

# Advice Documentation

InterPrac / Libertas Business Principle



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Description	<b>Statement of Advice, Record of Advice, Execution Only, Time Critical</b>
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## Purpose

The following Policy will assist Advisers to understand the situations in which different types of documents and processes may be used to provide advice to existing or new clients. Policy outlines in detail which criteria needs to be met for Adviser to provide an RoA document instead of an SoA. Execution only guidance provides advisers the information and process to follow when No Advice is provided to the client.

## Scope

The policy is divided into the following sections:

1. Statement of Advice
2. Record of Advice
3. Execution Only
4. Time Critical

## Statement of Advice (SoA)

An SOA is a document that helps a retail client understand, and decide whether to rely on, personal advice provided by the adviser. Giving a client personal advice triggers the need to provide a Statement of Advice (SoA). This obligation does not apply to general advice.

### Provide a SoA

SoAs must be provided for all retail clients at the same time as, or as soon as practicable after, the advice is provided. In any event, the SOA must be given to the client before the Adviser provides another financial service to the client that arises out of, or is connected with, the advice, such as arranging for a financial product to be issued to the client.

### SoA not required

Non-retail clients do not require SoAs. However, you MUST have signed by an Accountant, a declaration confirming the investors' status as a Wholesale Client or Professional Investor. Regulations commencing 1st July 2015 changed some aspects of how advisers can classify clients as non-retail clients. Refer to: [Business Principles: Advice Types](#) for more information regarding Sophisticated or Wholesale Clients.

## Guidance

Your SoA must demonstrate a clear understanding of your client, the recommended strategy and the products used to achieve the client's goals and objectives which meet the best interest guidelines.

When preparing an SoA

- ensure that the information you have relied upon to give the advice is accurate. It is important that you comply with the safe harbour obligations to undertake reasonable inquiry to identify the client's relevant circumstances
- ascertain the right strategies and products for the client based on the Fact Find process to deliver the desired outcome
- additional resources are available through support services like technical help desks of product providers, software providers or from InterPrac / Libertas Financial Planning directly
- having some idea of the product solutions which may be relevant for this client will also assist to get the SoA completed more quickly and in line with your requirements

- it is your responsibility to make sure the plan is exactly what you want and is clear in the recommendations
- remember, you are giving the advice, not the paraplanner (this applies whether the paraplanner is in-house or outsourced)
- the SoA should always show your calculations and the thinking behind how you decided on a strategy in your notes
- key to good preparation is that if someone at a later date picks up the client file, it is clear how you came to provide the advice in the SoA
- if the client has specifically requested that the advice only covers specific areas of advice, ensure that the SoA clearly records this

## SoA Requirements

A Statement of Advice (SoA) documents must include:

1. SoA title page with details of InterPrac / Libertas AFSL, Advice provider including ASIC Representative Number and date of the advice.
2. Scope of advice including an echo of the reason for advice as sought by the client; the subject matter as identified by the adviser, the agreed scope of advice and an outline of the subject matter(s) sought or identified as being excluded from the advice, together with a description of why these items were agreed to be excluded, referred or deferred.
3. Detail of the clients Financial Goals and Objectives, identified as specific and measurable goals and objectives prioritised to define importance in relation to the agreed scope of advice.
4. Relevant Personal Information, Insurance Needs Analysis and Risk Profile (if required).
5. Recommended Strategy or Strategies to meet the clients' objectives.
6. All product and advice recommendations.
7. Why the product/s are appropriate, specifically for that client and where a replacement product has been recommended, a comparison between the existing and recommended products, why the existing product is no longer suitable, and the tangible benefits of replacing the product.
8. Risks of the advice; including significant benefits lost or gain or significant consequences
9. Other Strategies and Alternative Products considered and why discounted.
10. Outcomes of the advice including ongoing service recommendation and summary of offering.
11. Fees / charges / commission from the recommendations.
12. Potential Conflicts of Interest section including referral arrangements and relevant disclaimers
13. The Authority to Proceed including the current FSG with the version number and date of issue
14. Further Information including PDS references and Morningstar, Lonsec or independent research reports
15. Implementation or Next Steps
16. The Appendices to the SoA should contain information about products, including the research you undertook and Product Disclosure Statement (or product brochure), together with further explanations about risk and the client data on which the advice is based.
17. Any modelling / projections or statistical information should be made available and/or referenced within the SoA. This may include demonstration as to affordability of advice; impacts to client cashflow; assumptive investment, super or retirement balances as relevant to the advice being sought.

The SoA may also contain a cover letter, particularly relevant if the SoA is being posted or emailed in place of, or before or after the meeting.

For all advisers that are using InterPrac / Libertas templates you should complete a SoA checklist available on Adviser Resource Centre to ensure that SoA includes all the relevant sections.

## Document Requirements for transferred clients

Please refer to [Business Principle: Transferring Clients](#) for a complete run down of all documentation requirements when taking on new or transferring an existing client(s). The below is a summary of advice documentation requirements only (SOA vs. ROA) and does not entail the fact finding, AML/CTF, Ongoing fee arrangements requirements.

- **Client transferred from another licensee** -> Could be an ROA (refer to flowchart)

InterPrac / Libertas expects an adviser to complete a client review within 12 months of transferring the client; preferably as soon as practicable. At that time, a fresh SOA or ROA will be issued dependent on the client's circumstances and the appropriateness of any previous advice.

- **Client transferred from another adviser outside the licensee** -> SoA

Effectively, the adviser / client relationship starts afresh. Nil previous fact-finding, risk profiling, research, AML/CTF proformas or advice documents can be relied upon or any previous advice 'simply implemented'.

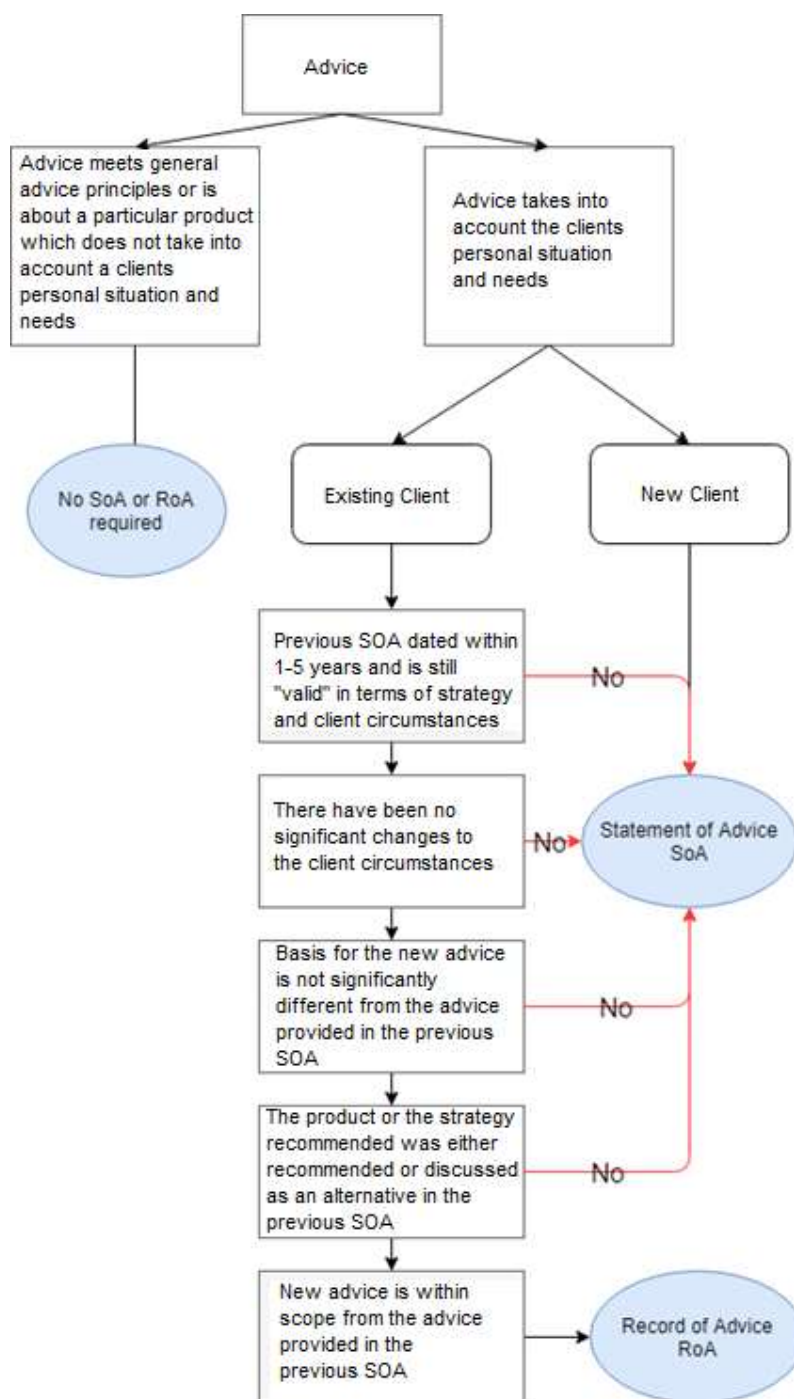
No RoA can be written referencing the SoA of another previous adviser. The client must be reviewed in the first 12 months after transfer; preferably as soon as practicable. At that time an SoA will be required even if it effectively just endorses the suitability of maintaining current products and strategies.

- **Client transferred from another InterPrac / Libertas AR or CAR** -> Could be an RoA (refer to flowchart)

It is encouraged that the Client is reviewed in the first 12 months after transfer. Minimally, an RoA will be required even if it effectively just endorses the suitability of maintaining current products and strategies.

NOTE: In all above cases; SMSF clients must be reviewed before 30 June of the year transferred. If there is some problem with this deadline, the matter should be raised with a Compliance Manager.

## Flowchart: Statement of Advice vs. Record of Advice



A new [aka 'foundation'] SOA is not required just because the client has transferred; nor must any previous SoA written by you under the old licence be reflexively rewritten/reproduced under the InterPrac (or Libertas) licence.

A fresh SoA will only be required when you give fresh advice as an InterPrac (or Libertas) adviser.

## Records of Advice (RoA)

A Record of Advice performs a function similar to a Statement of Advice, but is typically a shorter, more informal document, with fewer content requirements than a SoA.

### Criteria

A RoA may be used when providing 'further advice' to an existing client if the following criteria is met:

1. an eligible SoA, the reference SoA, has been provided to the client and exists on file;
2. there have been no significant changes to the client circumstances; and
3. there is no significant change in the scope of advice covered in the reference SoA.

A RoA cannot be used where:

- all the above criteria are not satisfied;
- the reference SoA was issued by a different Adviser, licensed with a different AFSL
- you are unable to confirm there are no significant changes to client circumstances;
- the scope of further advice is materially different to that of the original SoA;
- the client would be disadvantaged by the use of a RoA;
- the advice relates to the replacement of an investment or superannuation platform or insurance product; or
- the risk profile of the client is materially different to that used in the original advice.

Factors you may also consider when deciding whether ROA can be used are:

- changes to the client's risk tolerance;
- changes to the client's family situation;
- significant changes to the client's income;
- significant client health and/or capacity;
- changes occurring to a product;
- any material changes to tax position; and
- any material change in the risks of the financial products.

How a representative ensures that there have been no significant changes to the client's circumstances is a matter for the representative to determine and to be able to justify appropriately. We recommend the use of an updated (reverse) fact find documenting any changes to the known situation of a client. The adviser can then apply a subjective test, on a case by case basis, to determine the significance of any identified changes.

Comprehensive file notes or other applicable evidence must be stored on the client file showing that the enquiries were made and above conditions have been met.

### Requirements

An RoA must include:

- details of the recommendations made and the basis on which the recommendations are made
- a reference to the client's circumstances
- any remuneration that will be received by the licensee and / or the representative because of the further advice
- any relevant disclosures usually required by a SoA (eg. conflicts of interest)
- if the financial advice is to replace one product with another, include product replacement information.

## Execution only

An Execution Only document is issued to the client who has expressly directed, in full detail, without any recommendations or advice from the financial adviser.

### Process and obligations

1. Provide current FSG
2. Adviser must offer to the client professional advice with reviewing their current situation
3. The client must decline the Advice offer.
4. Client must provide clear direction and information on what they want to do.
5. Adviser must explain ramification to the client of proceeding without the advice.
6. Comprehensive file note must be completed and filed explaining circumstances why professional advice was refused by the client and relay the above information or responses from the client.
7. Adviser must use relevant Execution Only template available on Adviser Resource Centre or Libertas Portal. Document includes clear guidance on the information needed.
8. Client and Adviser sign the acknowledgement that no investment advice or insurance recommendations whatsoever have been made by the Adviser, and that the Adviser is simply executing the transaction on client's behalf.
9. The implementation of the transaction must exactly follow expressed client direction.
10. All other communication via email/phone and documents must be stored on client file.

#### Examples

- the implementation of an investment / or a withdrawal from currently advised product
- rebalance of an existing portfolio
- purchase / sell specific share
- an action on an existing insurance policy (e.g. cancellation at clients express instruction)  
Refer to [Business Principle: Insurance](#) for more information.
- lodge a completed application form with PDS provided

### Responsibility

Neither Adviser or InterPrac / Libertas Financial planning will not accept any legal responsibility to reimburse or reinstate clients pre-transaction situation, should:

- circumstances beyond the control of the adviser result in client's transaction timeframe not being met
- the Underwriter not comply with my Policy transaction request in whole or part
- the investment Product Provider not comply with my transaction request in whole or part

### Time Critical Advice

Time Critical advice is a scenario where the client expressly instructs Adviser to provide advice immediately. Adviser may be able to rely on the 'time critical' exception and provide advice to the client without first giving the client

- Financial Services Guide (FSG),
- Product Disclosure Statement (PDS), or
- SOA/RoA.

'Time Critical' cannot be used by and Adviser to speed up the advice process. It is an exemption that applies when the Client, not the Adviser, drives an urgent implementation. However, in all cases where Time Critical advice is identified, you must contact the Compliance Team to notify of this and to seek approval before proceeding to give advice under time critical provisions.

## Definitions

**Time Critical Advice:** A Financial Service provided to a retail client prior to providing written advice in the prescribed format.

**Cooling Off Period:** Is generally a period of 14 days in which the retail client has the right to return the product to the issuer. In most cases the cooling period for a financial product will commence when the client receives confirmation that the product has been issued.

A cooling off period generally applies to financial products, such as Personal Insurances, Investment Life Insurance, Managed Investments, Superannuation and Retirement Savings Accounts.

## Legislation

Time critical cases. If:

- a) the client expressly instructs that they require a further financial service that arises out of, or is connected with, the advice to be provided immediately, or by a specified time; and
- b) it is not reasonably practicable to give the Statement of Advice to the client before that further service is provided as so instructed;

Adviser must give the client the Statement of Advice:

- c) where no cooling period applies to the acquisition of a financial product, within 5 days after providing that further service, or sooner if practicable; or
- d) if that further service is the provision to the person of a financial product and cooling-off period applies to the acquisition of the product, before the start of the cooling period, or sooner if practicable.

*Note: The client does not need to actually state that the service is time critical from their perspective. It is enough that the client requests or instructs the service to be provided immediately or by a specified time.*

## Obligations

When 'Time Critical' advice has been confirmed as approved by the Compliance team, you are required to verbally disclose all the information that would otherwise be provided to the client in writing in a required document. At a minimum, this includes information that would normally be presented in a Statement of Advice such as:

- information about the remuneration (including commission) or other benefits that may be received and might reasonably be expected to influence the advice; and
- information about any other interests, associations or relationships that might reasonably be expected to influence the advice; and
- all relevant information required when advice recommends replacement of one product with another.

## Timeframes in a 'Time Critical' situation

In situations where Time Critical advice is identified, you must contact the Compliance Team to seek approval to provide this type of advice before the advice is actually provided or the services requested by the client are acted upon (except in the case of execution only services where the client specifically instructs the acquisition or disposal of a clearly identified financial product other than for the placement of new personal insurances).

Where Time Critical advice is approved by the Compliance Team the advice provider must, within 5 days or before the product cooling period commences, provide the client:

- a copy of the advice provider's current FSG (part 1 & part 2);
- a SoA/RoA containing all necessary information that would normally be required; and
- the relevant PDS or product offer document.

## Process / Evidence

Complete a file note and retain on the client file.

File note must include information:

- Why have you provided 'Time Critical' advice or reason why appropriate document wasn't provided prior to the advice given
- Confirmation of when the Compliance Team were contacted to seek approval and details of the relevant person that authorised time critical advice
- Summary of the recommendations and relevant information provided to the client when time critical advice was provided
- Date and version of FSG provided (if applicable)
- Confirmation of the date the PDS of relevant offer document was provided to the client (if applicable)

### Examples

There might be instances for 'time critical' situations:

- client needs risk insurance prior starting contract work;
- end of financial year superannuation contributions; or
- changes to legislation impacting the client's financial position.

## Consequences

Failure to comply with these requirements may result in:

- Failure to meet legislative requirements with regulatory penalties
- Revocation of Licensee Authorisation
- Licensee imposed remediation or training
- Licensee imposed withholding of administrative payments

## Compliance Support

Contact your respective Compliance Manager if anything is unclear or you have further questions.

Otherwise, general queries can be sent via: [compliance@interprac.com.au](mailto:compliance@interprac.com.au).

A full list of contact names, phone numbers and emails can be found on the Libertas Portal and InterPrac Adviser Resource Centre -> Admin -> Contact List: InterPrac Financial Planning Team.

## Tools

Tools on the Adviser Resource Centre / Libertas Portal

- Statement of Advice (SoA) Template
- Statement of Advice (SoA) Strategy Text Library
- Statement of Advice (SoA) Review Checklist
- Record of Advice (RoA) Template
- Execution Only (Transaction Record) Template
- SoA and RoA Template wizards available within XPLAN, Adviser Logic, MidWinter and
- InterPrac / Libertas have also approved the use of the inbuilt RoA template tool available through HUB24

We have AdviserLogic, XPLAN and Midwinter software template versions for advisers using software to help create the SoA and RoA. We will consider any requests to alter our existing templates but require that unless express consent has been provided, our templates are to be used in their current form.



## Associated documentation

- Business Principles - Advice Types
- Business Principles - Advice Process
- Business Principles - Transferring Clients
- Corporations Act 2001
- ASIC Regulatory Guide 90 – Example Statement of Advice: Scaled advice for a new client
- ASIC Regulatory Guide 175 – Licensing: Financial product advisers – conduct and disclosure
- ASIC Regulatory Guide 168 – Disclosure: Product Disclosure Statements
- ASIC Regulatory Guide 36 – Licensing: Financial product advice and dealing