



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 200

Advice to super fund members

July 2009

About this guide

This guide is for those who provide financial product advice to super fund members about their existing interest in a fund (including insurance), including financial advisers and super fund trustees and their outsourced advice providers.

The guide sets out how this advice can be provided under either s945A of the *Corporations Act 2001* or, alternatively, the relief we have given to super fund trustees if they choose to rely on it.

It also gives guidance on the boundaries between factual information, general advice and personal advice provided to super fund members about their existing interest in a fund. While the guidance does not specifically cover factual information and advice about financial products other than super, the concepts in this guide may be relevant to other types of factual information and advice.

The guidance and relief set out in this guide do not cover more complex personal advice about super, including super switching, consolidation or retirement planning advice.

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 on 9 July 2009 and is based on legislation and regulations as at 9 July 2009.

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

You can give factual information and advice to super fund members about their existing interest in a fund (including insurance) over the phone, by email, on the internet, face-to-face or in any combination of these or other ways.

We have given guidance on how you can give personal advice about a member's existing interest in a fund under either s945A or, alternatively, our conditional class order relief for super fund trustees.

We have also provided guidance on the boundaries between factual information, general advice and personal advice and how to give factual information and advice to members about their existing interest in a fund.

The Appendix sets out practical examples of how you can give factual information and advice to members about their existing interest in a fund using a variety of delivery methods and channels.

Improving access to factual information and advice about super

- RG 200.1 This guide is about giving factual information and financial product advice (advice) to super fund members (members) about their existing interest in a fund, including insurance.
- RG 200.2 We want to help you engage with members and help them understand their super investment. We also want to encourage you to improve member's access to factual information and advice about their existing interest in a fund. We think that, in many cases, you can give factual information and advice to members about their existing interest in a fund on a high-volume basis through a variety of delivery methods and channels.
- RG 200.3 With these aims in mind, we have provided guidance on:
- (a) how you can give personal advice to members about their existing interest in a fund under either s945A of the *Corporations Act 2001* (Corporations Act) or, alternatively, the conditional class order relief from the requirements of s945A we have given for super fund trustees (see Section B);
 - (b) the boundaries between factual information, general advice and personal advice when you communicate with members about their existing interest in a fund (see Sections C to D); and

- (c) how you can give factual information and advice to members about their existing interest in a fund using a variety of delivery methods and channels (see Section E).

RG 200.4 In the Appendix, we have set out examples illustrating how you can use call centres, email and the internet to provide factual information and advice to members about their existing interest in a fund. The examples cover factual information and advice on issues such as:

- (a) investment options;
- (b) contributions;
- (c) insurance; and
- (d) financial hardship.

Scope of our guidance and relief

RG 200.5 We assume that readers of this guide are familiar with other ASIC guidance on factual information and the provision of financial product advice, so we have focused on specific issues relating to the provision of factual information and advice to members on their existing interest in a fund. However, the concepts in this guide may be relevant to other types of factual information and advice.

RG 200.6 This guide and our relief do not specifically cover factual information and advice about financial products other than super or issues outside of a member's fund, such as:

- (a) switching from one fund to another;
- (b) consolidating multiple super accounts into one fund;
- (c) more complex retirement planning advice;
- (d) insurance outside a member's fund; or
- (e) how to allocate funds available for investment among super and other types of financial products.

Note: Regulation 7.1.33A of the Corporations Regulations 2001 (the Regulations) exempts asset allocation advice from the definition of 'financial service' under Ch 7. Advice to members about their existing interest in a fund is advice about a specific financial product and does not fall within this exemption.

RG 200.7 Our rationale for focusing this guide and our relief on super is that super is a compulsory investment for most working Australians. The aim of this guide and our relief is to improve the access of working Australians to advice about their super fund.

RG 200.8 This guide should be read in conjunction with our other guidance on how to comply with obligations under Ch 7 of the Corporations Act. It does not

replace other guidance. If you are considering providing factual information and advice to a member, you may also need to consider:

- (a) regulatory requirements under the Corporations Act, including those in Ch 7 about licensing, disclosure obligations and the requirements to:
 - (i) provide services efficiently, honestly and fairly;
 - (ii) ensure adequate representative training;
 - (iii) manage conflicts of interest; and
 - (iv) maintain dispute resolution systems;
- (b) regulatory requirements under Div 2 of Part 7.10 of the Corporations Act and the *Australian Securities and Investments Commission Act 2001*, which prohibit misleading or deceptive conduct;
- (c) trustee duties and obligations under the *Superannuation Industry (Supervision) Act 1993* (SIS Act) and at common law;
- (d) common law obligations such as the duty of care;
- (e) contractual obligations; and
- (f) compliance with relevant industry standards.

B Giving personal advice

Key points

In general, you can only provide personal advice to members about their existing interest in a fund (including insurance) if you hold an AFS licence authorising you to give personal advice about super or are the authorised representative of an appropriately authorised licensee.

If you are a super trustee giving such personal advice to members, you can choose to either:

- comply with the 'suitability rule' in s945A, or
- rely on our class order relief in [CO 09/210] if you are eligible (see Table 1 and Table 2).

You must comply with one or the other.

Where advice is provided under s945A, the reasonable basis requirements of the suitability rule can be applied flexibly and allow for 'scaled' advice to members on their existing interest in a fund.

Giving personal advice under s945A

RG 200.9 As a general rule, if you are giving personal advice to members about their existing interest in a fund (including insurance), you must hold an Australian financial services (AFS) licence with an authorisation to give personal advice about super, or be the authorised representative of such a licensee: s911A(1).

The suitability rule

RG 200.10 If you are giving personal advice to members about their existing interest in a fund, you must comply with the 'suitability rule' in s945A of the Corporations Act—that is, your personal advice must be suitable for the member: see Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175) at 175.106.

RG 200.11 The requirement to give suitable advice is designed to ensure that personal advice provided to a member is fit for its purpose: see RG 175 at 175.132. To comply with s945A, personal advice does not need to be ideal, perfect or best, but it must be suitable: see RG 175 at RG 110.

RG 200.12 To give suitable advice, you must:

- (a) know your client—determine the relevant personal circumstances in relation to giving the advice and make reasonable inquiries about those personal circumstances;
- (b) know your product—having regard to information you obtain from the member about their personal circumstances, consider and conduct investigation of the subject matter of the advice as is reasonable in all of the circumstances; and
- (c) ensure your advice is appropriate to the member, having regard to your consideration and investigation of the subject matter of the advice (s945A(1)).

Scope of the advice

- RG 200.13 When you give advice to a member about their existing interest in a fund, it will often be appropriate for you to consider a specific topic or topics. You can give them personal advice on a single issue. The advice must be suitable and you must explain the scope of your advice to them, and that you will not be considering any other products, arrangements or issues. This will help the member understand what advice they are getting and ensure there is no misunderstanding about what they are, and are not, being advised on.

The suitability rule is scalable

- RG 200.14 The requirement that personal advice must be suitable is scalable according to the nature of the advice. This means that you can limit your inquiries to the agreed subject matter of the advice. Where the subject matter of the advice is relatively simple, less extensive member inquiries are required to reflect the level of complexity, and the advice can be presented simply.
- RG 200.15 The level of inquiry and analysis you are required to undertake to ensure your advice is suitable will vary from situation to situation and will depend on the advice you are giving. You need only obtain and analyse sufficient information to provide the advice requested or proffered.
- RG 200.16 Extensive consideration and investigation of matters outside the subject matter of the advice is often not required to give personal advice to members about their existing interest in a fund. For example, comprehensive analysis of the member's full financial position is often not necessary to give personal advice to members about their existing interest in a fund.

Delivering the advice

- RG 200.17 There are also options for delivering personal advice to members about their existing interest in a fund. Section E of this guide discusses different models for delivering suitable personal advice to members about their existing interest in a fund.

Super fund trustees giving personal advice under [CO 09/210]

- RG 200.18 We have given licensed super trustees and their authorised representatives class order relief from the requirements in s945A of the Corporations Act where personal advice is provided about a member's existing interest in their fund: see Class Order [CO 09/210] *Intra-fund superannuation advice*.
- RG 200.19 If you are a super fund trustee, you can choose to give personal advice to members about their existing interest in your fund (including insurance) relying on the relief in [CO 09/210] rather than complying with the requirements of s945A.
- RG 200.20 The relief only applies where:
- (a) all of the circumstances in Table 1 apply; and
 - (b) you meet all of the conditions in Table 2.

Table 1: Circumstances in which the relief applies

All of these circumstances must apply to rely on the relief:	
Your role	You must be the trustee of a regulated super fund or an authorised representative of the trustee.
AFS licence	The trustee must hold an AFS licence authorising the provision of personal advice about super.
Scope of the advice	<p>The personal advice provided must only be about a member's existing interest in the trustee's fund: see RG 200.24.</p> <p>You must inform the member that you are limiting the scope of the advice to their interest in the trustee's fund: see RG 200.23.</p> <p>The personal advice must not relate to:</p> <ul style="list-style-type: none"> • an investment strategy that involves a financial product that you are required to provide disclosure about under s1012IA; or • an election by the member to receive a pension from their super interest in the accumulation phase; or • the issue of a new interest in the fund, which is taken to occur because of a change to the member's interest in a sub-plan, where the member has an option, choice or election about the change under the governing rules of the fund.
Type of fund	The fund must not be a self-managed super fund.

Table 2: Conditions of the relief**You must meet all of these conditions to rely on the relief:**

Relying on the relief	<p>You must inform the member in writing when, or as soon as practicable after, you provide the advice that:</p> <ul style="list-style-type: none"> • you are providing the advice relying on the relief in [CO 09/210]; and • the advice is limited in scope (i.e. you have only considered the member's existing interest in the trustee's fund): see RG 200.23.
Increases in fees, costs, charge, premiums, remuneration or other benefits	<p>Where the personal advice you provide would result in an increase in any:</p> <ul style="list-style-type: none"> • fees, costs or charges incurred in relation to the member's interest in the fund; • premiums attributable to the member for insurance attached to the member's interest in the fund; or • remuneration (including commission) or other benefits payable for the member's interest in the fund, <p>you must notify the member in writing of the increase as an amount in dollars when, or as soon as practicable after, you provide the advice.</p>

RG 200.21 If you qualify for our relief, you will not need to comply with s945A.

RG 200.22 Other regulatory requirements, including those that apply to the provision of personal advice, will remain. For example, you will need to manage your conflicts of interest and comply with the obligation to give the super fund member a Statement of Advice (SOA): see RG 200.8, RG 200.28 and RG 200.34.

Relying on the relief in [CO 09/210]

RG 200.23 If you provide personal advice about a member's existing interest in a fund under our relief, you must clearly communicate to the member the scope of the advice that they are getting from you, and that you will not be considering any other products, arrangements or issues. This will help the member understand what advice they are getting and ensure there is no misunderstanding about what they are, and are not, being advised on.

RG 200.24 Our relief does not extend to advice on products, arrangements or issues outside a member's existing interest in a fund. If you give advice on these matters, even if that advice also covers issues about the member's existing interest in a fund, you cannot rely on our relief and must comply with s945A. If you are not trained or authorised to advise on these matters, you

must tell the member that you cannot provide this advice and you may refer them to an adviser who can give personal advice about the products, arrangements or issues.

RG 200.25 To rely on the relief in [CO 09/210], you must also disclose any increase in fees, costs, expenses, charges or remuneration (such as commissions or other benefits) as a result of the personal advice you give. This disclosure must be in dollar amounts, unless dollar disclosure is not required: reg 7.7.13A. Any increase in premiums that results from advice on insurance within a member's fund will need to be disclosed to the member to comply with this requirement.

Note: For more guidance on the dollar disclosure provisions, see Regulatory Guide 182 *Dollar disclosure* (RG 182).

RG 200.26 You must also disclose that you are providing the advice relying on [CO 09/210] and that the advice provided relates only to your fund.

RG 200.27 You need to make these disclosures in writing when, or as soon as practicable after, the advice is provided. This can be in an SOA or Record of Advice given to the member about the advice, but it does not need to be: see RG 200.28–RG 200.30.

Statements of Advice

RG 200.28 When you give personal advice, you are generally required to give the member an SOA: s946A.

Note: For more guidance on the content requirements of an SOA, see RG 175.

RG 200.29 An SOA about a member's existing interest in a fund will often be quite short.

RG 200.30 The Appendix contains examples of SOAs for personal advice about a member's existing interest in a fund.

RG 200.31 The aim of the example SOAs is to provide examples of good disclosure practice (but not necessarily best practice) for a particular financial advice scenario that satisfies a basic level of disclosure and complies with the law.

RG 200.32 The example SOAs are based on hypothetical intrafund personal advice scenarios. The advice developed in each example is one of a number of possible outcomes. The examples are not intended to illustrate the giving of suitable or best advice in respect of all queries relating to this subject area.

RG 200.33 The example SOAs have not been designed for use as a template.

Conflicts of interest

RG 200.34 As an AFS licensee, you are required to manage any conflicts of interest that may arise when you give personal advice.

Note: For more guidance on managing your conflicts of interest, see Regulatory Guide 181 *Licensing: Managing conflicts of interest* (RG 181).

RG 200.35 When you give personal advice to a member about their existing interest in your fund, you may need to manage any actual, apparent and/or potential conflicts between the interests of an individual member and the interests of the fund's membership collectively. Where your advice is significantly affected by conflicts of interest for particular advice, you may need to decline to provide the advice: see RG 181 at RG 181.42.

C Giving general advice

Key points

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

If you are a super fund trustee, you do not need an AFS licence to give your members general advice about their existing interest in a fund (including insurance). This is because you can rely on the licensing exemption for product issuers in reg 7.1.33H.

We will not consider general advice given by you to be personal advice where you clarify this with the member when you are giving the advice.

You can provide general advice to members even if you have some information about their personal circumstances.

Giving general advice under an AFS licence

RG 200.36 As a general rule, if you are giving general advice, you must hold an AFS licence with an authorisation to give general advice, or be the authorised representative of such a licensee.

RG 200.37 If you are licensed to give general advice, you must warn the member that:

- (a) the advice has been prepared without taking into account their objectives, financial situation or needs; and
- (b) they should, therefore, consider the appropriateness of the advice, in light of their own objectives, financial situation or needs, before acting on the advice (s949A(2)).

Note: In the case of general advice about a member's existing interest in a fund, it is unlikely that you will need to notify the member to obtain a copy of, and consider, the Product Disclosure Statement (PDS) for the relevant product. This is because the advice will not typically relate to the acquisition or possible acquisition of a product or an interest in a product.

RG 200.38 You do not need to follow the exact wording in s949A(2) to give the general advice warning: s949A(3). You can use your own words.

RG 200.39 We have previously given relief to allow financial services providers 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 simpler warning once in

any telephone conversation or face-to-face meeting when giving members general advice.

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

Licensing exemption for product issuers (including super trustees)

- RG 200.40 If you are a financial product issuer, you do not need an AFS licence or authorisation to give general advice about products you issue: reg 7.1.33H.
- RG 200.41 For example, if you are a super fund trustee, you do not need an AFS licence or authorisation to give members general advice about their existing interest in your fund (including insurance).
- RG 200.42 There are some conditions for this licensing exemption. You must:
- (a) advise the member that you are not licensed to give advice about their existing interest in your fund, and
 - (b) recommend that the person get a PDS, if appropriate, and read it before making a decision (reg 7.1.33H(1)(c)).

Note 1: It is unlikely that you will need to notify the member of the availability of a cooling-off regime, as there is typically no acquisition of a product or an interest in a product that occurs with giving advice about a member's existing interest in a fund.

Note 2: You should consider whether it is appropriate in the circumstances to give a PDS. For example, this may be appropriate for advice about investment options and insurance, but might not be necessary for advice about contributions.

General advice is not personal advice

- RG 200.43 In RG 175, we give guidance that advice can be regarded as personal advice if the way it is presented means a reasonable person might expect you to have considered one or more of the member's objectives, financial situation or needs: see RG 175.6.
- RG 200.44 General advice about a member's existing interest in a fund, given by you, will not be personal advice where you clarify at the outset the type of advice you are giving. It is good practice to ensure that the member understands upfront that they are getting general advice, not personal advice. This will avoid confusion and help the member to understand what information they are getting.
- RG 200.45 The Appendix illustrates examples of general and personal advice on issues like investment options, contributions and insurance within a member's fund.

What if you have information about a member's personal circumstances?

- RG 200.46 You can provide general advice even if you have some information about the member's personal circumstances. We will not consider this to be personal advice merely because you have some personal information about the member.
- RG 200.47 Where you have information about a member's personal circumstances, this will not, of itself, mean that the general advice you give them is personal advice: see RG 175 at 175.31.
- RG 200.48 The test for whether you are giving personal advice includes whether you have considered the member's personal circumstances in giving the advice, or whether a reasonable person might have expected you to do so (s766B(3)), not whether you merely possess information about the member's personal circumstances. You will have considered the member's personal circumstances if you have taken them into account.
- RG 200.49 If you have not considered the member's personal circumstances in providing general advice, and a reasonable person would not expect you to have considered those circumstances, then it will not be personal advice.

D Giving factual information

Key points

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

We will not consider factual information given by you to be advice where you clarify at the outset the type of service you are offering.

You can provide factual information to members even if you have some information about their personal circumstances.

Factual information or advice?

- RG 200.50 Advice generally involves a qualitative judgement about, or an evaluation, assessment or comparison of, some or all of the features of a member's fund: see Regulatory Guide 36 *Licensing: Financial product advice and dealing* (RG 36) at RG 36.18.
- RG 200.51 Factual information is objectively ascertainable information whose truth or accuracy cannot be reasonably questioned: see RG 36.21.
- RG 200.52 Where a communication is a recommendation or statement of opinion, or a report of either of those things, that is intended to, or reasonably expected to, influence the member to make a decision about their existing interest in a fund (including insurance), it is advice, not factual information.
- RG 200.53 You do not need an AFS licence to give members factual information.

Factual information is not general or personal advice

- RG 200.54 In RG 36, we give guidance that 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, a recommendation about what a member should do: see RG 36.31.
- RG 200.55 Factual information given by you will not be general or personal advice where you clarify at the outset the type of service you are offering. It is good practice to ensure that the member understands upfront that you are only providing factual information, not general or personal advice. This will avoid confusion and help the member to understand what service they are getting.

- RG 200.56 The Appendix illustrates examples of factual information and advice to members about their existing interest in a fund on issues like investment options, contributions, insurance and financial hardship.

What if you have information about a member's personal circumstances?

- RG 200.57 You can provide factual information even if you have some information about the member's personal circumstances. We will not consider this to be personal advice merely because you have some personal information about the member.
- RG 200.58 Where you have information about a member's personal circumstances, this will not, of itself, mean that the information you give them is personal advice: see RG 175 at 175.31.
- RG 200.59 The test for whether you are giving personal advice includes whether you have considered the member's personal circumstances in giving the advice, or whether a reasonable person might have expected you to do so (s766B(3)), not whether you merely possess information about the member's personal circumstances. You will have considered the member's personal circumstances if you have taken them into account.
- RG 200.60 If you have not considered the member's personal circumstances in providing factual information, and a reasonable person would not expect you to have considered those circumstances, then it will not be personal advice.

E Different ways of delivering factual information and advice

Key points

We want to facilitate increased access to factual information and advice about a member's existing interest in a fund using a variety of delivery methods and channels, including by phone, email, internet and face-to-face, or in any combination of these or other ways.

There are a number of options for delivering factual information and advice.

- RG 200.61 The Corporations Act is neutral about technology. This means that you can give factual information and advice over the phone, by email, on the internet, face-to-face or in any combination of these or other ways.
- RG 200.62 The way we regulate advice is the same regardless of the way that you deliver the advice or how you scale the advice.
- RG 200.63 It is up to you to determine how you want to give factual information and advice. Factors to consider include:
- (a) whether you are operating a high-volume business, which might lend itself to factual information or advice over the phone, by email or on the internet; and
 - (b) the complexity of the factual information or advice you are offering. For example, factual information or advice on simple topics might be better suited to the phone, email or the internet, while more complex advice might be better suited to a face-to-face meeting.
- RG 200.64 The examples in the Appendix illustrate some different delivery methods and channels that you can use when giving factual information and advice to members about their existing interest in a fund.

Appendix: Examples of giving factual information and financial product advice to members

These examples are based on hypothetical scenarios. The advice developed is one of a number of possible outcomes. The examples are not intended to illustrate the giving of suitable or best advice in respect of all queries relating to this subject area.

The information and advice provided in the examples is given based on legislative requirements as at 1 July 2009. You will need to ensure that the advice and information you provide to members is current and applicable at the time it is given.

Example 1: Changing investment options—Call centre conversation

In this example, the operator doesn't need to be licensed because no financial advice is being given: see RG 200.53.

Factual information

Jim Hi. I am Jim Smith, a member of ABC Superannuation Fund. I am calling because 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 been happening in the market recently. 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, the information I'm about to give you is factual information only about the investment options in our fund. I'm unable to give you any financial advice about what you should do.

Jim That's fine.

Operator The ABC Superannuation Fund has four different types of investment options you can invest in.
Our investment options are Cash, Balanced, Growth and High Growth.
Our Cash fund invests 100% in cash deposits with Australian deposit-taking institutions. Historically, this option has earned the lowest average returns, only slightly better than inflation.
Our Balanced fund invests 60% to 70% in shares and property with the rest in fixed interest and cash. This option aims for moderate average returns. However, the investments may

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: see RG 200.57–RG 200.60.

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 Jim.

See RG 200.51–RG 200.52.

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 advice: see RG 200.55.

**Operator
(cont.)**

have negative returns depending on market performance.

Our Growth fund invests 70% to 80% in shares or property with the rest in fixed interest and cash. Historically, these higher-risk investments have earned high returns over the long term. However, the investments may have negative returns depending on market performance.

Our High Growth fund invests 80% to 90% in shares or property with the rest in fixed interest and cash. Historically, these higher-risk investments have earned the highest returns over the long term. However, in some years, the investments may have negative returns depending on market performance.

You need to be aware that past performance is not necessarily a guide to future performance. The returns I've just discussed with you can definitely change and you should continue to monitor your super's performance.

If you're interested in more information about our funds and investment options, I suggest you have a look at our website. Alternatively, I can send you out some information that might help you.

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: see RG 200.61–RG 200.63.

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?

Jim

Thanks. I'd appreciate that.

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 members.

In this example, ABC Superannuation Fund is not licensed because they are relying on the exemption for super fund trustees to give general advice without an AFS licence where that advice is about their own super fund: see RG 200.40–RG 200.42.

General advice

Jim

Hi. I am Jim Smith, a member of ABC Superannuation Fund. I am calling because 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 been happening in the market recently. I'm only 32. I don't know which investment option is best for me.

Operator

I'll take you through our investment options then Jim.

Just so you know upfront, I can tell you what we generally recommend for our members, but this information does not consider your personal financial circumstances. If you are after 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, 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.

Super is a long-term investment. The amount of super you have when you retire will depend on how long you've had super for, how much you or your employer has contributed to your super, what investment options you've selected and how those investment options perform.

The ABC Superannuation Fund has four different types of investment options you can invest in.

Our investment options are Cash, Balanced, Growth and High Growth.

Our Cash fund invests 100% in cash deposits with Australian deposit-taking institutions. Historically, this option has earned the lowest average returns.

Our Balanced fund invests 60% to 70% in shares and property with the rest in fixed interest and cash. This option aims for moderate average returns. However, the investments may have negative returns depending on market performance.

Our Growth fund invests 70% to 80% in shares or property with the rest in fixed interest and cash. Historically, these higher-risk investments have earned high returns over the long term. However, the investments may have negative returns depending on market performance.

You need 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: see RG 200.44.

ABC Superannuation Fund needs to provide this warning because they are not licensed to provide general advice about their fund: see RG 200.42.

**Operator
(cont.)**

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

Our High Growth fund invests 80% to 90% in shares or property with the rest in fixed interest and cash. Historically, these higher-risk investments have earned the highest returns over the long term. However, in some years, the investments may have negative returns depending on market performance.

You need to be aware that past performance is not necessarily a guide to future performance. The returns I've just discussed with you can definitely change and you should continue to monitor your super's performance.

We typically recommend that people between 18 and 30 invest in our High Growth option and people 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.

As our members get to 7 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 superannuation.

Please note that this advice is general and it may not be right for you.

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.

Operator

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.

As this example involves personal advice, the ABC Superannuation Fund needs to have an AFS licence authorising them to provide personal financial product advice: see s911A. In this example, the ABC Superannuation Fund can provide personal advice under either s945A or [CO 09/210]: see Section B.

You must make the scope of the advice you are giving clear to your members under our relief. In this example, ABC Superannuation Fund makes it clear that the scope of the advice is limited to Jim's interest in that fund. This is a requirement of our relief: see RG 200.23. The operator has put Jim on notice that he might want to consider getting advice that looks at his overall financial position.

Personal advice

Jim

Hi. I am Jim Smith, a member of ABC Superannuation Fund. I am calling because 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 been happening in the market recently. I'm only 32. I don't know which investment option is best for me.

Operator

I'll take you through our investment options then Jim. We could give you some personal recommendations about our investment options that you might like to consider.

[At this point, the Operator will perform the appropriate identity checks to confirm that he is speaking with the account holder]

Once I've got your information in front of me, I'll be able to give you some specific advice on what I think you should do.

You need to be aware though that I can only give you advice about your interest in the ABC Superannuation Fund. I'm not considering anything else, so if you have another super fund or are interested in other financial products, you should consider getting personal advice that looks at your overall financial position.

Jim

That's fine.

Operator

Thanks Jim. I've now got your information in front of me. You're:

- 32
- have a current super balance in ABC Superannuation Fund of \$42,000, and
- are currently invested in our balanced option.

I will only be providing you with advice about your investment options in the fund but no other advice, such as advice on life insurance, income protection or your beneficiary nomination.

I have three questions for you Jim:

- What is your current before-tax income?
- Is your employer paying the standard superannuation guarantee amount into super for you?
- Are you contributing anything yourself on top of that into your super?

This is an example of some of the inquiries that you may make in providing personal advice under s945A or our relief. It is not intended as an exhaustive list.

Jim

I'm on \$50,000 a year and I get my standard super. I'm not doing anything else to contribute at the moment and, at this stage, don't really want to make any extra contributions.

I'm pretty happy with the range of my annual returns, But I'd be happy to consider something a bit more aggressive.

Operator

Based on your age and the fact that you're willing to consider a more aggressive option, the balanced option might be a little too conservative for you.

Let me give you two examples where we look at projections of how much super you'll theoretically have by retirement....

According to our calculator, if we include your 9% superannuation guarantee contribution and if you leave your super in the balanced option earning an estimated long term average of 8% per annum, you'll have approximately \$349,000 available by age 65.

I'll now repeat the same exercise, but will switch you to the growth option earning an estimated long term average of 8.5% per annum. According to our calculator, you'll have \$388,000 at age 65.

All these results are stated in today's dollars.

The projections in this example have been estimated using ASIC's current super calculator, available at www.fido.gov.au/supercalc and adopting the assumptions underlying that calculator.

Jim

That is quite a difference.

Operator

This is just an example of how moving between the two investment options may affect your long-term super savings.

Of course, you need to be aware that past performance is not necessarily a guide to future performance. The returns I've just discussed with you can definitely change and should just be used as guides.

If you're using projections you should always highlight the limitations of projections (i.e. that projections are only guides and can change over time).

Jim

Yes, I understand.

Operator

Based on our discussions, I'd recommend you move from the balanced portfolio to the growth portfolio for the current longer term. This is because of your age, your investment timeframe until retirement, your preparedness to accept a more aggressive asset allocation and the fact that a change in portfolio now will result in a potentially significant change in the potential value of your portfolio at retirement.

You won't incur additional fees by moving from the balanced portfolio to the growth portfolio because the same management fees apply to both options and there are no switching fees involved.

If you rely on our relief, any increase in remuneration must be stated in dollar amounts. In this example although the fees will be unchanged the ABC Superannuation Fund has disclosed that there will be no additional fees: see RG 200.25.

**Operator
(cont.)**

However, you do need to understand that moving from your old portfolio to the new recommended portfolio involves taking on more growth assets like shares, compared to defensive assets like fixed interest. Which means the volatility and investment risk in your portfolio will increase. You need to be personally comfortable with this. You need to understand that higher volatility can result in more negative returns as well as higher annual returns.

And of course, as I said, investment returns can definitely change over time.

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.

If you need more information before you can make a decision, you should consider getting more detailed personal advice on this issue.

I'm now going to forward you a short Statement of Advice outlining what we've discussed and my recommendations.

Moving portfolios carries some risks. You should always be upfront about risks.

Jim's Statement of Advice appears on the next page.

Statement of Advice to Jim on changing investment options

This example SOA is based on a hypothetical and limited personal advice scenario. The advice we developed is one of a number of possible outcomes. The purpose of this example SOA is to illustrate clear, concise and effective disclosure and not to illustrate the giving of suitable or best advice.

STATEMENT OF ADVICE

ABC Superannuation Fund

1 July 2009

Jim Smith
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.

This advice is limited to your interest in the ABC Superannuation Fund. It is provided by ABC Superannuation Fund, [relying on ASIC Class Order [CO 09/210]].

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 p.a.
- 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.

If you are relying on our relief, you need to indicate this in writing in accordance with our relief: see Table 2. You can do this in your Statement of Advice.

Our advice

Notwithstanding the current state of the market, superannuation is a long-term investment and we recommend that you invest according to the appropriate time frame. In your case, this would be based on your current age and time until retirement and your willingness to take on the potential ups and downs which come with the desire to go into an option which aims for higher returns.

Even small differences to the average annual returns of your superannuation over the next 33 years will significantly boost your final superannuation balance. One way to potentially 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 an assumed earning rate of 8% p.a. and including your 9% superannuation guarantee contribution, according to our calculations, you will have approximately \$349,000 available at the age of 65.

If you switch your superannuation to the ABC Superannuation Fund growth option, based on an assumed earning rate of 8.5% p.a. and including your 9% superannuation guarantee contribution, then according to our calculations, you will have approximately \$388,000 at the age of 65. This exercise shows that a difference as small as 0.5% per annum on your returns can have a significant impact on your final super balance.

This example is only intended to provide a model to show the effect of changing investment options and does not take into account your retirement needs.

Based on your age, your investment timeframe until retirement, your preparedness to accept a more aggressive asset allocation and the fact that a change in portfolio now will result in a potentially significant change in the potential value of your portfolio at retirement, we recommend you place your superannuation into the growth option.

It is important to understand that moving from your old portfolio to the new recommended portfolio involves taking on more growth assets like shares, compared to defensive assets like fixed interest. This means the volatility and investment risk in your portfolio will increase. Also, as we discussed over the phone, investment returns can definitely change over time and you need to be aware of this. If you feel that any of these things are a concern, you should consider the option of getting further, more detailed advice.

Please note that the above recommendation is based on the information you have provided to me and only relates to your existing interest in 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.

Remuneration and conflicts of interest

If you follow this advice, ABC Superannuation Fund will receive a monthly 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 with respect to your investment in the balanced option.

Acting on this advice

To act on the 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

ABC Superannuation Fund
[Address]

Phone number: (02) 9999 9999

ABC Superannuation Fund Limited, ABN 12 345 567 890, AFSL no 123456, is the trustee and licensee responsible for the ABC Superannuation Fund.

Example 2: Making extra contributions—Email to the fund

Factual information

Email from Jane

Hi,

I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.

Can you tell me what's the best way for me to do this?

Kind regards,

Jane Smith

Note the use of email in this example. It is entirely up to you to work out how you want to communicate with your members: see RG 200.61–RG 200.63.

It's important 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 financial personal advice: see RG 200.55.

Email from fund

1 July 2009

Hi Jane,

Thank you for your query.

We can give you some factual information about how to make extra contributions to your super this financial year, but not advice about whether or not you should make additional contributions to your fund. This would involve providing you with personal advice, which we are not authorised to do.

There are a number of ways you can make extra contributions to your super this financial year.

You may be able to:

- take advantage of the Government's co-contribution scheme if your total income* in 2009–10 is less than \$61,920
- salary sacrifice (i.e. contribute money from your pre-tax employment income)
- receive a full tax deduction for personal superannuation contributions if you receive less than 10% of your total income* from employment
- make after-tax contributions (i.e. contribute to superannuation with money that you have already paid tax on), or
- If you have a spouse on a low total income*, make a contribution to their superannuation so you can get a tax rebate for making a contribution to their superannuation.

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

In the 2009–10 financial year, if your total income is less than \$31,920, and you contribute \$1,000 to your super as a personal after-tax contribution, you may be eligible to receive \$1,000 more in extra super as a co-contribution from the Government. If your total income is between \$31,920 and \$61,920, you may still

The information in this section is factual. It can be objectively ascertained as being accurate through a number of different sources (e.g. the Australian Taxation Office's website, or ASIC's FIDO website) and it doesn't contain a recommendation or statement of opinion that is intended to influence Jane: see RG 200.50–RG 200.52.

XYZ Superannuation Fund does not need a licence as no financial advice is being given: see RG 200.53.

The information in this section is quite detailed. It's up to you to determine what information you give or don't give to your members.

be eligible to receive an extra super contribution from the Government, but the amount is reduced on a sliding scale until your total income reaches \$61,920.

To be eligible for a co-contribution for contributions made in 2009–10, there are further criteria to be met based around 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.

If you 'salary sacrifice', you choose to give up some of your pre-tax income and instead contribute that income to your super. Your contributions are effectively taxed at 15% compared to the marginal rate of tax you would have paid on your employment income. You will need to check with your employer if you are able to salary sacrifice.

If you receive less than 10% of your total income from employment in 2009–10, your personal contributions made in 2009–10 may be fully tax deductible.

You are able to make after-tax contributions to your super. But you need to be aware that the extra amounts you can contribute depend on things like your age and employment.

If you have a spouse who has total income of less than \$10,800 in 2009–10, you could make a contribution to their superannuation and receive a tax rebate of 18% on any contribution you make to their super. You would receive the maximum \$540 rebate if you made the \$3,000 contribution to their superannuation. A reduced rebate would be available if your spouse has total income of between \$10,800 and \$13,800 in 2009–10.

You need to keep in mind that there are caps on the amount of contributions you can make to superannuation in any one year. For example, the contributions cap on all tax deductible contributions in 2009–10 is \$25,000, and if you are over 50, the cap is \$50,000. 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 2009–10 is \$150,000; however, depending on your circumstances, this amount may vary.

If you make contributions over the set limits there may be significant adverse taxation consequences.

The other important factor to keep in mind about putting money into super is that you will probably not be able to access it until you retire.

The financial benefits of each option will depend on your personal circumstances. If you wish to consider any of these options in the context of your personal financial circumstances, then you will need to talk to a licensed financial adviser.

Thanks again for your query.

Michael

If Jane emailed Michael back and asked which option he recommended for her, Michael could say that he's unable to provide personal advice because XYZ Superannuation Fund does not have an AFS licence authorising them to do so: see s911A.

In this example, XYZ Superannuation Fund has an AFS licence authorising them to provide general financial product advice: see RG 200.36.

General advice

Email from Jane

Hi,

I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.

Can you tell me what's the best way for me to do this?

Kind regards,

Jane Smith

Email from fund

1 July 2009

Hi Jane,

Thank you for your query.

We can tell you what we generally recommend for our members, but this information won't be personal to you as we do not look at your overall financial position. If you need personal advice, we can refer you to a financial adviser.

There are a number of ways you can make extra contributions to your super in 2009–10.

You may be able to:

- take advantage of the Government's co-contribution scheme if your total income* in 2009/10 is less than \$61,920
- salary sacrifice (i.e. contribute money from your pre-tax employment income)
- receive a full tax deduction for personal superannuation contributions if you receive less than 10% of your total income* from employment
- make after-tax contributions (i.e. contribute to superannuation with money that you have already paid tax on), or
- If you have a spouse on a low total income*, make a contribution to their superannuation so you can get a tax rebate for making a contribution to their superannuation.

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

In the 2009–10 financial year, if your total income is less than \$31,920, and you contribute \$1,000 to your super as a personal after-tax contribution, you may be eligible to receive \$1,000 more in extra super as a co-contribution from the Government. If your total income is between \$31,920 and \$61,920, you may still be eligible to receive an extra super contribution from the Government, but the amount is reduced on a sliding scale until your total income reaches \$61,920.

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: see RG 200.44.

The information in this section is quite detailed. It's up to you to determine what information you give or don't give to your members.

To be eligible for a co-contribution for contributions made in 2009–10 there are further criteria to be met based around 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.

If you 'salary sacrifice', you choose to give up some of your pre-tax income and instead contribute that income to your super. Your contributions are effectively taxed at 15% compared to the marginal rate of tax you would have paid on your employment income. You will need to check with your employer if you are able to salary sacrifice.

If you receive less than 10% of your total income from employment in 2009–10, your personal contributions made in 2009–10 may be fully tax deductible.

You are able to make after-tax contributions to your super. But you need to be aware that the extra amounts you can contribute depend on things like your age and employment.

If you have a spouse who has total income of less than \$10,800 in 2009–10, you could make a contribution to their superannuation and receive a tax rebate of 18% on any contribution you make to their super. You would receive the maximum \$540 rebate if you made the \$3,000 contribution to their superannuation. A reduced rebate would be available if your spouse has total income of between \$10,800 and \$13,800 in 2009/10.

For members who can salary sacrifice, you need to think about whether you could comfortably meet your commitments if you were to salary sacrifice. This is because salary sacrificing requires you to give up some of your income and put it into your super instead. Depending on your income and your tax rate, salary sacrificing can be tax effective and help you build your super faster.

Similarly, if you have a low income earning spouse and you would qualify for the spouse contribution tax offset, you need to consider if making the contribution to their superannuation gives you a higher tax rebate than if you were to salary sacrifice into your own superannuation.

In considering whether to use any portion of your net pay to make after-tax contributions, you need to think about your lifestyle expenses and other commitments like a mortgage or personal loans. For example, if you have credit card debts or a large amount to pay off your mortgage on your home, you should consider whether these debts should be paid off before putting money into super, which you probably won't be able to access until you retire,

You need to keep in mind that there are caps on the amount of contributions you can make to superannuation in any one year. For example, the contributions cap on all tax deductible contributions in 2009–10 is \$25,000, and if you are over 50, the cap is \$50,000. Tax deductible contributions include salary sacrifice, compulsory 9% superannuation guarantee employer contributions, personal contributions for which a tax deduction

Michael is saying that salary sacrificing can be beneficial, but has not gone as far as saying that salary sacrificing is right for Jane.

has been claimed and some other less common contributions. For after-tax contributions, the cap in 2009–10 is \$150,000, however, depending on your circumstances, this amount may vary.

If you make 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. You should, therefore, 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

If Jane emailed Michael back and asked which option he recommended for her, Michael could say that he's unable to provide personal advice because XYZ Superannuation Fund does not have an AFS licence authorising them to do so: see s911A.

General advice by an AFS licensee must be accompanied by a general advice warning: RG 200.37–RG 200.38.

As this example involves personal advice, the XYZ Superannuation Fund needs to have an AFS licence authorising them to provide personal financial product advice: see s911A.

Personal advice

In this example, the XYZ Superannuation Fund can provide personal advice under either s945A or our conditional class order relief: see Section B.

Email from Jane

Hi,

I'm a member of your super fund (member number 23456Y) and I'm thinking about making some extra contributions to my super.

Can you tell me what's the best way for me to do this?

Kind regards,

Jane Smith

Email from fund

1 July 2009

Hi Jane,

Thank you for your query.

It's great you're thinking about contributing more to your super. We really encourage our members to do this.

In order to help with your specific query, I have a few questions I'd like you to answer:

- 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 2009–10?
- What is your estimated total income* from all sources for 2009–10?
- Do you currently make any extra contributions to your super, or have you made any extra contributions since 1 July 2007?
- How much is your employer(s) currently contributing to super?
- Do you, 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?

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

You need to be aware that I can only give you 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 things that we are not going to discuss. After you put money into super, it must stay there until you retire. You should weigh up the benefits of extra super against other priorities, for example, paying off your credit cards or other debts such as your home

This is an example of some of the inquiries that you may make in providing personal advice under s945A or our relief.

Michael makes clear to Jane that the advice is limited to her additional contributions within XYZ Super Fund in accordance with our relief. Michael has put Jane on notice that she might want to consider getting advice that looks at her overall financial position: see RG 200.24.

Funds can charge for their services, they just need to be upfront about their fees and disclose them in the Statement of Advice. If you rely on our relief, any increase in fees must be stated in dollar amounts in the Statement of Advice: see RG 200.25.

loan. So, if you require additional assistance, you should consider getting financial advice that looks at your overall financial position.

Please note that our advice carries a fee for recommendations regarding contributions. This fee is \$XX.

I will also send you a Statement of Advice, which will document my recommendations to you.

Regards,
Michael

Email from Jane

Hi Michael,

In response to your questions:

- I'm single.
- I'm 33.
- I've just retrained and I've been working as a nurse since February.
- I will earn \$44,000 before tax in 2009/10 from my employment as a nurse.
- I don't have any other assessable income or reportable fringe benefits and have never made any extra contributions to my super.
- My employer will contribute \$3,960 in SG in 2009–10.
- 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 pa.

I am happy to go ahead based on your fee.

Thanks,
Jane

Email from fund

1 July 2009

Hi Jane,

Thank you for your responses to my questions.

Based on your responses I've prepared a Statement of Advice for you, which contains my recommendations.

I've attached the Statement of Advice to this email.

Regards,
Michael

<attachment: Statement of Advice to Jane on making extra contributions to her super>

The Statement of Advice appears on the next page.

Statement of Advice to Jane on making extra contributions to her super

This example SOA is based on a hypothetical and limited personal advice scenario. The advice we developed is one of a number of possible outcomes. The purpose of this example SOA is to illustrate clear, concise and effective disclosure and not to illustrate the giving of suitable or best advice. Note paragraphs 30 to 38 for further information about this SOA.

STATEMENT OF ADVICE

XYZ Superannuation Fund

1 July 2009

Jane Smith
1 Sydney Road
Sydney NSW 2000

Dear Jane,

Extra contributions

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

This advice is limited to your interest in the XYZ Superannuation Fund. It is provided by XYZ Superannuation Fund, [relying on ASIC Class Order [CO 09/210]].

Information about you

- You are single.
- You are aged 33.
- You said your total income is about \$44,000 per year.
- You are employed.
- You have never made any extra contributions to super.
- You are a permanent Australian resident and have never held a temporary resident visa.
- You have not estimated in detail how much money you have available to save each year into superannuation other than up to \$600 pa after-tax income

Our advice

Government co-contribution

For every \$1 you put into superannuation in 2009–10 from your after-tax income, the government will contribute \$1 up to a maximum cap of \$1,000. This cap reduces on a sliding scale based on your income. This is called the government co-contribution.

If you are relying on our relief, you need to indicate this in writing in accordance with our relief. You can do this in your Statement of Advice: see Table 2.

Your personal maximum government co-contribution for 2009–10 is \$597, which has been calculated as follows:

$$\$1,000 - [(\$44,000 - \$31,920) \times 0.333] = \$597$$

The co-contribution you are eligible to receive in 2009–10 is the lesser of the actual amount you contribute and your personal maximum co-contribution limit for 2009–10 of \$597.

Based on your income of \$44,000, you would get the biggest benefit by contributing your \$600 in 2009–10 from after-tax income. The Government will then contribute another \$597 to your super after you've lodged your tax return. This would equate to a combined contribution to your super account of \$1,197.

Salary sacrificing

Alternatively, if you chose to salary sacrifice the equivalent of \$600 after-tax income in 2009–10, it would be paid directly to your superannuation account from your pre-tax income. This would reduce your assessable income in 2009–10 by \$600 and save you \$180 income tax. Please note that your employer is under no obligation to offer salary sacrificing.

\$600 after-tax income is equivalent to \$857 pre-tax income at a 30% marginal tax rate. Once the \$857 pre-tax income is contributed to your superannuation account, contributions tax of effectively 15% is deducted and your net contribution would be **\$729**.

The total value to you of salary sacrificing the equivalent of \$600 after-tax income in 2009–10 would be \$909 (\$180 tax saving and \$729 super contribution).

Contribution caps

From the information provided, your post-tax contribution cap for 2009–10 is \$150,000 and your pre-tax contribution cap is \$25,000. Based on the information provided, contributing an extra \$600 post-tax or \$857 pre-tax income in 2009–10 will not exceed your contribution caps.

The co-contribution does not count toward either of your contribution caps.

Recommendation

I recommend that you contribute your \$600 from after-tax income in 2009–10 so that you can take advantage of the Government co-contribution scheme. While the salary sacrificing option would give you a total benefit of \$909, you will still benefit more by accessing the Government co-contribution scheme.

Please note that the above recommendation is based on the information you have provided to me and only relates to your existing interest in the XYZ Superannuation Fund. This advice does not take into account all of your personal circumstances. If you have provided me with incomplete or inaccurate information, you risk making a decision that may not be appropriate for your circumstances.

Remuneration and conflicts of interest

The fee for my advice and for preparing this SOA is \$XX (including GST).

In addition, if you follow this advice and make the extra contributions and receive the resulting co-

contribution, XYZ Superannuation Fund will receive fees of \$XX (including GST).

Acting on this advice

To act on the 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 Fund
Address

Phone number: (02) 9999 9999

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

Example 3: Insurance—Call centre conversation

In this example, DEF Superannuation Fund does not need an AFS licence because no advice is being given: see RG 200.53.

It's important to be upfront about the service you are offering—are you giving factual information or advice? In this example, Sue is clearly told upfront that she will not be given any advice: see RG 200.55.

Factual information

Operator	Good afternoon, you've called the DEF Superannuation Fund. How can I help you?
Sue	Hi, my name is Sue. I'm calling because my husband and I just bought a new house and I want to know whether I need to increase the insurance cover I already have in my super. 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?
Operator	<p>Thanks very much for your call, Sue.</p> <p>Just so you know upfront, I'm happy to give you some factual information about your insurance within the DEF Superannuation Fund, but I can't give you advice about what you should do. If you would like to receive advice, I can refer you to a financial adviser.</p>
Sue	That's fine.
Operator	<p>The DEF Superannuation Fund provides you with life insurance and total and permanent disability (or 'TPD') insurance. The fund does 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 you have dependants, because it provides your family with funds to help maintain their lifestyle in the event of your death. After your death, whether from illness or accident, a lump sum may be available. Your 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 you're totally and permanently disabled. Depending on your policy and the relevant legislation, you may be paid a TPD benefit if you can't work. TPD insurance can be used to help cover rehabilitation costs, repayment of debts and the cost of living for you and your dependants or to replace income you would have earned if you could continue to work. Payments are not usually made until the disability has been evident for six months, and the insurer and the trustee deem that you are unlikely to work again.</p>

**Operator
(cont.)**

The current life and TPD cover on your superannuation account is not a combined total—the amount payable would be the balance of your superannuation account plus the level of cover for life cover or the level of cover for TPD cover.

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.

Sue

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.

Sue

If I decide to increase my cover, how do I do this?

Operator

To increase your cover, you would need to give us further medical information. 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.

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.

We would be happy to help you further after you have looked at the information.

Sue

Thank you for that. I'll look at your website and call you if I have any other questions.

This example contains factual information only. The answer to the query doesn't contain a recommendation or statement of opinion that is intended to influence: see RG 200.50–RG 200.52.

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: see RG 200.61–RG 200.63.

In this example, DEF Superannuation Fund is licensed to provide general financial product advice: see RG 200.36.

General advice

Operator Good afternoon, you've called the DEF Superannuation Fund. How can I help you?

Sue Hi, my name is Sue. I'm calling because my husband and I just bought a new house and I want to know whether I need to increase the insurance cover I already have in my super. 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?

Operator Thanks very much for your call, Sue.
Just so you know upfront, I can only give you general advice. I will not be considering your individual circumstances so I can't give you any personal advice.

Sue That's fine.

Operator The DEF Superannuation Fund provides you with life insurance and total and permanent disability (or 'TPD') insurance. The fund does not offer income protection or trauma insurance.

Life insurance pays a lump sum after the death of the person insured. This is important, particularly if you have dependants, because it provides your family with funds to help maintain their lifestyle in the event of your death. After your death, whether from illness or accident, a lump sum may be available. Your family and other dependants may use this money to service or pay out any outstanding debts and pay for day-to-day living expenses.

TPD insurance provides a lump sum payment if you're totally and permanently disabled. Depending on your policy and the relevant legislation, you may be paid a TPD benefit if you can't work. 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 the disability has been evident for six months, and the insurer and the trustee deem that you are unlikely to work again based on the definition in your particular policy.

The current life and TPD cover on your superannuation account is not a combined total—the amount payable would be the balance of your superannuation account plus the level of cover for life cover or the level of cover for TPD cover.

The operator is clear about what service they're offering. Sue knows that she will not be given personal advice: see RG 200.44.

The operator is upfront about what the fund offers and does not offer.

Operator (cont.)	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.
Sue	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.
Sue	How do I know if I have enough cover?
Operator	<p>To ensure that you have enough life and TPD cover, we recommend that you consider all your debts and expenses, not just your mortgage. You may also want to think about whether you need to replace the income you would have earned if you continued working.</p> <p>For example, other debts you should think about include any credit card debt, car loans or personal loans. Your expenses may include mortgage repayments, living expenses, future education expenses for your children, funeral expenses, and other major future expenses like rehabilitation costs if you become disabled. Also, think about whether you need an additional lump sum of money invested to earn an income for you or your dependants in the event you are no longer working.</p> <p>At a minimum, you will need to ensure that your cover meets your debts and expenses. If you think you need it, you can organise to get additional cover.</p>
Sue	Thank you for that. I'll have to work out whether I need any additional insurance cover.
Operator	Okay, Sue. Some other things you should also consider include the policy wording and other options that may be available within the cover. 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.

General advice must contain a general advice warning where it is given by an AFS licensee, but we have given relief to facilitate the use of short oral warnings like this: RG 200.39.

**Operator
(cont.)**

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.

Please note that you will have to decide whether this advice meets your needs, as I haven't considered your personal circumstances.

In this example, the DEF Superannuation Fund can provide personal advice under either s945A or our conditional class order relief: see Section B.

Personal advice

Operator

Good afternoon, you've called the DEF Superannuation Fund. How can I help you?

Sue

Hi, my name is Sue. I'm calling because my husband and I just bought a new house and I want to know whether I need to increase the insurance cover I already have in my super. 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?

Operator

Thanks very much for your call, Sue.

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.

You need to be aware though that I can only give you advice about your DEF Superannuation Fund. If you have another super fund or insurance outside the DEF Superannuation Fund, I recommend you get financial advice that looks at your overall financial position.

The operator makes it clear in this example that Sue is getting advice only on her insurance within the DEF fund. This is a requirement under our relief: see RG 200.23. The operator has recommended that Sue consider getting advice that looks at her overall financial position.

Sue

That's fine.

Operator

The DEF Superannuation Fund provides you with both life and total and permanent disability (or 'TPD') insurance cover. The fund does not offer income protection or trauma insurance.

Life insurance pays a lump sum after death of the person insured. This is important, particularly if you have dependants, because it provides your family with funds to help maintain their lifestyle in the event of your death. After your death, whether 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 or to replace the household income you would have continued to earn.

TPD insurance provides a lump sum payment if you're totally and permanently disabled. Depending on your policy and the relevant legislation, you may be paid a TPD benefit if you can't work. 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 the disability has been evident for six months, and the insurer deems that you are unlikely to work again based on the definition in your particular policy.

DEF Superannuation Fund could not give advice to Sue on any insurance outside the fund if it were relying on our relief: see RG 200.24.

Sue	How much cover do I have under my super?
Operator	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.
Sue	So, what happens if I have a serious accident at work and I am unable to work anymore?
Operator	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.
Sue	If I decide to increase my cover, how do I do this?
Operator	To increase your cover, you would need to give us further medical information. If you would like, I can step you through the process now by asking a number of questions to help us determine your insurance needs.
Sue	Please, that would be helpful.
Operator	As part of this process, I am using your existing details from our system, which says your age is 40 and your current cover with your super fund is \$130,000 life and TPD cover, as I previously explained. You also have a balance of \$80,000 in your fund. Now, can you tell me what debts you have currently that you would need cleared in the event of death or a TPD event?
Sue	We have a \$200,000 mortgage outstanding, plus \$5,000 on our credit cards.
Operator	Would you want to clear the entire mortgage? Keep in mind your husband is likely still working.
Sue	Yes, if I passed away or was disabled, I don't think he would want to have to deal with that.

The caller's answer to these queries will have an impact on whether the trustee will be able to use the relief.

This example reflects some of the inquiries that you may make in providing personal advice under s945A or our relief.

Operator	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?
Sue	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.
Operator	Standard funeral expenses are about \$10,000. Would that be enough?
Sue	Yes, I think so.
Operator	Now, we 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. First, can you tell me what your current income is? Then, after considering your family living expenses versus your income, what proportion of your income would you need to replace in both those circumstances?
Sue	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.
Operator	So, 75% of \$50,000 a year is \$37,500 or \$3,125 per month.
Sue	That sounds OK.
Operator	Now, we need to think about how long this income stream would need to last (remember, debts and school fees are already covered). This will really affect the amount you decide to insure for. I'll give you two examples as an illustration. If you were disabled tomorrow and needed an income of \$37,500 all the way to age 65, that's 25 years. If we assume that the lump sum of money would earn 6% income and inflation is 3%, then you would need approximately \$663,000 in TPD cover. If we make the same assumptions, except that you only need it to last for 5 years, then you would need \$174,000 TPD cover.

Sue	Which is better?
Operator	<p>Well, that will depend on your personal situation. If you think that you (or your husband if you passed away) could adjust your lifestyle to handle a death or TPD event, then you might look at saving money on premiums by choosing a lower duration. But this would mean the income stopped at that point. If you think it might be difficult to adjust, then you might need an income stream that goes all the way to retirement.</p>
Sue	<p>I think age 65 is excessive, but 10 years to me would give us a reasonable buffer to adjust either way.</p>
Operator	<p>OK, finally we need to consider existing assets and insurance that would be available to help support your needs.</p>
Sue	<p>We have about \$20,000 in cash. And we would be likely to sell our second car, which would give us another \$15,000. I don't have any other insurance other than this fund.</p>
Operator	<p>Okay, I'll quickly collate the information you have given me.</p> <p>I think you need \$235,000 to cover lump sums, \$325,000 to cover income less \$35,000 for liquid assets. This comes to \$525,000. Since you already have \$130,000 plus an \$80,000 balance (which would be paid out), this would mean an increase of \$315,000 life and TPD cover in your fund. In addition, the premiums payable will increase as your level of cover has increased.</p> <p>We have discussed in detail the appropriate levels of insurance you require. When considering insurance through your super you should also check that your nominated beneficiaries are up to date because insurance paid through super 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 which 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 upon you providing the specified medical information and final acceptance by our underwriter.</p>

Sue's Statement of Advice appears on the next page.

**Operator
(cont.)**

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.

Sue

Thanks for your help. I'll read all that and make a decision.

Statement of advice to Sue on increasing the level of insurance within her super fund

This example SOA is based on a hypothetical and limited personal advice scenario. The advice we developed is one of a number of possible outcomes. The purpose of this example SOA is to illustrate clear, concise and effective disclosure and not to illustrate the giving of suitable or best advice.

STATEMENT OF ADVICE

DEF Superannuation Fund

1 July 2009

Mrs Smith
1 Sydney Road
Sydney NSW 2000

Dear Mrs Smith

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 within it.

This advice is provided by DEF Superannuation Fund, [relying on ASIC Class Order [CO 09/210]].

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.

You currently have life and total and permanent disability (TPD) insurance with the DEF Superannuation Fund. This statement of advice (SoA) will explore whether to increase your cover of these two types of insurance. We have not considered other types of insurance in this SOA such as:

- *income protection insurance* (this pays a monthly income if you cannot work due to illness or injury)
- *trauma insurance* (this pays a lump sum if you suffer from a major illness, such as cancer or heart attack).

Life insurance pays a lump sum upon death of the person insured. Upon your death, whether 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.

If you are relying on our relief, you need to indicate this in writing in accordance with our relief: see Table 2. You can do this in your Statement of Advice.

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 the disability has been evident for six months, and the insurer deems that you are unlikely to work again based on the definition in your particular policy.

We recommend you apply to take out the following levels of insurance cover within the DEF Superannuation Fund:

- 1. Life: \$315,000 of cover. The increase to your premium will be \$X per week to be paid from your superannuation account.**
- 2. TPD: \$315,000 of cover. The increase to your premium will \$X per week to be paid from your superannuation account.**
- 3. These premiums will be an expense deducted from the account balance of your fund and, as such, will affect your long-term retirement savings balance. The above two premiums combined are currently less than the value of your 9% SG contributions.**
- 4. Assuming acceptance of your increased levels of insurance by our underwriter, we 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 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 in the order 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 p.a. and consider 75% of this amount (\$37,500 or \$3,125 per month) for 10 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 6% income and inflation is 3%, 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 disablement.
- Collating the abovementioned information, the required cover for life and TPD amounts to \$525,000. As you are already covered for \$130,000 with a superannuation account balance of \$80,000 (which would be paid out), an increase of \$315,000 is required for life and TPD cover.

Remuneration and conflicts of interest

If you act on this advice and the premium is \$X as per the quotation attached to this Statement of Advice, DEF Superannuation Fund will receive the amount of \$XX (including GST) with respect to the level of insurance.

Acting on this advice

I have enclosed an accompanying quote, Product Disclosure Statement (PDS) and application form which asks for medical information about you. 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.

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, AFSL 101010 is the Trustee and Licensee responsible for the DEF Superannuation Fund.

Example 4: Financial hardship query—Call centre conversation

Factual information

Operator	<p>Good morning. You've called the Well Prepared Super Fund.</p> <p>How can I help you?</p>
Kevin	<p>Hi, I'm a member of your super fund.</p> <p>I recently lost my job as an office equipment sales manager. I am looking for a new job, but I'm a bit worried about finding one because I'm 50.</p> <p>I really need the money though because I'm struggling to pay my mortgage off.</p> <p>One of my friends thought I might be able to access my super early to help me pay my mortgage. Can I do this?</p>
Operator	<p>Yes, it is possible for you to access your super early if you are able to make out a case of 'financial hardship'.</p> <p>To do that, you need to satisfy the trustee of our super fund that you have been receiving Commonwealth income support payments for a continuous period of 26 weeks. You can get a letter from Centrelink saying that.</p> <p>You also have to show that you can't meet your reasonable and immediate living expenses. So send us some copies of overdue council, telephone, energy and water bills.</p> <p>There is a limit on how much you can claim from your super fund in circumstances of financial hardship. You are allowed access to preserved money in your superannuation account only once in any 12-month period and up to a maximum of \$10,000. The minimum is \$1,000.</p> <p>If you need more than \$10,000 to pay off your mortgage arrears, you can apply to APRA, the prudential regulator, for their approval to release preserved benefits early to stop foreclosure of your mortgage. You need to tell them that is why you need the money.</p> <p>If you need more information about applying to APRA you can visit their website at www.apra.gov.au or phone them on 1300 131 060.</p>

In this example, Kevin has given the operator quite a lot of personal information. This does not mean that the operator must give Kevin personal financial advice. Advice is only given where the operator makes a recommendation or a statement of opinion that is intended to influence Kevin: see RG 200.57–RG 200.60 and RG 200.52.

The call centre operator does not need to be licensed in this example because no advice is being given: see RG 200.53.

All of this information is factual information. It is objectively ascertainable and there is no recommendation or statement of opinion that is intended to influence: see RG 200.51–RG 200.52.

Key terms

Term	Meaning in this document
advice	financial product advice
AFS licence	An Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence
authorised representative	A person authorised by the licensee, in accordance with s916A or 916B, to provide a financial service or services on behalf of the licensee Note: This is a definition contained in s761A.
[CO 09/210] (for example)	An ASIC class order (in this example, numbered 09/210)
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of the Corporations Act
dollar disclosure provisions	Provisions of the Corporations Act and regulations that require various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars unless ASIC grants relief: see s947B(2)(h), 947C(2)(i), 947D(2)(d), 1013D(1)(m), 1017D(5A) and regs 7.7.10A–7.7.11, 7.7.11B–7.7.13B, 7.9.15A–7.9.15C, 7.9.19A–7.9.19B, 7.9.20A–7.9.20B, 7.9.74A–7.9.75 and 7.9.75C–7.9.75D
factual information	Objectively ascertainable information whose truth or accuracy cannot be reasonably 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) Note: This is a definition contained in s763A: see also s763B–765A.
financial product advice	A recommendation or a statement of opinion, or a report of either of those things, that: <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision in relation to a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products; or • could reasonably be regarded as being intended to have such an influence, • but does not include anything in an exempt document Note: This is a definition contained in s766B.

Term	Meaning in this document
general advice	Financial product advice that is not personal advice Note: This is a definition contained in s766B(4).
PDS	Product Disclosure Statement
personal advice	Financial product advice given or directed to a person (including by electronic means) in circumstances where: <ul style="list-style-type: none"> the provider of the advice has considered one or more of the client's objectives, financial situation and needs; or a reasonable person might expect the provider of the advice to have considered one or more of those matters Note: This is a definition contained in s766B(3).
Product Disclosure Statement	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Pt 7.9
reg 7.1.29 (for example)	A regulation of the Corporations Regulations 2001 (in this example, numbered 7.1.29)
Regulations	Corporations Regulations 2001
relevant personal circumstances	Such of a person's objectives, financial situation or needs as would reasonably be considered to be relevant to the advice Note: This is a definition contained in s761A.
retail client	Has the meaning set out in s761G
RG 146 (for example)	An ASIC regulatory guide (in this example numbered 146)
s782 (for example)	A section of the Corporations Act (in this example numbered 782)
SOA	Statement of Advice
Statement of Advice	Statement of Advice required by s946A to be given in accordance with Subdivs C and D of Div 3 of Pt 7.7 Note: This is a definition contained in s910A.
super	superannuation
super fund trustee	trustee of a superannuation fund

Related information

Headnotes

super, superannuation, super fund, super fund members, super fund trustees, financial product advice, general advice, personal advice, factual information, existing interest in a fund, delivery methods and channels, call centres, email, internet

Class orders

[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 104 *Licensing: Meeting the general obligations*

RG 105 *Licensing: Organisational competence*

RG 126 *Compensation and insurance arrangements for AFS licensees*

RG 146 *Licensing: Training of financial product advisers*

RG 165 *Licensing: Internal and external dispute resolution*

RG 166 *Licensing: Financial requirements*

RG 167 *Licensing: Discretionary powers*

RG 170 *Prospective financial information*

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

RG 181 *Licensing: Managing conflicts of interest*

Legislation

Corporations Act 2001 Ch 7, Pt 7.10 Div 2, s911A(1), 945A, 946A, 949A(2), 949A(3), *Corporations Regulations 2001* regs 7.1.33A, 7.1.33H, 7.1.33H(1)(c), 7.7.13A, *Australian Securities and Investments Commission Act 2001*, *Superannuation Industry (Supervision) Act 1993* s52(2)(c)

Consultation papers and reports

CP 97 Simple advice on choices within an existing superannuation account
(Financial Services Working Group)

Media and other releases

Media Release 027 Simple superannuation advice a step closer (Treasury,
30 September 2008)

*Information Release (IR 05-62) ASIC announces simpler warnings for oral
general advice* (30 November 2005)