

If you act on this advice, ABC Pension Fund will receive a monthly management fee of \$XX (including GST), which is the management fee for the Balanced option based on your current balance. This fee will be at the same rate as you are currently paying.

Acting on this advice

To act on the advice, just complete the enclosed form and forward it to the ABC Allocated Pension Account. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

Should you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

ABC Superannuation Fund
5 Harbour Street
Sydney NSW 2000

Example 11: Nomination of beneficiaries

Henrietta contacts her superannuation fund for information and advice about the nomination of beneficiaries.

Factual information

In this example, the ABC Superannuation Fund does not need an AFS licence because no financial product advice is being given.

Henrietta	Hi, this is Henrietta Jones. I'm ringing to get a bit of advice. I've recently remarried and I want my new husband to get all of my super when I die. What should I do?	
Operator	<p>This is a common issue that is raised by members when they remarry, and it's good to see you're giving some thought to this.</p> <p>Henrietta, I can give you some factual information about how you can nominate beneficiaries for your ABC Superannuation Fund, but I can't give you any advice about what action you should take.</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Henrietta upfront that she will not be given any advice.</i></p>
Henrietta	Okay, that's fine.	
Operator	<p>ABC Superannuation Fund has different options members can consider if they want to nominate who gets their superannuation when they die.</p> <p>One option is to make a non-binding nomination of beneficiaries. While this is a guide to the trustee about an individual's wishes, the trustee is not required to follow this nomination.</p> <p>For people who want more certainty about who will receive the balance of their ABC Superannuation Fund when they die can make a binding death benefit nomination. When this is done, the trustee must follow that individual's wishes, as long as the nomination is a valid one. Binding nominations expire after three years and then have to be renewed in order to continue.</p> <p>We have a fact sheet on nominating beneficiaries—this runs through a range of information, such as the people you can nominate as your beneficiaries. Would you like me to email you a copy?</p>	<p><i>You can give factual information to a caller even though you know some personal information about them. In this example, ABC Superannuation Fund has personal information about Henrietta as a member of its fund, but this doesn't stop the operator from giving Henrietta factual information.</i></p> <p><i>This example contains factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information is objectively ascertainable; and</i> • <i>the answer to the query doesn't contain a recommendation or statement of opinion that is intended to influence Henrietta.</i>
Henrietta	Thanks. That would be great.	
Operator	Okay, if you have any more questions, please give me a call back.	

General advice

In this example, ABC Superannuation Fund does not need to be licensed because it is relying on the exemption for financial product issuers to give general advice without an AFS licence if that advice is about its own superannuation fund on certain conditions: reg 7.1.33H.

Henrietta	Hi, this is Henrietta Jones. I'm just ringing to get a bit of advice. I have recently remarried and I want to be sure that my new husband gets all my super when I die. What should I do?	
Adviser	This is a common issue that is raised by members when they remarry, and it's good to see you're giving some thought to this. So, Henrietta—I can tell you what we generally recommend for our members in relation to the nomination of beneficiaries, but this information does not consider your personal circumstances. If you would like personal advice, we can refer you to a financial adviser. I also need to mention that ABC Superannuation Fund is not licensed to give you advice about the fund.	<i>It's good practice to be clear about the service you are offering. In this example, the adviser tells Henrietta upfront that they will not be providing personal advice. ABC Superannuation Fund needs to provide this warning, because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its fund).</i>
Henrietta	Okay, that sounds fine.	
Adviser	<p>ABC Superannuation Fund has different options you can consider if a member wants to nominate who gets your super when they die.</p> <p>[The adviser gives Henrietta the same information as provided in the factual information conversation, set out above.]</p> <p>We typically recommend that people who want to achieve certainty about who will receive their super funds when they die should complete a binding death benefit nomination. This will mean the trustee can't consider other factors in the event of that person's death, such as taking into account if tax laws change or if their personal circumstances change—for example, they separate from their spouse or have a child.</p> <p>However, there are other options for making a nomination. These are outlined in the Product Disclosure Statement and I can send you that and some further information in the mail, or you can visit our website.</p> <p>We also recommend that our members should regularly review their nomination to ensure it is kept valid and up-to-date, and correctly reflects their wishes. The choice that is most appropriate depends on each member's particular personal and financial circumstances.</p> <p>Please note, the advice I have provided today is general and may not be right for you.</p>	
Henrietta	Okay, thanks, that's been really helpful. I might do some more research and come back to you if I decide to nominate my new husband as my beneficiary.	
Adviser	Thanks for your call, Henrietta. I'm glad I was able to help you. If you have any further questions, please let me know.	

Scaled advice

Because this example involves personal advice, the ABC Superannuation Fund needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Henrietta	Hi, this is Henrietta Jones. I'm just ringing to get a bit of advice. I've recently remarried and I want my new husband to get all my super when I die. What should I do?	
Adviser	<p>Okay, Henrietta. Can you just answer some questions to confirm your identity?</p> <p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder. The adviser will also confirm that the client has a copy of the current version of the Financial Services Guide, if required.]</p> <p>Thanks, I'm just retrieving your member information now.</p> <p>Once I have your information in front of me, I'll be able to give you some specific advice on what I think you should do.</p> <p>You need to be aware, though, that I am only going to give you advice in relation to the nomination of beneficiaries for your ABC Superannuation Fund and not about other matters, such as nominating beneficiaries for any benefits you have with other super funds or about estate planning issues more generally.</p>	<p><i>The adviser makes it clear in this example that the scope of the advice is limited to the nomination of beneficiaries within the ABC Superannuation Fund. The adviser has suggested to Henrietta that she may want to consider getting further advice that deals with other issues she has raised.</i></p>
Henrietta	Okay, that's fine.	
Adviser	<p>Thanks, Henrietta. Okay, I now have your information in front of me and confirm that:</p> <ul style="list-style-type: none"> • you have a current account balance of \$620,000; and • you have not nominated any beneficiaries. <p>Now, I understand you want your husband to get your ABC Superannuation Fund benefits in the event of your death. Can I assume that:</p> <ul style="list-style-type: none"> • you have a property settlement with any former partner you may have that excludes any claim being made against you in future in respect of your entitlements to superannuation and does not restrict you from making any kind of nomination of a beneficiary for your superannuation; and • you have no other dependants such as children from your previous marriage? 	<p><i>This is an example of some of the questions an adviser might ask a client when giving personal advice on this issue.</i></p>
Henrietta	Yes, that's right.	
Adviser	<p>ABC Superannuation Fund has a number of different options you can consider if you want to nominate who gets your super when you die.</p> <p>[The adviser gives Henrietta the same information as in the factual information section above.]</p> <p>If you make a binding death benefit nomination, leaving your entire super to your current husband, the funds will be paid directly to him and will not form part of your estate.</p>	

Adviser	Since the instruction will be binding, the trustee of ABC Superannuation Fund will have to act on it, as long as it can lawfully do so, even if it might later appear that this is not what you would have wanted—for example, because you have separated from your new husband.
Henrietta	I would want to choose the option that gives me the greatest certainty that my new husband will get my super.
Adviser	I recommend that you complete a binding death benefit nomination that leaves 100% of your super funds to your current husband. This will have the advantage of the funds passing directly to your current husband and excluding any other person who may have a claim against your estate.
Henrietta	That's exactly what I want.
Adviser	Of course, as I noted before, for the nomination to be valid at the time of your death, you will need to ensure that it is current at all times. Your nomination form needs to be updated every three years. If you change your mind about what you want to happen with your superannuation, you should immediately contact us to change the nomination. I also need to point out that, in giving this advice, I considered only how you could ensure that your money in the ABC Superannuation Fund will go to your current husband when you die. I did not consider any estate planning issues outside of this. I suggest that you seek professional estate planning advice to consider any other advice that you may need. You should also consider other aspects of your retirement planning and seek advice if you think you may need it. I'm now going to forward you a short Statement of Advice, outlining what we've discussed and my recommendations.
Henrietta	Thanks very much for that.

Statement of Advice

ABC Superannuation Trustees Limited ABN 12 34567890

AFS licence no: 123456

STATEMENT OF ADVICE

1 December 2012

Ms Henrietta Jones
1 Melbourne Road
Melbourne VIC 2000

Dear Henrietta

Nomination of beneficiaries

You asked for advice today about nominating beneficiaries to your ABC Superannuation Fund account. This advice is limited to nominating your current husband as your beneficiary.

Information about you

- You have not nominated any beneficiaries.
- You have recently remarried.
- You want your funds in the ABC Superannuation Fund (currently with a balance of \$620,000) to go solely to your current husband in the event of your death.

Our advice

To achieve certainty about the distribution of your superannuation funds, I recommended that you make a binding death benefit nomination. In the case of binding death benefit nominations, the trustee must follow your wishes, as long as the nomination is a valid one and the nomination has not expired.

There is a risk that, if your circumstances change (for example, you have children) and you die, you may not have updated your binding nomination. If this happened, the trustee would have to act on your binding nomination even though this may not be what you would have wanted.

To achieve the certainty you want, I recommend that your binding death benefit nomination should leave 100% of your super funds to your current husband. I think that this advice is in your best interests because it meets your stated objective of ensuring that your super funds pass directly to your current husband, and your former husband or others will be unable to challenge this through a claim against your estate.

I also recommended that you regularly review your nomination to ensure it is valid, up-to-date and correctly reflects your wishes. Binding nominations expire after three years and have to be made again if you want them to continue.

Remuneration and conflicts of interest

This advice was provided at no additional cost to you. It is part of our overall member service. No conflicts of interest arise as a result of the recommendations in this Statement of Advice.

There is no charge payable to ABC Superannuation Fund, should you decide to make a binding death benefit nomination.

Acting on this advice

To act on the advice, please complete the enclosed Nomination of Beneficiary form and forward it to ABC Superannuation Fund. Please ensure that the form has been signed and dated by you and two witnesses who are 18 years or older and who are not listed as beneficiaries.

Should you have any questions, please phone our call centre on (02) 9999 9999.

Yours sincerely

ABC Superannuation Fund
5 Harbour Street
Sydney NSW 2000

Example 12: Motor vehicle insurance—Which level of excess?

Josh contacts his insurer for information and advice about the level of excess he needs for his motor vehicle insurance.

Factual information

In this example, XYZ Insurance does not need an AFS licence because no financial product advice is being given.

Operator	Good afternoon. You have called XYZ Insurance. How may I help you?
Josh	Hi, my name is Josh. I insured my car with XYZ about a year ago. I've made two claims since I bought the policy and have been paying the standard excess amount until now. I'm considering switching to a policy with a lower premium but a higher excess.
Operator	Thanks for your phone call, Josh. Could you please provide your policy number?
Josh	My policy number is 654321.
Operator	I see you have comprehensive insurance with XYZ and you're now 19 years old. I am able to give you some factual information about the options available under the XYZ comprehensive policy in relation to payment of the basic excess. I cannot give you any advice about the decision you make. Is this okay with you?
Josh	Yes, that's fine.
Operator	<p>All customers need to pay an excess when they make a claim. There is a standard excess of \$500, which <i>all</i> customers, regardless of their age, must pay in the event of a claim. For drivers between the ages of 18 and 24, there is an additional 'age excess' of \$350 to pay in the event of a claim. So, the basic excess for customers in your age group is \$850.</p> <p>Based on what you told us at the renewal of your policy about your current situation, there are currently no other excesses that you need to pay in the event of a claim. XYZ will not pay a claim where the damage or loss incurred is less than the total excess amount.</p> <p>You can, however, increase your basic excess rate of \$850. Do you want me to give you a quote?</p>
Josh	<p>Thanks, it would great if you could give me a quote.</p> <p>[The operator then provides a quote and information about the steps Josh needs to take if he wants to increase his basic excess.]</p>

It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the operator clearly tells Josh upfront that he will not be given any advice.

You can give factual information to a caller even though you know some personal information about them. In this example, XYZ Insurance has personal information about Josh because he is a customer, but this doesn't stop the operator from giving Josh factual information.

This example contains factual information only because:

- *the information is objectively ascertainable; and*
- *the answer to the query doesn't contain a recommendation or statement of opinion that is intended to influence Josh.*

At this point, the operator ensures that Josh has a copy of the Product Disclosure Statement.

General advice

In this example, XYZ Insurance does not need to be licensed because it is relying on the exemption for financial product issuers to give general advice without an AFS licence if that advice is about its own products on certain conditions: reg 7.1.33H.

Adviser	Good afternoon. You have called XYZ Insurance. How may I help you?
Josh	Hi, my name is Josh. I insured my car with XYZ about a year ago. I've made two claims since I bought the policy and have been paying the standard excess amount until now, but I'm considering agreeing to pay a higher excess in exchange for a lower premium when I renew my policy.
Adviser	Thanks for your phone call, Josh. Could you please provide your policy number?
Josh	My policy number is 654321.
Adviser	I see you have comprehensive insurance with XYZ and you're now 19 years old. I'm happy to give you some advice about what we generally recommend to our customers, but I can't give you personal advice about whether this is the right thing to do in your circumstances. Is that okay with you?
Josh	That's fine.
Adviser	[The adviser gives Josh the same factual information provided in the factual information conversation set out above.] You can, however, increase your basic excess rate of \$850. Do you want me to give you a quote?
Josh	Thanks, it would be great if you could give me a quote. [The adviser then provides a quote and information about the steps Josh needs to take if he wants to increase his basic excess.]
Adviser	As I outlined above, XYZ will not accept a claim from a customer if the damage or loss incurred is less than the amount of the excess. If a customer increases their basic excess, this increases the amount that they would have to pay to XYZ before we will pay their claim. We generally recommend that customers should ensure that they will be able to afford that amount. That amount for you is currently \$850, and if you increase your basic excess, your excess will be at least \$1,000, as the minimum voluntary increase to the basic excess is \$150. This means that, if you make a claim for damage valued at, say, \$1,500, you would have to pay \$1,000 and XYZ would only pay \$500. If the value of damage is below \$1,000, XYZ will not provide any cover at all and you would have to pay that amount yourself.

It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Josh is clearly told upfront that he will not be given personal advice. XYZ Insurance needs to provide this warning, because it is relying on reg 7.1.33H (it is not licensed to provide general advice about its products).

Adviser	We generally recommend to customers that they consider their financial situation and ability to pay up to the excess amount for a single incident before making any changes to their basic excess amount. We generally recommend a lower basic excess for customers who are concerned about being unable to afford a high uninsured loss in the event of a claim. On the other hand, a lower basic excess will have the effect of increasing your premium amount, and we recommend that customers weigh this ongoing annual cost against the cost of increasing their basic excess for a lower premium.
Josh	Thanks, I might have to give this some more thought. I'll call again if I have any questions

Scaled advice

Because this example involves personal advice, XYZ Insurance needs to have an AFS licence authorising it to provide personal advice: see s911A. The adviser must give personal advice that is compliant with Div 2 of Pt 7.7A.

Adviser	Good afternoon. You have called XYZ Insurance. How may I help you?
Josh	Hi, my name is Josh. I insured my car with XYZ about a year ago. I've made two claims since I bought the policy and I've been paying the standard excess amount until now, but I'm considering agreeing to pay a higher excess in exchange for a lower premium when I renew my policy. I'm just not sure if this is a good idea.
Adviser	Thank you for your call, Josh. Could you please provide your policy number?
Josh	My policy number is 654321.
Adviser	I see you have comprehensive insurance with XYZ and you're now 19 years old. I would be happy to provide you with some advice about whether to increase your basic excess, based on your personal circumstances. Would you like me to consider other options that could make your policy more affordable? Or would you like me to just stick to whether or not to increase your basic excess?
Josh	At this stage I only want advice on whether to increase my basic excess.
Adviser	<p>[At this point, the adviser will perform the appropriate identity checks to confirm that they are speaking with the account holder, and also confirm that Josh has a current copy of the Product Disclosure Statement and Financial Services Guide, if required.]</p> <p>That's fine, I now have your account details here in front of me and I can give you some advice about which option is best for you. I can see that you currently have a basic excess of \$850 made up of the standard excess of \$500 that all customers, regardless of their age, must pay in the event of a claim. For drivers between the ages of 18 and 24, there is an additional age excess of \$350 to pay in the event of a claim. So, the basic excess for you is \$850.</p>

You should make the scope of the advice you are giving clear. In this example, XYZ Insurance makes it clear that the scope of the advice is limited to Josh's insurance policy with XYZ.

Adviser	<p>Based on what you told us at the renewal of your policy about your current situation, there are currently no other excesses that you need to pay in the event of a claim.</p> <p>You can alter the basic excess rate of \$850. Do you want me to give you a quote? If you increase your basic excess, your excess will be at least \$1,000, as the minimum voluntary increase to the basic excess is \$150. It is possible that some damage or loss that you incur would be less than this excess amount and XYZ will not pay a claim if the damage or loss is less than the excess amount.</p> <p>You also need to consider whether you think you would be able to afford to pay \$1,000 or more in the event that you need to make a claim. What level of excess do you think you could afford in the event of a claim?</p>	<p><i>These are some of the inquiries necessary to meet the modified best interests duty. Because the nature of the advice is relatively straightforward, it is possible to limit the inquiries made.</i></p>
Josh	<p>I am a full-time student, and I only work a few hours each week. My parents agreed to pay my premiums this year, as they want me to have comprehensive cover, but they said I have to pay the excess if I make a claim. I do have a bit of money saved but generally spend most of my earnings each pay cycle. I've learnt a lesson from my last two claims, though, and I don't imagine I will need to make any more claims any time soon, and on that basis I wanted to consider lowering my premium.</p> <p>Can you tell me how much the premium will be if I increase the excess to \$1,000?</p> <p>[The adviser then provides a quote and information about the steps Josh needs to take if he wants to increase his basic excess.]</p>	
Operator	<p>The value of having an insurance policy is the ability to make a claim when you need to. While you consider yourself unlikely to need to make a claim any time soon, there is always the possibility that an incident will occur. You have made two claims in the past 12 months and you are in an age group that XYZ considers being at high risk of making a claim. You also need to consider that you may need to make a claim because of actions by another person.</p> <p>What you have told me about your financial situation would suggest you might not be able to afford to pay a higher excess in the event of a claim. You have told me that you have some financial assistance from your parents to pay the premium, and I recommend that you consider not increasing your basic excess at this stage. However, it would be worth reviewing this again in 12 months time to see if your circumstances have changed.</p>	<p><i>No Statement of Advice is required because the advice relates to a financial product that falls within the exemption in reg 7.7.10.</i></p>
Josh	<p>Thanks. I might have to give this some more thought. I'll call again if I have any questions.</p>	

Example 13: Information and advice about basic deposit products

Kim, an existing customer of XYZ Bank, visits an XYZ branch and discusses a number of basic deposit products that she could use to invest \$20,000 that she has recently inherited.

Factual information

In this example, XYZ Bank does not need an AFS licence to give advice because no financial product advice is being given.

Branch employee	Welcome to XYZ Bank. May I help you?
Kim	<p>I recently inherited \$20,000. I have it in an XYZ account but it doesn't seem to earn much interest, and any interest I earn seems to be consumed by account-keeping fees. I want my inheritance to earn better returns.</p> <p>I do tend to spend more of my savings than I should, so could you suggest an account to prevent the temptation of spending my inheritance? I still want to know it's available any time I need it, though. For example, in an emergency.</p>
Branch employee	<p>[The employee looks up Kim's account details on the XYZ system.]</p> <p>I see you have a Transaction Account with us. The Transaction Account that you already have with us does provide only minimal interest. If you want a product that offers a higher interest rate, we have a number of deposit options, which are the Online Savings Account, Incentives Account and a range of term deposits.</p> <p>I can give you some information about savings account and term deposit products that we offer, and you can use this information to decide which account is best for you. If you would like someone to give you some advice about which account to choose, I can set up an appointment with someone who can help you.</p>
Kim	Some information about the accounts you have is fine for now.
Branch employee	<p>Okay, great. We offer a number of deposit accounts to our customers. I can give you some information about the different features of these accounts, to help you decide which will best meet your needs.</p> <p>The Online Savings Account currently offers a higher rate of interest than the Transaction Account, currently 3.25%. Customers have immediate access to their money 24 hours a day by transferring funds online to their Transaction Account. There are no account-keeping fees, but the Online Savings Account must be linked to a Transaction Account, which will still have monthly account keeping fees. The interest rate for the Online Savings Account is variable. We may decide to increase or decrease the percentage of interest it pays from time to time.</p>

It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, the branch employee clearly tells Kim upfront that she will not be given any advice.

You can give factual information to a customer even though you know some personal information about them. In this example, XYZ Bank has personal information about Kim because she is a customer, but this doesn't stop the branch employee from giving Kim factual information.

Branch employee	<p>Another savings account we offer to customers, which has different features, is the Incentives Account. The Incentives Account currently offers account holders a basic variable interest rate of 1.5% and also pays a bonus 3.5% if the customer deposits at least \$250 per month and makes no more than four withdrawals in a given month. If the customer satisfies those criteria in a given month, according to current interest rates, they will receive 5%, which is higher than the current interest rate for the Online Savings Account.</p> <p>The bonus interest rate of 3.5% is fixed. There are no account-keeping fees for the Incentives Account. Customers still have immediate, unlimited access to their money 24 hours a day. The only significant difference is that, if the customer does not satisfy the withdrawal and deposit criteria each month, they will lose the benefit of the 3.5% bonus interest rate for that month. This is why we call it the Incentives Account.</p>	<p><i>This example contains factual information only because:</i></p> <ul style="list-style-type: none"> • <i>the information is objectively ascertainable; and</i> • <i>the answer to the query doesn't contain a recommendation or statement of opinion that is intended to influence Kim.</i>
Kim	I don't think I can afford to always save \$250 each month, so there might be a few months where I lose the bonus. Are there any other options?	
Branch employee	Another option is a term deposit. We have a range of term deposits on offer. In order to set up a term deposit, the customer will need to choose how much money to deposit and how long they want to deposit those funds for. Currently we offer term deposits of 3, 6, 12, 24, 36 and 60 months in length. The interest rate we pay for the term deposit depends on the term. That interest rate will remain the same for that whole period of time, even if variable interest rates for other deposit products rise or fall. With a term deposit, the general idea is that the customer will keep those funds deposited with us for the whole agreed term. If they wish to withdraw these funds before that term expires, we will adjust the interest we pay to a lower rate.	
Kim	Thanks—that's useful information. I might have a think about it before I decide what to do.	
Branch employee	That's fine, please feel free to come back in or give us a call if you would like some more help.	
	[The branch employee then hands Kim some brochures for each product. PDS not required: reg 7.9.07FA.]	

General advice

In this example, XYZ Bank has an AFS licence authorising it to provide general advice: 911A.

Branch employee	Welcome to XYZ Bank. May I help you?
Kim	<p>I recently inherited \$20,000. I have it in an XYZ but it doesn't seem to earn much interest, and any interest I earn seems to be consumed by account keeping fees. I want my inheritance to earn better returns.</p> <p>I do tend to spend more of my savings than I should, so could you suggest an account to prevent the temptation of spending my inheritance? I still want to know it's available anytime I need it, though. For example, in an emergency.</p>

Branch employee	<p>[The employee looks up Kim's account details on the XYZ system.]</p> <p>I see you have a Transaction Account with us. The Transaction Account that you already have with us does provide only minimal interest. Just so you know upfront, I can tell you what we generally recommend to our customers, but I can't give you advice that considers your personal financial situation. Is that okay?</p>	<p><i>It's good practice to be upfront about the service you are offering—are you giving factual information or advice? In this example, Kim is clearly told upfront that she will not be given personal advice. General advice given by an AFS licensee must be accompanied by a general advice warning, but we have given relief to facilitate the use of short oral warnings like this: see RG 244.40.</i></p>
Kim	<p>That's fine.</p>	
Branch employee	<p>For customers who want a product that offers a higher interest rate, we have a number of deposit options, which are the Online Savings Account, Incentives Account and a range of term deposits.</p> <p>[The branch employee then provides the same information about the Online Savings Account, the Incentives Account and Term Deposits as in the previous dialogue containing only factual information. Kim tells the adviser that she cannot afford to save \$250 each month, which means that she won't be able to meet the bonus criteria for the Incentives Account.]</p> <p>That's something for you to consider Kim. As I explained, I can only give you general advice. In general, for people who cannot afford to save \$250 each month, I would recommend the Online Savings account. It does not have withdrawal and deposit criteria like the Incentives Account, but it does provide a lower rate of interest than the Incentives Account with the bonus interest.</p> <p>There is also the option of a term deposit.</p>	<p><i>Here the branch employee has some personal information about Kim. We have given guidance that you can use personal information about a client to give general advice that is more relevant to a client: RG 244.47.</i></p> <p><i>We have also stated that we will not take action where you give personal advice merely because you give general advice using personal information about a client's relevant circumstances to choose the general advice that is relevant and useful to them, as long as certain conditions are met: RG 244.48.</i></p>
Kim	<p>What are the advantages of a term deposit?</p>	
Branch employee	<p>For customers who want to invest a lump sum for a set period of time, we generally recommend a term deposit. As we discussed earlier, XYZ offers a range of competitive terms deposits. Term deposits can be a really good option for customers who want to accrue interests on a lump sum, because the interests earned is often higher than in other savings accounts.</p> <p>At the end of the period for a term deposit, the customer can choose to roll their money over into a new term deposit for the same period of time. We generally recommend that account holders who decide to roll over their money should ensure that they are happy with the new rate.</p>	
Kim	<p>Okay, thanks for explaining how a term deposit works. Is it better to have a shorter or a longer term?</p>	

Branch employee	<p>Customers can choose the duration of a term deposit. For customers, who are worried about variable interest rates increasing while they have a term deposit, we recommend a term deposit that is shorter in duration. On the other hand, for customers who are fairly confident that interest rates will remain the same or decrease we recommend a term deposit of longer duration.</p> <p>There is also the option of using a combination of these products if you think that would address your various needs. For example, some customers prefer to split their savings between the flexibility of the Online Savings Account and the higher interest of a term deposit. If you would like personal advice about which product is best in your circumstances, I can arrange an appointment for you with one of our branch employees who is a financial adviser.</p> <p>[The branch employee then hands Kim some brochures for each product. PDS not required: reg 7.9.07FA.]</p>
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Scaled advice

Because this example involves personal advice, XYZ Bank needs to have an AFS licence authorising it to provide personal advice. The branch employee must give personal advice that is compliant with Div 2 of Pt 7.7A.

Branch employee	Welcome to XYZ Bank. May I help you?
Kim	<p>I recently inherited \$20,000. It's currently in a transaction account with XYZ Bank but it doesn't seem to earn much interest, and any interest I earn seems to be consumed by account keeping fees. I want my inheritance to earn better returns.</p> <p>I still want to know it's available anytime I need it, though. For example, in an emergency. Is there anything XYZ Bank can offer me?</p>
Branch employee	<p>[The employee looks up Kim's account details on the XYZ system.]</p> <p>I see you have a Transaction Account with us. The Transaction Account that you already have with us does provide only minimal interest. If you want a product that offers a higher interest rate, we have a number of deposit options, which are the Online Savings Account, Incentives Account and a range of term deposits.</p> <p>XYZ Bank has a range of options for investing your money, including savings and term deposit products. I can advise you about our savings account and term deposit products. If you'd like some more detailed advice that takes into account your broader financial circumstances, I can refer you to one of XYZ's financial advisers, who can give you advice on a range of investment options and help you decide what is best for you.</p>
Kim	<p>I haven't decided what I want to do with that money yet. At the moment I'm happy for it to just sit in an account and earn some interest, so I'd like to just get some information about your deposit accounts.</p> <p>[The branch employee then provides information about the Online Savings Account the Incentives Account and term deposits.]</p> <p>What deposit account is best for me?</p>

You should make the scope of the advice you are giving clear. In this example, XYZ Bank makes it clear that the scope of the advice is limited to which XYZ savings or deposit product would be appropriate for Kim.

The branch employee has indicated to Kim that she might want to consider getting advice that looks at her overall financial position.

Branch employee	<p>[The branch employee inquires about any debts that the customer might already have, for the purpose of alerting the customer to the potential benefits of paying off a debt, to which Kim responds she has none.]</p> <p>Do you usually have money left over each month that you could save?</p>	<p><i>These are some of the inquiries necessary to meet the modified best interests duty. Because the nature of the advice is relatively straightforward, it is possible to limit the inquiries made.</i></p> <p><i>If you don't want to provide personal advice, another option is to give general advice. You can use personal information about a client to give general advice that is relevant to the client. We will not take action where you give personal advice merely because you give general advice using personal information about a client's relevant circumstances to choose general advice that is relevant and useful to them: see RG 244.46–RG 244.49.</i></p>
Kim	<p>A little, after paying essential bills, rent and groceries I could probably only afford to save \$100 per month. This often gets spent and I'd prefer to use it to add to my savings.</p>	
Branch employee	<p>And you said at the beginning that you would like to have access to your inheritance for emergencies?</p>	
Kim	<p>Yes, but I'd probably only need say \$5000 at call. The rest I'd be happy to be put into something like a term deposit.</p>	
Branch employee	<p>I don't recommend you put all of your money into an everyday transaction account similar to what you have now because you don't want to be tempted to spend your inheritance and you want your money to earn higher interest.</p> <p>I think a good option for you is to use a combination of our accounts. You could keep an amount of your fortnightly pay in the Transaction Account, so you have free access to those funds for everyday expenses. You could then link the Transaction Account with an Online Savings Account, which currently has an interest rate of 3.5% per year. Some of your inheritance—say \$5,000—and any additional money that you wish to save, could go into the Online Savings Account. You could put the remaining \$15,000 into a term deposit. Do you know when you will need to access the remaining \$15,000?</p>	
Kim	<p>I'm planning on buying a new car in around a year, so I won't need it for 12 months.</p>	
Branch employee	<p>Okay, then. I think you should open a 12-month term deposit for the \$15,000.</p>	
Kim	<p>Thanks, that's been really helpful. I think I'll go ahead and open the Online Savings Account to keep an amount of my savings for emergencies and the 12 month term deposit for the rest.</p>	<p><i>No Statement of Advice is required because the advice relates to deposit products that fall within the exemption in reg 7.7.10(a).</i></p>

Example 14: Advice from a stockbroker to an existing client

Ellora receives information, general advice and personal advice from her stockbroker, Steve, from ABC Stockbrokers.

Factual information

In this example, ABC Stockbrokers does not need to operate under an AFS licence authorising Steve to give advice because no financial product advice is given.

Ellora	Hi Steve, it's Ellora. I believe that Big Mines Limited usually announces its annual results around this time. I might be interested in buying some shares. I wonder if you can tell me when that announcement is expected, and also what the shares are currently trading at?
Steve (stockbroker)	With pleasure, Ellora. It's great to hear from you after such a long time. The shares are currently \$25.60 bid, \$25.80 sellers and last sale \$25.70. Hold on one second while I look up when the results are due.
Ellora	Thanks, Steve.
Steve	Okay, the results will be announced next Monday morning. If you want, I would be happy to send you a copy of our updated research report after the results.
Ellora	Yes, Steve, I would very much appreciate that. Thanks.

In this example, it is evident to Ellora that she is receiving factual information, so it is not necessary for Steve to explain this.

General advice

In this example, ABC Stockbrokers has an AFS licence authorising it to provide general advice: s911A.

Extract from research report on Big Mines Limited, sent by ABC Stockbrokers to Ellora	<p>December 2012</p> <p>Big Mines Limited is currently trading in the region of \$25–\$27 and, having reviewed the company's annual profit results, we believe it is being undervalued by the market.</p> <p>We are therefore recommending clients add Big Mines Limited to their portfolios, up to \$28.50 per share, with our target price of \$31.</p> <p>Please note that this is general advice for all our clients and has been prepared without taking into account an individual client's objectives, financial situation or needs. If you do wish to consider a purchase of Big Mines Limited, please contact your ABC Stockbrokers client adviser to discuss the appropriateness of this recommendation for your own personal financial circumstances.</p>
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General advice given by an AFS licensee must be accompanied by a general advice warning: s949A(2).

Scaled advice

In this example, ABC Stockbrokers needs to have an AFS licence authorising it to provide personal advice: see s911A. Steve must give advice that is compliant with s961B.

Ellora	Hi Steve, it's Ellora again. I just read your research report on Big Mines, and I'm interested in buying some shares. Do you think this would be a good stock to add to my portfolio? I have about \$11,000 I'd like to invest. I'm going on a holiday this weekend so need to tie up the loose ends today, if possible.	
Steve (stockbroker)	Hi Ellora. I do like Big Mines, but, before we do anything, let me have a look at your file.	
Ellora	Yes, it has been quite a few months since I last bought shares. You may remember at the time I was hesitant about the outlook for the stock market. I feel more confident now.	
Steve	Oh yes, I recall. I can see from my file that it was actually about four months ago. Has anything changed at home? Are you still with Jones and Jones in the same job? Have you added any other shares to your portfolio since we last reviewed it?	<i>This is an example of some of the questions a stockbroker might ask a client when giving personal advice on this issue.</i>
Ellora	Yes, I'm in the same job. I haven't added to my share portfolio and still want to hold onto the shares as a long-term investment. After we last spoke, you sent me a portfolio review and an updated Statement of Advice.	<i>Under s946B(1), no SOA is required to be given in relation to this advice because:</i>
Steve	Yes, I see that. If you check the review I sent you, you will see that I thought you were a little heavy in your bank stocks but didn't recommend you sell them, as they do pay good dividends. I think this is now a good opportunity to balance things a little better, to put some eggs in a different basket. I've read our research report on Big Mines and consider it a good long-term growth prospect. Of course, with mining there are always risks, but they are a pretty solid company that has been around for a while. The mining boom is still going strong, so I'm confident that this will be a solid investment.	<ul style="list-style-type: none"> • ABC Stockbrokers has previously provided an SOA to the client setting out the client's relevant circumstances (s946B(2)(a)); • based on Ellora's statement, Steve and ABC Stockbrokers can assume that Ellora's circumstances and objectives haven't changed since the last SOA was given (s946B(2)(b)); and • the basis of advice is not significantly different from the basis on which the previous advice was given (s946B(2)(c)).
Ellora	That sounds good to me. What is the current price?	
Steve	I should be able to pick them up for you now at \$25.70. I will charge you your usual brokerage rate of 1.5% plus GST. The final price and actual brokerage will be in your contract note when it arrives. Do you want me to go ahead?	<i>By providing information about his remuneration, Steve is satisfying another requirement of s946B(3): s947B(2)(d).</i>
Ellora	Yes. Please buy 400, but at a limit of \$25.80.	
Steve	Great. I'll put that through straight away. I don't need to give you another Statement of Advice, but we keep what is called a record of advice. I can email you a copy when you get back from your holiday. Have a great time while you're away.	<i>Because the requirements of s946B(1) have been met, Steve is not required to provide a SOA; however, he is required to record the further advice—in a 'record of advice' (s946B(3A)). Reg 7.7.09(1) outlines the information Steve should record.</i>
Ellora	Thanks for that, Steve. I will call when I get back.	

Key terms

Term	Meaning in this document
advice	Financial product advice
advice provider	<p>A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative)</p> <p>Note: These obligations apply from 1 July 2013, unless a person elects to comply with Pt 7.7A before this date (from 1 July 2012).</p>
AFS licence	<p>An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services</p> <p>Note: This is a definition contained in s761A.</p>
AFS licensee	<p>A person who holds an AFS licence under s913B of the Corporations Act</p> <p>Note: This is a definition contained in s761A.</p>
ASIC	Australian Securities and Investments Commission
authorised representative	<p>A person authorised by an AFS licensee, in accordance with s916A or 916B of the Corporations Act, to provide a financial service or services on behalf of the licensee</p> <p>Note: This is a definition contained in s761A.</p>
best interests duty	The duty to act in the best interests of the client when giving personal advice to a client as set out in s961B(1) of the Corporations Act
best interests duty and related obligations	The obligations in Div 2 of Pt 7.7A of the Corporations Act
Ch 7 (for example)	A chapter of the Corporations Act (in this example numbered 7), unless otherwise specified
client	A retail client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations
client's relevant circumstances	The objectives, financial situation and needs of a client that would reasonably be considered relevant to the subject matter of advice sought by the client

Term	Meaning in this document
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
factual information	Objectively ascertainable information whose truth or accuracy cannot reasonably be questioned
financial product	A facility through which, or through the acquisition of which, a person does one or more of the following: <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) <p>Note: This is a definition contained in s763A of the Corporations Act: see also s763B–765A.</p>
financial product advice	A recommendation or a statement of opinion, or a report of either of these things, that: <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or • could reasonably be regarded as being intended to have such an influence. <p>This does not include anything in an exempt document</p> <p>Note: This is the definition contained in s766B of the Corporations Act.</p>
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
Financial Services Guide	A document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 of the Corporations Act <p>Note: This is a definition contained in s761A.</p>
financial services provider	A person who provides a financial service
FOFA	Future of Financial Advice
general advice	Financial product advice that is not personal advice <p>Note: This is a definition contained in s766B(4) of the Corporations Act.</p>
licensee	An AFS licensee

Term	Meaning in this document
modified best interests duty	<p>The limited number of steps an advice provider needs to take to act in the best interests of the client when the personal advice is about:</p> <ul style="list-style-type: none"> • a basic banking product only and the advice provider is an agent or employee of an Australian ADI, or otherwise acting by arrangement with an Australian ADI under the name of the Australian ADI (s961B(3)); • a general insurance product only (s961B(4)); • a basic banking product, a general insurance product, or a combination of these products, and the advice provider is an agent or employee of an Australian ADI, or otherwise acting by arrangement with an Australian ADI under the name of the Australian ADI (reg 7.7A.1(2)); or • general insurance and other products (reg 7.7A.1(3)).
PDS	Product Disclosure Statement
personal advice	<p>Financial product advice given or directed to a person (including by electronic means) in circumstances where:</p> <ul style="list-style-type: none"> • the person giving the advice has considered one or more of the client's objectives, financial situation and needs; or • a reasonable person might expect the person giving the advice to have considered one or more of these matters <p>Note: This is the definition contained in s766B(3) of the Corporations Act.</p>
Product Disclosure Statement	<p>A document that must be given to a client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act</p> <p>Note: See s761A for the exact definition.</p>
providing entity	<p>A person to whom the obligations in Pt 7.7 of the Corporations Act apply. This is the AFS licensee or an authorised representative that provides the financial product advice</p>
Pt 7.7 (for example)	A part of the Corporations Act (in this example numbered 7.7)
reg 7.1.33H (for example)	A regulation of the Corporations Regulations (in this example numbered 7.1.33H)
representative of an AFS licensee	<p>Means:</p> <ul style="list-style-type: none"> • an authorised representative of the licensee; • an employee or director of the licensee; • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee <p>Note: This is a definition contained in s910A of the Corporations Act.</p>

Term	Meaning in this document
RG 175 (for example)	An ASIC regulatory guide (in this example numbered 175)
s961 (for example)	A section of the Corporations Act (in this example numbered 961), unless otherwise specified
safe harbour for the best interests duty	The steps set out in s961B(2) of the Corporations Act. If an advice provider proves they have taken these steps, they are considered to have met their obligation to act in the best interests of their client
scaled advice	Personal advice that is limited in scope
Statement of Advice (SOA)	A document that must be given to a client for the provision of personal advice under Subdiv C and D of Div 3 of Pt 7.7 of the Corporations Act Note: See s761A for the exact definition.
TTR	Transition to retirement

Related information

Headnotes

advice provider, appropriate advice, best interests duty, best interests duty and related obligations, client inquiries, client's relevant circumstances, factual information, financial product, financial product advice, Financial Services Guide, further advice, general advice, personal advice, providing entity, retail client, scaled advice, scope of the advice, Statement of Advice, subject matter of advice sought by the client

Class orders and pro formas

[CO 05/1195] *Simplified warning for oral general advice*

[CO 09/210] *Intra-fund superannuation advice*

Regulatory guides

RG 36 *Licensing: Financial product advice and dealing*

RG 84 *Super switching advice: Questions and answers*

RG 146 *Licensing: Training of financial product advisers*

RG 175 *Licensing: Financial product advisers—Conduct and disclosure*

Legislation

Australian Securities and Investments Commission Act 2001

Corporations Act, Ch 7, Pt 7.7A Div 2, Pt 7.10 Div 2, s911A(1), 945A, 946A, 947B(2)(d), 947B(2)(h), 947C(2)(e), 947C(2)(i), 947D(2)(d), 949A(2), 949A(3), 961, 961B, 961G, 961H, 961J, 961K, 961L, 1013D(1)(m) and 1017D(5A)

Corporations Amendments (Future of Financial Advice) Act 2012

Corporations Amendments (Further Future of Financial Advice Measures) Act 2012

Corporations Regulations, regs 7.1.33A, 7.1.33H, 7.1.33H(1)(c), 7.7.13A

Superannuation Industry (Supervision) Act 1993

Consultation papers and reports

CP 164 *Additional guidance on how to scale advice*

CP 182 *Future of financial advice: Best interests duty and related obligations—Update to RG 175*

CP 183 *Giving information, general advice and scaled advice*

REP 69 *Shadow shopping survey on superannuation advice*

REP 224 *Access to financial advice in Australia*

REP 279 *Shadow shopping study of retirement advice*

REP 319 *Response to submissions on CP 182 on the best interests duty and related obligations and CP 183 on scaled advice*

ASIC forms

Form FS92 *Notification of intention to comply with Future of Financial Advice provisions*