

Detailed Table of Contents

About the Financial Adviser Manual	2
Financial Planning Process	4
1. Financial Planners and Advisers Code of Ethics	5
2. Client Contact	6
3. Client Meeting	7
3.1 Establish Rapport	7
3.2 Introductions	8
<i>Outline Your Services</i>	8
<i>Ensure You Can Meet the Client's Needs</i>	8
4. Collecting client information	9
4.1 Retail/Wholesale Client	9
4.2 Privacy	10
4.3 Financial Services Guide (FSG)/Website disclosure information	11
4.4 Needs Analysis	12
<i>Identify Client's Objectives and Goals</i>	12
<i>Subject Matter of the Advice</i>	13
<i>Scope of the Advice</i>	13
<i>Fact Find</i>	13
<i>Foreign Clients</i>	16
<i>Risk Tolerance</i>	16
<i>Client Education</i>	18
<i>Client Preferences</i>	18
4.5 Preliminary Advice	18
<i>General Advice</i>	18
<i>Fees and Charges</i>	19
4.6 Closing the Meeting	19
<i>Authority to Prepare Advice/Terms of Engagement</i>	19
5. Advice Preparation	20
5.1 Confirm Scope of Advice	20
5.2 Preparing Your Advice	20

	<i>Analyse the Client's Situation</i>	20
	<i>Incomplete or Inaccurate Information</i>	22
	<i>Check Your Expertise</i>	23
	<i>Specialist Advice</i>	23
	<i>Evaluate Strategies</i>	24
	<i>Identify Products and Services</i>	24
	<i>Base Judgements on the Client's Circumstances</i>	27
	<i>Anything Else</i>	27
	<i>Appropriate Advice</i>	27
5.3	Statement of Advice	28
	<i>Scope of Advice</i>	29
	<i>Paraplanning</i>	29
	<i>Product Replacement/'Switching'</i>	30
	<i>Non-Approved Products</i>	30
	<i>Prioritise the Client's Interests</i>	30
5.4	Peer Review	31
6.	Presentation of Advice	32
6.1	Preparing for the Meeting	32
6.2	Presenting the SoA	33
6.3	Explain the Risks of Your Advice	33
6.4	Authority to Proceed	34
6.5	Product Disclosure Statements	34
6.6	Ongoing Services	35
7.	Implementation	35
7.1	Applications	35
7.2	Client Identification	36
	<i>When You Need to Identify</i>	36
	<i>When You Do Not Need to Identify or Verify</i>	36
	<i>What is a Beneficial Owner?</i>	37
	<i>What is a Politically Exposed Person (PEP)?</i>	37
	<i>Identification and Verification Process</i>	38
	<i>Standard Customer Identification Procedures</i>	39
	<i>Guidelines to Collecting Documentation</i>	39
	<i>Client Risk</i>	40
	<i>Enhanced Customer Due Diligence</i>	42

	<i>Suspicious Matters</i>	42
7.3	Arrange the Recommended Products	44
7.4	Cash Handling	44
7.5	Confirmation	44
7.6	File Management	45
8.	Execution only Services	46
8.1	Products	46
8.2	Strategies	47
9.	Ongoing Client Service	47
9.1	Reviews	47
9.2	Review Appointments	48
9.3	Consent for Ongoing Fee Arrangements	48
9.4	Further Advice	48
	<i>Record of Advice</i>	48
	<i>Statement of Advice - Incorporate Information by Reference</i>	49
10.	Appendix A – Summary of Disclosure Requirements	50
11.	Appendix B – Identification and Verification Requirements	54
12.	Appendix C – Full list of individuals who may certify documents	75
	Detailed Table of Contents	78

Detailed Table of Contents

About the Companion to the Financial Adviser Manual	2
Table of Contents	3
Financial Services Regulation	5
1. Retail/Wholesale Clients	5
1.1 Retail Clients	5
1.2 Wholesale Clients	6
<i>Assets/Income Test</i>	6
<i>Controlled Company/Trust Test</i>	6
<i>Product Value Test</i>	6
<i>Business Test</i>	7
<i>Related Bodies Corporate</i>	7
<i>Professional Investor Test</i>	7
<i>Sophisticated Investor Test</i>	8
1.3 SMSFs and the Wholesale Client Tests	8
<i>SMSF with Corporate Trustee - Sole Director</i>	8
<i>SMSF with Corporate Trustee – >1 Director</i>	9
<i>SMSF with Multiple Individual Trustees</i>	9
2. Advising	9
2.1 Financial Product Advice	9
2.2 What is not Advice	10
<i>Factual Information</i>	10
<i>'Disclosure' Documents</i>	11
<i>Passing on Prepared Documents</i>	11
<i>Information on the Cost of or Return on a Product</i>	11
<i>Asset Allocation Advice</i>	12
<i>Advice Given by Product Issuers</i>	12
<i>Advertising by Product Issuers</i>	12
<i>Advice about a Custodial or Depository Service</i>	13
<i>Accountancy and Business Advice</i>	13
<i>Generic Financial Calculators</i>	13
2.3 Personal Advice	14
2.4 General Advice	15
2.5 Class of Product Advice	17

3.	Dealing	17
3.1	What is Dealing?	17
3.2	What is not Dealing?	18
	<i>Clerk and Cashier Activities</i>	<i>18</i>
3.3	Arranging	19
4.	Qualified Tax Relevant Providers	20
4.1	What is a Tax (Financial) Advice Service?	20
5.	Professional Standards for Financial Adviser	21
5.1	Code of Ethics	21
	<i>Values</i>	<i>21</i>
	<i>Standards</i>	<i>22</i>
5.2	Provisional Financial Advisers	25
	<i>Supervision</i>	<i>26</i>
	<i>Education Requirements</i>	<i>26</i>
	<i>Examination Requirements</i>	<i>26</i>
	<i>Record Keeping</i>	<i>27</i>
5.3	Financial Advisers	27
	<i>Education Requirements</i>	<i>28</i>
	<i>Examination Requirements</i>	<i>28</i>
	<i>Continuing Professional Development (CPD)</i>	<i>29</i>
	<i>Record Keeping for Supervisors</i>	<i>30</i>
6.	Consumer Credit Services	30
6.1	Consumer Credit	30
6.2	Credit Activities	31
6.3	Credit Provider	31
6.4	Credit Services	32
7.	Financial Services and Credit Panel	34
8.	Adviser Registration	35
	Marketing	36
9.	Describing Your Business	36
9.1	Holding Out	36
9.2	Restricted Terms	37
	<i>Words that suggest you are a 'broker'</i>	<i>37</i>
	<i>Words that suggest you are 'independent'</i>	<i>37</i>
	<i>Words such as 'financial adviser' and 'financial planner'</i>	<i>38</i>

9.3	Business Documents	39
	<i>AFS Licence Number</i>	39
	<i>Australian Company Number and Australian Business Number</i>	40
9.4	Business Names	41
	<i>Registering a business name</i>	41
	<i>Using a business name</i>	41
10.	Advertising	42
10.1	Use of Words	42
10.2	Mass Media	46
11.	Direct Marketing	47
11.1	General Principles	47
	<i>Marketing Material</i>	47
	<i>Mailing Lists</i>	48
	<i>Australian Privacy Principles</i>	48
	<i>No Contact/No Call Register</i>	49
	<i>Federal Do Not Call Register</i>	49
	<i>Calling times</i>	50
11.2	Hawking	50
	<i>What is an Unsolicited Meeting/Call</i>	51
	<i>What is a solicited meeting/call</i>	51
	<i>Penalties</i>	52
11.3	Electronic Marketing/Spam	52
	<i>What is Spam?</i>	53
	<i>What is not Spam?</i>	53
	<i>What is Consent?</i>	53
	<i>Address Harvesting Lists</i>	55
11.4	Referrals	55
	<i>Limits on Activities</i>	55
	<i>Paying Fees to Referrers</i>	55
	<i>Monitoring Referrers</i>	56
	<i>Receiving Referral Fees</i>	56
12.	Consumer Protection Obligations	56
12.1	Misleading and Deceptive Conduct	57
12.2	False Representations	59
12.3	Unconscionable Conduct	59
12.4	Harassment or Coercion	59

12.5	Third Line Forcing	60
12.6	Implied Warranties	60
12.7	Unfair Contracts	60
12.8	Penalties	62
	Advisers' Obligations to Clients	63
13.	Provision of Services	63
13.1	Efficient, Honest and Fair	63
13.2	Best Interests duty	64
13.3	The Safe Harbour	66
	<i>What is the Safe Harbour?</i>	66
	<i>Identifying Relevant Circumstances</i>	66
	<i>The Subject Matter of Advice Sought</i>	67
	<i>Scope of Advice</i>	67
	<i>Incomplete or Inaccurate Information</i>	68
	<i>Assessing your Expertise</i>	68
	<i>Recommending a Financial Product</i>	69
	<i>Basing all Judgments on Relevant Circumstances</i>	70
	<i>Other Reasonable Steps</i>	71
13.4	Common Law Duty of Care	71
	<i>What is the Duty?</i>	71
	<i>The Standard of an Adviser's Duty?</i>	71
	<i>To Whom is the Duty Owed</i>	72
	<i>Duration of Duty</i>	72
	<i>Duty of Care when Using Agents</i>	72
13.5	Compensation for Breach of the Duty	72
14.	Remuneration	73
14.1	General Principles	73
14.2	Conflicted Remuneration – Investment products	74
	<i>What Is Conflicted Remuneration?</i>	74
	<i>Influence Benefits</i>	75
14.3	Conflicted Remuneration - Life Risk Insurance	76
	<i>Acceptable Life Risk Benefits</i>	80
14.4	Banned Non-Monetary Benefits	82
14.5	Allowable Remuneration	82
	<i>Execution only services</i>	82
	<i>Certain products</i>	82

	<i>Benefits paid by clients</i>	82
	<i>Small Amounts</i>	83
14.6	Allowable Non-Monetary Benefits	83
	<i>Education and Business Support Benefits</i>	83
	<i>Non-Monetary Benefits Register</i>	84
14.7	Employee Remuneration	84
	<i>Salary and other Employment Benefits</i>	84
	<i>Acceptable Performance Criteria</i>	85
14.8	Penalties	86
15.	Privacy and Confidentiality	87
15.1	Personal Information	87
15.2	Open and Transparent Management of Personal Information	87
15.3	Privacy Procedures	88
	<i>Collection of Personal Information</i>	88
	<i>Unsolicited Collection</i>	89
	<i>Use and Disclosure of Personal Information</i>	89
	<i>Direct Marketing</i>	90
	<i>Openness</i>	90
	<i>Quality, Security and Destruction of Information</i>	91
	<i>Correcting Personal Information</i>	91
	<i>Access</i>	91
	<i>Timeframe for Access and Correction</i>	92
	<i>Charges for Access and Correction</i>	92
	<i>Refusing Access</i>	92
	<i>Giving Reasons</i>	93
	<i>Complaints</i>	93
	<i>Tax File Numbers and Other Identifiers</i>	93
	<i>Data Breach Reporting</i>	94
16.	Conflicts of Interest	94
16.1	What is a Conflict of Interest?	94
16.2	Managing Conflicts of Interest	95
	<i>General Principles</i>	95
	<i>The ‘Conflicts Priority Rule’</i>	95
	<i>Disclosing Conflicts</i>	96
	<i>Code of Ethics – Standard 3</i>	96
16.3	Types of conflicts	97
16.4	Remuneration conflicts	97

<i>Retail Clients</i>	97
<i>Wholesale Clients</i>	97
16.5 Related Entity Conflicts	97
Advising and Dealing	101
17. Financial Services Guide and Website Disclosure Information	101
17.1 Who Must Give the FSG	101
17.2 When the FSG should be Given	101
17.3 How the FSG should be given?	102
17.4 When No FSG is Required	103
17.5 Record Keeping	105
17.6 Failure to give an FSG	105
17.7 Website Disclosure Information	106
17.8 Content of a Financial Services Guide/Website disclosure information	107
18. Engagement	114
18.1 Scope of Advice	114
18.2 Terms of Engagement	114
<i>Content of Letter of Engagement</i>	115
<i>Scaled Advice</i>	116
<i>Execution Only</i>	116
18.3 Code of Ethics	117
19. Identification and Verification	117
19.1 AML/CTF Identification	117
<i>When Identification is Not Required</i>	118
<i>Identification and Verification Process</i>	118
<i>Standard Customer Identification Procedures</i>	119
<i>Customer Risk</i>	120
<i>Management Approval</i>	120
<i>Information for Product Providers</i>	120
<i>Re-Identification</i>	121
<i>Record Keeping</i>	121
19.2 Foreign Account Tax Compliance Act (FATCA)	121
<i>Individual Clients</i>	122
<i>Companies, Partnerships and Trusts</i>	123
<i>Record Keeping</i>	124
19.3 Restrictions on Dealing with Certain Foreign Clients	124

20.	Appropriate Advice	126
20.1	What is Appropriate Advice	126
20.2	Fact Finding/Needs Analysis	127
20.3	Risk Tolerance	128
	<i>Risk Profiling</i>	129
	<i>Problems with Risk Profiling</i>	129
	<i>Use of Risk Profiling</i>	130
20.4	Analysis	130
20.5	Asset Allocation	132
	<i>Commonly used Investor Profiles</i>	132
	<i>Diversification</i>	133
20.6	Product Research	134
20.7	Appropriate Advice	135
20.8	Prioritise the Client's Interests	136
21.	Advice Policies	137
21.1	Cooling-Off Periods	137
21.2	Product Replacement	138
21.3	Gearing/Margin Lending	139
	<i>Risks of Gearing</i>	140
	<i>Responsible Lending</i>	140
	<i>Margin Calls</i>	141
	<i>Managing the Risk of Gearing</i>	142
22.	General Advice Warning	142
23.	SoAs and RoAs	143
23.1	What is a Statement of Advice	143
	<i>Coverage of an SoA</i>	144
	<i>Incorporation by Reference</i>	145
23.2	Who must give the SoA/RoA	146
23.3	When must an SoA be Provided	147
	<i>Ordinary Transactions</i>	147
	<i>Scaled Advice</i>	147
	<i>Time Critical Transactions</i>	147
23.4	Delivering the SoA	148
23.5	When No SoA is Required	148
	<i>Wholesale Clients</i>	148

	<i>Basic Deposit Products</i>	149
	<i>Client Outside Australia</i>	149
23.6	SoA Content Guide	149
	<i>Guidance on Preparing an SoA</i>	155
23.7	Records of Advice	160
	<i>Small Investments</i>	160
	<i>Personal Advice with No 'Purchase' Recommendation</i>	162
	<i>Further Advice</i>	163
	<i>Required Information When No SoA is Required</i>	164
23.8	Record Keeping	164
	<i>SoAs, RoAs and Best Interests Duty</i>	164
	<i>Client Files</i>	164
23.9	Failing to give an SoA	165
24.	Product Disclosure Statement	165
24.1	What is a PDS	165
24.2	When must the PDS be Provided	166
	<i>Time Critical Cases</i>	167
24.3	When a PDS is not Required	167
	<i>Client does not Require Financial Product</i>	167
	<i>Basic Deposit Products and Other Simple Products</i>	168
	<i>Client Outside Australia</i>	168
24.4	Record Keeping	168
24.5	Failing to Give a PDS	168
25.	Fee Consent	168
25.1	Ongoing Fee Arrangements	168
	<i>Consent for Ongoing Fee Arrangements</i>	168
	<i>Termination of Ongoing Fee Arrangements</i>	169
	<i>Consent for Insurance Commissions</i>	169
	Complaints, Claims and Communication	171
26.	Complaints and Disputes	171
26.1	Why have a Complaints Policy and Procedures?	171
26.2	What is a Complaint or a Dispute?	171
26.3	Complaints and Disputes Policy	171
26.4	Complaints handling Guidelines	172
	<i>Access to Information</i>	173
	<i>Potential Negligence Claims</i>	174

	<i>Threats of Legal Action or Media Publicity</i>	174
27.	Claims	174
27.1	The Importance of Good Claims Service	174
27.2	Your Obligations	175
27.3	Privacy	176
27.4	Dealing with Others	176
	<i>Insurers</i>	176
27.5	Claims Process	176
	<i>Initial Notification</i>	176
	<i>Assessment</i>	177
	<i>Disputes and Denials</i>	178
	<i>Settlement</i>	178
28.	Communications	178
28.1	Write, Read and Respond	178
	<i>Write</i>	178
	<i>Read</i>	178
	<i>Respond</i>	178
28.2	Telephone/Messages/Calls	179
	<i>Telephone Messages</i>	179
	<i>Telephone Calls</i>	179
28.3	Written Communications	179
	<i>Correspondence</i>	179
28.4	Information required in E-mails	179
	<i>Usage Guidelines</i>	180
	<i>Checking E-mails</i>	180
	<i>Retention</i>	181
	<i>Viruses</i>	181
29.	Glossary	181
	Detailed Table of Contents	183