

# Merit Wealth

Professional Development

May | June 2017



merit  
wealth

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Please direct any questions regarding the Merit Wealth PD Workbook to:  
Merit Wealth Pty Ltd, Level 2, 115 Pitt St, Sydney 2000





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Agenda Topics	
Introduction and Welcome	<b>Greg Hayes</b> Managing Director, Merit Wealth
Managing the Run Up to June 30	<b>Garth McNally</b> Director, Merit Wealth
Ensuring Your Advice Process is Right	<b>Scot Andrews</b> Head of Advice, Merit Wealth
Advising on Rollovers	<b>David Moss</b> Accountants Services Director, Merit Wealth
Doing Business	<b>Greg Hayes</b> Director, Merit Wealth



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### 3 BIG Issues

- Contributions
- Transition to retirement
- \$1.6M transfer balance cap process




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### Contributions




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### Non concessional contributions

Summary	2017 Financial Year	2018 Financial Year Onwards
Non concessional cap	\$180,000 p.a.	\$100,000
Non concessional cap – bring forward rule	\$540,000 over 3 years	\$300,000
Non concessional cap where Super balance \$1.6M+	As above	Nil




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## Concessional Contributions

	Current Concessional Contribution limit 2017 FY	New Concessional Contribution limit 2018 FY
Under 49 on 30 June of prior year	\$30,000	N/A
49 or over on 30 June of prior year	\$35,000	N/A
Everyone	N/A	\$25,000




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## Lead up to 30 June 2017

- Utilise current, higher contribution caps while available
- This could be the last year that contributions are actually allowed:
  - Above \$1.6M total super balance
  - Will not meet work test next year




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## Lead up to 30 June 2017

- Utilise current, higher contribution caps while available
- This could be the last year that contributions are actually allowed:
  - Above \$1.6M total super balance
  - Will not meet work test next year

**Client may not have large cash reserves sitting idle!**




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## Contributions other than cash

- What about in-specie contributions? Assets other than cash:
  - Listed securities
  - Business real property
  - Widely held trusts



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## Contribution timing considerations

- **TR 2010/1:**
  - Beneficial ownership occurs first; then
  - Legal ownership
- If sufficient evidence is retained, you can use beneficial ownership date:
  - When the trustee is in receipt of completed, executable off market transfer form
  - Suggest a trustee minute as well



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## Transition to Retirement



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TTR Pre 1 July 2017	TTR Post 1 July 2017
TTR earnings inside the fund are tax free	TTR earnings inside the fund are <b><u>no longer tax free</u></b>
TTR pension payments are tax free to members over age 60	TTR pension payments remain tax free to members over age 60
The taxable component of TTR pension payments to those under age 60 are included in assessable income less a 15% rebate	The taxable component of TTR pension payments to those under age 60 are included in assessable income less a 15% rebate




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TTR Pre 1 July 2017	TTR Post 1 July 2017
A member can elect for a payment to be treated as a lump sum for tax purposes	A member <b><u>can no longer</u></b> elect for a payment to be treated as a lump sum for tax purposes
A TTR could contain a reversionary nomination	A TTR will <b><u>no longer be allowed to have a reversionary nomination attached</u></b> – however the death of the initial member will result in the benefits becoming UNNP – BUT will be a new pension and assessed under the TBC




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### Balance transfer cap and \$1.6M

- A TTR is not a retirement income phase pension
- The \$1.6M cap does not apply to TTR's
- BUT, fund earnings on TTR's post 1 July 2017 are no longer tax exempt




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## TTR Post 1 July 2017

**Many commentators are saying that TTR's are dead - that they are no longer viable or no longer a valid strategy**

- What do you think?



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## Still beneficial?

- Reducing work hours and supplementing income
- Use payments to reduce personal, non-deductible debt
- To manage a clients \$1.6M transfer balance cap
  - Re-contributed into spouse's account if \$1.6M cap is an issue when the members TTR pension converts to a standard account based pension.
- Manage tax payable by a non-dependent on the death of a member
  - Re-contributed as a non-concessional contribution



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## Still beneficial?

- Could be used by a member to make concessional contributions to super on which a tax deduction could be claimed
- Could assist in managing the \$500K cap on carried forward concessional contributions (2020 FY and beyond)



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## Pre 1 July review

- **Have any TTR clients met a further condition of release?**
  - Retirement, Age 65.
- **Could allow TTR pension to be changed to a standard account based pension**
  - Earnings on the assets supporting the standard account based pension remains tax free from 1 July 2017.



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## Pre 1 July review

- **Review “preservation components” of existing TTRs**
- **If unrestricted non-preserved benefits, consider**
  - Ceasing these pensions
  - Commence new TTR with the preserved component.
  - Commence a standard account pension with unrestricted non-preserved component where the earnings on these assets would be exempt



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## Process to convert a TTR

- **No need to commute the TTR and then recommence a new pension where a further condition of release is met**
  - BUT, check the trust deed / pension paperwork for requirements
  - Is there an auto conversion clause?
  - If there is, will this create an issue under the \$1.6M TBC immediately?



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## Schemes or arrangements for TTR's

### Entering into schemes or arrangements to move a TTR to a standard account based pension

- This will be high on the ATO "Radar" for the 2017 FY
- TTR's should only be converted to standard account based pensions where the client is eligible to do so:
  - Attain age 65
  - Retirement
  - UNNP



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## Lump sums from TTR?

- Do you use this strategy for clients?



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## Lump sums from TTR?

- Do you use this strategy for clients?
- Tax benefit for the client? Under age 60



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## Lump sums from TTR?

- Do you use this strategy for clients?
- Tax benefit for the client? Under age 60
- **Tax detriment to the fund? Loss of ECPI?**



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## Claiming ECPI

- Treating the payment as a lump sum can effect the ECPI for the fund
  - There is a reduction in the average value of the fund's current pension liabilities
  - The reduction is the value of the lump sum

This would usually be applicable for funds using the proportionate approach (unsegregated)



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## Claiming ECPI

- Treating the payment as a lump sum can effect the ECPI for the fund
  - There is a reduction in the average value of the fund's current pension liabilities
  - The reduction is the value of the lump sum

This would usually be applicable for funds using the proportionate approach (unsegregated)

**What about a fund using segregated method?**



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## Pension valuations at 30 June 2017

- **Key reform issue:**

How are we supposed to reduce a clients existing pension to be within the allowed \$1.6M cap by 30 June 2017 when we will not know the pension balance?




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## Pension valuations at 30 June 2017

- **Key reform issue:**

How are we supposed to reduce a clients existing pension to be within the allowed \$1.6M cap by 30 June 2017 when we will not know the pension balance?

- **PCG 2017/5**

- Released 27<sup>th</sup> April 2017
- Provides ATO comment on process




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## Pension valuations at 30 June 2017

### Process & Procedures

- Member written request to SMSF Trustee to partially commute required amount to comply with \$1.6M Cap
- Trustee Minute / Resolution to comply with this



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## Pension valuations at 30 June 2017

- Must be carried out by 30 June 2017, does not have to quantify the yet to be determined amount
  - Where multiple pension “interests”(accounts) exist, the member will need to specify from which interest and in what at order the commutation(s) will occur
  - The Trustee acceptance should also confirm the same
- Separate resolutions would be needed if more than one SMSF
- Can only be used for that particular fund



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## Pension valuations at 30 June 2017

### Key considerations:

- Must be allowed under trust deed
- Must be allowed under pension agreement
- Request should set out the method as to how the excess amount (the partial commutation amount) will be calculated
- Must be irrevocable; does deed or pension document allow member or trustee discretion?



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## Pension valuations at 30 June 2017

### Key considerations:

- May be invalid where:
  - The member request is to partially commute the excess amount above the TBC **taking into account ALL super income streams held in multiple funds**; and
  - The member provides a similar request to another fund.

**Neither request specifies the required method to calculate the excess and each request is dependent on the amount to be commuted under another request**



## The affect of LRBA's on member balances

- New **draft laws** released on how existing LRBA's will affect:
  - A members "Total Superannuation Balance"; and
  - The members "Transfer Balance Cap"

**Treasury Laws Amendment (2017 Measures No. 2) Bill  
2017: Limited Recourse Borrowing Arrangements**



## The affect of LRBA's on member balances

### Total Superannuation Balance

- Calculation to now include **the outstanding balance of an LRBA**.
- The individual member's total superannuation balance is increased by the share of the outstanding balance of an LRBA related to the assets that support their superannuation interests.



## The affect of LRBA's on member balances

### Total Superannuation Balance

- Calculation to now include **the outstanding balance of an LRBA**.
- The individual member's total superannuation balance is increased by the share of the outstanding balance of an LRBA related to the assets that support their superannuation interests.

**Relevance:** Ability to make additional non-concessional contributions, utilise unused concessional contributions, spouse tax offset, ability to use segregated asset approach



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## The affect of LRBA's on member balances

### Transfer Balance Cap

- An **additional transfer balance credit** will arise where the repayment of an LRBA shifts value between accumulation phase interests and retirement phase interests in a self-managed superannuation fund (SMSF) or a complying superannuation fund with less than 5 members.
  - Proposals seemed designed to apply where a SMSF holds both accumulation and pension interests but the LRBA repayments are sourced only from the accumulation interest.
  - How will the ATO actually monitor this?
  - What additional reporting will be required?



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## Ensuring Your Advice Process is Right

Scot Andrews  
Head of Advice



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## Key Areas

- Financial Services Guide **Pre Advice**
- Fact Finding **Advice Process**
- Statements of Advice **Advice Process**
- Execution Only **No Advice**



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## Financial Services Guide



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## Financial Service Guide

### What is it?

Contains important information a retail client should read and understand before deciding whether to obtain financial services from a providing entity



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## Financial Service Guide

### When you must provide it:

- As soon as practicable after it becomes apparent that a financial service is likely to be provided
- Before a financial service is provided



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## Financial Service Guide

### Note:

- Applies for Personal and General Advice
- It must be up to date (version number)
- Make the FSG available to potential clients through their publicly available website (if any) and at their offices or branches. (RG 175.78)



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## Fact Finding



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## Fact Finding

- **Best Interest Obligation**
- ASIC considers the concept of leaving the client in a "better" position according to the standard of a "reasonable advice provider" as key in determining whether the best interests duty has been complied with (RG 175.229)



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## Fact Finding

- **Safe Harbor Steps, 1,2 &3**



- If an advice provider can show that they have taken steps in section 961B(2), they are considered to have complied with the best interests duty.



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## Fact Finding

### Step 1:

- Identify the objectives, financial situation and needs of the client that were disclosed by the client through instructions.
  1. New clients
  2. Existing clients



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## Fact Finding

### Step 2: Identify the subject matter

- **Implicit**
- **Explicit**
- An agreed subject matter leads to the scope of advice



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## Fact Finding

### Step 3. Make further reasonable enquires

- Have you received enough information?



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## Fact Finding

### Pre Advice Consultation?

- You can have multiple consultations to make inquiries
- You may respond to queries or express preliminary views
- **But** - You must have a genuine purpose of identifying the subject matter of advice sought
- **And**, You must clearly inform the client:
  - Purpose is to know relevant circumstances for advice
  - You will provide the personal advice in a SOA
  - Client should not act on any representations made during consultations



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### Statement of Advice

- Obligation to prepare and provide SOA is part of Corps Law
- Applies when Personal Advice is provided
- SOA is a document for the client
- You must keep a record of it
- ASIC dictates content requirements
- It helps Demonstrate Best Interest



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### Statement of Advice

1. Title **Statement of Advice** on cover or at front of document
2. Name and contact details of the providing entity (you)
3. Name, contact details and AFSL number and a statement that the providing entity is the authorised representative (Merit Wealth)
4. **Statement setting out the advice**
5. **Information about the basis of advice**
6. Remuneration, other benefits, will or reasonably expects to receive, that might reasonably be expected to influence the advice
7. Remuneration, other benefits received for referring another person to you
8. Details of any interests, associations or relationships
9. Requires a warning to be given to the client because the advice is based on incomplete or inaccurate information
10. Dated and the time the recommendations remain current



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## Statement of Advice

### About the advice

- Summary of relevant circumstances after making enquiries
- Scope of Advice
- Subject Matter
- Other Products considered
- How acted in best interest
- The reasons advice is appropriate
- Alternatives, Advantages / Disadvantages of following advice



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## Statement of Advice

### About the Basis of Advice

1. **Tax considerations:** Where tax considerations are taken into account, these should be stated.
2. **Risk:** Describe the significant risks that the client will bear in relation to acquiring any recommended:
  - (i) financial product specifically; and
  - (ii) class of products generally.



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## Statement of Advice

### Reviewing Personal Advice

1. Act in the clients best interest
2. Identify the objectives through instruction
3. Identify the financial needs
4. Identify the subject matter, where relevant change the scope
5. Were additional enquires made



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## Statement of Advice

Audit Questions	Considerations
Acting in the best interests of the client: s961B(1)	Client in better position? One size fits all?
Identifying the client's objectives: through instructions? s961B(2)(a)	Are the Objectives specific, measurable, prioritised? The reasons or objectives that prompted the customer to seek advice should be clear and <b>recorded in the customer's own words</b> .
Identifying the customer's financial situation and needs: s961B(2)(a)	Income, Expense, Assets, Liabilities? Some of this information will merely provide context and background to the advice and does not need to be in the SOA.
Identifying the subject matter and scope of the advice sought s961B(2)(b)(i)	File Notes demonstrate a two-way process between the client and the adviser?  Is the revised subject matter suitable and in the clients best interests?

Source: ASIC Report 515 March 2017




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## Statement of Advice

### In Your File

1. Completed Fact Find
2. File Notes and Email Trails
3. SOA signed by Adviser
4. Authority to Proceed signed by Client




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## Execution Only




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## Execution Only

Execution only services are provided in circumstances where a client;

- Acts independently without any influence from you (self-directed); and
- Is not seeking personal financial advice on a product or strategy; and
- Instructs you to follow their directions (for example, a client specifies the product they require including the name of the product, the amount they wish to invest or redeem and takes full responsibility for the investment decision); or
- Places an order with you to complete an action on their behalf.



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## Execution Only

### YOU MUST

1. Offer to provide advice to the client, document the client's subsequent decline to receive advice and details of their instructions.
2. Use the Execution Only Letter template available
3. Issue your FSG
4. Retain the execution only request on file.
5. Provide all disclosures contained within the template verbally and file note this where the Letter isn't provided to the client at the time of the Service.



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## Execution Only

### YOU MUST NOT

- Provide an Execution Only Service if you have introduced a strategy, product or service to the client or provided any service that could be construed as advice
- Provide execution only for SMSF Set up or products outside your authorisation
- Charge a Fee for Advice if it is execution only



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### History

- When you joined Merit Wealth you could advise on:
  - Contributions
  - Benefit payments
  - SMSF setup and closure
- Could not recommend/give advice on rollovers

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### Why? – Corporations Act and ASIC

- ASIC’s view, no rollovers should occur until insurance dealt with
- “Replacement product” rules – must first provide client with:
  - Comparison of fund existing costs vs proposed new fund costs
  - Details of any benefits old fund has that could be lost due the rollover (including insurance coverage)

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## What was the risk?

- As accountants historically we have already done all the work ASIC requires for contributions, benefit payments and SMSF setup and closure
- However we did not:
  - Do comparisons of super funds close to the detail ASIC requires
  - Ensure clients insurance coverage was reviewed and managed
- Risk is we don't do the work in the detail ASIC wants and we are not licensed for insurance



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## Result

- Merit Wealth's policy was that you should refer rollover advice to a financial planner who will do this work
- Problem – Client requests SMSF setup, then difficulty having client receive rollover/insurance advice from an additional adviser
- Risk not removed, if no advice given on rollover/insurance
- Merit Wealth needed to come up with another solution



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## Change to your ASIC authority to allow rollovers

- You can now recommend a client rollover superannuation
- However ASIC and insurance requirements have not changed
- The change is Merit Wealth has engaged someone for you, to cover this



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## ASIC update – SMSF advice review

- For a few months now ASIC has been contacting accountants, financial planners and licenses, requiring all information about SMSF setups

### Australian Securities and Investments Commission NOTICE REQUIRING THE PRODUCTION OF BOOKS



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#### Books to be produced

The entire client file for each client listed in Appendix 1 including books (whether electronic or hard copy) which record or were used in the provision of SMSF Advice by each Representative during the Relevant Period, including:

- (a) all fact finds and risk profile questionnaires;
- (b) all working papers;
- (c) all correspondence relating to the provision of advice or other financial services to the client (e.g. accountants certificate to verify if the client was a wholesale client);
- (d) all statements of advice or records of advice (including any signed by the client);
- (e) all Product Disclosure Statements, information memoranda or other disclosure documents (e.g. fee disclosure statements) given to clients; and
- (f) all financial product applications.

For the avoidance of doubt, any books that were relied upon in providing the SMSF Advice to a client during the Relevant Period, that are included within the client file but are dated outside the Relevant Period should also be provided in response to this Notice (e.g. fact finds that formed the basis for the advice).

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## ASIC update – SMSF advice review – managing risk

- Setting up a SMSF for a client - SOA now mandatory - Why?
  - SMSF inappropriate for client
  - Accountant required to pay all SMSF setup costs
  - Accountant required to pay ongoing running of SMSF costs
  - Professional body registration and ability to practice going forward at risk



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## ASIC update – SMSF advice review – managing risk

- Assisting a client with a rollover – SOA now mandatory – Why?
  - Rollover result in increased fees for managing super
  - Personal insurance coverage in old super fund lost
  - Accountant sought for superannuation costs and lost insurance
  - Professional body registration and ability to practice going forward at risk



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## Merit Wealth's new Rollover process for you – Your steps

- You talk to a client about super rollovers
- Review our Process to Advise on Rollovers document
- Have client complete Enquiry Authorisation form for their superannuation funds
- Provide to Merit Wealth
- You commence drafting the rollover forms for the super funds, **however** you cannot have the client sign and lodge these yet



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## Merit Wealth's new Rollover process for you – Our steps

- We provide the form to the existing superannuation funds
- We have resources that constantly follow-up calls and emails each fund
- Every phone call is recorded and filed as proof of what they said
- If the fund denies and requires additional documents, we come back to you, obtain, provide to fund and follow-up (e.g. licence, updated authority)



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## Merit Wealth's new Rollover process for you – Our steps

- Once the fund agrees to our authority, we record a phone interview with them to obtain:
  - Fees they charge for rolling money out of their fund
  - Ongoing fees they charge within their fund e.g. administration fees, investment fees
  - Details of all current insurance coverage held within the fund for the client, coverage amounts and costs
  - Any benefits that the fund provides that the client may lose from rolling out their super



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## Merit Wealth's new Rollover process for you – Our steps

(Average delay from lodging the authority, to obtaining information off the super fund is 8 business days)

- We then manually add this information into the SOA you have prepared using our SOA program
  - Note if a client has insurance in an old fund, SOA states leave \$10K behind to maintain this until they obtain insurance advice



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## Merit Wealth's new Rollover process for you – Our steps

- We email the SOA to you
- You provide this to the client and **you must advise them that they should obtain insurance advice** (unless this is obviously not appropriate e.g. age 95)
- At end of the month, Merit Wealth debits your bank account \$300 to pay for the above and provides an invoice  
(covers up to 2 people that have up to 5 rollovers)



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## Merit Wealth's new Rollover process for you – Your steps

- You provide the SOA to the client
- Once the client signs the Authority to Proceed at the back of the SOA, you can lodge the rollover forms with the super fund



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## Doing Business

Greg Hayes  
Managing Director



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## Additional Questions

[contactus@meritwealth.com.au](mailto:contactus@meritwealth.com.au)

Ph: 1300 785 611



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