



ASIC
Australian Securities &
Investments Commission

Review of SMSF establishment advice

Report 824 | November 2025

About this report

This report provides insights from ASIC's review of the quality of personal advice provided by financial advisers to retail clients about establishing a self-managed superannuation fund (SMSF).

Financial advisers and advice licensees should use the findings, examples, action points and risk indicators in this report to improve the quality of their SMSF establishment advice, identify circumstances where an SMSF should not be recommended and detect misconduct.

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About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents: consultation papers, regulatory guides, information sheets and reports.

Disclaimer

This report 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 report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

In a healthy self-managed superannuation fund (SMSF) sector...

Financial advisers and advice licensees support better retirement outcomes



Do use professional judgement

Financial advisers use their professional judgement to assess whether an SMSF is suitable for their client.



Do consider SMSF suitability

Financial advisers consider the SMSF suitability factors and other SMSF considerations outlined in INFO 274 when determining if an SMSF is suitable for their client.



Do consider clients' insurance needs

Financial advisers consider a client's need for suitable and affordable insurance, including when the SMSF is expected to borrow money to invest.



Do have effective monitoring and supervision

Advice licensees take a risk-based approach and conduct detailed assessments of financial adviser compliance, including considering SMSF suitability.



Do have robust conflicts of interest policies and procedures

Advice licensees clearly set out how conflicts of interests are to be managed and have monitoring arrangements in place to ensure non-compliance is identified and appropriately acted on.



Don't mis-sell SMSFs on the basis of 'control'

Financial advisers don't recommend an SMSF without exploring the notion of control and considering other superannuation vehicles that may offer the desired type of control without the additional responsibilities, and in some cases additional costs, of an SMSF.



Don't act as an 'order-taker'

Financial advisers don't act as 'order-takers' and don't recommend an SMSF if the SMSF and/or its proposed investments are likely to expose the client to unnecessary and inappropriate risks.



Don't prioritise own interests over clients' interests

Financial advisers and advice licensees don't undertake a deliberate course of conduct to enrich themselves at a client's expense when recommending an SMSF.

Financial advisers only recommend that clients establish an SMSF when it's suitable for them

Clients recommended to establish an SMSF

are **expected to benefit** from running an SMSF.

have the **time, skills, general interest and experience** to meet their trustee responsibilities.

understand their SMSF trustee responsibilities and the **benefits, risks and costs** of an SMSF.

Executive summary

The growing SMSF sector

The SMSF sector has grown to around **\$1 trillion** today, representing close to **25%** of the total Australian superannuation system. Over the last 14 years, the number of SMSFs has grown at approximately double the rate of the Australian population.

While the growth of the overall SMSF market is not in itself a concern, poor advice or ill-informed decisions to establish an SMSF can have a significant detrimental impact on the lifestyle and retirement outcomes of Australians. That is why we want to ensure that those establishing an SMSF after seeing a financial adviser have received the right advice.

The considerable increase in both the number and value of SMSFs reflects Australians' growing interest in managing their own retirement savings. As this asset pool continues to grow, so does its attractiveness for both legitimate financial advisers and for those whose intentions may not serve the interests of their clients.

Note: For more information, see 'The growing SMSF sector' on page 10.

SMSFs are not suitable for everyone

While the potential for greater control and flexibility can be appealing, SMSFs are not suitable for everyone and are not a set-and-forget arrangement.

SMSFs require a comprehensive understanding and acceptance of trustee responsibilities and ongoing fund management, which may be more responsibility and work than clients realise or are willing to take on. Further, the movement of money out of a superannuation fund regulated by the Australian Prudential Regulation Authority (APRA) and into an SMSF means that fund members lose protections, such as the ability to take a complaint about the fund or its trustees to the Australian Financial Complaints Authority (AFCA) and the benefits of prudential regulation. These factors, coupled with the increasing demand for SMSFs, means the standard of personal advice about establishing an SMSF (SMSF establishment advice) needs to be high.

Inappropriate SMSF establishment advice poses risks for clients and for confidence in the superannuation system. There is a significant amount of money in our superannuation system that bad actors are trying to exploit, on an industrial scale.

We have seen a range of misconduct relating to SMSFs over recent years and taken action against a number of financial advisers, advice licensees, SMSF auditors and unlicensed operators. We have taken, and are continuing to take, action against individuals and entities from various sectors that have been involved in facilitating clients to roll over their retirement savings into SMSFs to access high-risk and harmful investments.

Note: For more information, see 'Summary of recent ASIC actions' in Appendix 1: Other ASIC activity relating to SMSFs.

Our review of SMSF establishment advice

We have reviewed the quality of personal advice provided by financial advisers (also known as relevant providers) to retail clients about establishing an SMSF. This included examining the role of the Australian financial services (AFS) licensees that authorised the financial advisers who provided the advice (advice licensees).

We used risk indicators to select a sample of **100 SMSF establishment advice files** for our review. The sample was not selected with the intention of being random or representative of the financial advice sector.

We identified instances of financial advisers recommending retail clients establish an SMSF when an SMSF was not suitable and was likely to be detrimental to their lifestyle and retirement outcomes. The conduct of financial advisers and their licensees that has led to this advice is unacceptable.

We have set out the detailed results of our review in this report. We are considering a range of regulatory responses, including enforcement action, where we have significant concerns about client detriment in relation to SMSF establishment advice.

Purpose of our review

The purpose of our review was to understand why some retail clients are advised to establish an SMSF even though an SMSF is not suitable or beneficial for them and may adversely affect their retirement outcomes.

Focus of our review

We reviewed the advice files of **100 retail clients** who had each recently received personal advice to establish an SMSF or make an initial rollover to an SMSF (client files) and assessed whether financial advisers had complied with the law when providing that advice (advice review).

We also reviewed policies, procedures and other guidance documents from **12 advice licensees** to examine the role of the advice licensees in their financial advisers' provision of SMSF establishment advice (advice licensee review).

High-level findings from ASIC's review

We identified concerns about the quality of some SMSF establishment advice provided to retail clients and a lack of oversight by advice licensees who are responsible for their conduct. This included identifying potentially harmful conduct from a small subset of financial advisers.

We also identified some examples of good-quality SMSF establishment advice.

Examples of each are set out in this report.

Advice review

Of the **100 client files** we reviewed:

- › in **38** files, the financial adviser demonstrated compliance with the best interests duty and related obligations, and
- › in **62** files, the financial adviser failed to demonstrate compliance with the best interests duty and related obligations. We have significant concerns about client detriment in relation to the SMSF establishment advice in **27** of these files. These client files related to a small subset of financial advisers.

The key issues identified included:

- › not basing all judgements on clients' relevant circumstances, including inappropriately using the notion of control to justify recommending SMSFs without exploring what control meant to the clients
- › financial advisers acting as order-takers and not conducting a reasonable investigation and assessment of financial products, and
- › not giving priority to the interests of clients where there were conflicts of interest, including in relation to advice to establish an SMSF to acquire off-the-plan properties through limited recourse borrowing arrangements.

Note: For more information, see 'Advice review: Detailed findings' on page 14.

Advice licensee review

Our review of advice licensees' written policies and procedures identified that:

- › the financial advisers of advice licensees whose policies and procedures covered the SMSF suitability factors and additional SMSF considerations from ASIC's Information Sheet 274 *Tips for giving self-managed superannuation fund advice* ([INFO 274](#)), tended to demonstrate higher levels of advice compliance and their advice raised fewer concerns about client detriment.
- › pre-vetting, which involves reviewing the advice and related client file records before the advice was provided to the client, was often ineffective. Of the **47 client files** that contained records of pre-vetting the SMSF establishment advice, in **33** instances we were concerned that the financial adviser failed to comply with the best interests duty and related obligations. This included **13** files that also led to significant concerns about client detriment in relation to the advice, and
- › all **12 advice licensees** had policies and procedures in place to manage conflicts of interest. However, we are concerned about their effectiveness. We had significant concerns about client detriment in **27 client files**, and in **24** of those files we also identified that the financial adviser failed to prioritise the interests of the client above their own interests or that of their licensee or an associate.

Note: For more information, see 'Advice licensee review: Detailed findings' on page 25.

Key takeaways

- › SMSFs are suitable for some but not all clients. They may be suitable for clients with varying ages, SMSF starting balances, and proposed SMSF investments.
- › The quality of SMSF establishment advice is dependent on financial advisers knowing their client, understanding the benefits of an SMSF for their client, and exercising their professional judgement to ensure that an SMSF is suitable and does not subject their client to inappropriate and unnecessary risks.
- › Advice licensees are responsible for the advice provided by their financial advisers. They must take reasonable steps to ensure their financial advisers comply with financial services laws. It is crucial that advice licensees develop and implement rigorous policies and procedures to ensure that their financial advisers comply with their obligations. However, these alone will not ensure compliance and SMSF suitability. Advice licensees should effectively test compliance to ensure that their financial advisers are meeting their obligations and only recommending an SMSF when one is suitable for the client.
- › There is no single risk indicator for always detecting financial adviser misconduct or identifying that an SMSF is not suitable for a client. We encourage advice licensees to use a combination that of risk indicators to help identify higher risk financial advisers or corporate authorised representatives that may warrant increased levels of monitoring and supervision.

Note: For more information on risk indicators, see 'Risk indicators for SMSF establishment advice' on page 31.

Next steps

We are considering a range of regulatory responses. This includes enforcement action where we have significant concerns about client detriment in relation to SMSF establishment advice. We will also request that advice licensees review that advice and, where required, remediate the affected clients.

Financial advisers and advice licensees should use the findings, examples, action points and risk indicators in this report to improve the quality of their SMSF establishment advice, identify circumstances where an SMSF should not be recommended and detect misconduct.

Action points

Table 1 and Table 2 collect the key action points found throughout this report. We encourage financial advisers and advice licensees to follow these when providing SMSF establishment advice to retail clients.

Table 1: Action points for financial advisers

Action point	Description
Do not mis-sell SMSFs on the basis of control	Advisers must not mis-sell an SMSF on the basis of control. 'Control' can mean different things in the context of investing for retirement. Where clients have sought and/or are recommended to establish an SMSF on the basis of having greater control, financial advisers should explore what the notion of control means for the client. There are other superannuation vehicles that may offer the desired level of control without the client also taking on the additional responsibilities, and in some cases additional costs, of an SMSF.
Consider the suitability of an SMSF for the client	As set out in INFO 274 , when determining the suitability of an SMSF, financial advisers should consider: - whether the client understands and accepts that, although they may outsource their SMSF responsibilities to professional advisers, they are personally responsible for ensuring compliance with superannuation, corporations and taxation laws - whether the client has the time, skills, general interest and experience to meet their trustee responsibilities - the cost-effectiveness of an SMSF, considering the client's existing arrangements and relevant circumstances, and - other arrangements that may still provide some of the benefits of an SMSF.
Do not recommend an SMSF if it will expose the client to unnecessary and inappropriate risks	Financial advisers should not act as order-takers. Before recommending clients rollover their retirement savings to an SMSF, financial advisers are expected to investigate and assess the SMSF and how it might meet the objectives and needs of the client, including in circumstances where the client has requested advice to establish an SMSF. Do not recommend an SMSF to a client if the SMSF and/or its proposed investments are likely to expose the client to unnecessary and inappropriate risks.
Prioritise the client's interests over those of the financial adviser, advice licensee and associates	Financial advisers must prioritise the interests of the client over their own interests and the interests of their advice licensee and associates. In addition to considering SMSF trustee suitability, financial advisers should consider the benefits, risks and costs of an SMSF for the client in the context of their relevant circumstances. Financial advisers must not undertake a course of conduct to enrich themselves at a client's expense.
Consider the client's need for suitable and affordable insurance	Financial advisers must consider the client's need for suitable and affordable insurance. Establishing an SMSF that will invest in direct property through a limited recourse borrowing arrangement (LRBA) will involve a relatively illiquid investment and new debt. This is likely to introduce new life insurance needs that financial advisers must consider.
Include the basis of the advice	Financial advisers must ensure that their advice includes the basis on which their advice was given. They should explain why a recommendation to establish an SMSF is appropriate for the client, based on their relevant circumstances.

Action point	Description
Use professional judgement	SMSFs are suitable for some but not all clients, and may be suitable for clients with varying ages, SMSF starting balances and proposed SMSF investments. As referred to in INFO 274 , financial advisers need to use their professional judgement to assess whether an SMSF is suitable for their client. This should include considering the client's relevant circumstances and explaining the implications of a recommendation to establish an SMSF.
Keep good records	Financial advisers should keep good records of how they have complied with their obligations when providing advice to establish an SMSF. These records should include details of the factors the financial adviser considered in exercising their professional judgement.

Table 2: Action points for advice licensees

Action point	Description
Include SMSF suitability factors and additional SMSF considerations within policies and procedures	INFO 274 provides a list of SMSF suitability factors and additional SMSF considerations. Advice licensees should cover these areas within their SMSF advice-related policies and procedures to help ensure that their financial advisers: › comply with the best interests duty and related obligations when providing SMSF establishment advice, and › only recommend clients establish an SMSF when an SMSF is suitable for them.
Keep good records	Advice licensees must ensure that records are kept of the advice and how their financial advisers have complied with the best interests duty and related obligations.
Ensure monitoring and supervision activities are effective	To be effective, pre-vetting processes should involve a detailed assessment of the financial adviser's compliance with the best interests duty and related obligations, including a comprehensive check of the suitability of an SMSF for the client. Taking a risk-based approach to selecting instances of advice and client files for pre-vetting will increase the likelihood of identifying potentially non-compliant advice and adviser conduct.
Have robust and effective policies and procedures for managing conflicts of interest	Advice licensees must have in place adequate arrangements to manage conflicts of interest that may arise when providing financial product advice. Internal policies and procedures for preventing and addressing potential conflicts of interest must be robust and effective. Advice licensees should ensure that they have policies and procedures for managing conflicts of interest. They should also have monitoring arrangements in place to ensure that any non-compliance is identified and appropriately acted on. Advice licensees must take reasonable steps to ensure that when recommending an SMSF, their financial advisers prioritise the interests of the client over their own interests and the interests of their advice licensee and associates. Additionally, Statements of Advice (SOAs) must include information about conflicts of interest that might reasonably be expected to influence, or have been capable of influencing, the financial adviser in providing the advice. Advice licensees should also be alert to business models that lead to a one-size-fits-all outcome. That is, where the advice process does not result in advice that reflects the client's relevant circumstances and often leads to a pre-determined recommendation.

The growing SMSF sector

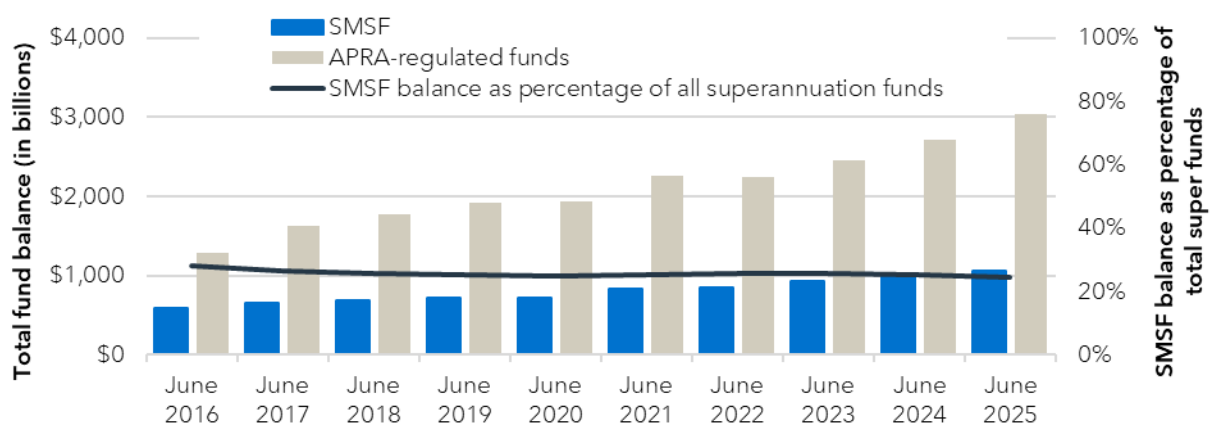
As at June 2025, Australia's superannuation system had approximately **\$4.3 trillion of assets**: see APRA's *Quarterly Superannuation Performance* publication ([APRA June 2025 quarterly statistics](#)). Of this **\$4.3 trillion** in assets, approximately **\$3 trillion** were held in APRA-regulated superannuation funds and **\$1 trillion** were held in SMSFs.

Since the introduction of SMSFs in 1999, they have grown to become a significant segment of the superannuation sector. As at June 2025, the Australian Taxation Office (ATO) estimated that there were **653,000 SMSFs** with **1.2 million members**. Of this total, **85%** of SMSF members were **45 years or older** and members were **53% male** and **47% female**: see the ATO's *SMSF quarterly statistical report* for June 2025 ([ATO SMSF quarterly statistical report June 2025](#)).

Note: This data is correct at the time of publication. APRA or the ATO may revise these numbers after the publication of this report.

Figure 1 shows the growth of SMSF assets and APRA-regulated superannuation fund assets over the last **10 years**. SMSF assets grew from **\$570 billion** in 2016 to **\$1.05 trillion** in 2025, while APRA-regulated superannuation fund assets grew from **\$1.29 trillion** to **\$3.04 trillion** in the same period. SMSF assets as a proportion of the combined SMSF and APRA-regulated superannuation fund assets have fallen slightly from around **31%** to **26%** over that time.

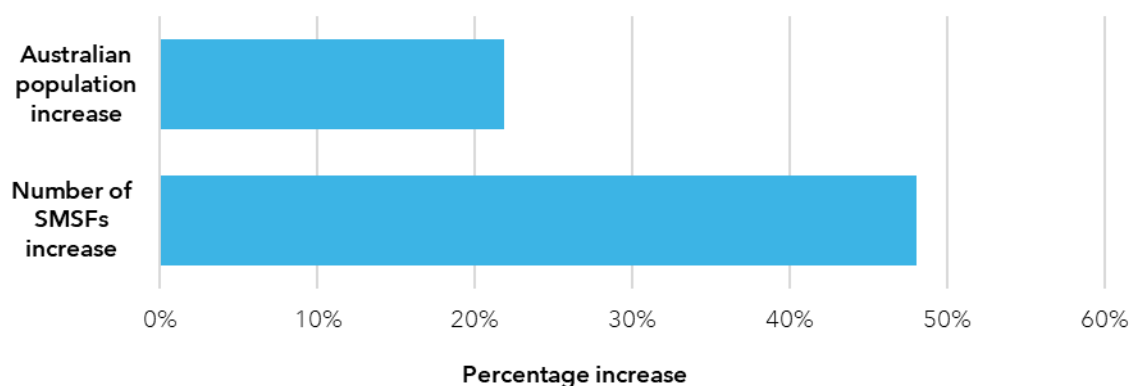
Figure 1: SMSF assets vs. APRA-regulated superannuation fund assets (for the last 10 years)



Note: For the trends in this figure, see the paragraph above (accessible version).

Figure 2 shows that, over the **14 years** to December 2024, the percentage increase in the number of SMSFs (**48%**) was more than double the percentage increase of the Australian population (**22%**), highlighting their growing popularity.

Figure 2: Change in the number of SMSFs vs. the change in the Australian population (14 years to December 2024)



Note: For the trends in this figure, see the paragraph above (accessible version).

SMSF features and responsibilities

SMSFs are commonly desired or promoted based on potential benefits they offer members compared to larger APRA-regulated superannuation funds. These may include:

- › more control over retirement savings, both in how the money is invested and how the money moves in and out of the fund
- › the ability to invest in a broader range of assets, including direct property investment
- › the ability to borrow to invest (in limited circumstances)
- › the potential to pool money with other members for cost effectiveness and flexibility, and
- › a single vehicle for lifelong saving and drawdown in retirement.

The degree to which these potential benefits are actually available to a client, or greater than can be achieved through an APRA-regulated fund, will depend on the client's individual circumstances. In addition, SMSFs are privately operated by the fund members, who are also trustees, and require higher levels of care and responsibility. SMSF trustees need to be prepared and competent to fulfil their trustee responsibilities. These responsibilities include ensuring that they:

- › comply with superannuation and taxation laws that place strict boundaries around what the fund may invest in and how the money may flow in and out of the fund
- › make prudent decisions about how the money is invested
- › make decisions together and manage the needs of different members in the fund (where an SMSF has more than one member)
- › manage the negative effects from a relationship breakdown between members, or if a member dies or becomes ill
- › consider the insurance needs of the members, and
- › protect the money against theft or fraud.

ASIC's focus on SMSFs

Unlike larger superannuation funds, SMSFs are regulated by the ATO, not APRA.

ASIC's role regarding SMSFs is to regulate financial advisers, advice licensees, SMSF auditors and those who offer financial products and financial services to SMSF trustees. Financial advisers and their advice licensees play a critical role in ensuring that only clients for whom an SMSF is suitable are recommended to establish an SMSF.

One of ASIC's strategic priorities is to support better retirement outcomes for Australians planning for and in retirement.

One of ASIC's enforcement priorities is to detect, investigate and prosecute unlawful misconduct exploiting superannuation savings. This continues ASIC's strong focus on misconduct in the superannuation sector, which has included acting against misconduct resulting in the systemic erosion of superannuation balances and member services failures in the superannuation sector.

We consider that SMSFs are suitable for some, but not all, clients. In our regulatory work we have seen recent examples of inappropriate and conflicted SMSF advice leading to considerable consumer harm.

We have taken action to address:

- › misleading or deceptive advertising in relation to SMSFs
- › poor-quality financial advice in the SMSF sector
- › breaches of the conflicted remuneration provisions in relation to advice about SMSFs
- › unlicensed activity in the SMSF sector
- › misappropriation of SMSF funds, and
- › breaches of professional obligations by SMSF auditors, including independence requirements.

See 'Summary of recent ASIC actions' in Appendix 1: Other ASIC activity relating to SMSFs.

Inappropriate SMSF establishment advice poses risks for clients and for confidence in the superannuation system. There is a significant amount of money in our superannuation system that bad actors are trying to exploit, on an industrial scale. This includes superannuation benefits held in or rolled over into SMSFs, which may be targeted. We have and are continuing to take action against individuals and entities that have induced clients to roll over their retirement savings into SMSFs to access high-risk and harmful investment opportunities.

ASIC's tips for giving SMSF advice – INFO 274

In December 2022, we replaced Information Sheet 205 *Advice on self-managed superannuation funds: Disclosure of risks* and Information Sheet 206 *Advice on self-managed superannuation funds: Disclosure of costs* with [INFO 274](#).

[INFO 274](#) provides tips to help financial advisers comply with their legal obligations when giving advice about SMSFs, including a range of factors to consider when advising a client to move their retirement savings from an APRA-regulated superannuation fund into an SMSF.

SMSF suitability factors

[INFO 274](#) emphasises the use of professional judgement to assess whether an SMSF is suitable for the client and provides several examples of factors to consider, including whether:

- › the client understands and accepts that, although they may outsource their SMSF responsibilities to professional advisers, the client (as the SMSF trustee) is responsible for ensuring compliance with superannuation, corporations and taxation laws
- › the client has the time, skills, general interest and experience to meet their trustee responsibilities
- › the client may be experiencing any relevant vulnerabilities (e.g. cognitive impairment, accessibility constraints, or coercion/elder abuse)
- › it is cost-effective to establish an SMSF, considering the client's existing arrangements and relevant circumstances
- › the client has any future plans to move overseas, as this decision may affect the fund and its ability to meet the residency rules, and
- › there are alternative arrangements that may still provide some of the benefits of an SMSF, such as a member-directed investment facility within an APRA-regulated superannuation fund.

While these factors are not an exhaustive list, they aim to help financial advisers comply with their legal obligations when giving SMSF advice. In this report, they are referred to as 'SMSF suitability factors'.

Additional SMSF considerations

[INFO 274](#) also sets out several additional considerations financial advisers should take into account when making a recommendation to establish an SMSF, including the:

- › risks of an SMSF compared to an APRA-regulated superannuation fund
- › costs of setting up an SMSF and the starting balance of the fund
- › SMSF's trustee structure
- › SMSF's investment strategy
- › client's insurance arrangements
- › need for ongoing financial advice, and
- › exit strategy.

While these additional considerations are not an exhaustive list, they aim to help financial advisers comply with their legal obligations when giving SMSF advice. In this report, they are referred to as 'additional SMSF considerations'.

Advice review: Detailed findings

From the **100 client files** reviewed, for **38** files the financial adviser demonstrated compliance with the best interests duty and related obligations.

For **62** files, the financial adviser did not demonstrate compliance with the best interests duty and related obligations. We have significant concerns about client detriment in relation to the SMSF establishment advice in **27** of these files. These client files related to a small subset of financial advisers.

The key issues identified included:

- › not basing all judgements on clients' relevant circumstances, including inappropriately using the notion of control to justify recommending SMSFs without exploring what control meant to the clients
- › financial advisers acting as order-takers and not conducting a reasonable investigation and assessment of financial products, and
- › not giving priority to the interests of clients where there were conflicts of interest, including in relation to advice to establish an SMSF to acquire off-the-plan properties through LRBA's.

The role of financial advisers

Financial advisers play a crucial role in assisting clients to make a good decision about whether to establish an SMSF. Their professional judgement and advice can be invaluable for clients considering the suitability of an SMSF, including understanding the additional responsibilities, risks and benefits of moving their retirement savings into an SMSF.

A decision to establish an SMSF can have a significant impact on a client's wellbeing and lifestyle, both before and during retirement. SMSF trustees take on additional decision-making and compliance responsibilities, as well as different upfront and ongoing costs. The continuing support of a financial adviser may be necessary for a client to manage the additional complexities of operating an SMSF.

Review methodology

Advice licensee, financial adviser and client file selection

We used a selection methodology that included using risk indicators to identify the **12 advice licensees** and **27 financial advisers** to be included in our review.

The selection methodology considered information relating to reports of misconduct provided to ASIC, internal and external dispute resolution data, and publicly available information from internet searches. We also obtained data from a range of external sources to consider SMSF member demographics, SMSF assets and liabilities, and the volume of SMSFs being established through advice licensees and financial advisers.

Our selection methodology covered a range of advice licensee sizes and business models. We also reviewed multiple advice files from financial advisers and advice licensees in our sample to detect patterns of misconduct.

The sample was not selected with the intention of being random or representative of the financial advice sector.

Conducting the advice review

We assessed whether financial advisers demonstrated compliance with the law when providing SMSF establishment advice and, if not, whether the advice provided raised significant concerns about client detriment.

We obtained and reviewed **100 client files**. Each file contained records of personal financial product advice to a retail client to establish an SMSF or make an initial rollover to an SMSF (SMSF establishment advice) between 1 May 2023 and 30 April 2024.

The files were assessed for compliance with the best interests duty and related obligations set out in Div 2 of Pt 7.7A of the Corporations Act. When providing personal advice to retail clients, these provisions require advice providers to:

- › act in the best interest of their clients (see s961B)
- › provide appropriate advice (see s961G), and
- › prioritise the client's interests (see s961J).

Where switching advice was provided, ASIC also assessed compliance with the additional disclosure requirements in s947D.

For files we were concerned did not demonstrate compliance, we also recorded whether there were significant concerns about client detriment in relation to the SMSF establishment advice.

All reviews were focused on the SMSF establishment advice document and other documents relevant to demonstrating whether the financial adviser had met their obligations.

Any prior or subsequent SOAs or records of advice (ROAs) were not separately assessed. However, where relevant, they were considered to help inform the assessment of the financial adviser's compliance in relation to the SMSF establishment advice.

Isolating assessments of SMSF establishment advice

SMSF establishment advice documents often contained advice about other topics, such as non-superannuation investment advice or life insurance outside of superannuation. Where this was the case, the assessment of SMSF establishment advice was isolated from some other financial product advice.

Where advice on other topics was sufficiently linked to the SMSF establishment advice, the advice on other topics was assessed as part of the SMSF establishment advice. For example, where an SMSF establishment advice document contained a recommendation to:

- › replace an existing superannuation account
- › replace existing life insurance cover with new cover to be held by the SMSF, or
- › acquire certain investments in the SMSF.

Snapshot of all 100 client files

Out of 100 SMSF establishment advice files

100 files involved a corporate SMSF trustee structure



57 files involved a direct property purchase



50 files involved a limited recourse borrowing arrangement

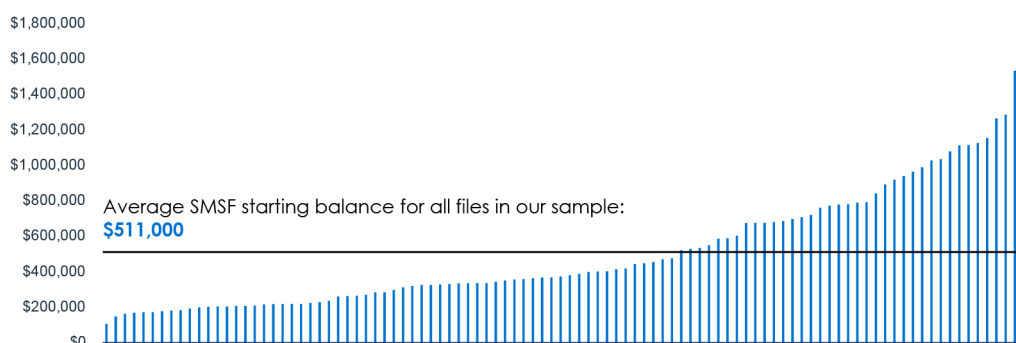


Single member funds
Average age 54



Two member funds
Average age 49

SMSF starting balances in our sample



Overview of non-compliant SMSF establishment advice

The main reasons why financial advisers were assessed as not complying with the best interests duty included the financial adviser not:

- › basing all judgements in advising the client on the client's relevant circumstances (**58 files**)
- › conducting a reasonable investigation and assessment of financial products (**53 files**)
- › exercising their judgement to identify the client's objectives, financial situation and needs relevant to the subject matter of the advice (**50 files**), and
- › making reasonable inquiries to obtain complete and accurate information where it was reasonably apparent that information relating to the client's relevant circumstances was incomplete or inaccurate (**48 files**).

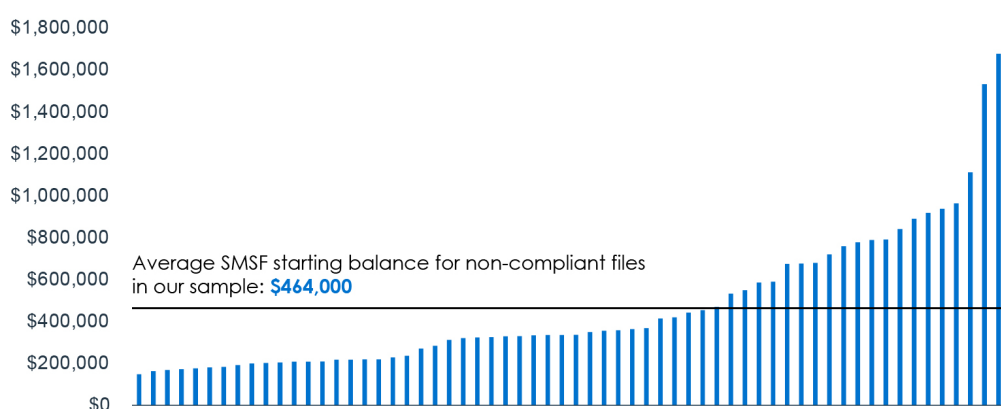
We were also concerned that:

- › for **57** files, the financial adviser did not demonstrate compliance with the requirement to provide appropriate advice under s961G
- › for **51** files, the financial adviser did not demonstrate that they had prioritised the client's interests under s961J, and
- › where the SMSF establishment advice involved replacing an existing financial product (**98** files), information on the product replacement was inadequate in **47** files.

Snapshot of non-compliant SMSF establishment advice files



SMSF starting balances for the non-compliant files



Significant concerns about client detriment

As stated, for **27 client files** we had significant concerns about client detriment in relation to the SMSF establishment advice.

Our review identified that these concerns were usually a result of a combination of factors. Those factors included that the:

- › risks associated with the SMSF investments were inappropriate for the client
- › client was not suited to take on the role and responsibilities of running an SMSF
- › SMSF was not cost-effective compared to the client's existing superannuation fund(s) and there was no indication this would change in the near future

- › SMSF did not meet the client's goals
- › compliance risks associated with running an SMSF were inappropriate for the client, and
- › establishment of the SMSF would result in a loss of existing insurance cover without adequate consideration.

Examples of non-compliant SMSF establishment advice

Not basing all judgements on the client's relevant circumstances

We were concerned that **22 financial advisers** across **58 client files** gave SMSF establishment advice and did not base all judgements in advising the client on the client's relevant circumstances.

Example 1: Inappropriately using control to justify recommending an SMSF

2 financial advisers of **1 advice licensee** provided advice to new and existing clients to establish an SMSF to facilitate investments into the advice licensee's in-house investment offering.

For all **8 client files** reviewed for this advice licensee, the financial adviser initiated the SMSF establishment advice, and we were concerned that the adviser had:

- › cited the notion of control as the justification for the SMSF establishment advice without exploring what control meant to the client
- › inappropriately used control to justify recommending the establishment of the SMSF, and
- › not based all judgements in advising the client on the client's relevant circumstances.

For **6** of the **8** files reviewed for this advice licensee, we had significant concerns about client detriment arising from a combination of the:

- › SMSF not meeting the client's goals
- › client not being suited to operating an SMSF, and/or
- › SMSF not being cost-effective.

Action point: Do not mis-sell SMSFs on the basis of control

Advisers must not mis-sell an SMSF on the basis of control. 'Control' can mean different things in the context of investing for retirement. Where clients have sought and/or are recommended to establish an SMSF on the basis of having greater control, financial advisers should explore what the notion of control means for the client. There are other superannuation vehicles that may offer the desired level of control without the client also taking on the additional responsibilities, and in some cases additional costs, of an SMSF.

Action point: Consider the suitability of an SMSF for the client

As set out in [INFO 274](#), when determining the suitability of an SMSF, financial advisers should consider:

- › whether the client understands and accepts that, although they may outsource their SMSF responsibilities to professional advisers, they are personally responsible for ensuring compliance with superannuation, corporations and taxation laws
- › whether the client has the time, skills, general interest, and experience to meet their trustee responsibilities
- › the cost-effectiveness of an SMSF, considering the client's existing arrangements and relevant circumstances, and
- › other arrangements that may still provide some of the benefits of an SMSF.

Not conducting a reasonable investigation and assessment of financial products

We were concerned that **21 financial advisers** across **53 client files** did not conduct a reasonable investigation and assessment of financial products that might meet the objectives and needs of the client that would reasonably be considered as relevant to the advice on the subject matter of the advice sought.

Example 2: Acting as an order-taker for SMSF establishments

For **1 financial adviser**, we had significant concerns about client detriment for **3** of the **4 client files** we reviewed. These **3** clients each wanted to establish an SMSF to acquire specific investments they already had in mind. In each case, we were concerned that the adviser took these client orders and recommended they establish an SMSF without:

- › undertaking a reasonable investigation and assessment of financial products, and
- › basing all judgements on the client's relevant circumstances.

The SMSFs and the proposed investments were high risk and, in each case, we were concerned that the client did not need to take on the risks to achieve their objectives.

The concept of exercising professional judgement when a client gives an order for an SMSF is not novel. In 2018, when upholding an ASIC banning decision, the Administrative Appeals Tribunal (AAT) considered the elements of an expert's report that were relevant to assisting the tribunal to assess what a reasonable adviser would have done in the same circumstances. This included the following paragraph from the expert's report (see [Atkins and the Australian Securities and Investments Commission \[2018\] AATA, \[57\]](#)):

'Each client file had, as a client's primary need, some variation of the SMSF/Property strategy as the client's objectives or goals. This strategy is a possible solution to a goal, not a goal in itself. A financial adviser acting in a client's best interests is not simply an order-taker, assisting a client to transact whatever their particular interest is, regardless of the consequences. A financial adviser has a duty to explore and understand the underlying driver of an expressed interest, so that they can determine if that solution is likely to leave the client in a better position.'

Action point: Do not recommend an SMSF if it will expose the client to unnecessary and inappropriate risks

Financial advisers should not act as order-takers. Before recommending clients rollover their retirement savings to an SMSF, financial advisers are expected to investigate and assess the SMSF and how it might meet the objectives and needs of the client, including in circumstances where the client has requested advice to establish an SMSF. Do not recommend an SMSF to a client if the SMSF and/or its proposed investments are likely to expose the client to unnecessary and inappropriate risks.

Not giving priority to the interests of clients

We were concerned that **21 financial advisers** across **51 client files** did not prioritise their client's interests over their own interests or those of the advice licensee or an associate when recommending the client establish an SMSF.

Example 3: Poor SMSF advice and off-the-plan property purchases

For **2 financial advisers** operating within an accounting business, we had significant concerns about client detriment for all **4 of their client files** we reviewed. In each case, the advice involved establishing an SMSF to acquire an off-the-plan residential property.

All **4** files indicated a real estate business had referred the clients to the financial advisers. The financial advisers recorded that they initially provided general advice about establishing an SMSF to acquire an investment property. The clients then agreed to purchase a specific property before returning to the financial advisers for personal advice. The financial advisers then recommended the clients establish an SMSF to facilitate the property purchase using their retirement savings.

Our review found that in all **4** cases:

- › the risks associated with using an SMSF to invest in the off-the-plan property were excessive for the client and the advice was inappropriate, and
- › the financial adviser prioritised their interest over the client's interest.

Example 4: Conflicted SMSF advice provided by an accountant

For **1 financial adviser**, who was also an accountant, we have significant concerns about client detriment in relation to the advice in all **4 of their client files** that we reviewed. Each contained a recommendation to establish an SMSF for the purpose of investing in a property through an LRBA. Conflicts of interest relating to the advice were identified in all **4** client file reviews and the financial adviser failed to give priority to each client's interests.

Additionally, in all **4** client files, we were concerned about the financial adviser's approach to the client's life, total and permanent disability (TPD) and/or income protection insurance arrangements. In **2** of the **4** files, we had concerns that the SMSF establishment advice would lead to the client losing their existing insurance cover without adequate consideration.

Action point: Prioritise the client's interests over those of the financial adviser, advice licensee and associates

Financial advisers must prioritise the interests of the client over their own interests and the interests of their advice licensee and associates. In addition to considering SMSF trustee suitability, financial advisers should consider the benefits, risks and costs of an SMSF for the client in the context of their relevant circumstances. Financial advisers must not undertake a course of conduct to enrich themselves at a client's expense.

Action point: Consider the client's need for suitable and affordable insurance

Financial advisers must consider the client's need for suitable and affordable insurance. Establishing an SMSF that will invest in direct property through an LRBA will involve a relatively illiquid investment and new debt. This is likely to introduce new life insurance needs that financial advisers must consider.

SMSF suitability factors and additional SMSF considerations

For all **27 client files** where we had significant concerns about client detriment, we observed that the financial adviser did not adequately consider the SMSF suitability factors and other additional SMSF considerations in [INFO 274](#) when preparing and giving the SMSF establishment advice: see Table 3.

Table 3: Examples of SMSF suitability factors and additional considerations not adequately considered

Factor or additional consideration	Client files	Details
Cost-effectiveness	21	The SMSF was not cost effective, given the client's existing arrangements and relevant circumstances (including the start-up, management, administration and reporting costs). This included examples of SMSFs with starting balances from \$163,000 to \$1.53 million.
Life insurance arrangements	16	The financial adviser did not adequately consider the client's life, TPD and income protection insurance arrangements.
Alternative superannuation funds	10	The financial adviser could have recommended another arrangement, such as a member-directed investment facility within an APRA-regulated superannuation fund, that would have provided the same benefits sought by the client. In those circumstances, the financial adviser failed to identify how the SMSF structure benefited the client and helped achieve their objectives.

Overview of compliant SMSF establishment advice

From the **100 client files** reviewed, **38** files demonstrated that the financial adviser complied with the best interests duty and related obligations.

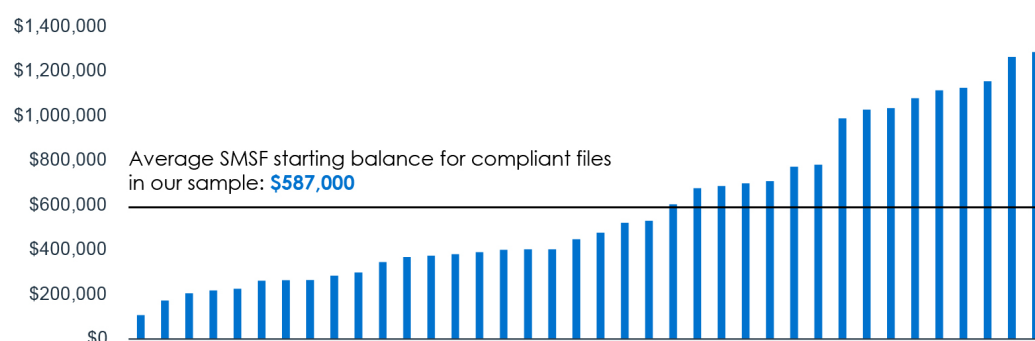
Within those **38** client files, there was a variety of client circumstances and purposes for the recommended SMSFs. The advice records demonstrated that a recommendation to establish an SMSF was appropriate for the client. These client files demonstrated why an SMSF was suitable for

the client, and the advice was generally supported by good records of the fact-finding process and of a reasonable investigation and assessment of the SMSF in the context of the client's relevant circumstances.

Snapshot of compliant SMSF establishment advice files



SMSF starting balances for the compliant files



Examples of compliant SMSF establishment advice

Example 5: Appropriate advice to a couple wanting more control over their retirement income

A couple with three adult children sought advice. They were preparing to retire. The financial adviser undertook a thorough fact-finding process by building a clear picture of the couple's financial situation, needs and objectives. Details about the couple's adult children were also included on the client file, indicating the financial adviser understood the couple's broader family situation. The client file also indicated that the clients had the necessary time, skills, general interest and experience to meet their trustee responsibilities.

The financial adviser identified that the clients stood to benefit from using an SMSF structure because the couple:

- › sought to manage a portion of the SMSF defensive investments themselves. They wanted the tangibility and transparency that this would provide, given they would be placing the investments themselves without the assistance of others, and

- › could operate several different account-based pensions within the SMSF with different taxable and tax-free components while maintaining a single retirement structure. This would allow them to manage the taxable component of their member balance without the administrative complexity and cost that might arise if this was replicated in a public-offer environment.

Example 6: Appropriate advice regarding an SMSF and property investment

A middle-aged couple with dependent children were new clients of a financial adviser and mentioned the possibility of buying a property through an SMSF, including borrowing. They owned their home, some shares and an investment property, and had some existing debt.

The client file indicated that the client had the skills to manage an SMSF, a general interest to do so, and the ability to take on the responsibilities of operating an SMSF.

The clients were suited to establishing an SMSF for the purpose of investing in direct property using an LRBA. The adviser recorded sufficient detail on the client file to indicate that although borrowing and investing into a property through an SMSF would be on the upper end of their risk tolerance, the likely long-term retirement result was superior and in accordance with their desire to build financial independence by taking on extra risk. The adviser also considered the SMSF's expected cash flow position following the proposed LRBA and property purchase, and obtained information from the clients about their health before providing the SMSF advice and recommending an increase to their life insurances. The financial adviser recommended that a sizable component of the SMSF be retained in liquid, diversified assets to help mitigate the illiquidity and concentration risk of the leveraged direct property.

The client file demonstrated that the SMSF with LRBA strategy was expected to help the client meet their retirement objectives and that the client was expected to benefit from the SMSF establishment advice.

Example 7: Appropriate advice about transferring UK pensions to Australia

We identified **6 examples** across **3 advice licensees** where financial advisers provided good advice to establish an SMSF for the purposes of transferring a UK pension into the Australian superannuation system.

Some of the better practices we observed in these files were:

- › a thorough investigation and assessment of the SMSF in the context of the client's relevant circumstances and its purpose to receive a UK pension transfer
- › a clear explanation in the advice about why it was appropriate for the clients to establish an SMSF and transfer their UK pension benefits into the SMSF
- › collaboration with UK advisers

- › the use of professional judgement. No two clients were the same and clients often had multiple options in relation to their UK pensions. The financial adviser's judgment was not limited to the financial aspects of the SMSF advice (such as cost and tax-effectiveness), but also considered other factors (such as SMSF trustee responsibilities), and
- › good record keeping of the inquiries into the client's relevant circumstances and the financial adviser's consideration of establishing an SMSF to receive the UK pension transfers. These records demonstrated the financial adviser had complied with the best interests duty and related obligations and exercised professional judgement.

Action point: Include the basis of the advice

Financial advisers must ensure that their advice includes the basis on which their advice was given. They should explain why a recommendation to establish an SMSF is appropriate for the client, based on their relevant circumstances.

Action point: Use professional judgement

SMSFs are suitable for some but not all clients, and may be suitable for clients with varying ages, SMSF starting balances and proposed SMSF investments. As referred to in [INFO 274](#), financial advisers need to use their professional judgement to assess whether an SMSF is suitable for their client. This should include considering the client's relevant circumstances and explaining the implications of a recommendation to establish an SMSF.

Action point: Keep good records

Financial advisers should keep good records of how they have complied with their obligations when providing advice to establish an SMSF. These records should include details of the factors the financial adviser considered in exercising their professional judgement.

Advice licensee review: Detailed findings

Our review of advice licensee's written policies and procedures identified that:

- › the financial advisers of advice licensees whose policies and procedures covered the SMSF suitability factors and additional SMSF considerations from [INFO 274](#) tended to demonstrate higher levels of advice compliance and their advice raised fewer concerns about client detriment.
- › **10** of the **12 advice licensees** had pre-vetting policies and procedures in place for reviewing some personal financial product advice before it was provided to the client. However, the advice file review findings indicated that the pre-vetting was often ineffective. Of the **47 client files** that contained records of pre-vetting of the SMSF establishment advice, **33** did not demonstrate that the financial adviser complied with the best interests duty and related obligations. This included **13** files that also raised significant concerns about client detriment in relation to the advice, and
- › all **12 advice licensees** had policies and procedures to manage conflicts of interest. Of these, **9** advice licensees' policies and procedures stated that their financial advisers must prioritise the client's interests where there was a conflict of interest. However, for **24** of the **27 client files** for which ASIC has significant concerns about client detriment, our review also identified that the financial adviser failed to prioritise the interests of the client above their own interests or that of their licensee or an associate. We observed that these failures were generally driven by revenue generation and/or business models.

The role of advice licensees

Advice licensees play an important role in the delivery of good quality financial advice, including advice about establishing an SMSF. They may also provide financial advisers and their clients with options for SMSF administration services and investments.

Advice licensees oversee the conduct of their financial advisers and must take reasonable steps to ensure that their financial advisers comply with financial services laws, including the best interests duty and related obligations.

Review methodology

We reviewed the policies, procedures and written explanations from **12 advice licensees**.

We used ASIC's compulsory information-gathering powers to obtain from the advice licensees policies, procedures and other guidance relevant to the provision of SMSF establishment advice during the period 1 May 2023 and 30 April 2024.

This included examining the steps the advice licensees took to ensure their financial advisers complied with the best interests duty and related obligations, as well as how they onboarded, authorised and trained their financial advisers. We also considered the advice licensees' approach to meeting their obligations for managing conflicts of interest in relation to SMSF establishment advice.

While we expected some policies and procedures to be specific to the provision of SMSF advice, we anticipated others to apply more broadly. We therefore also obtained written explanations about how the advice licensees applied their policies and procedures in the context of providing SMSF establishment advice.

Advice licensees provided information to ASIC about:

- › their policies and procedures for financial advisers providing advice to establish an SMSF
- › how they expected their financial advisers to consider the areas covered by [INFO 274](#)
- › financial adviser onboarding, qualifications and authorisations
- › monitoring and supervision of their financial advisers, including pre-vetting, and
- › managing conflicts of interest.

SMSF suitability factors

We reviewed the advice licensees' policies and procedures to observe whether the SMSF suitability factors listed in [INFO 274](#) were covered in some form.

The way in which the **12 advice licensees** covered these factors in their respective policies and procedures varied widely: see Table 4.

Table 4: Examples of SMSF suitability factors covered by policies and procedures

SMSF suitability factor	Advice licensees	What was covered in the policies and procedures
Trustee responsibilities	7	The client (as the SMSF trustee) is responsible for ensuring compliance with superannuation, corporations and taxation laws.
Time and skill	7	The client must have the time and skill (i.e. financial literacy) to meet their trustee obligations.
Cost-effectiveness	7	The cost-effectiveness of the SMSF when compared to the client's existing arrangements and relevant circumstances.
Alternative superannuation funds	4	The financial adviser should consider whether other arrangements, such as a member-directed investment facility within an APRA-regulated superannuation fund, could provide the same benefits sought by the client as an SMSF could provide.
Risks of moving overseas	4	The risks to the SMSF where the client had plans to move overseas.

In addition, we observed that:

- › **5 advice licensees** had policies and procedures that included a list of red flags that might make an SMSF high risk or not suitable for a client, and
- › **4** advice licensees had policies and procedures that covered the actions that a financial adviser should take if a client was not suited to an SMSF.

Additional SMSF considerations

We also reviewed the advice licensees' policies and procedures to observe whether the additional SMSF considerations listed in [INFO 274](#) were covered in some form.

The way in which the **12 advice licensees** covered these additional SMSF considerations in their respective policies and procedures also varied widely: see Table 5.

Table 5: Example of additional SMSF considerations covered by policies and procedures

Additional SMSF consideration	Advice licensees	What was covered in the policies and procedures
Life insurance arrangements	8	Specific references to life insurance within the SMSF: › 2 specifically prohibited the scoping out of life insurance when providing SMSF establishment advice. › 3 specifically permitted a financial adviser to scope out life insurance if the financial adviser determined that the client did not need life insurance advice. › 3 did not refer to whether the financial adviser was able to scope the SMSF establishment advice to exclude insurance advice.
Minimum starting balance	7	References to a specific minimum SMSF starting balance. The lowest was \$200,000 and the highest was \$500,000. These minimums were a guide for 4 of these advice licensees and a mandatory threshold for the remaining 3.
SMSF trustee structure	7	Whether a corporate or individual trustee structure is suitable for the client.
Costs of ongoing financial advice	5	The need to factor in the needs and costs of ongoing financial advice when recommending that a client establishes an SMSF.

Comparing the advice licensee reviews to the advice review outcomes

We compared our observations from the advice licensee review to the outcomes from our advice reviews, and identified that:

- › for advice licensees whose policies and procedures covered the content of [INFO 274](#) in some form, their financial advisers generally demonstrated higher levels of compliance with the best interests duty and related obligations.
- › for **35** of **38 client files** assessed as complying with the best interests duty and related obligations, the file also demonstrated that the financial adviser adequately considered the SMSF suitability factors and additional SMSF considerations listed in [INFO 274](#).
- › for all **27** client files where we have significant concerns about client detriment, the files also did not demonstrate that the financial adviser adequately considered the SMSF suitability factors and additional SMSF considerations listed in [INFO 274](#).

Action point: Include SMSF suitability factors and additional SMSF considerations within policies and procedures

INFO 274 provides a list of SMSF suitability factors and additional SMSF considerations. Advice licensees should cover these areas within their SMSF advice-related policies and procedures to help ensure that their financial advisers:

- › comply with the best interests duty and related obligations when providing SMSF establishment advice, and
- › only recommend clients establish an SMSF when an SMSF is suitable for them.

Action point: Keep good records

Advice licensees must ensure that records are kept of the advice and how their financial advisers have complied with the best interests duty and related obligations.

Financial adviser onboarding, qualifications and authorisations

Our review observed that **5** of the **12 advice licensees'** policies and procedures specifically referred to considering a prospective representative's SMSF experience, training or qualifications when considering whether to onboard financial advisers.

When authorising advisers to provide superannuation advice, **7** advice licensees would restrict financial advisers from providing SMSF advice if they did not meet internally determined SMSF-related experience, training and/or qualification criteria.

Further, our review observed that:

- › **6** advice licensees required their financial advisers to complete a specialist SMSF education course before being permitted to provide SMSF establishment advice, and
- › **7** advice licensees specified that financial advisers providing SMSF advice had to meet annual SMSF specific continuing professional development (CPD) requirements.

Comparing the advice licensee findings to the advice review outcomes

We compared the advice licensee review findings to the advice review outcomes and identified that, generally, advice licensees who specified minimum yearly SMSF-specific CPD requirements had a greater number of files that complied with the best interests duty and related obligations.

Financial adviser monitoring and supervision – Pre-vetting

Our review observed that **10** of the **12 advice licensees** had policies and procedures that specifically covered pre-vetting of personal financial product advice. Of these, **9** referred to a pre-vetting process for new financial advisers to the advice licensee.

The pre-vetting policies and procedures varied widely between advice licensees.

The policies and procedures for **8** advice licensees specifically stated that pre-vetting of all advice, all SMSF advice or all SMSF advice involving an LRBA would occur. However, for **3** of these

advice licensees, it was not evident that pre-vetting had occurred as required by their policies and procedures.

Comparing the advice licensee findings to the advice review outcomes

From the **100 client files** reviewed, **47** files across **14 financial advisers** and **7 advice licensees** contained records of pre-vetting of the SMSF establishment advice. However, ASIC found that of the **47 pre-vetted files**, **33** did not demonstrate that the financial adviser complied with the best interests duty and related obligations. This included **13** files that also raised significant concerns about client detriment in relation to the advice.

Even though many advice licensees had pre-vetting policies and procedures in place, they were often ineffective.

Action point: Ensure monitoring and supervision activities are effective

To be effective, pre-vetting processes should involve a detailed assessment of the financial adviser's compliance with the best interests duty and related obligations, including a comprehensive check of the suitability of an SMSF for the client.

Taking a risk-based approach to selecting instances of advice and client files for pre-vetting will increase the likelihood of identifying potentially non-compliant advice and adviser conduct.

Management of conflicts of interest

Our review observed that all **12 advice licensees** had policies and procedures that required conflicts of interest to be reported to the advice licensee and/or retained on a conflicts of interest register.

Of these, **9** also had policies and procedures that specifically required their financial advisers to prioritise their client's interests where there was a conflict of interest, and **8** advice licensees specifically required that the conflict of interest also be disclosed in the advice document.

We also observed that **4** advice licensees had policies and procedures that specifically addressed conflicts of interest in relation to SMSF advice.

Comparing the advice licensee reviews to the advice review outcomes

In **24** of the **27 client files** that raised significant concerns about client detriment, we considered that the financial adviser failed to prioritise the interests of the client above their own interest or that of their licensee or an associate. In these cases, we observed that these failures were generally driven by revenue generation and/or business models.

These **24** client files relate to **8 advice licensees**, including **6** advice licensees whose policies and procedures specifically required the adviser to prioritise the client's interests where there was a conflict of interest, and **2** whose policies and procedures did not refer to this requirement.

Action point: Have robust and effective policies and procedures for managing conflicts of interest

Advice licensees must have in place adequate arrangements to manage conflicts of interest that may arise when providing financial product advice.

Internal policies and procedures for preventing and addressing potential conflicts of interest must be robust and effective. Advice licensees should ensure that they have policies and procedures for managing conflicts of interest. They should also have monitoring arrangements in place to ensure that any non-compliance is identified and appropriately acted on.

Advice licensees must take reasonable steps to ensure that when recommending an SMSF, their financial advisers prioritise the interests of the client over their own interests and the interests of their advice licensee and associates. Additionally, SOAs must include information about conflicts of interest that might reasonably be expected to influence, or have been capable of influencing, the financial adviser in providing the advice.

Advice licensees should also be alert to business models that lead to a one-size-fits-all outcome. That is, where the advice process does not result in advice that reflects the client's relevant circumstances and often leads to a pre-determined recommendation.

Risk indicators for SMSF establishment advice

There is no single risk indicator for always detecting financial adviser misconduct or recognising that an SMSF is not suitable for a client.

In developing our SMSF establishment advice surveillance sampling methodology, we used a combination of risk indicators to identify advice licensees and financial advisers from whom we obtained a sample of advice. We have set out these indicators in Table 6, as well as other risk indicators that may help identify higher-risk advisers and corporate authorised representatives. These other risk indicators are based on the issues identified during our review and outlined in this report.

Table 6: Risk indicators for SMSF establishment advice

Risk indicators used by ASIC for this review	Other risk indicators identified through our review
› A high volume of SMSF establishment advice being provided by financial advisers. › SMSF and member demographics, such as: › lower SMSF starting balances › older clients that are near retirement or retired › clients with lower incomes, and › less diversified or otherwise higher risk SMSF assets, such as direct property (including using an LRBA).	› Higher volumes of SMSF advice, both in absolute terms and when considered as a proportion of advice provided to all clients by that adviser. › Advice business models that may reflect the existence of significant conflicts of interest, such as financial advisers recommending: › that SMSF trustees invest into in-house investment opportunities, or › SMSFs to clients involving referral arrangements with real estate businesses. › Client files and advice documents that lack information about the purpose of the recommended SMSF and/or what investments are proposed to be held by the SMSF.

We encourage advice licensees to collect information about the risk indicators in Table 6 and use a combination to help to identify financial advisers and corporate authorised representatives that may warrant increased levels of monitoring and supervision.

Appendix 1: Other ASIC activity relating to SMSFs

Summary of recent ASIC actions

Table 7: Summary of recent ASIC actions

Action	Media release
ASIC banned NSW solicitor and accountant, Christopher Malcolm Edwards, from providing financial services for 10 years. Mr Edwards is also banned from controlling, and from performing any functions involved in the carrying on of a financial services business over the same period. ASIC was concerned Mr Edwards carried on a financial services business without an Australian financial services (AFS) licence and arranged for his clients to: › set up Self-Managed Superannuation Funds (SMSFs) › rollover funds into SMSFs, and/or › invest these funds in debentures issued by companies controlled by Mr Edwards.	25-204MR ASIC bans NSW solicitor and accountant Christopher Malcolm Edwards from providing financial services for 10 years
ASIC permanently banned South Australian-based SMSF accountant Jason Richard Poser following his conviction of aggravated theft. The conviction related to Mr Poser stealing funds from his client's SMSFs. These funds were payments used to satisfy the client's SMSF tax obligations.	25-172MR ASIC permanently bans former Self-Managed Superannuation Fund (SMSF) accountant Jason Richard Poser
ASIC acted against the registration of 28 approved SMSF auditors. ASIC took these actions for various breaches of professional obligations.	25-159MR ASIC takes action against a further 28 SMSF auditors in FY25
DOD Bookkeeping Pty Ltd (in liquidation), previously Equiti Financial Services Pty Ltd (Equiti FS), was penalised \$11,030,000 after the Federal Court found it breached conflicted remuneration rules and its advisers provided inappropriate 'cookie cutter' advice. Equiti FS paid \$130,250 in bonuses to 3 financial advisers who provided template advice to clients to roll over their super into SMSF and use those funds to buy property through a related entity, Equiti Property Pty Ltd.	25-063MR Financial services provider penalised \$11 million over "cookie-cutter" advice and conflicted bonus payments
ASIC took action against the registration of 17 approved SMSF auditors. ASIC took these actions for various breaches of professional obligations, annual statement non-compliance or the SMSF auditors ceasing to have the practical experience necessary for carrying out SMSF audits.	25-040MR ASIC announces action against 17 SMSF auditors

Action	Media release
ASIC suspended the registration of 3 SMSF auditors for one year. ASIC determined auditors Wuzhao Fang, Huiting Li, and Xuan Wu breached independence requirements by auditing thousands of SMSF clients from a single referral source, who is a SMSF administration provider.	24-241MR ASIC suspends three high volume SMSF auditors connected to a SMSF administration provider
ASIC took action against the registration of 13 approved SMSF auditors. ASIC's concerns covered a range of topics, including breaches of auditing and assurance standards, independence requirements, continuing professional development obligations, or for not being a fit and proper person to remain an approved SMSF auditor.	24-215MR ASIC announces action against 13 SMSF auditors
ASIC warned consumers to be wary after an ASIC review identified some cold calling operators using high-pressure sales tactics and online click-bait advertisements to lure consumers into receiving inappropriate superannuation switching advice. ASIC had observed considerable volumes of superannuation savings flowing into high-risk property managed investment schemes – either via platform superannuation products offered by APRA-regulated superannuation funds or a SMSF – and associated payments made to cold calling businesses.	24-092MR ASIC issues warning over dodgy cold calling operators and online baiting tactics
ASIC imposed conditions on the registration of 13 SMSF auditors and accepted voluntary cancellations of two SMSF auditors after independence concerns were raised. ASIC had concerns that financial statements for SMSF clients were prepared by the same firm that also conducted the SMSF audit, in breach of the SMSF auditor's independence requirements.	24-043MR ASIC acts against 15 SMSF auditors performing in-house audits
ASIC took action against 9 SMSF auditors where we formed the view that conduct did not meet the required standards. This included concerns about compliance with auditing and assurance standards, independence requirements, registration conditions, or for not being a fit and proper person to remain an SMSF auditor.	24-016MR ASIC announces action against nine SMSF auditors
Joseph Cullia and Zoran Markovic, two Melbourne men allegedly involved in a sophisticated SMSF scam targeting Australian investors, appeared before the Melbourne Magistrates Court charged with various criminal offences following an ASIC investigation. The charges followed an ASIC investigation into suspected fraudulent investment websites that operated between November 2020 and July 2021 under various names. The website operators used the Australian financial services licence of two legitimate companies without their knowledge or consent.	24-015MR Charges laid following ASIC's investigation into suspected self-managed super investment scam

Action	Media release
The Financial Services and Credit Panel (FSCP) found that Stephen Rogers scoped out the suitability of establishing an SMSF and the suitability of the SMSF investing into products that were related to Mr Rogers' licensee. The FSCP found that Mr Rogers used a scaled advice approach which was not appropriate in circumstances where: › the referral of the client had not been at arm's length (as the referrer received a significant referral fee and had introduced the 'investment opportunity' to the client) › the client had been given contradictory information and statements such that a reasonable person would conclude that Mr Rogers was in effect, giving her advice on the areas that were purportedly excluded, and › the effect of the scaled advice was to exclude critical issues that were relevant to the client's subject matter.	23-335MR Financial Services and Credit Panel issues registration prohibition order against financial adviser
ASIC took action against 11 SMSF auditors, where conduct has fallen short and they have breached their obligations. This included breaches of auditing and assurance standards, independence requirements and registration conditions.	23-275MR ASIC announces action against 11 SMSF auditors
ASIC acted against a further 11 SMSF for breaches of their obligations. This included breaches of auditing and assurance standards, independence requirements, registration conditions, or because ASIC was satisfied the individual was not a fit and proper person to remain registered.	23-094MR ASIC continues to act against SMSF auditors
The Federal Court ordered the winding up of unlicensed financial services businesses, Secure Investments Pty Ltd (Secure Investments) and Aquila Group Pty Ltd (Aquila Group). Mr Naseeruddin encouraged investors to roll over their superannuation accounts into SMSFs set up by an associate of Mr Naseeruddin.	20-257MR ASIC obtains Court orders to wind up unlicensed SMSF financial service businesses
ASIC moved to disqualify, or suspend and/or add conditions to the registration of, a number of auditors of SMSF. The actions arose following ASIC concerns about failures to meet requirements including independence standards and auditing standards, failing to comply with Continuing Professional Development (CPD) requirements and otherwise not being a fit and proper person.	20-035MR ASIC moves against SMSF auditor misconduct

Other SMSF-related surveillances and investigations

Table 8: Other SMSF-related surveillance and investigations

Area of ASIC's work	Description
Problematic managed investment schemes	We are investigating the management and operation of the First Guardian Master Fund (First Guardian) and Shield Master Fund (Shield), managed investment schemes. ASIC's investigation to date suggests that many of investors were called by lead generators and referred to personal financial advice providers who advised them to roll over their superannuation assets into a retail superannuation fund available on a choice platform and then invest into First Guardian or Shield. Some investors received advice to set up self-managed superannuation funds (SMSFs) to facilitate the investments into these schemes.
High-risk super switching	We will conduct a review of superannuation trustee practices to better understand the steps they have taken to disrupt the high-risk super switching model. This will build on the work of Report 781 <i>Review of superannuation trustee practices: Protecting members from harmful advice charges</i> (REP 781) and Report 779 <i>Superannuation and choice products: What focus is there on performance?</i> (REP 779). We will also conduct a review of advice licensees that use lead generation services. This work follows our 2024 review, which identified the use of high-pressure sales tactics leading to superannuation switching. We will focus on how industry practices have changed in response to our 2024 review.
Poor superannuation advice	We continue to target financial advisers who provide poor superannuation advice. ASIC has convened multiple sitting panels of the FSCP targeting poor superannuation advice involving contributions or superannuation rollovers following conduct identified from breach reports submitted by AFS licensees. We will continue to refer financial advisers to the FSCP to address financial adviser misconduct.
SMSF auditors	We continue to take action against approved SMSF auditors. SMSF auditors are responsible for providing assurance on the assets held in SMSFs. SMSF auditors are gatekeepers that contribute to the integrity and confidence in the SMSF regime. We regulate the conduct of SMSF auditors and will continue to act where that conduct falls short, including where we identify breaches of professional obligations. For example: › failure to maintain independence › non-compliance with auditing and assurance standards › non-compliance with CPD requirements › failure to lodge annual statements, and/or › no longer being a fit and proper person to remain an approved SMSF auditor.

Key terms and related information

Key terms

advice licensee	An Australian financial services licensee that provides financial product advice, including through its representatives
advice licensee review	Review of advice licensee policies, procedures and other guidance to examine the role of advice licensees in the provision of self-managed superannuation fund (SMSF) establishment advice by their financial advisers
advice review	Review of advice files of clients that had recently received personal advice to establish an SMSF or make an initial rollover to an SMSF. This includes an assessment of whether the financial adviser had complied with the law when providing that advice.
AFCA	Australian Financial Complaints Authority
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s9.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
APRA	Australian Prudential Regulation Authority
APRA-regulated superannuation fund	A superannuation fund regulated by APRA
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
best interests duty and related obligations	The obligations in Div 2 of Pt 7.7A of the Corporations Act, specifically sections 961B, 961G and 961J
client	A retail client as defined in s761G and 761GA of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations
client's relevant circumstances	The objectives, financial situation and needs of a retail client that would reasonably be considered relevant to the subject matter of advice sought by the client
compliant advice	Personal advice provided to a retail client by a financial adviser who has demonstrated compliance with the best interests duty and related obligations in providing the advice Note: Further guidance on these provisions is set out in RG 175.

conflict of interest	Circumstances where some or all of the interests of persons (retail clients) to whom an advice licensee or its representative provides financial services are inconsistent with, or diverge from, some or all of the interests or duties of the advice licensee, its representatives or their associates
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CPD	Continuing professional development
financial adviser	A natural person providing personal advice to retail clients on behalf of an advice licensee who is either: › an authorised representative of a licensee, or › an employee representative of a licensee Note: This is the person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply: see the definition of 'advice provider' in the 'key terms' in Regulatory Guide 175 <i>Licensing: Financial product advice conduct and disclosure</i> (RG 175).
financial product	Generally, a facility through which, or through the acquisition of which, a person does one or more of the following: › makes a financial investment (see s763B) › manages financial risk (s763C), or › makes non-cash payments (s763D) Note: This is a definition contained in s763A of the Corporations Act: see also s763B-765A.
financial product advice	A recommendation or a statement of opinion, or a report of either of these things; that: › is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product, or › could reasonably be regarded as being intended to have such an influence This does not include anything in an exempt document or statement Note: This is a definition contained in s766B of the Corporations Act.
in-house product	A financial product that is manufactured by a related party
LRBA	Limited resource borrowing arrangement – an arrangement where the: › SMSF trustee obtains a loan that is used to purchase an asset › asset is held in a separate trust from the SMSF, known as a holding trust › SMSF acquires beneficial interest in the asset and after repaying the loan has the right to legal ownership of the asset, and › other assets of the SMSF are protected if the loan defaults While the asset is not held directly by the SMSF, any investment returns earned from the asset go to the SMSF

member (superannuation)	A member of a superannuation entity, and includes a prospective member
non-compliant advice	Personal advice provided to a retail client by financial adviser who has not demonstrated compliance with the best interests duty and related obligations in providing the advice Note: Further guidance on these provisions is set out in RG 175.
personal advice	Financial product advice given or directed to a person (including by electronic means) in circumstances where: › the person giving the advice has considered one or more of the client's objectives, financial situation and needs, or › a reasonable person might expect the person giving the advice to have considered one or more of these matters. Note: This is a definition in s9 of the Corporations Act.
policies and procedures	Written records of business rules, guidelines and processes for financial advice licensees and their financial advisers to follow when carrying on a business that involves providing personal financial product advice to retail clients
retail client (client)	A client as defined in s761G and 761GA of the <i>Corporations Act</i> and Div 2 of Pt 7.1 of the <i>Corporations Regulations 2001</i>
RG 175 (for example)	An ASIC regulatory guide (in this example numbered 175)
ROA	Record of advice provided in situations in which an SOA is not required pursuant to s946B and Reg 7.7.10AE of the Corporations Act
s912A (for example)	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified
SMSF	A self-managed superannuation fund
SMSF establishment advice	Personal advice to a retail client about establishing an SMSF
SOA	A Statement of Advice required by section 946A to be given in accordance with Subdivisions C and D of Division 3 of Part 7.7 Note: This is a definition in s9 of the Corporations Act.
switching advice	Advice that recommends that a client replace (in full or in part) one financial product with another financial product
TPD	Total and permanent disability

Related information

Headnotes

best interests duty, financial advice, personal advice, retail client, self-managed superannuation fund, SMSF

Legislation

Corporations Act 2001, Pt 7.6 Div 1; Pt 7.7, Div 1; Pt 7.7A, Div 2; s912A(1)(aa), 912A(1)(ca), 947D, 961B, 961G and 961J

Superannuation Industry (Supervision) Act 1993, Pt 7; s62

Financial Planners and Advisers Code of Ethics 2019

ASIC documents

[INFO 274](#) *Tips for giving self-managed superannuation fund advice*

[RG 175](#) *Licensing: Financial product advisers—Conduct and disclosure*

[RG 244](#) *Giving information, general advice and scaled advice*