

23 September, 2011

Sophie Waller
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Australian Securities and Investments Commission
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By email: policy.submission@asic.gov.au

Dear Ms Waller,

ASIC Consultation Paper 164: Additional Guidance on how to scale advice

The Financial Services Council (“**FSC**”) represents Australia’s retail and wholesale funds management businesses, superannuation funds, life insurers and financial advisory networks. The FSC has 128 members who are responsible for investing \$1.8 trillion on behalf of more than 11 million Australians. The pool of funds under management is larger than Australia’s GDP and the capitalisation of the Australian Stock Exchange and is the fourth largest pool of managed funds in the world. The FSC promotes best practice for the financial services industry by setting mandatory Standards for its members and providing Guidance Notes to assist in operational efficiency.

The FSC thanks ASIC for the opportunity to comment on the proposals in ‘Consultation Paper 164: Additional guidance on how to scale advice’ (“**CP**”) and for the extension of time to respond.

Value of advice

The FSC believes there is great value in quality financial advice for all Australians who receive it as well as for the Australian economy itself. KPMG Econtech research commissioned by the FSC showed individuals with a financial adviser saved an additional \$1,590 each year (after the cost of the initial advice) when compared to a similar individual without a financial adviser. These savings equated to an additional \$91,000 upon retirement for a 30 year old Australian.¹ The KPMG Econtech research also found that if an additional 5 per cent of Australians received financial advice, national savings would increase by \$4.2 billion (or 0.3 per cent of GDP) by 2016-17.

Greater access to more affordable advice

Given the significant value financial advice delivers, the FSC strongly supports a scalable advice framework that results in financial advice that is more accessible and more affordable for more

¹ KPMG Econtech, Value Proposition of Financial Advisory Networks Update and Extension, 2011

Australians. We welcome the guidance outlined in the CP and ASIC's objective of increasing access to advice for Australians by facilitating the provision of piece-by-piece advice.

However, a fundamental principle of the scalable advice framework is the need for regulatory certainty and clarity for both licensees and financial advice providers. The financial advice industry must be able to have confidence in the regulatory framework enabling providers of advice to meet the needs of Australians. Providers of advice, both general and personal, and their clients should be able to limit the scope of the advice service to be provided by agreement. This clarity will enable more Australian's to access and afford the type of advice that they are seeking - piece by piece². The FSC supports the client's ability to determine the scope of the advice they want with an adviser. This can range from seeking factual information only to general advice and onward to varying levels of personal advice (from simple to complex topics of advice).

We note that an affordable scalable advice framework needs to also be flexible to enable the consumer to access advice in forms not limited to face to face meetings. For example (but not limited to) permit the consumer to request advice using a websites, email and videoconference in addition to traditional means including mail, telephone or in person.

Outcomes of this consultation

We understand that this CP will be combined with RG200 to create a new Regulatory Guide which ASIC plans to issue in late 2011 and that this Regulatory Guide will be subject to the current Corporations Law requirements. We note that ASIC has said in paragraph 10 of this CP that it will review it's guidance in light of the final Future of Financial Advice ("FoFA") legislation (but will have no regard for these matters in the Regulatory Guide to be issued in late 2011).

Overview of the FSC's submission and recommendations

The FSC's response to CP164 should be considered limited to this context. That is, this submission aims to provide you with an overview of what we consider to be the key issues pertaining to CP164 together with a more detailed response to some of the questions and examples.

We submit that the Government's proposed Best Interest Duty contained in the recently released Corporations Amendment (Future of Financial Advice) Bill 2011, as drafted, poses significant challenges to scaling advice. As such, we urge ASIC to:

- delay the release of the proposed Regulatory Guide on Scalable Advice until the best interest duty is passed by Parliament and
- Review ASIC's (proposed) Regulatory Guide by re-engaging with the industry once the best interest duty is passed by Parliament.

² *Access to financial advice in Australia* (REP 224) at paragraphs 53 and 62.

To support this request, we have outlined our key concerns regarding the interaction between the FOFA draft legislation and CP164 in section 1 of the submission.

Further, we support ASIC's proposal to revoke Class Order [CO09/210]. The FSC submits that scalable advice is not only relevant for intra-fund advice (superannuation) but for all financial products. Therefore, we support the concept of 'scaled advice' as personal advice where a provider (adviser) and the consumer (client) are able to limit the scope of the advice, including the subject matter of the advice.

We therefore respectfully request that once ASIC has had the opportunity to consider the final Future of Financial Advice legislation, that ASIC outline the next steps of its review of its guidance. We would also be pleased to facilitate a meeting with members to workshop any refinements to the proposals.

Should you have any questions with regards to this submission, please feel free to contact Cecilia Storniolo, Senior Policy Manager Investment on 02 9299 3022.

Yours sincerely



Cecilia Storniolo
Senior Policy Manager

KEY ISSUES

Consultation with members has highlighted the following key issues:

1. **Interaction with the Future of Financial Advice reform package**
2. **Scope of the proposal – General v Personal Advice**
3. **Practical implications of the proposals**
4. **Comments on the proposed examples**
5. **Additional examples**

1. **Interaction with the Future of Financial Advice reform package**

As noted in our covering letter, our comments on CP164 are based on the law as it currently stands as advised by ASIC as being applicable to this Regulatory Guide.

We submit that it is important to note in this submission, our concern that the best interest duty outlined in the exposure draft FoFA legislation may inhibit the provision of scaled advice as outlined in this consultation paper. The FSC looks forward to continuing to work with ASIC to ensure that once the FoFA reforms are finalised, scaled advice can be provided by our members with confidence in an environment of legislative certainty.

The FSC fully supports the introduction of a legislative best interest duty as outlined by Minister Shorten in the “Future of Financial Advice information pack” released in April 2011. However, in our view, the proposed provisions contained in the recently released draft legislation will not achieve many of the key policy objectives identified in that announcement, and in many cases will be counterproductive to the achievement of those objectives and in particular with regards to (personal) scalable advice.

In the following table, we have extracted the key features of the duty as announced by the Minister in April 2011, and then outline how the draft provisions do not reflect or achieve those objectives. Specifically, the table summarises FSC member concerns regarding the challenges the new proposed duty creates in relation to the delivery of scalable advice.

Quotes from April 2011 Announcement	Our comments on the draft provisions
“Compliance with this duty will be measured according to what is reasonable in the circumstances in which the advice is provided. What is reasonable in the circumstances is commensurate and scalable to the client’s needs.	Rather than clarifying the ability to provide scaled or scoped advice, the amendments make this less clear. Currently, as is made clear by the Explanatory Memorandum that accompanied the introduction of s945A, that section allows the adviser to proffer, and/or for the client to request, advice on a specific subject matter. The adviser and the client then agree on the subject matter for the advice, and the investigations are limited to that subject matter. However, the client is protected because the adviser must conduct a reasonable investigation of all relevant client circumstances and of the subject matter, and ensure that the advice given is appropriate having regard to that investigation.
This means that if the client’s needs indicate that only limited advice is necessary, the adviser is not obligated to provide holistic advice.” (page 12)	Unlike the current s945A, the draft provisions do not allow the adviser to specialise in particular areas of advice. Nor do they allow the adviser and the client to agree on the subject matter of the advice. The adviser must address the subject matter requested by the client, even if the adviser does not offer advice on all of those subject matters.
“To facilitate scaled advice,	Further, the adviser must consider all of the client’s needs and objectives as are reasonably apparent, and must consider alternatives outside the agreed scope of

Quotes from April 2011 Announcement	Our comments on the draft provisions
<p>the Government will amend the existing reasonable basis for advice obligation in the Corporations Act to make it clear that this obligation is commensurate and scalable to the client's needs when providing advice. This will help address some concerns identified by industry that the provision of scaled advice is not consistent with their obligations under the Corporations Act." (page 14).</p>	<p>advice even if neither the adviser nor the client want to do or pay for this. Advisers are also required to consider and assess alternative strategies – even those that do not involve financial products. Advisers must therefore be trained and competent in a far wider range of subject matters than is reasonable – in fact, the range is limitless because the universe of alternative strategies is limitless.</p> <p>The essential point is that scaled advice will require an ability to limit the subject matter of the advice. Consistent with the EM, the “steps” prescribed by the best interest obligation should not effectively negate the ability of the subject matter of the advice to be “scaled” or limited.</p> <p>The new provisions will drive advice businesses to a “one size fits all” holistic advice model. This will stifle innovation and specialisation (and therefore competition), and will make advice more difficult and expensive for clients to obtain.</p> <p>Advisers will not have certainty over whether the considerations they have made will be sufficient to meet the duties.</p> <p>We believe that the new provisions amount to mandatory over-servicing. Advisers will be required to provide these additional services regardless of whether or not the client wants them or is prepared to pay for them.</p>
<p>The duty should not be interpreted as imposing trustee-style obligations on financial advisers given the differences in roles between a trustee and a financial adviser.” (page 12)</p>	<p>The general best interests duty in s961C(1) is undefined. Neither the draft provisions, nor the Explanatory Memorandum, explain whether the cases on the meaning of “best interests” in a trustee context are relevant to interpreting the duty.</p> <p>Further, it is unclear what additional steps or outcomes an adviser is required to take or achieve to comply with the general best interests duty if the adviser has complied with the specific duties in s961C(2), the appropriateness duty in s961H, and the duties of priority in proposed Subdivision E. Also, the duty is not confined to the chosen subject matter of the advice, implying that the duty is much broader than the engagement for advice agreed with the client.</p> <p>The Explanatory Memorandum creates further uncertainty by describing the best interest obligation as being of a “broad nature”.</p>
<p>“The focus of the duty should be on how a person has acted in providing advice rather than the outcome of that action.” (page 12)</p>	<p>A product cannot be recommended from an APL unless the product “would” achieve the client’s objectives or meet their needs. Not only should the duty not focus on the outcomes, but equally, advisers should not be responsible for the performance of products they do not issue. Further, the obligations to consider whether the client’s needs and objectives could be better met by alternative means effectively create a duty of “best advice”.</p>
<p>“The duty would include a reasonable steps qualification, so that advisers are only required to take reasonable steps to discharge the duty.” (page 12)</p>	<p>Neither the general best interests duty in s961C(1), the prescriptive steps in s961C(2), nor the duties of priority in Subdivision E, include a reasonable steps qualification. Compliance with the specific steps set out in s961C(2) should operate as a defence or safe harbour for the best interests duty, rather than as a set of additional prescriptive obligations.</p> <p>Further, the prescriptive steps should be required to be complied with only if and to the extent that it is reasonable in the circumstances and relevant to the subject matter of the advice.</p>
<p>“A person giving personal advice will not be required to broke the entire market or a subset of the market of all available financial products</p>	<p>While it is clear that the adviser is not required to consider all of the financial products on the market to comply with the requirement to conduct a “reasonable investigation” of products, there is nothing that makes it clear that the adviser is not required to investigate all of the products in a subset of the market (such as “all products that might meet the client’s needs and objectives”, or “all of products</p>

Quotes from April 2011 Announcement	Our comments on the draft provisions
to find the best possible product for the client, unless this service is offered by the adviser or requested by the client and subsequently agreed to by both parties.” (page 12)	in the class identified for investigation by the client”). As drafted, the ability to limit investigation to the products on the APL can never apply. The adviser is required to consider alternatives outside the subject matter of the advice, and even outside the market for financial products, which goes beyond the expertise of the adviser. This is neither reasonable nor practical and again constrains the ability to offer scaled/limited advice. Finally, none of these limitations apply to the general best interests duty in s961C(1).

2. Scope of the proposal – General v Personal Advice

a) Definition of personal advice

FSC welcomes the guidance proposed by ASIC in CP164 and in particular the circumstances in which general advice can be given without becoming personal advice. ASIC recognises that licensees can scale advice along a continuum from general advice to more comprehensive or complex advice.

However, while these examples are a positive development, FSC members are concerned that the personal advice definition in the law today does not provide the certainty necessary to enable product issuers and advisers to take full advantage of ASIC's interpretation and guidance. Specifically, members are concerned about the second limb of the personal advice definition and whether a reasonable person might expect the provider to have considered one or more of the client's objectives, financial situation and needs in the circumstances, for example where:

- the adviser/provider has information about the client as a result of prior dealings with the client;
- the client provides additional information when the advice is being given;
- the adviser/provider gives general advice relating to specific products;
- the client acts on the general advice given and acquires a financial product as a result; or
- the client already holds one or more products issued by the provider.

The reasonable person test results in industry generally taking the conservative path which is either no advice or personal advice. This applies to online calculators and a general reluctance from most advice providers to offer general advice via client services teams lest they inadvertently fail to control customer or client perceptions. Industry's reaction is generally to refer clients who seek general advice straight to an adviser for personal advice, rather than risking testing the boundaries of general advice.

The FSC understands that ASIC believes that industry is too conservative in its interpretation of the distinction between general and personal advice and that it is possible to give general advice despite holding or receiving information about a client relating to their personal circumstances as reflected in the examples ASIC has provided. However, while these examples are welcome, they are not sufficient legal certainty on their own. At a minimum, we believe that ASIC needs to clearly set out the principles that give rise to its examples to enable industry to apply them in other circumstances.

We understand that ASIC's legal view confirms its interpretation of the circumstances in which general and personal advice is given. As noted, the difficulty for industry is that providers need to be concerned not only with ASIC's views on the personal advice definition but also how it is interpreted by the Financial Ombudsman Service (FOS) and the courts, particularly FOS on a day to day level. If FOS and the courts do not share ASIC's view, then providers are liable to clients each time they rely on ASIC's interpretation and their reputation suffers accordingly. Well-run, compliance-oriented

financial service providers will naturally and appropriately seek to implement measures to prevent the occurrence of such outcomes.

We submit that public release of ASIC's legal opinion/view on this matter could help alleviate these industry concerns. While this would not preclude FOS and the courts having a different view, it would place the legal basis for ASIC's view on the public record and give industry and its legal advisers the opportunity to understand the basis for it and greater confidence in applying it. It would also mean that FOS in particular would have access to ASIC's legal view when resolving consumer complaints.

Another possibility might be for ASIC to work with FOS to release a joint statement on the application of the personal advice definition. This could be similar to the fact sheets FOS releases and provide guidance to FOS complaints staff about the standard to be applied in dealing with complaints regarding the provision of personal advice.

However, our preferred solution to facilitate industry being able to take a more flexible view of the definition of personal advice suggested in the Consultation Paper would be for ASIC to make a class order relating to the application of the definition of personal advice. This would ensure that industry can be confident of the approach that will be followed by ASIC, FOS and the courts in relation to the personal advice definition.

The FSC recommends a Class Order could provide the following clarification:

- Part 7.7 Division 3 only applies where:
 - a) the client has requested and the provider has agreed to provide; or
 - b) the provider has offered and the client has accepted,

advice tailored to the client's relevant personal circumstances.

This will provide the certainty necessary for advisers to be confident that they are not caught by the personal advice requirements simply because of the information they hold about the client due to previous dealings with the client or through the given interactions unless the adviser has agreed to provide personal advice.

This would be consistent with ASIC's view in the general advice section of Example 7 in the Consultation Paper. While Jim may be seeking personal advice in the example, it is clear that the operator has not agreed to provide anything other than general advice and this clarification should ensure that the operator is not deemed to be giving personal advice in the circumstances.

Other areas in which ASIC could provide greater regulatory certainty, include the following:

- specific exemptions for calculators which recommend strategies, or provide modelled assumptions, taking into account personal circumstances, to recommend for example levels of insurance / levels of retirement funds provided that these stay within strategic or asset classes (i.e. do not recommend a specific product to buy, sell or hold); and
- calculators / quoting tools which do not advise but provide factual information on how much a product costs based on clients entering personal details (such as quotations on a limited range of products) are treated as general advice. An example of a more consumer centric integration of calculators and call centre staff is provided in section 5 below.

b) Scoping the advice

In order to facilitate the use of scaled advice it is essential that the current regulatory regime in turn supports the provision of scaled advice which includes limiting an adviser's liability relative to the scoped advice as agreed with the client.

Paragraph 25 of the consultation paper states, “*Either you or your retail client can suggest limiting the scope of the advice*”. Under your obligations, it is possible to limit the scope of advice to a single issue.”

Paragraph 26 of the consultation paper states, “*you should explain to a retail client the limited scope of the advice you are giving in a way that will be clear to the client. This will ensure that clients are not misled about the scope of the advice that you give.*”

We welcome the intention of the statement above.

However, note that under the draft legislation FoFA regarding the operation of the best interest duty, the ability for a client to limit the scope of the advice has been significantly curtailed as it places the obligation on the adviser to approach each client interaction with a holistic view as a default position.

We suggest inserting below paragraph 26 an additional paragraph as follows:

“27. Where the adviser and client have clearly agreed on the scope of the advice and the client has been provided a warning of the limitation of scope, the adviser’s liability is limited to the agreed scope of the advice”.

It will also be important for ASIC to work closely with the industry to ensure that the flexibility in section 945A is able to be retained within the scope of the FoFA legislation.

c) Financial Services Guide (FSG)

While giving an FSG will not be difficult where an adviser is giving scaled advice in a meeting with a client, it will cause problems where scaled advice is given over the telephone or any other non-face-to-face medium. This practical difficulty may in fact result in fewer consumers completing the advice process or more consumers being deterred from seeking advice if, after an initial approach is made, they are required to wait to receive an FSG before continuing the conversation.

The FSC suggests that ASIC could achieve this by making a Class Order along the following lines:

A Financial Services Guide does not have to be given to a client where advice is given during a telephone call or other non-face to face communication with the client and the client and the providing entity have agreed to limit the scope of the advice to a specific need, objective or financial product if the providing entity gives to the client:

- (a) the information that would be required to be in the Financial Services Guide by paragraphs 942B (2) (a), (e) and (f) of the Act; or
 - (b) the information that would be required to be in the Financial Services Guide by paragraphs 942C (2) (a), (f) and (g) of the Act;
- as the case requires

d) Statement of Advice (SOA)

In the interests of improving the accessibility of simple cost-effective scaled advice, FSC also believes that it would be appropriate for the record of advice requirements to apply.

ASIC could achieve this by making a Class Order which modifies the SOA requirement as follows:

A Statement of Advice does not have to be given to a client where the client and the providing entity have agreed to limit the scope of the advice to a specific need, objective or financial product if:

- a) the providing entity gives the client the information required by the following provisions when the advice is given:
 - i. paragraphs 947B(2)(d) and (e) of the Act; or
 - ii. paragraphs 947C(2)(e) and (f) of the Act;as the case requires;
- b) (the providing entity makes a record of the following:
 - i. the advice given to the client;
 - ii. the information collected by the providing entity relevant to the advice given; and
 - iii. the information required by section 947D, if applicable;
- c) the providing entity keeps the record of advice for at least seven years after the advice is given;
- d) the providing entity informs the client that the client may request a copy of the record of advice at the time the advice is given; and
- e) the providing entity provides the client with a copy of the record of advice at no cost to the client if requested by the client as soon as reasonably practicable after receiving the request.

The FSC does not believe that there is any need to modify the PDS requirements for scaled advice.

3. Practical implications of the proposals

We submit that more Australians are likely to access advice more affordably if they have the right to:

- Select their advice provider;
- Determine the way in which they approach the provider (face to face, telephone etc); and
- Limit the service they wish to receive and are prepared to pay for (which can range from only seeking factual information to general advice and onward to varying levels of personal advice (from simple to complex topics of advice)).

a) Clearly establishing how a client seeks advice

How consumers seek advice is often a fluid / dynamic process and whilst the examples outlined in CP164 provide helpful guidance, retail clients do not always understand the difference between factual information, general advice or personal advice. They simply want their questions to be answered/help to be provided.

During the course of a conversation, a client often volunteers information about their personal circumstance and may believe they have been given personal advice (that is specific to their circumstances) when this may not been the case.

The table below outlines how the client has chosen to seek advice and some common questions that can result in different types of advice being provided.

	Client might say	Adviser/Call centre representative might say
Factual information	<ul style="list-style-type: none"> • Can you tell me how this works? • What are my options? • How much does \$X of cover in this product cost? • Which is better for me? • Does my insurance option cover the following... • I want to know how do I.... • How do I.... • How much is my account balance? 	<ul style="list-style-type: none"> • Yes I can. 'A' happens when 'B' occurs. • The costs for 'A' and 'B' are \$\$\$ • You have these options available however I cannot recommend which is better for you • Yes, the insurance option covers the following situations... • The product has these features.... • The PDS states the following on page... • You can complete this form by.... • Your account balance is...
General Advice	<ul style="list-style-type: none"> • Can you tell me how I would compare • I have heard that super is a great savings vehicle, can you tell me more about this? • How much superannuation do I need to have to have a pension of \$Y per annum... • What options would suit someone in this situation... • Is it a good performer? • What things do I need to consider when... • I am concerned about volatility in my superannuation account, should I switch to cash? 	<ul style="list-style-type: none"> • Generally speaking....., • Superannuation is a very effective vehicle in which to make savings because of ... • I cannot make a recommendation specific to your personal needs however, ABC economic research shows that a person aged X would need to save this much per year into a complying super fund in order to generate an income of \$Y per annum... This is based on the following assumptions of... • Clients that do XXXX typically are XXXX and do it for XXXX reasons but this may not be appropriate for your personal circumstance. You should read the PDS before acting on this advice or • The fund's 1 year and 3 year performance figures are.... however you should be aware past performance is no indicator of future... • You sound like you are seeking more guidance appropriate for your individual circumstance. I can arrange for personal advice to be provided to you...

	Client might say	Adviser/Call centre representative might say
Personal advice	<ul style="list-style-type: none"> • What should I do / what would you do in my situation? • I have 2 children under the age of 12, how much Life cover would be required to protect them... • Should I invest in... • Is it a good time to buy... • Should I use this product? • I want to know what option I should be in... • I want to know how much is enough for me... • Based on what I have told you, should I do the following... • So you are saying I should invest in... 	<ul style="list-style-type: none"> • I recommend you do buy / sell or hold this. • I recommend you use product X • I recommend that you need the following amount of cover... • If it was me, I would definitely consider X • Our research recommends that for children under the age of 12 we estimate he following amount of cover based on ...

A class order exemption suggested in section 2(A) above would enable our FSC members to more confidently provide access to general advice by giving greater regulatory certainty in circumstances where the advice provided is in fact general in nature, albeit the client has assumed that it was personal despite appropriate warnings being given.

b) Enabling the efficient collection of the client’s relevant personal circumstances

In order to facilitate the efficient and affordable access to scaled advice we need to strike a balance between obtaining an appropriate level of inquiries into the client’s personal circumstances relative to the complexity of the scope of the advice. The fact finding process can be a driver of significant cost in the provision of advice and ensuring the balance is appropriately struck will assist in this area.

Paragraphs 22 & 23 of CP 164 state:

“22. When giving personal advice to a retail client, you must undertake sufficient inquiries to ensure that you can give advice that is appropriate to the retail client’s circumstances.”

“23. When a retail client’s circumstances relevant to the scope of the advice are straightforward, the scale of your inquiries may be quite limited. As the complexity of a retail client’s circumstances relevant to the scope of the advice increases, you will need to expand the scale of your inquiries”

We suggest amending these paragraphs to read:

“22. When giving personal advice to a retail client, you must undertake sufficient inquiries relevant to the scope agreed to ensure that you can give advice that is appropriate to the retail client’s circumstances.”

“23. When the advice is simple and straightforward, the scale of your inquiries may be limited. As the complexity of the advice increases, you will need to expand the scale of your inquiries into the client’s relevant circumstances”

We submit that scalable advice can be appropriate for clients regardless of how complex their personal circumstances are (especially if those complex circumstances are not relevant to the scope

of the advice). This approach still requires the relevant circumstances of the client to be taken into account in order to provide advice that is appropriate.

ASIC has provided some useful examples of single issue/single product scaled advice. The FSC members welcome the development and articulation of a few examples which contain dynamic set of factual circumstances which would illustrate providing scaled advice to clients with more complex needs/issues. Alternatively, we would support further principles-based guidelines for limiting or expanding the scope of the advice in order to ensure that scaled advice is effectively utilised across a range of advice circumstances.

c) Lowering the cost of producing scalable advice to make it more affordable for clients

In order to deliver scalable advice in a cost effective way we would support ASIC separately reviewing the broader compliance framework and how it can be efficiently delivered in a scalable advice environment (for example by providing further guidance around how compliance measures can be tailored according to the complexity of the advice or business model).

4. Comments on the proposed examples

The FSC notes that ASIC has provided simple examples to illustrate how scalable advice can be provided. However, there are limitations to these simple examples including:

- They relate to advising existing clients only; and
- Are product advice in nature (rather than needs based).

A number of the proposed examples included in CP164 result in the client requesting factual information or general advice then going away to do more research before acting on the advice. In reality some clients will want to transact even after receiving only factual information or general advice. We suggest ASIC amend some examples to illustrate a scalable scenario where a client feels confident that having received enough general advice to make a decision and possibly execute that advice. For example, in a market volatility situation where a client is concerned about the value of their investments, a client may receive enough general advice to make an informed decision to hold or switch their investment options.

Further, examples that provide sufficient focus or guidance on how to tailor or scale strategic advice would be welcomed by the FSC. To this end we have suggested three additional examples in following pages in section c, to illustrate common advice topics including insurance, market volatility and superannuation consolidation.

a) Recommended improvements to some of the existing examples in the consultation paper

The FSC submits that the example on page 12 of this CP is problematic and declining to provide factual information and/or advice may certainly not be in the client's best interest (common law still applies) and may not be appropriate.

Extract from CP164 – Example B: Declining to give advice (page 12):

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

The adviser points out that it is also important to compare the insurance provided by each fund but that the adviser is not able to provide that advice and the retail client should seek their own advice on this aspect. The client says they are not going to bother seeking advice from someone else about insurance.

[In this situation, it is good practice for the adviser to decline to give the advice.]

In this situation the client has articulated that they are seeking advice on their superannuation and that their needs are better returns and their wants are to pay lower fees.

The FSC submits that the adviser could address this advice situation by informing the client in the following ways:

- My advice is that you should receive advice on the insurances provided by each fund before you agree to switch or consolidate your super or review the insurance cover offered in your other superannuation policies before you proceed.

- Particularly if you don't have any other insurance policies, you need to be aware that you are potentially giving up an insurance benefit which you might want to use in the future. There is no assurance that your new super policy will have the same insurance benefits.
- I can proceed with giving you advice without considering your insurance (seeing this is what the client asked for). However we must get a specific consent from you to agree to this insurance review being outside the scope of this advice.
- Would you like to review your insurance cover or would you like to agree to proceed with this advice without considering the impact on insurance?

Desired Outcome: If the client makes an informed decision to scope the advice, we believe the adviser should be able to proceed on this basis. The alternative is that the client does not get advice.

b) Suggested improvement to Example 2 on Page 41 of CP 164: Advice from a stockbroker to an existing client

While we welcome guidance which is specific to stockbroking activities, we are concerned that the example provided is simplistic and we ask ASIC to provide some examples or Q&A's with alternative fact scenarios which provide more real life and complicated fact situations to provide greater guidance. Alternatively, this is an area where principles based guidance would be preferable.

We submit that the following examples are general advice in nature and request ASIC provide clarity on these matters in their Regulatory Guide:

- A stock research report provided by an adviser to their clients. We submit this is general advice.
- Where a report recommended particular portfolio weightings for different types of investors according to their risk profile. The report contains clear general advice warnings.
- That general advice may be provided to a client in relation to their share portfolio or for one off share transacting, albeit that same client may be a client of the AFSL for the purposes of the client's super/managed investments (specific concern here is can general advice be provided in this example despite the adviser knowing information about the client's financial circumstances).

c) Additional examples

The FSC submits that for greater clarity and guidance ASIC also consider including the following additional examples in the Regulatory Guide to illustrate real life scenarios.

An example or principles ASIC could include in the guidance to clearly illustrate it's interpretation of the law with regards to general and personal advice is one where a client has been historically in a personal ongoing advice relationship with an adviser but now only wishes to access piece by piece general advice from the adviser. Specially addressing the following concerns:

- does the fact an adviser or the AFSL/AR has prior financial needs/objectives/financial position information mean each new piece by piece advice request must take that knowledge into account in making a recommendation? or
- Are each piece by piece advice scenarios to address in and liability limited to, addressing the specific advice requested. For example, can an adviser limit their investigation to the facts/needs pertaining to the specific piece by piece advice request in determining the advice recommendation appropriate to the circumstances presented and investigated to that limited advice scenario/subject matter?

Further, to assist ASIC, we have documented 3 examples of the most common topic areas in which advice is sought:

- Insurance;
- Market volatility; and
- Super consolidation.

The examples are intended to illustrate the flexibility and clarity required between personal and general advice to ensure customer needs are adequately met throughout the fact finding/decision making process and the distinction required between meeting information needs and making recommendations.

Example 1A - Life Insurance – How Much Cover Do I Need?

Factual Information (Existing)

Operator	Welcome to ABC. My name is Helen, how can I help you?
Benjamin	Hi, my name is Benjamin and I was hoping you could assist me please? My wife and I have just moved into our new home. Last night we were watching the television and saw various commercials about life insurance and we were thinking about getting some cover.
Operator	Thanks for the call Benjamin. Congratulations on moving into your new home. I'm happy to give you some factual information about our life insurance product but cannot give you advice about what you should do or how much cover you need. Is that ok with you?
Benjamin	Yes, that's fine.
Operator	ABC offers a life insurance product which can provide a large payout to keep your family going if you're not around. You need to be between the age of 18-60 to be eligible and a permanent Australian resident. We offer cover up to \$1 million. [Further information about the product may be provided here.] If you are interested in more information about our product, I suggest you have a look at our website or I can send you out some information that might help you.
Benjamin	Thank you that would be great so I can review with my wife.
Operator	I'll send that out today, if you do have any further questions, please give us a call.
Benjamin	Thank you, good bye.

The kind of service being provided is made clear to the client

The operator is providing factual information only. The information does not contain a recommendation or opinion intended to

General Advice (Existing)

Authorised representative	Welcome to ABC. My name is Helen, how can I help you?
Benjamin	Hi, my name is Benjamin and I was hoping you could assist me please? My wife and I have just moved into our new home. Last night we were watching the television and saw various commercials about life insurance and we were thinking about getting some cover.
Authorised representative	Thanks for the call Benjamin. Congratulations on moving into your new home. May I ask why you feel you need life insurance?
Benjamin	Well both Gloria, my wife, and I work. We have discussed starting a family soon and this means Gloria will not be working for a while. Gloria insisted I call, to make sure if anything happened to me that she would have something to fall back on.
Authorised representative	I'm able to provide you with general advice only but can't advise you about the amount of cover you need. You should consider the Product Disclosure Statement to decide whether the product is suitable for you.
Benjamin	That's fine.
Authorised representative	I'll explain the product features and how this can assist you, and provide a quote if you like. How does that sound?
Benjamin	That sounds fine
Authorised representative	ABC offers a life insurance product which can provide a large payout to keep your family going if you're not around. You need to be between the age of 18-60 to be eligible and a permanent Australian resident. We offer cover up to \$1 million. [Further information about the product may be provided here.] The payout can be used to cover a mortgage, debts, ongoing bills, school fees and any day to day living expenses. Do you have any type of cover in place at the moment?
Benjamin	No we don't. Before the mortgage and getting married I didn't really think about it.
Authorised representative	I'm happy to provide you with a quote, how much cover were you thinking of taking out?
Benjamin	Well I am not sure, it's hard to say because I've never looked into this before.
Authorised representative	I can provide you with a range of quotes for cover amounts depending on how much you think you need or would like to leave behind.
Benjamin	I guess I would like to cover the mortgage and other debts we have. Can you advise how much \$500K of cover would cost a month?
Authorised representative	Sure, that would be \$*** monthly. Would you like me to provide you with any other quotes or are you happy with that amount?
Benjamin	Not at this point. Thank you for that information, I will need to think about it further and work out if that's what I really need.

The kind of service being provided is made clear to the client.

Standard product features explained

Authorised representative	You're welcome. I can send you out the information we have discussed today and please feel free to call if you have any questions.
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General Advice (Consumer Centric Use of Online Calculator)

Authorised representative	Welcome to ABC. My name is Helen, how can I help you?
Benjamin	Hi, my name is Benjamin and I was hoping you could assist me please? My wife and I have just moved into our new home. Last night we were watching the television and saw various commercials about life insurance and we were thinking of getting some cover.
Authorised representative	Thanks for the call Benjamin. Congratulations on moving into your new home. May I ask why you feel you need life insurance?
Benjamin	Well both Gloria, my wife, and I work. We have discussed starting a family soon and this means Gloria will not be working for a while. Gloria insisted I call, to make sure if anything happened to me that she would have something to fall back on.
Authorised representative	I'm happy to give you some general advice on your query however I can't consider your individual circumstances. You should consider the Product Disclosure Statement to decide whether the product is suitable for you.
Benjamin	That's fine.
Authorised representative	What I can do for you is explain the products features and how this can assist you, and provide a quote if you like. How does that sound?
Benjamin	That sounds fine
Authorised representative	ABC offers a life insurance product which can provide a large payout to keep your family going if you're not around. You need to be between the age of 18-60 to be eligible and a permanent Australian resident. We offer cover up to \$1 million. [Further information about the product may be provided here.] The payout can be used to cover a mortgage, debts, ongoing bills, school fees and any day to day living expenses. Do you have any type of cover in place at the moment?
Benjamin	No we don't. Before the mortgage and getting married I didn't really think about it.
Authorised representative	I'm happy to provide you with a quote, how much cover were you thinking of taking out?
Benjamin	Well I am not sure, it's hard to say because I've never looked into this before. How much cover do I need?
Authorised representative	We generally advise our customers that they should consider ensuring they have enough insurance to cover their mortgage, other debts and expenses.
Benjamin	Well I have a mortgage of \$250,000, we also have a credit card debt of \$10,000 and a car loan of \$23,000.
Authorised representative	It's up to you how much cover you would like to take out.
Benjamin	When I add up those figures it seems like I'll need at least \$283,000.
Authorised representative	If you like, you can use the insurance calculator on our website to

Consumer is given the choice to either disengage the call or to be assisted through the process by the service centre assistant (similar to current GI world)

	help you confirm the cover you might need. Or I can take you through this now, while I have you on the phone.
	[AR takes customer through calculator inputs and presents answer.] Well Benjamin, based on the information you've given me, the calculator produced cover of \$500,000. Are you ok with that?
	Yes, that will do.
Authorised representative	I'll go through the product in further detail and provide a quote for that amount. [Product explanation provided and client asked eligibility questions over the phone. Client accepted.]
Authorised representative	[Premium amount provided.]
Benjamin	Well that sounds like something I can manage on a monthly basis. I'm happy with that amount. Are we able to start the policy today?
Authorised Representative	Yes of course. [Collate details and complete legal requirements.]

Example 1B - Life Insurance – What level of cover?

Factual Information	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Josh	Hi, my name is Josh. I am 32 and have just recently purchased my first home and my wife is expecting our first baby in a month. I am concerned that I may not have enough life insurance and was wondering if you could give me some information about the level of cover I should have.
Operator (branch staff / adviser)	<p>Okay, thanks Josh. As you may be aware, there are a number of different types of life insurance cover available, including death cover, trauma insurance, total and permanent disability and income protection insurance.</p> <p>Death cover pays out a lump sum when you die. Trauma insurance provides a lump sum if you are diagnosed with a specific illness, income protection provides you with a monthly payment while if you are sick or injured and unable to work, while total and permanent disability insurance provides you with a lump sum if you become totally and permanently disabled.</p> <p>We have an insurance calculator on our website www.abcfinancialservices.com.au that provides information on the types things people should generally consider when determining the type and level of life insurance cover they may need. For example, the calculator seeks information on your family circumstances, level of assets, savings and debt, your income and number of dependents. Would you like to take a look at the calculator and call back once you decide what type of cover you might need?</p>
Josh	The calculator sounds like exactly what I need. I will take a look at it and call back. Thanks for your help.
Operator (branch staff / adviser)	You're welcome. We look forward to hearing back from you.

General Advice	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Josh	Hi, my name is Josh. I am 32 and have just recently purchased my first home and my wife is expecting our first baby in a month. I am concerned that I may not have enough life insurance and was wondering if you could give me some information about the level of cover I should have.
Operator (branch staff / adviser)	<p>Okay, thanks Josh. As you may be aware, there are a number of different types of life insurance cover available, including death cover, trauma insurance, total and permanent disability and income protection insurance.</p> <p>Death cover pays out a lump sum when you die. Trauma insurance provides a lump sum if you are diagnosed with a specific illness, income protection provides you with a monthly payment while if you are sick or injured and unable to work, while total and permanent disability insurance provides you with a lump sum if you become totally and permanently disabled.</p> <p>Generally a person with debt and dependents should at least consider taking out death cover and income protection insurance at a level sufficient to pay off or cover their mortgage should they die or become temporarily unable to earn an income.</p> <p>We have an insurance calculator on our website www.abcfinancialservices.com.au that provides information on the types of things people should generally consider when determining the type and level of life insurance cover they may need. For example, the calculator seeks information on your family circumstances, level of assets, savings and debt, your income and number of dependents. Would you like to take a look at the calculator and call back once you decide what type of cover you might need?</p>
Josh	The calculator sounds like exactly what I need. I will take a look at it and call back. Thanks for your help.
Operator (branch staff / adviser)	You're welcome. We look forward to hearing back from you.

Personal Advice	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Josh	Hi, my name is Josh. I am 32 and have just recently purchased my first home and have a large mortgage. My wife is also expecting our first baby in a month. I am concerned that I may not have enough life insurance and was wondering if you could give me some advice about the level of cover I should have.
Operator (branch staff / adviser)	Okay, thanks Josh. As you may be aware, there are a number of different types of life insurance cover available, including death cover, trauma insurance, total and permanent disability and income protection insurance. What is your main concern with respect to your level of insurance cover?
Operator (branch staff / adviser)	Well Josh, given you have just purchased a house, you should ensure that you have insurance that will at least be sufficient to extinguish your mortgage and any other debt you may have. It is also important to consider the cost of childcare and domestic duties if your wife is left as the only 'breadwinner'. How much is your mortgage and do you have any other debts?
Josh	We have a \$300,000 mortgage and a \$5,000 credit card debt. We also have a car loan of \$10,000.
Operator (branch staff / adviser)	So \$315,000. And what about your level of savings or other assets?
Josh	We currently have \$20,000 in our savings account and a small portfolio of shares worth about \$5,000.
Operator (branch staff / adviser)	Do you know how much death cover you have in your super fund?
Josh	I think about \$100,000. I think I may also have a similar level of total and permanent disability insurance through my super fund.
Operator (branch staff / adviser)	Well, you based on what you have told me, I would recommend you take out additional term life cover for \$570,000 ³ . You should also consider income protection insurance to help pay your mortgage should you be temporarily unable to work and earn an income. Do you have any income protection insurance?
Josh	No, I don't and my wife is planning to take 12 months maternity leave when our baby arrives and then maybe only go back to work part-time. How much income protection insurance would I need?
Operator (branch staff / adviser)	What is your current pre-tax annual income?
Josh	I earn \$100,000 a year

³ This has been calculated using the Lifewise calculator

Operator	Based on that, I would recommend you take out income protection insurance with a monthly benefit of \$6,200 ⁴ a month. Would you like me to arrange that cover and prepare a Statement of Advice for you?
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⁴ This has been calculated using the Lifewise calculator

Additional Example 2 - Market Volatility

Factual Information	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Angela	Hi, my name is Angela. I am 50 and have just seen on the morning news that there are a lot of problems in the stock markets around the world, and I'm worried about the effect this may have on my superannuation. That's the money I'm going to live on in retirement, and I can't afford for it to lose any value. I think I should get out of the market now before I lose all my money.
Operator (branch staff / adviser)	Okay, thanks Angela. Our fund managers have prepared a market report for us, so I can go through this information with you to help you understand what is happening with the stock markets more clearly?
Angela	Thank you, I might feel more comfortable if I understand what is actually happening.
	<i>Operator reads out prepared fact sheet on market</i>
Operator	Do you have any other questions Angela?
Angela	Thank you for providing me with that information, but I'm still not comfortable with what is happening and I would like to switch my money to Cash straight away.
Operator	No problems. I can either send you a switch form or you can fill one in off our website. I just need to let you know that switches are completed effective the day we receive your switching form. So whatever happens today on the markets will be reflected in your switch price.
Angela	Ok, I understand. Could you please send me a switch form straight away? Hopefully I won't lose too much more money before I get it back to you.
Operator	I have your address on the system; I will send it to you in today's mail if you're ok with that? And if you need any more assistance, please feel free to give me a call
Angela	Thank you, that will be all for today

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General Advice	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Angela	Hi, my name is Angela. I am 50 and have just seen on the morning news that there are a lot of problems in the stock markets around the world, and I'm worried about the effect this may have on my superannuation. That's the money I'm going to live on in retirement, and I can't afford for it to lose any value. I think I should get out of the market now before I lose all my money.
Operator (branch staff / adviser)	Okay, thanks Angela. Our fund managers have prepared a market report for us, so I can go through this information with you to help you understand what is happening with the stock markets more clearly?
Angela	Thank you, I might feel more comfortable if I understand what is actually happening.
	<i>Operator reads out prepared fact sheet on market.</i>
Operator	Do you have any other questions Angela?
Angela	Thank you for providing me with that information, but I'm still not comfortable with what is happening. Do you think I should be switching to Cash straight away?
Operator (branch staff / adviser)	Okay Angela, I understand your concern. I am only able to provide you with general advice today. I therefore won't be taking your personal circumstances into account, so the advice I give you today may not be appropriate to you. Before making any decisions based on this information you should consider the appropriateness to you.
Angela	Ok, I understand.
Operator	Ok, looking at your details, I can see that you are currently invested in the growth fund. This means you currently have 80% of your assets invested in growth asset classes such as shares and property; while 20% of your assets are invested in defensive assets such as cash and bonds. A growth fund is generally designed for 7 or more years of investment because shares and property are prone to periods of negative returns like we are currently experiencing. Growth funds are expected to perform well over the longer term. Therefore we would generally expect any money invested in a growth fund which has gone down in value due to the recent market downturns to recover over a number of years. Importantly we offer a high level of diversification (meaning we invest in a lot of different assets) in the Growth fund, so there is very little chance of you losing all your money, and your funds should recover over time.

	<p>Alternately we have a capital stable fund which offers similar diversification, but invests 80% of assets in cash and bonds, and only 20% in growth assets. This has been designed to offer more security in the short term, but we would expect it not to perform as well in the longer term as the growth fund. Generally people invest in a capital stable fund for 4 or more years as there is still some chance of negative returns, but they wouldn't be expected very often. We have found people in retirement tend to like this investment option for the security it provides.</p> <p>Finally we have a cash fund which only invests in cash. Cash is an asset class that is safe from capital losses, so you won't lose any more value of your funds. But Cash is expected to be the worst performing of our funds in the long term, and inflation will often reduce the real purchasing power of cash over time.</p> <p>I can send you out some more information on those funds for you to think about, and a switching form in case you decide that is the way you want to go.</p>
Angela	<p>Thank you, you have given me a lot to think about. I would definitely like some more information on the Capital Stable and Cash funds. I will have a read of the material and send back my switch form.</p>
Operator	<p>I have your address on the system, so I will send it to you in today's mail if you're ok with that? And if you need any more assistance, please feel free to give me a call.</p>
Angela	<p>Thank you, that will be all for today.</p>

Personal Advice	
Operator (branch staff / adviser)	Good morning. Welcome to ABC financial services. How can I help you?
Angela	Hi, my name is Angela. I am 50 and have just seen on the morning news that there are a lot of problems in the stock markets around the world, and I'm worried about the effect this may have on my superannuation. That's the money I'm going to live on in retirement, and I can't afford for it to lose any value. I think I should get out of the market now before I lose all my money.
Operator (branch staff / adviser)	Okay, thanks Angela. Our fund managers have prepared a market report for us, so I can go through this information with you to help you understand what is happening with the stock markets more clearly?
Angela	Thank you, I might feel more comfortable if I understand what is actually happening.
	<i>Operator reads out prepared fact sheet on market.</i>
Operator	Do you have any other questions Angela?
Angela	Thank you for providing me with that information, but I'm still not comfortable with what is happening. Do you think I should be switching to Cash straight away?
Operator	No problems, I can give you advice on your asset allocation if you like. I will need to get some information from you so I can provide that advice. Before we start that, is there anything else you would like advice on today?
Angela	No, I am only concerned about my superannuation investment at the moment.
Operator	Ok, so I will only provide advice to you on that subject. I can see here you have \$150,000 invested with us in the Growth fund, and that you are 50 years old. You have also expressed concern with the market volatility, is that all correct?
Angela	Yes, all my super is invested in your funds, and I am really worried about the stock markets.
Operator	Ok, I'll just collect some more information from you.
	<i>Operator completes fact find on Angela's current employment, salary, plans for retirement, how much money she thinks she will need to live on in retirement, and a risk assessment questionnaire.</i>
Operator	Thanks Angela. Based on the information you have provided to me, you plan to retire in about 10 years, you expect to

	need less money to live on in retirement than you currently spend because you will have paid off your mortgage, and from your risk assessment I can see that you would like your money to grow to provide you with a comfortable retirement, but you're worried about short term losses. Is that correct?
Angela	Yes, that is all correct.
Operator	In that case, I recommend we switch your super money to a capital stable fund. A capital stable fund offers you a diversified investment with 80% of assets in cash and bonds to provide capital security, and 20% invested in growth assets to provide some longer term growth. This has been designed to offer more security for your investments in the short term, but we would expect it not to perform as well as the growth fund in the longer term due to the lower exposure to growth assets. Generally people invest in a capital stable fund for 4 or more years as there is still some chance of negative returns, but they wouldn't be expected very often. We have found people in retirement tend to like this investment option for the security it provides. Therefore over the next 10 years you can expect to see some good growth out of this fund with little worry about what is happening on the stock markets.
Angela	That sounds perfect for me, how do I go about switching into the fund?
Operator	No problems. I will prepare a SoA for you confirming my advice to you, and I will include our current PDS and a switch form for you which I will fill in. You'll just need to sign the form where I have marked and send it back to me in the envelope I will provide.
Angela	Thank you very much; I feel a lot more comfortable now that my super will be set up the right way for my retirement.
Operator	I have your address on the system, so I will send it to you in today's mail if you're ok with that? I'll give you a call in two days time to make sure you received that, and I'll let you know once we have received your forms back so you know when the switch is going to happen. And if you need any more assistance, please feel free to give me a call.
Angela	Thank you, you have been a great help to me, I can sleep comfortably tonight.

Additional Example 3 – Superannuation Consolidation

Factual information	
Operator	Welcome to ABC. My name is Helen, how can I help you?
Benjamin	Hi, my name is Benjamin and I was hoping you could assist me please? I have just changed jobs and have received a welcome pack to join ABC fund. I also have funds with XYZ and was wondering about my options please.
Operator	Thanks for the call Benjamin. Although I am not in a position to discuss the XYZ Fund, I can discuss the main features of ABC fund, for your information. Is that what you are after?
Benjamin	Yes please. No: I actually want you to tell me which one is better.
<i>Operator decision based on licence</i>	<i>If General advice only to be provided then: then go to General Advice</i> <i>If personal advice licence then: go to Personal advice</i>
Operator (Factual information)	Yes ABC offers a number of features such as <key fund features discussed / listed>. Was this information useful, do you have any further questions?
Benjamin	1. Yes, thanks that has assisted me 2. Not really, what I was really looking for was whether I should start this fund and combine into the one or use my old fund.
Operator	I'm sorry but I can't advise you which of the two funds is more suitable for you because I don't know enough about your personal circumstances to provide you with personal advice.
Benjamin	Ok, Thank you, good bye.

General Advice	
Authorised representative	<p>While I cannot provide a specific recommendation to you without taking into account your specific objectives, financial situation or needs, there are generally a number of key areas to look at between funds.</p> <p>You need to consider what features of most important to you as the investment return or the fees may be less important than other features. We can go through these and see if this provides sufficient information for you to decide.</p> <p>I find that most members can make an informed decision by themselves on this basis. Alternatively I will need to refer you to <i>Provider DEF</i> who can provide you with personal advice.</p> <p>Areas you might consider include:</p> <ul style="list-style-type: none"> • Fees and charges payable • Investment options available to you and the returns that have been achieved. While the past return is not a guarantee of any future return you could compare what an investment option in your existing fund made in returns with a similar fund in ours. You might like to compare an Australian share fund for example. • Insurance options, rates and the portability or continuity of the insurance short you leave for another job or stop contributing. • Other features such as online access or access to other services such as advice. <p>These features can be found in the Product Disclosure documents of each fund.</p>
Authorised representative	It is generally the case that people choose the fund that has the cheapest fees or has the features that they are more likely to use and value. However, you should consider your own circumstances.
Benjamin	Ok, so what you are saying is that I should choose the fund with the cheapest fees?
Authorised representative	<p>No, you need to consider which is appropriate for you based on all of the areas we have just discussed of which fees are only one consideration. I suggest that you collect information from your other fund and make a comparison on its features.</p> <p>If you would like me to provide a specific recommendation I would need to know more information regarding your existing fund and your personal circumstances. Would you like to provide me some additional information about your circumstances which takes about 15 minutes and also send my details of your current fund for me assist?</p> <p>Would you like me to provide a specific recommendation as to which fund you should be a member of and whether you should combine your accounts?</p>
<i>Operator decision based on caller's answer</i>	<p><u><i>If yes and operator is licenced to provide personal advice then: personal advice conversation continues on p. 32</i></u></p> <p><u><i>If no, general advice only to be provided then: conversation</i></u></p>

	<i>continues below</i>
Benjamin	I do not wish to do this because.....
Authorised representative	<p>Ok, do you have any other questions regarding the ABC Fund?</p> <p>Areas you might consider include:</p> <ul style="list-style-type: none"> • Fees and charges payable. • Investment options available to you and the returns that have been achieved. While the past return is not a guarantee of any future return you could compare what an investment option in your existing fund made in returns with a similar fund in ours. You might like to compare an Australian share fund for example. • Insurance options rates and the portability or continuity of the insurance short you leave for another job or stop contributing. <p>These features can be found in the Product Disclosure documents of each fund. It is generally the case that people choose the fund that has the cheapest fees or has the features that they are more likely to use and value.</p> <p>However, you should consider your own circumstances as I have not taken into account your specific objectives, financial situation or needs and this is general advice only.</p>
Benjamin	OK, thank you for your time.
Authorised Representative	No problem, good bye

Personal Advice (continued from above...)	
Author	<i>Continued from p.31....</i> Would you like me to provide a specific recommendation as to which fund you should be a member of and whether you should combine your accounts?
Benjamin	Yes, I would like specific advice
Authorised representative	<p>Ok great, I need to know more information regarding your existing fund and your personal circumstances. These questions will take about 15 minutes and you will also be required to send the details of your current fund to me to do an assessment. The cost for this service is \$XX...</p> <p>Authorised representative works through a checklist of personal information collection including the clients working arrangements, salary and goals.</p> <p>Authorised representative works through a comparator tool collecting specific information regarding the existing fund including the actual insurance cover, investment options etc.</p> <p>The representative may also asks the clients about including specific insurance recommendations, investment selection advice and contributions to provide more complete superannuation advice.</p> <p>Benjamin, based on what you have told me in comparing the two funds ABC and XYZ, I recommend that you rollover your existing entitlements in XYZ to ABC. My rationale for this recommendations is that one of your objectives was minimise fees, ABC has lower Administration fees of ##% or \$\$\$ based on your current balance and there are no exit fees for rolling over and as you do not have existing cover with XYZ , you will not lose valuable insurance cover.</p> <p>In addition you were also looking for flexibility in insurance. ABC allow... Which is not available in XYZ.</p> <p>You should note however, that XYZ has more investment options available to you and by rolling over you. In addition the recommended fund only offers 'non-binding' nominations. When you nominate a beneficiary the Trustee of the account will use this as a guide but does not necessarily have to carry out your instructions.</p> <p>The final decision lies with the Trustee. There are circumstances where a 'binding nomination' can be an effective estate planning tool. You should consider how this will affect the plans for your estate.</p> <p>This information will be provided in a Statement of Advice (SoA) to you along with the appropriate forms to complete the transfer. We will also enclose a Product Disclosure (PDS) which includes details the key features of the ABC Plan.</p> <p>If you have any questions regarding the information we will provide please let me know. We will get in touch in the next few weeks to help you implement the advice</p>
Benjamin	Thank you, I look forward to hearing from you