



Attachment to Media Release 21-072MR

Example Record of Advice (ROA): COVID-19 relief measure

July 2021

The Australian Securities and Investments Commission (ASIC) has prepared an example Record of Advice (ROA) to help financial advisers when they are providing advice under our temporary COVID-19 relief measure in [ASIC Corporations \(COVID-19—Advice-related Relief\) Instrument 2021/268](#) (COVID-19 instrument).

Under the COVID-19 relief measure, advisers can provide an ROA, rather than a Statement of Advice (SOA), to existing clients requiring financial advice due to the impact of the pandemic. ASIC announced the extended measure on [15 April 2021](#).

Editor's note: On [14 October 2021](#) ASIC announced a further extension of the COVID-19 relief measure.

We have annotated this example ROA to help advisers understand the relevant requirements under the COVID-19 relief measure. We also consulted the Financial Adviser Standards and Ethics Authority (FASEA) and we welcomed FASEA's confirmation that the ROA example is consistent with the advisers' obligations under the FASEA Code of Ethics.

The example ROA is just an example and confined to the particular facts in the scenario and the requirements under the *Corporations Act 2001* (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.

Example ROA scenario

The client, Jane Nguyen, is an existing client of Sarah Johnson of ABC Advice Pty Ltd (licence number 987654). When Jane needs advice she contacts Sarah and pays a fee for the advice she receives about her superannuation and associated insurance products. Sarah is the 'providing entity' under the COVID-19 relief measure.

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. All references to sections or regulations in the annotations to the example ROA are references to sections in the Corporations Act or regulations as inserted by the COVID-19 instrument.

Why Jane needs advice

Jane has been adversely impacted by COVID-19. She was eligible for the Government's COVID-19 early access to superannuation scheme and accessed \$20,000 from her superannuation before the scheme ended on 31 December 2020.

Jane has been using her cash savings to meet her income shortfall but is concerned about using all of her cash savings. Jane does not know when she will return to work full time and has sought advice on how she can meet her temporary income shortfall.

Sarah reasonably considers that Jane requires advice because of the adverse economic effects of COVID-19.

Background and Jane's relevant circumstances

Jane is 60 years old and single. Her full-time employment was reduced to three days per week due to COVID-19. Her salary has reduced from \$65,000 to \$39,000 per year. She hopes to return to full-time employment in the near future. Jane received personal advice from Sarah about her XYZ Superannuation Fund and personal insurance policies in an SOA dated 3 February 2020. She later received two ROAs for Sarah's advice regarding COVID-19 early access to superannuation.

Example ROA scenario (cont.)

Background and Jane's relevant circumstances (cont.)

In a previous instance of advice, Sarah discussed Jane's estate planning arrangements. Jane is close to her two nephews and they are part of her estate planning arrangements. Jane's nephews are her family support and will be involved in any decisions in the future about Jane's finances and medical and aged care options, if required (i.e. in the event that Jane is unable to make her own decisions or would like to rely on family support). Sarah has recorded the contact details of Jane's lawyer and nephews on Jane's client file.

Jane enjoys working and does not intend to retire until she is aged 65 years. Her living expenses are \$50,000 per year and she has no outstanding debts. She owns her own home and has \$9,000 in cash savings.

Jane's current superannuation balance is \$240,000 and is invested in the Indexed Balanced Investment choice option of XYZ Superannuation Fund. She holds life insurance, total and permanent disablement (TPD) insurance and income protection (IP) insurance in her XYZ Superannuation Fund. The annual premium for this cover is \$1,534.

At each meeting since the COVID-19 pandemic, Sarah has done the following:

- Sarah has considered Jane's insurance products and recommends Jane maintain her existing cover which has no exclusions or loadings and is cost effective. Although Jane does not have a need for life cover, she values the TPD cover (which is linked to the life cover) and wishes to keep it in place until she retires.
- Sarah has discussed reducing Jane's IP monthly benefit in line with her salary reduction. Sarah recommends that Jane maintains her existing monthly benefit because the reduction in Jane's hours and salary is temporary, due to COVID-19, and Jane expects her hours and income to return to normal.
- Sarah has discussed with Jane her alternatives to accessing superannuation. These included reducing Jane's living expenses and looking for alternative employment (full-time or part-time). Jane is aware she must consider these options. She has reduced her spending but will review this again. Jane remains hopeful that she will return to full-time hours within 12 months.
- Sarah has explained to Jane that based on her current retirement savings and expenses, Jane will need to make significant adjustments to her expenses in retirement. Sarah has discussed with Jane the options available to her which include reducing her expenses, delaying retirement, making additional superannuation contributions and saving more capital when possible.

While Jane's reduction in employment income is a significant change in her personal circumstances, under ASIC's COVID-19 relief measure Sarah can provide this advice to Jane in an ROA instead of an SOA.

Record of Advice

Client name: Jane Nguyen
Date of advice: 20 May 2021
Prepared by: Sarah Johnson, authorised representative number 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, the COVID-19 pandemic and the pandemic's adverse economic effects on you.

This ROA contains further advice to the advice you received in the Statement of Advice (SOA) dated **3 February 2020**. The SOA sets out your relevant circumstances at that time.

Your current situation

- Your work hours have reduced to 3 days per week as a result of COVID-19 and you have yet to return to full-time hours. This means you have a temporary shortfall in annual income of \$15,000.
- You want advice on how you can meet your income shortfall until your work hours increase as you are worried about continuing to use your personal cash savings.
- Your current superannuation balance is \$240,000 and is invested in the Indexed Balanced Investment choice option of XYZ Superannuation Fund.
- There have been no other changes to your situation.

My advice to you

My advice only covers using your superannuation to address your temporary income shortfall and your insurance coverage.

I recommend you start a transition to retirement (TTR) pension which is a simple way to use your superannuation to increase your income in your current circumstances.

I recommend you withdraw \$15,000 per year in pension payments to cover your temporary income shortfall. We can arrange a fortnightly payment of \$575 to align with your fortnightly salary.

To start the TTR pension you will need to open, and transfer funds to, a TTR pension account. I recommend you transfer \$200,000, leaving \$40,000 in your existing XYZ Superannuation Account.

The providing entity or an associated providing entity must have previously given the client an SOA (the previous advice) that sets out the client's relevant personal circumstances in relation to the previous advice: reg 7.7.10AE(11)(b).

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

The ROA must include brief particulars of the recommendations and the basis of the recommendations: reg 7.7.10AE(12)(b).

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

The providing entity must reasonably consider that the advice is required because of the adverse economic effects of COVID-19: reg 7.7.10AE(11)(a).

The ROA must set out a brief explanation of changes in the client's relevant personal circumstances in relation to the COVID-19 advice: reg 7.7.10AE(12)(a).

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

The COVID-19 advice must be in relation to a class of financial products to which the previous advice related: reg 7.7.10AE(11)(c).

It's important to note your existing XYZ Superannuation Account will stay open to continue receiving your employer superannuation contributions and to pay your insurance premiums and ongoing fees.

My advice to maintain your insurance coverage has not changed. If you suffer a long-term illness, having inadequate or no insurance coverage will affect your retirement planning goals.

I think this advice is in your best interests and appropriate because it enables you to meet your temporary income shortfall without further reducing your cash savings. I do not recommend you keep using your cash savings because your cash savings will run out within 7 months, leaving none for unexpected expenses.

Your alternative options include reducing your living expenses and looking for alternative employment (full-time or part-time). You told me you will consider these options. However, you feel like you have already reduced your spending and are aiming to return to full-time hours in about 12 months.

XYZ TTR Pension Account

I recommend you open an XYZ TTR Pension Account and allocate \$185,000 to the Indexed Balanced Investment option, for the following reasons:

- XYZ TTR Pension Account is a suitable fund for you. When I compared other TTR pension funds with similar features and investment options, I found that the XYZ TTR Pension Account has competitive fees and its long-term performance history is strong.
- By selecting an Indexed Balanced Investment option you are maintaining the same asset allocation as your existing superannuation account, which is consistent with your risk profile.

I recommend you allocate the remaining \$15,000 to the Cash Investment option to cover your pension payments.

Please read the attached Product Disclosure Statement for important information about the XYZ TTR Pension Account.

Things you need to know

- Accessing your superannuation now will reduce the amount you will have in retirement. To offset this, we can consider making additional contributions to superannuation once your work hours increase.
- I have modelled the possible impact of withdrawing \$15,000 from your superannuation. I estimate it could reduce your retirement savings by \$16,607 and your annual retirement income by \$847.
- Your pension payments will be tax free, as you are 60 years of age.
- Your TTR pension has rules about the minimum and maximum amounts that must be withdrawn as a pension payment. My recommendation to withdraw \$15,000 this year meets the rules.
- Your TTR pension should be reviewed regularly to ensure it is still appropriate for your circumstances. We will review this at your next appointment in 6 months. If your work hours return to normal or you find alternative employment before then, please contact me. This is because the TTR pension can be transferred back to your XYZ Superannuation Account if your circumstances change.

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TIP: Keep adequate records on the client's file of conversations with the client and any action the client has agreed to take (e.g. reduced living expenses).

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

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

TIP: For this client, the advice provider has explained to the client the impact of withdrawing her superannuation now on her future retirement savings. This is one way an advice provider can demonstrate compliance with the best interests duty and related obligations.

Things you need to know (cont.)

- You are paying for IP insurance on your existing full-time salary, but can only claim on 75% of your current income of \$39,000. While we could reduce your IP insurance coverage and premium now, when you return to full-time employment you will be subject to underwriting and there is a risk that the future IP insurance cover may result in loadings or exclusions. We will monitor your IP as your employment circumstances change.

Costs of following this advice

If you follow this advice, you need to know that:

- you will pay these superannuation costs:
 - annual management costs of \$1,756 on your XYZ TTR Pension Account balance of \$200,000, and
 - annual management costs of \$410 on your XYZ Superannuation Account balance of \$40,000
- the recommended XYZ TTR Pension Account will cost you \$130 more in fees per year compared to the costs of your existing XYZ Superannuation Account. I believe the benefit of accessing your superannuation to meet your income shortfall outweighs the increased cost to your retirement savings, and
- there are no benefits you will lose or any other significant consequences if you follow my advice.

Ongoing advice fees and conflicts of interest

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

The cost of this advice is \$[X] including GST you pay to me, which is to be deducted from your XYZ Superannuation Account. I do not receive any commissions from the premiums you pay for your insurance coverage.

Next steps

Please read this document and the following attachments before deciding whether to follow this advice:

- Product Disclosure Statement for the XYZ TTR Pension Account
- XYZ TTR Pension Account application form.

At our next meeting, we can discuss any questions to ensure you understand my advice. I can also help you to complete the XYZ TTR Pension Account application form if you choose to proceed with my advice.

The ROA must set out brief particulars of the information or the statement that would be required by s947D(2) and 947D(3) if an SOA were given to the client: reg 7.7.10AE(12)(c) and (d).

See RG 175.186–RG 175.187.

A copy of the ROA must be given to the client at the applicable time: reg 7.7.10AE(13)(a).

TIP: Keep adequate records (e.g. copies of emails) on the client's file showing the ROA was provided to the client: see RG 175.431.

When giving the COVID-19 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: reg 7.7.10AE(13)(b)

TIP: The adviser is taking steps to be satisfied that the client understands the advice. Advice providers must have reasonable grounds to be satisfied. Good record-keeping is one way to demonstrate how the advice provider has satisfied themselves that the client understands the advice.