

# FDS & OPT IN

Tips and Traps

October 2016



# OVERVIEW

- Important terms
- FDS & Opt In Refresher
- Explore the “tips and traps” of FDS & Opt In
- Questions

# Important Terms

## Ongoing Fee Arrangement

- Relates to any ongoing advice fee arrangement that has a period of **more than 12 months**
- Does not include insurance commission
- Does not include built in investment commission unless the adviser and client have agreed to 'dial up' the commission
- Relates to retail clients only
- Does not include product fees (it only relates to advice fees)
- Does not include upfront or once off fees

## Disclosure Date

- The date the client entered into the ongoing fee arrangement
- Usually either the date the client signs the SoA or the date they sign the application

# FDS Refresher

## What is a Fee Disclosure Statement (FDS)?

A simple statement that includes the following details for the previous 12 month period:

- Services the client was entitled to receive
- Services the client actually received
- Fees charged for those services

## When does it need to be provided?

- Needs to be sent to clients every **12 months** within **60 days** of the disclosure date. There is no need for clients to respond.

## Who needs to receive an FDS?

- Must be sent to ALL clients (both pre and post 1 July 2013) that have an ongoing fee arrangement in place.

## Fee Disclosure Statement

Issue Date:	
Statement Period Start:	
Statement Period End:	
Adviser:	

This document contains information about the following:

- The services you were entitled to receive during the statement period
- The services you actually received during the statement period
- The cost of the services we provide during the statement period

### Services You Were Entitled To Receive

Services You Will Receive

### Services Provided To You

Services You Actually Received	Comments

### Ongoing Fee Arrangements

Fee type	Amount Received
Ongoing Service Fees	\$0.00
<b>Total</b>	<b>\$0.00</b>

# Opt In Refresher

## What is an Opt In Renewal Notice?

A notice that is provided along with the FDS that includes following information:

- In order to continue the ongoing fee arrangement, the arrangement must be renewed in writing within **30 days**
- If the client does not respond in writing within **30 days**
  - the ongoing fee arrangement will terminate
  - no further advice will be provided or fees charged

## When does it need to be provided?

- Needs to be sent to clients within **60 days** of the second anniversary of the disclosure date or last renewal date. The client needs to confirm in writing that they wish to opt in.

## Who needs to receive an Opt In Renewal Notice?

- Clients who entered into an ongoing fee arrangement post 1 July 2013.
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# Renewal Notice

[Client Name]  
[Address]  
[Suburb, State, Postcode]

Issue Date:	[Day, Month Year]
Renewal Due Date:	[Day, Month Year]
Adviser:	[Adviser Name]

This Renewal Notice should be read in conjunction with your annual Fee Disclosure Statement.

## Acknowledgement

I/We have read and understood the following:

- In order to continue the ongoing fee arrangement, the arrangement must be renewed in writing within 30 days
- If I/we do not respond or discontinue the arrangement within 30 days:
  - The ongoing fee arrangement will terminate,
  - No further advice will be provided or fees charged, and
  - My existing adviser will have no ongoing responsibility for my financial affairs, including reviewing my investment portfolio and advising on any implications of any legislative change or changes in economic conditions.

## Please select the appropriate box

- Renew the ongoing service arrangement**  
I/We acknowledge that I/we wish to continue to receive advice and ongoing service and agree to continue to pay an ongoing fee for these services.

# Opt In Refresher cont.

## What happens if the client does not Opt In?

- If the client chooses not to renew, then the ongoing fee must terminate immediately.
- If the client doesn't respond, the ongoing fee must terminate no later than 60 days after the renewal notice was provided to the client.
- A fine of \$50,000 for individuals or \$250,000 for companies may be applied if advisers are found to be receiving payments where a client hasn't renewed.





# Tips & Traps

# Tips & Traps

## Failure to send an FDS or providing it late

- s962F states that the ongoing fee arrangement must terminate where **FDS or Opt In requirements** have not been complied with resulting in:
  - Requirement to switch off the ongoing fees
  - To continue the ongoing fees, the client would need to confirm in writing
  - Ongoing fee arrangement may now be considered post 1 July 2013 and Opt In requirements would apply.



- Ensure you have robust FDS & Opt In monitoring
- Ensure cross training of staff and that they understand the consequences
- Consider bringing forward your disclosure dates to minimise risks

# Tips & Traps

## Taking over the ongoing servicing rights where the previous adviser did not comply with FDS or Opt In obligations

- s962F states that the ongoing fee arrangement must terminate where FDS or Opt In requirements have not been complied with - either by the current or previous fee recipient
- Therefore where the previous adviser has failed to comply with the obligations, you may not be entitled to receive the ongoing fees



- Request evidence that FDS & Opt In obligations have been met when purchasing client books
- Consider asking the client to sign a new engagement letter instead of transfer of servicing rights letter

# Tips & Traps

## Failure to check that product providers have switched off fees

- Occasionally product providers may not act on instructions to switch off fees or may switch off fees on one product but not the other
- It is the fee recipient's responsibility to ensure that no further fees are received
- Refund of fees may result



- Ensure that clients who have chosen not to renew are easily identifiable in your software
- Cross reference these clients regularly against revenue statement to ensure you are not receiving fees you are not entitled to

# Tips & Traps

## Reliance on previous interpretation of data

- When was the FDS/Opt In identification process completed? Did it take into account pre 1 July 2013 clients?
- Who carried out the identification process? Did they understand the requirements? Are you relying upon another Licensees interpretation?
- Relying on software revenue types



- When buying a client book ensure that they have identified clients based on currently regulatory requirements (e.g. FDS applicable to pre 1 July 2013 clients)
- Consider re-reviewing your client list to ensure no client has been missed or wrongly categorised

# Tips & Traps

## Sending the Opt In Renewal Notice without the FDS

- s962K states you must “give the client a renewal notice and a FDS”
- Logically a client cannot agree to renew if they do not know the fees



- Ensure your processes include providing the renewal notice with the FDS

# Tips & Traps

## Other Traps

- Incorrect or misleading statements in FDS/Opt In
- Including 'services offered' in 'services received'
- Combining your FDS with other documents – ensure clear separation
- Not maintaining good records (e.g. forgetting to update issue dates in software)
- Not utilising software to manage FDS/Opt In (highly manual process)

# Tips & Traps

## Other Tips

- Utilise software (e.g. Compass)
- Map clients within commpay to ensure fees are correct
- Utilise personalised template text (managed field content) for efficient production
- Consider quarterly/half yearly distribution (Note: ***Ensure you only move the disclosure date forward***)
- Consider electronic delivery and electronic renewal (e.g. emails)
- Ask clients to renew at your annual face to face review
- Utilise “Widgets”



# Tips & Traps

## Example Widget

The screenshot shows the COMPASS software interface. At the top, there is a dark blue header with the COMPASS logo, a dropdown menu set to 'COMPASS', an 'Add' button, a 'Quicklinks' dropdown, and a search icon. Below the header is a navigation bar with tabs for 'Main', 'Opt-In', 'WorkFlow', 'FUM, Policies & Loans', 'Client Activity', 'User Activity', 'Revenue', 'Practice Analysis', 'News', and 'Social'. The 'Opt-In' tab is selected. The main content area displays a widget titled 'Previous Opt-in Anniversaries' with a settings icon and a close icon. The widget contains a table with the following data:

Name	Date Changed	Status	Client Adviser
	23/10/2016	Lapsed Opt-out	
	20/10/2016	Opt-in	
	19/10/2016	Opt-in	

# Action 2016–17

## Surveillance

In 2016–17, we will promote better gatekeeper culture and conduct in financial services and consumer credit through the projects listed below.

Key projects	Project status	Focus
<b>Financial advice</b>		
Advice compliance at the big five financial advice firms	Continuing project from 2015–16	How the big five financial advice firms identify and deal with misconduct by advisers. In 2016–17, we will publish a report and provide individual feedback to licensees on our findings
Conflicted advice at the big five financial advice firms	Continuing project from 2015–16	The impact of conflicts of interest on the quality of advice in large vertically integrated businesses (e.g. banks). In 2016–17, we will publish a report and provide individual feedback to licensees on our findings
Fee-for-no-service	Continuing project from 2015–16	Clients that are paying fees every year for services they are not receiving. Covers breaches by large institutions and their current systems for detecting and preventing future breaches. We will communicate our findings to industry in 2016–17
Life insurance statement of advice*	Continuing project from 2015–16	Life insurance statement of advice, including providing guidance to industry on improving the communication of information to consumers; anticipated to continue into 2017–18
Quality of financial advice	New project	Assessing the quality of advice provided to consumers, in light of the Future of Financial Advice (FoFA) reforms having been in place for three years. We will release a report on our findings in 2017–18
Accountants – limited licence*	New project	Accountants that have recently entered the financial advice industry and unlicensed financial advice by accountants; anticipated to continue into 2017–18
Professional indemnity insurance held by smaller licensees	New project	Examining professional indemnity insurance arrangements, including coverage
Insurance churn by advisers*	New project	Life insurance advisers who are engaging in high levels of insurance churn (i.e. advising clients to switch policies to generate additional commission income)

# Top Tip...

BEST PRACTICE

## How technology done properly creates more time to focus on clients

Paul Wright says that often only a fraction of the capability of modern technology is used by advisers, and more often than not it is not properly integrated with other systems and processes, limiting its effectiveness and efficiency. ... [Read more](#)

# Questions

- Please refer to the FAQs on the adviser intranet
- Compass webinar is scheduled for 7 November 2016
- Contact your local Professional Standards Consultant