



**ASIC**  
Australian Securities &  
Investments Commission

## Attachment 2 to Information Sheet 266

### Example Record of Advice (ROA): No change advice

November 2021

The Australian Securities and Investments Commission (ASIC) has prepared an example Record of Advice (ROA) to help financial advisers when they are providing personal advice to retail clients in situations when an ROA can be used instead of a Statement of Advice (SOA).

We have annotated this example ROA to help advisers understand the relevant requirements under the *Corporations Act 2001* (Corporations Act) and the *Corporations Regulations 2001* (Corporations Regulations).

We also consulted the Financial Adviser Standards and Ethics Authority (FASEA) and we welcomed FASEA's confirmation that the example ROA is consistent with the advisers' obligations under the FASEA [Financial Planners and Advisers Code of Ethics](#) (Code of Ethics) (including Standard 6).

Note: Standard 6 of the Code of Ethics provides: 'You must take into account the broad effects arising from the client acting on your advice and actively consider the client's broader, long-term interests and likely circumstances.'

Where an annotation in the example ROA refers to a standard in the Code of Ethics, FASEA considers the related step to be essential for compliance with the standard.

For information about our guidance on ROAs, see [Information Sheet 266](#) FAQs: *Records of Advice (ROAs)* (INFO 266).

#### How to read the example ROA

The example ROA is just an example and confined to the particular facts in the scenario and the requirements under the Corporations Act. Australian financial services (AFS) licensees and their authorised representatives should consider their clients' relevant circumstances when preparing and tailoring their ROA appropriately for clients, as well as any other legal obligations.

The following terms are used in the annotations to the example ROA:

<b>reg 7.7.10 (for example)</b>	A regulation of the Corporations Regulations (in this example numbered 7.7.10)
<b>RG 175</b>	<a href="#">Regulatory Guide 175</a> <i>Licensing: Financial product advisers—Conduct and disclosure</i>
<b>s946B (for example)</b>	A section of the Corporations Act (in this example numbered 946B)
<b>Standard 6 (for example)</b>	A standard of the Code of Ethics (in this example numbered 6)

## Example scenario

### Background

The client, George Baker, is an existing client of Sarah Johnson of ABC Advice Pty Ltd (licence number 987654). Sarah Johnson is the 'providing entity'.

**Note:** A 'providing entity' is an AFS licensee, or an authorised representative of an AFS licensee, that provides personal advice to a retail client: see s944A of the Corporations Act.

George likes to contact Sarah when he needs advice. He pays a fee for the advice.

George and his late wife, Betty, first sought advice from Sarah 20 years ago, shortly before George retired. Sarah's past advice to George and Betty has covered the pre-retirement and retirement phases of their lives. Sarah has advised them on many aspects of their financial situation and needs, including on:

- superannuation contributions
- using George's superannuation to start a pension fund to pay regular income in retirement
- age pension payments
- how George's pension fund should be invested, and
- ensuring that when George dies his pension fund will pay any remaining balance in accordance with his wishes.

Over the years, George and Betty have experienced changes in their personal circumstances: they downsized their home and welcomed grandchildren; George had some health concerns (not life threatening) seven years ago that are now resolved; and, sadly, Betty passed away.

### Current situation

George is 84 years old and widowed. He is in good health for his age with no known concerns. George owns his home and would like to stay there for as long as possible.

George receives income from an account-based pension, the age pension, and interest income from his cash savings. George's annual income is approximately \$38,700 and this meets his needs in retirement.

George's account-based pension balance is \$310,000 and is held on the XYZ Pension Fund platform. George's pension is invested across six managed funds and a cash account, with a resultant asset allocation consistent with his Conservative investor risk profile.

### Advice service and documents

Sarah's most recent SOA to George was dated 12 February 2018, which was shortly after Betty passed away. This was a significant change in George's circumstances and George contacted Sarah to get advice on his financial situation and needs as a widower.

In the February 2018 SOA, Sarah provided advice about George's pension fund and estate planning. Sarah recommended George retain his existing XYZ Pension Fund platform and investments, and update the nominated beneficiaries for his XYZ Pension Fund. She also referred him to a specialist to implement new estate planning arrangements. Sarah's fees for the advice were apportioned and paid from a combination of George's cash savings and, to the extent that the advice was connected to superannuation, from George's pension fund.

Sarah referred George to a lawyer to put in place a new Will and an Enduring Power of Attorney.

George is close to his son, Robert. Robert has attended meetings with George and Sarah. Together they have discussed George's finances, medical needs and wishes if his health deteriorates, including aged care options (including how these could be funded) if required. To date, George has managed well living by himself and wants to live in his home for as long as possible. Currently, this does not appear to present any issues because George has the help of Robert and Robert's wife. George is also able to pay for additional support around the home if needed.

George and Robert know they can contact Sarah if they need to.

### **Commentary about this advice**

George recently received his end-of-financial-year pension statement and saw that his XYZ Pension Fund had performed well. George was surprised by this as he had been concerned that there may have been a downturn in markets during the COVID-19 pandemic. He contacted Sarah to ensure he understood the situation and its impact on his pension investments. George always values Sarah's advice.

At their meeting, Sarah confirmed with George his current relevant circumstances. Sarah is satisfied that George's relevant circumstances are not significantly different from those set out in his February 2018 SOA. George's income meets his needs, he has no upcoming capital expenditure and his health situation has not changed.

George and Sarah discussed George's risk profile as a Conservative investor, an approach he has taken since retirement based on Sarah's advice. As George's pension fund has been invested for several years, he has some experience with market volatility, including during the global financial crisis, and has been watching closely the market volatility throughout the COVID-19 pandemic.

Sarah didn't ask George a series of questions about risk and return, but they did discuss what happened in the markets relevant to George's pension fund investments, George's tolerance for the risk of capital loss, longevity risk, market risk and inflation risk. Sarah confirms George understands and remains comfortable with this approach. These discussions were adequately recorded on George's client file and they confirmed to Sarah that George remains a Conservative investor.

Sarah explained to George that his annual pension fund payments will be \$21,700 until June 2022. She also confirmed that he has enough money in the 'cash account' to meet his annual pension fund payments and to pay Sarah's advice fee. This is because the XYZ Pension Fund cash account is regularly topped up with the income earned on the managed fund investments in George's pension.

Sarah's advice to George is to make no changes: that is, George should keep his XYZ Pension Fund platform and the existing managed funds within it. Sarah considers her advice is in George's best interests and appropriate. This is because George's pension investments (managed funds and cash) align with his Conservative investor risk profile, and his existing XYZ Pension Fund platform and underlying managed funds are competitive on fees and long-term performance.

Sarah's recommendation to George is informed by her research into his XYZ Pension Fund platform and underlying investments, and her comparison of their fees and performance to similar funds and investments in the market.

Sarah is not required to give George an SOA for her advice because she satisfies the conditions of the 'further advice' situation in s946B(2) and she can keep a record of the advice: see reg 7.7.10AE.

While Sarah is not required to give George a copy of the ROA, she knows George likes to read his advice documents, to take time to digest the information and to discuss the information with Robert. Sarah gives George a copy to help ensure that he understands her advice when they next speak.

**When would Sarah need to give George an SOA?**

One example of when Sarah would need to give George an SOA is if George suffers a fall and Robert seeks advice from Sarah on using George's assets to fund aged care arrangements for George. An SOA would be needed because there would have been a significant change in George's relevant circumstances and the basis of the advice would be significantly different from the basis of the previous advice provided to George in the 2018 SOA.

## Record of Advice

**Client name:** George Baker  
**Date of advice:** 30 August 2021  
**Prepared by:** Sarah Johnson, authorised representative 112211  
**Licensee:** ABC Advice Pty Ltd, licence number 987654

### About this document

This Record of Advice (ROA) sets out my advice to you after our discussions about your financial circumstances.

This ROA contains further advice to the advice you received in the Statement of Advice (SOA) dated **12 February 2018**. The SOA sets out your relevant circumstances at that time.

### Your current situation

George, your current situation is as follows:

- Your current XYZ Pension balance is \$310,000. The funds are conservatively invested in accordance with your risk profile.
- Your current annual income of approximately \$38,700 meets your living expenses. Your income is made up of your annual age pension payment of \$17,000 and your annual XYZ Pension payment of \$21,700. You also receive a small amount of annual bank interest on your cash savings.
- You have no foreseeable capital expenditure needs now or in the near future.
- There have been no changes to your relevant circumstances since our last meeting.
- You recently received your end-of-financial-year pension statement and wish to discuss the performance of your XYZ Pension Fund and managed funds.

### My advice to you

My advice is to make no changes to your existing pension and underlying investments. The reasons for my advice are:

- Your XYZ Pension investments (managed funds and cash) align with your Conservative investor risk profile. We discussed your tolerance to risk and I consider that you remain a Conservative investor. You are also comfortable with this profile.
- I have reviewed your existing XYZ Pension account and managed funds. They remain competitive on fees and have performed well over the longer term. As you have noted, short-term performance of your XYZ Pension Fund and managed funds has also been favourable.

**TIP:** Authorised representative and AFS licensee details can be displayed in different ways.

The providing entity must have previously given the client an SOA (the previous advice) that sets out the client's relevant circumstances in relation to the previous advice: s946B(2)(a) inserted by reg 7.7.10AE.

The providing entity should be satisfied that the basis on which the further advice is given is not significantly different from the basis on which the previous advice was given: s946B(2)(c) inserted by reg 7.7.10AE.

**TIP:** Keep adequate records on the client's file of your conversations with the client: see RG 175.427–RG 175.432.

AFS licensees and authorised representatives must keep records of the personal advice given to clients: s912G. See RG 175.218–RG 175.223, RG 175.427–RG 175.432 and Standard 8.

**TIP:** You can choose to summarise the client's relevant circumstances, or clearly state that the previous SOA sets out the client's relevant circumstances: see RG 175.182(b).

**TIP:** These are the changes that have occurred since the previous advice was provided.

The providing entity should be satisfied that the client's relevant circumstances are not significantly different from those in the previous advice: s946B(2)(b) inserted by reg 7.7.10AE.

The ROA must include either the advice given to the client or brief particulars of the recommendations and the basis of the recommendations: reg 7.7.09(1).

**TIP:** Keep adequate records on the client's file of your investigation into financial products: see RG 175.427.

A reasonable investigation conducted under s961B(2)(e) does not require an investigation into every product available: s961D. See RG 175.335.

**TIP:** When considering using templates and preparing ROAs, you should consider presenting the information in a way that is easy for the client to digest and understand.

A client may request a copy of the ROA: regs 7.7.05 and 7.7.08.

**TIP:** You should give the client a copy as soon as practicable after receiving a client's request.

**TIP:** Superannuation trustees can deduct advice fees (other than fees for intra-fund advice) from a member's superannuation account only if they have the member's written consent, or a copy of it, and the consent meets requirements set out in [ASIC Instrument 2021/124](#) for ongoing fee arrangements, and [ASIC Instrument 2021/126](#) for non-ongoing fee arrangements: see our [example consent forms](#).

**TIP:** You should take steps to be satisfied that the client understands the advice. Advice providers must have reasonable grounds to be satisfied see Standard 5. Good record keeping is one way to demonstrate how the advice provider has satisfied themselves that the client understands the advice.

### My advice to you (cont.)

- The annual withdrawal of \$21,700 from your XYZ Pension account meets your income needs combined with your annual age pension payments and bank interest on your cash savings.
- You have sufficient funds in the cash account of your XYZ Pension to meet annual drawdowns and this is regularly topped up using income from your managed investments.

### Things you need to know

- Your pension payments are tax free as you are over 60 years of age, and you have not submitted a tax return for several years now.
- Your Pension has rules about the minimum and maximum amount that must be withdrawn annually as a pension payment. Your current annual drawdown amount of \$21,700 meets the rules.
- It's important that your asset and income values recorded with Centrelink remain up to date, as your age pension payment is calculated on these amounts.

### Advice fees and conflicts of interest

I do not receive any fees or have any conflicts of interest that may influence my advice.

The cost of this advice (including implementation of the advice) is \$[X], including GST you pay to me, which is to be deducted from your XYZ Pension Account.

### Next steps

Please read this document and if you have any questions please contact me.

Please sign the attached written consent form and return it to me. This form allows for my one-off advice fee to be deducted from your XYZ Pension Account. Your superannuation fund will usually deduct this fee within [X] days of obtaining your consent.

**TIP:** When conducting a reasonable investigation, you should consider and investigate any existing product, and any other products that may be suitable for the client. Investigations are scalable – that is, the extent of your inquiries will depend on whether your advice is simple or involves complex financial products or strategies: see RG 175.340–RG 175.348.

Further advice ROAs may be kept in any form (e.g. audio or video recording) or in writing: reg 7.7.09(2). You must keep the ROA for seven years after the further advice is provided: reg 7.7.09(3).

When giving further advice, the providing entity must disclose any actual or potential conflicts of interest, commissions and remuneration that might influence the providing entity in giving the advice and, if applicable, any replacement financial product disclosures: s946B(3) inserted by reg 7.7.10AE. See Standard 3.

**TIP:** You should ensure your fees and charges are fair and reasonable and represent value for money for your client: see Standard 7. Factors to consider may include the client's relevant circumstances, how much they are willing to pay for the advice and whether this is reasonable, their desire to minimise fees and costs and whether the level of services meets their needs: see RG 175.301(d), RG 175.319(c) and RG 175.413(c).