

SAFE, AND SOUND

**A guide for unlicensed accountants who want
to keep servicing their SMSF clients without
breaking the law**

Guide 2: Safely referring clients to a digital adviser for financial product advice

**The repeal of the accountants exemption doesn't put an end to
accountants' ability to provide a high-value service to their
SMSF clients.**

**For SMSF transactions that now need a Statement of Advice, a
popular emerging option is to refer clients to a digital adviser.
This provides an inexpensive and seamless way to get rapid,
compliant advice.**

**From \$250 + GST a Statement of Advice can be requested
online while the client is still in the accountant's office and is
delivered as a PDF soon after the meeting.**

**It's worth reading this brief guide so you can make informed
decisions about the future of your SMSF practice.**

Guide 2 of a complementary set of 2

1. Introduction

In our first guide, we covered the types of advice an unlicensed accountant can still provide to SMSF clients after 1 July 2016, mainly through use of a range of other exemptions, such as the ability to provide tax advice.

We also discussed the limit to these exemptions; the point at which accountants should refer SMSF clients to an AFSL holder.

This second guide canvasses the various referral options, including the process of referring clients to an online digital adviser for compliant Statements of Advice (SoAs) issued quickly, under its own AFSL, on simple SMSF transactions such as whether to establish an SMSF, rollovers, and starting or altering a pension. **Accountants need to be aware that just endorsing any of these decisions represents financial product advice** and therefore an SoA is required under the tighter regulatory environment.

A.S.A.P. is a digital adviser, backed by an actuary and an experienced support team, that can furnish SoAs to the client, signed by our advisers.

By focussing on the SMSF transactions that accountants tend to assist clients with, A.S.A.P. provides an inexpensive and seamless way to get compliant product advice when needed.

With a Statement of Advice on file, the accountant can confidently get involved in helping the client with the establishment, operation, structuring or valuation of an SMSF under (advised) client instruction.

Starting from \$250 + GST a SoA can be requested online while the client is still in the accountant's office and is delivered as a PDF shortly after the meeting. A.S.A.P. provides a full audit trail of the advice and scoping process and is accessible online at any time.

There are no up-front fees or ongoing fees to have access to the service. A.S.A.P. is simply there when your clients need it.

If you have any questions about this guide or A.S.A.P., please contact us - 03 6240 1575 or info@asap-advice.com.au

2. When to refer clients and the scope of advice

When to refer clients

As discussed in Guide 1 of this set of 2, unlicensed accountants can provide their SMSF client with exempt advice as well as factual information so long as this is carefully delivered.

Before assisting a client to implement an SMSF transaction however, it's prudent to ensure the client receives written financial advice from an AFSL holder.

Given the likelihood that clients would disavow disclaimers if anything goes wrong or if the regulator made investigations, we recommend unlicensed accountants only enter into execution-only arrangements if they're accompanied by a Statement of Advice from a licensee.

Scope of advice needed by the client

The scope of advice a client needs depends on their circumstances, experience and how confident they are with making financial decisions. The world of financial advice can be provided along a continuous spectrum from comprehensive advice covering all the clients goals, objectives and financial circumstances, to advice that is specific to one particular issue in isolation.

Some clients require considerable support selecting from the options they have available and these clients are likely to require a relationship with a traditional financial adviser.

However other clients are happy to digest information, consider their own priorities and trade-offs and only require an inexpensive endorsement of the financial decisions they make for themselves. These clients are likely to be attracted to a digital advice service rather than having to start a new relationship with a financial planner.

Type of advice	Nature of the advice	Suited to
Comprehensive advice	Holistic in nature. Takes into account the client's whole financial situation including existing financial products, investment choices, insurance, taxation and estate planning. Considers the client's cashflow now and in future as well as competing needs, goals, priorities and objectives.	<p>Clients who are less confident with making their own financial decisions, selecting investments or forming strategies without assistance.</p> <p>Clients who may not understand the limitations of scaled advice.</p>
Scaled advice (including digital advice)	<p>Personal advice that is limited in scope. May be limited to a single topic or multiple topics.</p> <p>The advice will not include other aspects of the client's situation. Must be clear what the advice covers and what it doesn't.</p>	<p>Experienced clients who are confident making their own trade-offs and decisions, for example balancing the various aspects of their financial situation and priorities.</p> <p>Clients who are happy to receive advice on a specific issue and understand the limitations of the advice.</p>
Digital advice	Scaled advice that is delivered online rather than face-to-face.	As per scaled advice.

The Minister for Financial Services and Superannuation Bill Shorten summarised the obligation this way: "if a client seeks to receive more targeted advice on a matter that is particularly concerning them rather than comprehensive advice... as long as the provider acts reasonably in this process and bases the decision to narrow the subject matter of the advice on the interests of the client, the provider will not be in breach of their obligation to act in the client's best interests".

Choosing an adviser to refer to

To ensure that the most appropriate service is delivered to each SMSF client, unlicensed accountants may need to have more than one referral partner.

SMSF clients who are less comfortable digesting the detail and making decisions for themselves will need personal advice and support. In this case the client should be referred to a traditional planner who can provide a comprehensive advice service and guide the client.

However studies show that Australia's 577,000 SMSF members are typically well educated professionals and business owners. Many of these self-managed clients are capable and confident enough to digest the information their accountant provides under the exemptions in Guide 1, and can use this to decide how much they wish to contribute to or withdraw from super.

To date most of these confident, self-managed clients, have eschewed traditional financial planners but value the "second opinion" a licensed digital adviser can provide IF its offering seamlessly integrates with the SMSF accounting process, is speedy, compliant and inexpensive.

A.S.A.P. provides rapid, inexpensive advice that is limited in scope yet helps to protect the client and accountant by applying a financial planning framework to SMSF transactions. This includes rigorous checks and balances to test and validate the suitability of transactions in light of the client's personal situation and financial objectives.

A.S.A.P. makes SMSF accountants' life much easier because A.S.A.P. provides a set of free, intuitive on-line tools that help to determine the need for licensed advice and the scope of that advice, even where the advice won't be provided by A.S.A.P. Where this scoping tool identifies that a client's advice needs are broader in scope than A.S.A.P. can deliver, the system explains this to the client and suggests the client speak to a more traditional financial adviser.

3. Referrals to A.S.A.P.

A.S.A.P.'s offering has been carefully designed to supplement (not duplicate) the types of advice an unlicensed accountant can provide SMSF clients as set out in Guide 1. This suits confident trustees who desire minimal disruption to the advisory processes already established with their accountant.

A fundamental part of A.S.A.P. is the online 'drag and drop' scoping tool that accountants can use with their clients. This makes it easy for the client to segregate each financial decision that could require financial advice and to direct who they would like to take responsibility for each decision.

A.S.A.P. has designed its service this way because SMSFs demanded it in early market research. The online process makes it easy to initiate an advice request whilst the client is still in the accountant's office.

Who will take ownership of each decision?
(Grab each decision tile and drag it into a box)

Accumulating Approaching retirement Entering retirement Retired

Decisions

Standard SMSF decisions each year:

- Additional concessional contributions
- Non-concessional contributions
- SMSF Investment Strategy
- SMSF Investment Selection
- Review your insurances

Other SMSF/retirement decisions:

- Establish an SMSF
- Rollover existing super to SMSF
- Direct property within SMSF
- Limited Recourse Borrowing Arrangement (LRBA)
- How much do I need to retire?
- Review your estate planning needs
- Start or change a TTR pension

Responsibility

Client decisions:

Scaled advice from A.S.A.P.:

Third party advice needed:

Not proceeding:

Scenarios on which A.S.A.P. can provide the advice are when confident, self-directed clients are considering any of the following transactions:

- starting an SMSF and/or rolling existing super into an SMSF
- making concessional / non-concessional contributions
- withdrawing money from an SMSF including starting or rolling back a pension, and lump sum withdrawals

A.S.A.P. focus on the common SMSF transactions that accountants generally can assist their clients with. The scope of our advice is as follows:

- **For clients who are considering a new SMSF:** a recommendation on whether an SMSF is a suitable superannuation product to meet the client's objectives. This includes advice on whether to rollover existing superannuation funds* that the client may have, taking into account an analysis of the fees and whether there is insurance in place that would impact the advice to transfer.
- **For clients who already have an SMSF:** we provide Statements of Advice to validate the appropriateness of starting or changing a SMSF pension, taking lump sums or winding up an SMSF. We also work closely with a specialist insurance advisory firm who can analyse the client's insurance contracts as well as recommend the client's SMSF insurance strategy. Our SoAs can confirm the suitability of using the SMSF to make contributions.

- **For use with all SMSF clients:** An easy to use 'drag and drop' tool which lets the client direct what advice they require¹. This can either be done during the client meeting, or by phone using a PDF conversation tool.

The accountant can help the client decide what scope of advice they require but not in a way that that could reasonably be regarded as intending to influence the client in making a decision in relation to a financial product or class of financial products.

* The accountant must only play a limited role in a rollover unless it is appropriately licensed. Refer to FAQ 9 in the Appendix to this Guide for more information.

The A.S.A.P. platform does not currently provide:

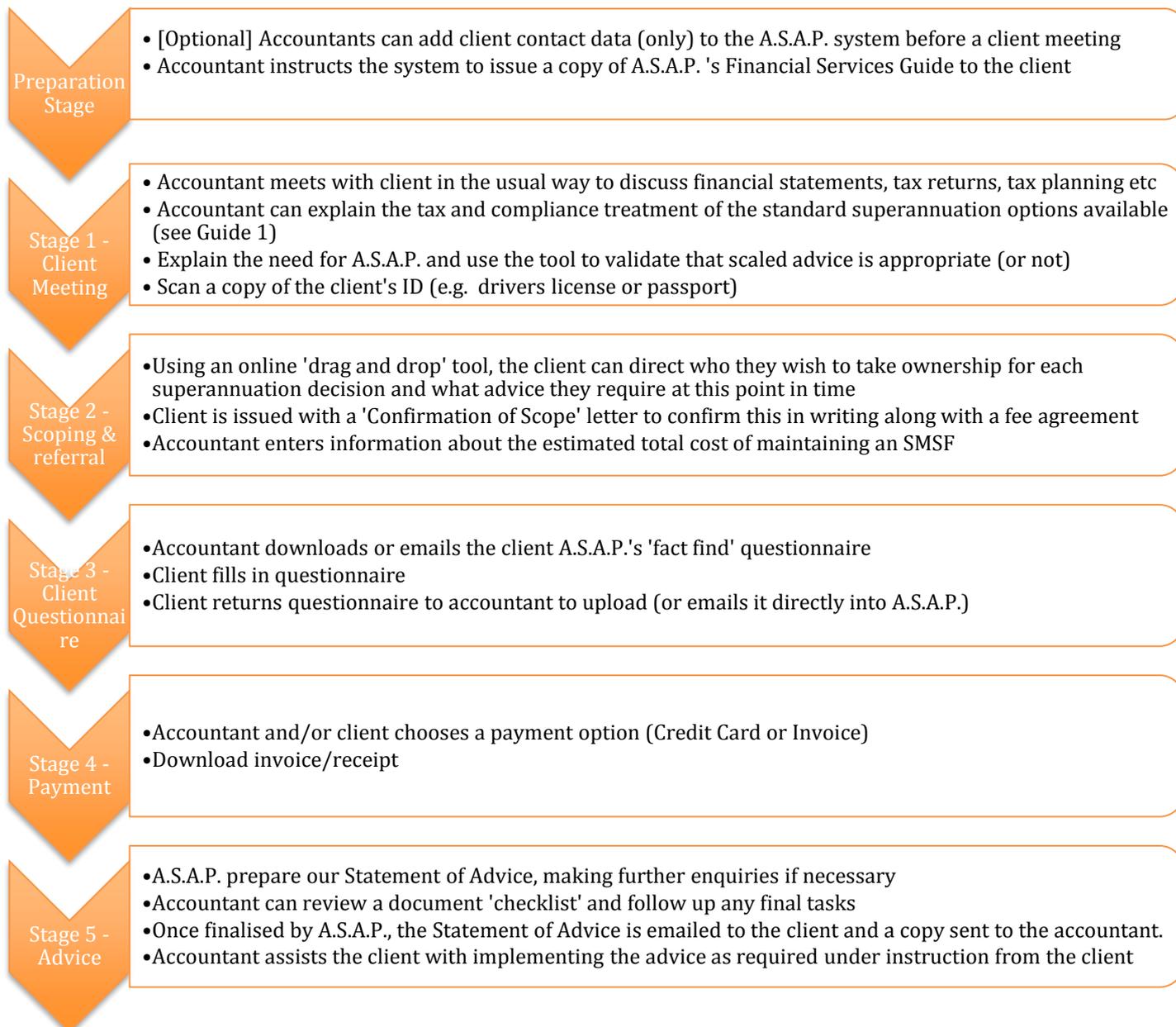
- Advice on investment selections
- Advice on setting a specific contribution level
- Advice on whether to purchase a specific property or LRBA

These will need to be referred to another adviser. Please contact us if you wish to discuss your clients' typical advice needs as our list of advice services will expand over time.

4. How to introduce A.S.A.P. to your client

The following diagram outlines what is required from both the accountant and the client at each stage in the A.S.A.P. order process.

¹ The drag and drop tool is configured with business rules to protect the accountant. It is designed for accounting firms who have made a business decision to only assist clients on key SMFS transactions if the client has received an SoA.



5. Implementing the advice

Implementing the advice

Where a client has received a Statement of Advice from A.S.A.P. and has signed the 'Authority to Proceed' form attached to it, the accountant can assist with the implementation of those transactions on instruction from the client.

The accountant must not be seen to comment on that advice or endorse it in any way. However, the accountant can continue to provide compliance advice such as recommending the client should establish a corporate trustee, or explaining the effect of different types of death benefit nominations.

Refer to r7.1.31 and r7.1.29 Corporations Regulations

6. Key SMSF transactions: what unlicensed accountants can do after the client receives a SoA

Transaction/ admin	Unlicensed Accountant		
	CAN	refs	CAN'T
Establish SMSF	<p>Recommend using a corporate or individual trustee.</p> <p>Set up a SMSF using a trust deed prepared by a lawyer on the instruction from a client (cannot give advice during this process).</p> <p>Provide a proforma form for the client to document their investment strategy</p> <p>Explain the effect of different types of death benefit nominations</p>	<p>Reg 7.1.29(3)(f)</p> <p>Reg 7.1.29(5)</p>	<p>Draft legal documents from scratch.</p> <p>Can't advise on an SMSF trust deed or make amendments to a trust deed (as this constitutes legal advice).</p>
Rollover super to SMSF	<p>Can complete administrative tasks on instruction from the client (e.g. completing a rollover form. See FAQ 9).</p>	<p>Reg 7.1.29(3)(f)</p>	<p>Recommend or endorse a rollover not included in the SoA.</p> <p>Advise on performance or recommend one structure over another.</p>
Insurance lost by changing fund	<p>Warn the client that insurance will be lost on exiting the fund (provided that only factual information is given).</p>	<p>Reg 7.1.29(3)(b)</p>	<p>Apply for or cancel insurance on behalf of the client.</p> <p>Make a representation or statements of opinion which is intended to influence the client's decision.</p>
Commence TTR pension/ account based pension	<p>An accountant can pass on information from a license holder, providing they do not endorse the material and it is clear the accountant is not responsible for the advice.</p> <p>Accountant can administratively set up a pension under instruction from the client.</p> <p>Explain the effect of different types of death benefit nominations.</p>	<p>Reg 7.6.01 & 7.1.29(3)</p>	

7. FAQ

***Important:** Nothing in this document should be considered as legal advice. Accountants should seek their own legal advice before making decisions about the way they deliver their own services to their clients.*

You may also wish to refer to the Q&A section of the document ['Financial Advice and Regulations – Guidance for the accounting profession'](#) published by the accounting bodies.

1. Does A.S.A.P. have its own Australian Financial Services License?

ASAP Advice Pty Ltd (“A.S.A.P.”) is a Corporate Authorised Representative No. 1248127 of Interprac Financial Planning Pty Ltd, Australian Financial Services License No. 246638. Statements of Advice from A.S.A.P. are provided under this AFSL.

A.S.A.P. and Interprac sub-authorise the advisers providing the advice. For more information, refer to our Financial Service Guide.

2. Would our accounting firm be a licensee of A.S.A.P.? Or is our role purely introducing the client to A.S.A.P. to request a Statement of Advice?

No, A.S.A.P. are not licensing you to give advice.

By using A.S.A.P. you are making a referral to a digital adviser and it is our advisers who sign off the advice to your client. Once our Statement of Advice (SoA) is issued, the accountant is then able to help the client implement those recommendations.

3. Do we require any of the usual compliance information such as FSG documents, dispute resolution procedures etc or is this all included with your SoA being a direct service to the client?

A.S.A.P. provide a direct advice service to the client which includes *our* Financial Services Guide, dispute resolution process, professional indemnity insurance etc.

4. In relation to advertising, are we able to advertise we offer SMSF advice if using your service, or is there any branding etc we can use on our website from your firm to show potential clients we have this service available?

You won't be able to say you offer SMSF financial product advice, but you can say that you work with us and that we provide financial product advice when your clients require it. Please see our document 'Explaining the A.S.A.P. service to clients'.

5. Are A.S.A.P. covered for public indemnity in relation to all advice issued under the SoA and where do we sit within that cover in the event of an error or dispute arising?

Yes. A.S.A.P. are covered by PI insurance which covers the scope of our financial product advice in our SoA. We are responsible for the recommendations provided in our SoA. You would still need your own PI insurances for the accounting and tax services you provide.

6. Can I answer specific questions the client asks?

Yes, providing you provide factual information, tax advice or compliance advice only (see Guide 1) and take care not to influence, suggest or endorse any particular decisions or transactions.

We recommend A.S.A.P. users undergo training in this area and have agreed a discounted rate for the L4A online module "Where the licensing line lies".

7. Could I use A.S.A.P. even though I have my own license?

There is no reason an adviser can't refer to another adviser so long as the client understands who is responsible for that advice. However recent ASIC Information Note 216 says that accountants who do have a license are unable to make use of the exemptions set out in Guide 1, and must instead give that advice under their own license (i.e. through an SoA or written record of advice). Therefore we would not recommend using A.S.A.P. until these rules are clarified further, as A.S.A.P. relies on the accountant being able to give tax advice.

8. Could I use A.S.A.P. with a client who is not present in the room with me (e.g. by telephone)?

Yes, we have a PDF version of the online scoping tool which is designed so that you can email to the client and talk it through by phone together. You would then enter this information to the A.S.A.P. system on the client's behalf.

The client will receive our confirmation of scope letter to sign and confirm they are happy with these decisions once they have had a chance to re-read what was agreed and ensure they are comfortable with who will take responsibility for each decision. This also sets out the scope of our scaled advice.

Clients also need to complete the A.S.A.P. Client Questionnaire ('fact find') and will receive a copy of our Statement of Advice by email.

9. Once a client has received a Statement of Advice from A.S.A.P., am I able to help them to implement the transaction?

Yes. Once the client has received an SOA the accountant can assist the client with implementing those recommendations under (advised) client instruction. E.g. completing a rollover form or paperwork to start a pension. The accountant can also explain the information in the forms.

Accountants can supply a trust deed prepared by lawyers and arrange to set up the SMSF but they should not be drafting the documents themselves unless legally qualified.

If an accountant is merely completing forms on the instruction of the client then the accountant will not be 'dealing by arranging'². An exemption in regulation 7.1.29(3)(f) provides that conduct in relation to interests in an SMSF that would otherwise amount to 'dealing by arranging' is exempt from licensing if certain conditions are met. These are:

- The person receiving the service is, or is likely to become, the trustee (or director of a corporate trustee); and
- Other than for the purpose of compliance with the SIS Act, the accountant does not give any advice on acquiring or disposing of a superannuation product, investments, rollovers or contribution levels.

² Generally, it requires a license authorisation to 'deal' in a financial product. To 'deal' means to do one or more of: (a) apply for or acquire a financial product, (b) issue a financial product, (c) for securities or managed investment schemes, underwrite the securities or interests, (d) vary a financial product or (e) dispose of a financial product.

If an accountant gets too involved in arranging the acquisition or disposal of a financial product for a client, then this can go so far as to constitute 'dealing' in that product, and therefore requires a license authorisation. However an exemption applies to SMSFs if certain conditions are met.

This exemption does not apply to financial products other than SMSFs,

This SMSF exemption does not apply to rolling over an existing superannuation fund as that would constitute the disposal of a financial product that is not an SMSF.

There is a fine line between merely providing administrative assistance and 'arranging to deal'. ASIC considers a person to be 'arranging to deal' if their involvement is of sufficient importance that without them, the transaction would not have taken place. If the client communicates with you as a key person to acquire an investment or arrange a superannuation rollover beyond just completing and sending forms, you are more likely to be 'arranging to deal' and require a license authorisation.

Passing on money or forms will not amount to 'arranging to deal', unless the accountant is being paid a commission or benefit if the client enters into the product. ASIC considers that, whilst accountants can receive a fee from the client for their time, receipt of benefits that relate to whether a transaction proceeds suggests a more active involvement in the transaction.

10. Additional question: How do the laws on 'arranging' apply to accountants who refer their clients to planners, particularly digital advisers?

Referral to a financial planner

Providing that an unlicensed accountant stays within the rules in terms of their conversation with the client (refer to Guide 1 of this set of 2), they are able to introduce the client to A.S.A.P. as a referral to an independent financial adviser.

They can also assist the client in deciding the scope of advice required (see Section 3 of this Guide).

Accountants are able to provide a service of passing on advice as per Corporations Act regulation 7.1.31. However they must make it clear A.S.A.P. is giving the advice and they themselves are separate to that advice and cannot provide any recommendations or endorsements of the client's decisions.

Accountants can assist the client in understanding any factual terms and information requested in forms/questionnaires. However they cannot make any statements about what the ultimate advice will be nor influence the client's answers.

Implementing the advice

Once the client has received an SOA the accountant can assist the client with implementing those recommendations under (advised) client instruction. Refer to the previous FAQ above.