
Standard client consent for life insurance commissions

FAQs: Informed consents for insurance commissions | ASIC

Introduction

- In this video, I will provide you with more detailed information about the new standardised client consent requirements for certain life risk insurance, general insurance and consumer credit commissions. The focus of this guidance is on life risk insurance commissions.
- This part of the DBFO tranche 1 Act implements recommendations 13.7 to 13.9 of the Quality of Advice Review and aims to introduce a legislated obligation to obtain the client's informed consent before accepting a commission.
- The new consent obligations apply when providing personal advice to retail clients that includes the sale or issue of certain life insurance products.
- This change has made an existing and common business practice a legal obligation. Clients have previously provided consent to life risk commissions by signing the Authority to Proceed.
- There are two parts to the new consent obligations – 1) the disclosure of information to your client; and 2) an obligation to gain your client's consent.
- If you do not comply with the new legislated client consent obligations, the life risk commissions you receive will be classified as banned conflicted remuneration and attract penalties.
- ASIC has released Information Sheet 292 to provide guidance on this new obligation.
- It is important to consider the ASIC guidance, as the Regulator will also take into account your obligations under the Code of Ethics when considering if you have met the new requirements.
- It is also important to note that the DBFO changes do not impact the Life Insurance Framework caps or claw back levels. ASIC will maintain the power to set maximum commission levels in a legislative instrument.
- We hope this video helps you understand and prepare for these new obligations in the lead up to the 9 July 2025 commencement date.

What is the aim of the new obligations?

- It is important to understand the purpose of the new disclosure and client consent obligations, to ensure the processes you put in place will allow you to meet these requirements.
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- The aim of the new consent obligation is to ensure your client has important information about the commissions you may receive in relation to your life risk advice, and that they understand this information to enable them to make an informed decision.
 - You must provide “*a genuine and real opportunity for your client to make an informed decision about your remuneration, before deciding to be issued or sold a life insurance product*”.
 - To achieve this, your client must be able to clearly identify the information they should consider to help them make an informed decision.
 - Keep this in mind while we go through the new obligations.

Do the new client consent obligations apply to all life insurance advice benefits?

- The new informed consent requirement applies to monetary benefits given in connection with the issue or sale of life insurance that:
 - has level commissions, or
 - meets the commission caps and clawbacks in the Life Insurance Framework (LIF).
- Monetary benefits given in connection with the issue of group life insurance for members of a superannuation fund and insurance for a member of a default superannuation fund remain conflicted remuneration, and as such are banned.
- The informed consent requirements do not apply to non-monetary benefits (such as education and training) given in connection with life risk advice.
- The new obligations apply when providing or likely to provide personal life risk advice to retail clients.
- If your life risk advice involves both general advice and personal advice, the informed consent requirement applies to the benefits you may receive.
- The consent requirements do not apply to monetary benefits given if only general advice is provided or likely to be provided.

What is a commission?

- The benefits given by product providers to financial advisers are classed as conflicted remuneration, with exemptions given for commissions payable for life and general insurance and consumer credit insurance.
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- This exemption only applies to commissions within the caps introduced as part of the Life Insurance Framework (LIF) – which are currently set at 60% (plus GST) for upfront and 20% (plus GST) for renewal.
 - Under the DBFO Tranche 1 changes, if you receive a commission on a new life insurance policy arranged under your personal advice recommendation, without first obtaining your client's consent, the commission will be considered banned conflicted remuneration.
 - The Explanatory Memorandum to the Bills states that:
 - A commission is a fee paid by the life company for the sale of life insurance. It is not a fee for services provided to the client.
 - This legal perspective of a commission is important to point out as this means that if services are promised but not provided, your client may be able to bring a complaint against you, but the life company will not have any obligation to turn off your commission or claim any part of it back from you.

What advice and products do the new obligations apply to?

- You must meet the information disclosure obligations and gain your client's consent before the issue or sale of a life insurance product.
- In the personal advice context, this means you must obtain your client's consent before you implement your advice.
- If you don't meet the new client consent obligations, your commission will be considered banned conflicted remuneration. ASIC Info Sheet 292 states that the consequences of this could be incurring a civil penalty, a banning order, or AFS licence suspension or cancellation.

What if your client does not give their consent?

- If your client does not consent, then you can agree to provide the advice for a fee paid by the client, or you can decline to provide the advice.
- Provided the rate of your commission on renewal does not exceed that disclosed in the initial client consent, and there are no variations to the information you must disclose – no further consents are required, meaning the consent is a one-off, for the life of the policy.

What must be disclosed to your client before they provide informed consent?

- Before your client can provide their consent to your commission, you must clearly disclose certain information to your client:
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- the name of the insurer, if known;
 - the rate of your commission, both upfront commission and trail commission, expressed as a percentage of the policy cost. The consent obligation does not require you to specify the dollar amount of the commission you will receive.
 - How often you will receive the commission – so the frequency of the commissions
 - How long you will continue to receive commissions – so the duration of the consent for the commissions.
 - the nature of any services that you will provide your client in relation to the life insurance product (if any). We suggest that if you do not intend to provide any services to your client in relation to the life insurance product, this should be stated to allow your client to make an informed decision before consenting.
 - a statement that *“it is a requirement of the law that client consent must be obtained before the payment of an insurance commission”*; and
 - a statement that *“the client’s consent, once given, is irrevocable”*.
- Relying on information disclosed in your SOA
 - To avoid duplication, if you have already disclosed this information to your client, for example in a Statement of Advice, the information does not need to be disclosed again.
 - However, this flexibility is tempered by the intent of the new obligations – that your client can make an informed decision. So, the information disclosed for the purposes of the new client consent must be clearly identifiable in your SOA.
 - You should also highlight to your client this information in your SOA and ensure your client understands that the information disclosed in the SOA is provided to help them make an informed decision before providing their consent.
 - This is critical as clients are not considered to have provided informed consent if the disclosable information is not clearly identifiable.
 - Commission disclosure in your SOA requires inclusion of the dollar amount, however the new client consent requires commissions to be expressed as a percentage of the policy cost. You should ensure the way you choose to disclose your commissions to your client meets all your legal obligations.
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How should information be disclosed to your client?

- When determining how you will disclose the required information to your client, it is important to remember that the new obligation has two parts – the disclosure of information and the gaining of client consent.
- While there is no prescribed statement for the disclosure of information or a prescribed form for the client consent, it is expected that many licensees will choose to include it as part of the Authority to Proceed. ASIC requires the disclosure of information to be:
 - worded and presented in a clear, concise and effective manner, and
 - as already mentioned, it must be clearly identified as information that your client should consider in determining whether to provide informed consent.
- ASIC also has requirements for the font size of the print you use when presenting the rate of your monetary benefit – this must be in a font size that is at least the same font size as that predominantly used for other text in the document.
 - So, if you plan to disclose your commission information in your SOA, this must be in the same font size as other information in the SOA.
- You must ensure your client can clearly identify the information as information that they should consider in determining whether to provide consent.
- You must also keep a record of the information you have disclosed to help your client make an informed decision.

Does your client need to provide consent in writing?

- The second part of the obligation is gaining your client's consent for you to receive your commission, once your client has considered the information you have disclosed to them.
 - There is no requirement that client consent be provided in writing, and there is no prescribed form for the client consent. The intention is that the consent requirement instigates a conversation between you and your client.
 - However, you must ensure you have a written record of your client's consent. This could be a formal written agreement, such as the Authority to Proceed or an email that records a conversation where the consent was discussed and provided by your client.
 - You must keep a written record of your client's consent and give a copy of it to your client as soon as reasonably practicable after you obtained the consent.
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Can you vary/change the information you originally disclosed to your client?

- There may be situations when you will need to vary or change the information you originally disclosed to your client prior to their consent.
 - You must obtain an additional consent to:
 - Vary the name of the insurer (for example, due to a merger)
 - Increase the rate and/or frequency of your monetary benefit, expressed as a percentage, or
 - Change the nature of services provided to your client in relation to the life insurance product.
 - You must clearly disclose this information to your client, ensuring you correctly express the percentage rate or percentage range of your increased commission, prior to obtaining an additional client consent for such variations.
 - If you have already disclosed to your client the other information required in the original consent, and this other information has not changed, it does not need to be disclosed again for the purposes of the additional consent.
 - You are also permitted to rely on your disclosure of an increase in your commission rate or frequency through a different format, such as in a SOA.
 - For a variation of information disclosed to a client to be valid:
 - the client must consent to the variation, which may be written or verbal
 - you must keep the written consent or a written record of any verbal consent, and
 - you must give the client a copy of their consent as soon as reasonably practicable after the additional consent is provided.
 - If your client does not consent to a variation, the original consent will continue to apply.
 - Your client cannot provide a variation additional consent to monetary benefits that you will receive in connection with the issue or sale of new insurance or where the insurance product has been varied. This will require you to meet the full disclosure and client consent obligations again.
 - The original client consent remains valid and will apply to any decrease in the rate or frequency of your commission.
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Do the client consent requirements apply to renewals?

- If your advice and commission relates to an insurance product that requires it to be renewed to maintain coverage (such as life policies), the commission you receive after the renewal of the policy is known as the “renewal benefit”.
- You do not need to obtain a new client consent to be given a commission in connection with the renewal of an insurance product if:
 - There has been no change to the required information you disclosed to your client before they provided their original consent, and
 - the original disclosure included the expected renewal arrangement, and
 - the rate or frequency of your commission after renewal, which is your ‘renewal benefit’ (expressed as a percentage) is the same or less than the rate or frequency of your commission originally disclosed to your client.
- If the rate of your “renewal benefit” - expressed as a percentage of the cost of the policy, not dollars - is higher than the rate of your original commission, or you propose to increase the frequency of your commission, you will need to obtain new consent from your client.
 - You may do this by seeking a new informed consent from your client or by seeking your client's consent to vary their original informed consent.

What records do I need to keep?

- ASIC requires you to keep the following records for at least 5 years:
 - a copy of the information disclosed to your client
 - a copy of any variations to information disclosed to your client that the client has consented to and evidence of your client's consent
 - each written consent that a client provides and its date
 - each written record of a client's verbal consent and its date, and
 - a record of the date the client was given a copy of the consent and supporting evidence.
 - Sufficient records may be a formal written agreement or an email recording your client's verbal consent.
 - Licensees should also keep or have access to records kept by their representative so they can monitor compliance with the informed consent requirement.
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What do I need to give my client?

- You must give a copy of the written consent, or your record of the consent, to your client as soon as reasonably practicable after the consent is obtained.
- For example, giving your client a copy of the signed Authority to Proceed, or an email documenting your conversation where the consent was discussed.
- This includes giving your client a copy or record of the consent to any variations or additional consent.

What do I give the product provider?

- You are not required to provide a copy of your client's consent to the insurer.
- The insurer is also not required to check that you have obtained your client's informed consent.
- This means the insurer is not liable for ensuring the client consent has been obtained. This is solely an advice obligation.
- However, while there is no explicit provision to give the insurer a copy of your client's consent, they may ask for a copy as part of their compliance or risk mitigation approach.
- It is also possible for an insurer to include a request for informed consent as part of their product application process.

What if I sell, buy or transfer an advice business?

- If you sell, buy or transfer a financial advice business, either wholly or partly, the client consent for the life risk commission can transfer with the business or book of clients.
- The original client consent, or additional or varied consent, remains valid.
- This includes the transfer of business from one AFS licensee to another AFS licensee or the transfer of business from one authorised representative to another authorised representative, either within the same or a different AFS licensee.

What are the penalties for receiving commissions without informed client consent?

- You will breach the ban on conflicted remuneration if you are paid commissions without meeting the disclosure of information requirements, or if you have not obtained informed consent from your client.
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- As stated in ASIC Info Sheet 292, the consequences of breaching this ban could include a civil penalty, a banning order, or AFS licence suspension or cancellation.

When do the new informed client consent obligations start?

- The new informed client consent changes start on 9 July 2025.
- The new information disclosure and client consent obligations apply to personal advice to retail clients involving commissions in connection with insurance products that were first sold or issued after 9 July 2025, regardless of whether this is to a new or existing client.
- The informed consent requirements do not apply to monetary benefits given in connection with insurance issued or sold before 9 July 2025.
- Provided the rate of your commission on renewal does not exceed that disclosed in the initial client consent, and there are no variations to the information you must disclose – no further consents are required, meaning the consent is a one-off obligations, for the life of the policy.

Conclusion

- Thank you for listening and please email us at policy@faaa.au if you have any questions.
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