



Centrepoint Alliance Masterclass – AFCA Update

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Today's session includes

- > AFCA basics and considerations when dealing with AFCA
- > AFCA complaint statistics
- > Update on CSLR and Dixon Advisory
- > Case Studies
- > Top ten tips for advisors

AFCA basics and considerations when dealing with AFCA

AFCA's role

A single financial services EDR scheme

- > Three schemes (FOS, CIO and SCT) now one scheme
- > Operational since 1 November 2018

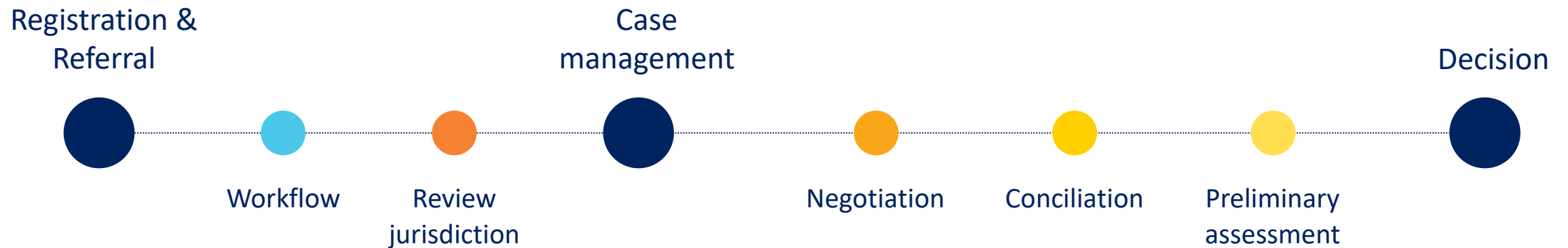
Responsibilities

- > resolving complaints
- > identifying systemic issues and working with financial firms to resolve them
- > supporting regulators by reporting certain matters to them
- > promoting awareness of AFCA – including discussion of approach



What to expect from our process

Flexible complaint resolution model



AFCA's role in financial complaint resolution

- > In everyone's interest to have matters resolved quickly
- > Three-way discussion / get parties talking
- > AFCA can:
 - act as a circuit breaker and help to build trust with customers
 - identify and focus on the real issues
 - help with financial difficulty issues which often accompany credit complaints
 - provide an independent view based on fairness
 - be flexible and adaptable to meet parties needs



General approach to complaints

When determining any complaint (other than a superannuation complaint) AFCA must do what is fair in all the circumstances having regard to:

- > legal principles
- > applicable industry codes or guidance
- > good industry practice and
- > previous relevant determinations of AFCA or predecessor schemes.



Principles underpinning the process

- > Fairness
- > Natural Justice
- > Accessibility
- > Engender trust
- > Simplicity and Efficiency
- > Consistency
- > Timeliness
- > Transparency
- > Effective engagement



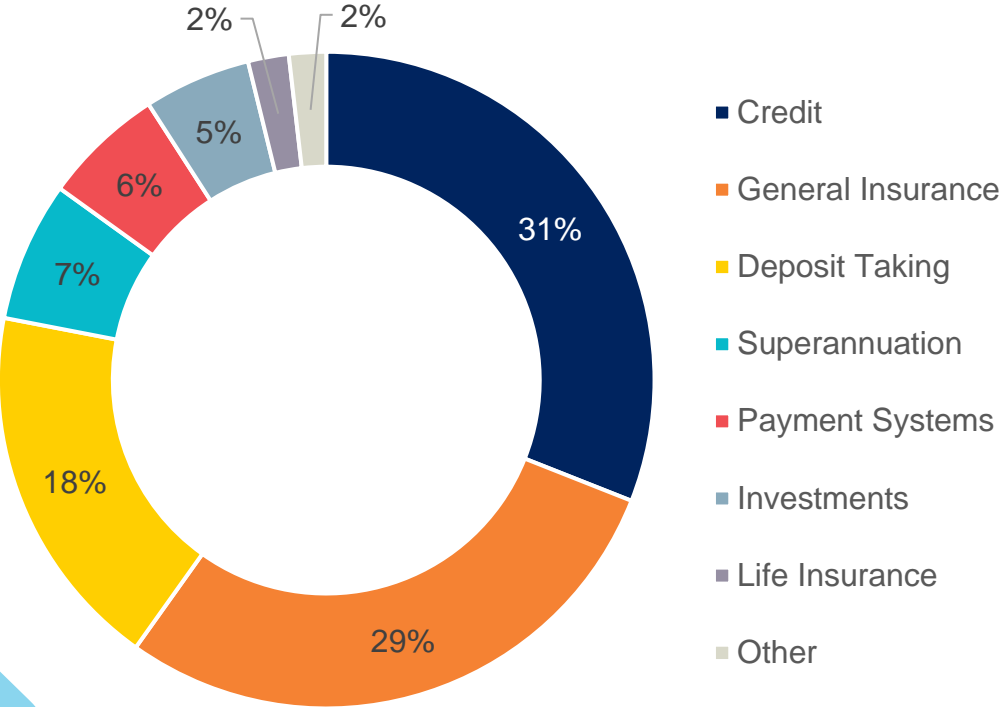


AFCA Complaint Statistics

Complaints received – AFCA overall

1 July 2022 to 31 May 2023

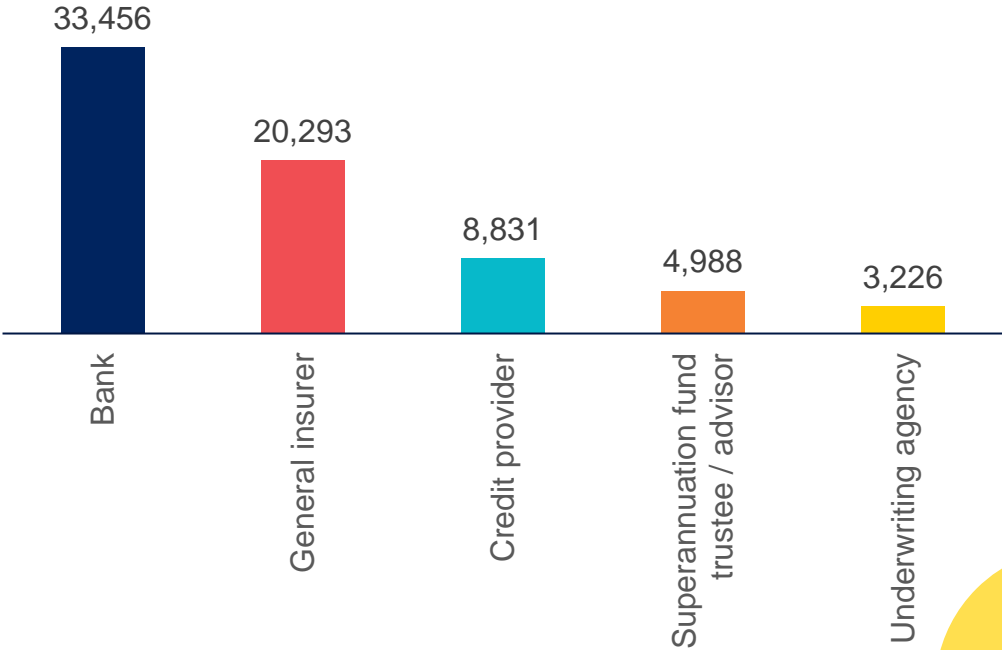
Complaints received by product line



88,461 complaints received

77,656 complaints closed

Complaints received by top 5 financial firm types



¹ One complaint can have multiple product lines.

Investments and advice complaints

Complaints received

4,678 complaints received.
Up 55% from last year.

39% resolved at Registration and Referral stage.
Up 6% from last year.

Complaints closed

2,066 complaints closed.
Down 22% from last year.

Average time to close a complaint
136 days.
up 10% from last year.

Top five investments and advice complaints received by product ¹

Product	Total
Self-managed superannuation fund	1,672
Foreign exchange	743
Shares	661
Superannuation fund	317
Cash management accounts	231

Top five investments and advice complaints received by issue ¹

Issue	Total
Inappropriate advice	1,643
Failure to follow instructions/agreement	938
Failure to act in client's best interests	513
Service quality	354
Incorrect fees/costs	188

Stage at which investments and advice complaints closed

Stage	Total
At registration	802
At case management	617
Rules review	320
Preliminary assessment	141
Decision	186

Average time taken to close investments and advice complaints

Time	Total
Closed 0-30 days	461
Closed 31-60 days	559
Closed 61-180 days	627
Closed 181-365 days	231
Closed more than 365 days	188

57% of complaints in favour of FF.
43% of complaints in favour of com.

¹ One complaint can have multiple products/issues.

Advice complaints

Complaints received

2,192 complaints received.
Up 295% from last year.

24% resolved at Registration and Referral stage.
Up 7% from last year.

Top five advice complaints received by product ¹

Product	Total
Self-managed superannuation fund	1,556
Shares	181
Superannuation fund	123
Mixed Asset Fund/s	61
Cash management accounts	42

Top four advice complaints received by issue ¹

Issue	Total
Inappropriate advice	1,643
Failure to act in client's best interests	513
Failure to prioritise client's interests	109
Failure to provide advice	61

Complaints closed

429 complaints closed.
Down 31% from last year.

Average time to close a complaint
228 days.
Up 5% from last year.

Stage at which advice complaints closed

Stage	Total
At registration	101
At case management	114
Rules review	63
Preliminary assessment	56
Decision	95

Average time taken to close advice complaints

Time	Total
Closed 0-30 days	56
Closed 31-60 days	63
Closed 61-180 days	125
Closed 181-365 days	89
Closed more than 365 days	96

51% of complaints in favour of FF.
49% of complaints in favour of Com.

¹ One complaint can have multiple products/issues.

Advice complaints (excl. Dixon Advisory and Best Leader Markets)

Complaints received

494 complaints received.
Down 0.2% from last year.

24% resolved at Registration and Referral stage.
Up 7% from last year.

Complaints closed

429 complaints closed.
Down 30% from last year.

Average time to close a complaint
228 days.
Up 7% from last year.

Top five advice complaints received by product ¹

Product	Total
Superannuation Fund	91
Self-managed Superannuation Fund	85
Shares	70
Mixed Asset Fund/s	42
Cash Management Accounts	34

Top four advice complaints received by issue ¹

Issue	Total
Failure to act in client's best interests	256
Inappropriate advice	170
Failure to provide advice	57
Failure to prioritise client's interests	24

Stage at which advice complaints closed

Stage	Total
At registration	101
At case management	114
Rules review	63
Preliminary assessment	56
Decision	95

Average time taken to close advice complaints

Time	Total
Closed 0-30 days	56
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Updates on CSLR and Dixon Advisory

Compensation Scheme of Last Resort

- > In June 2023, the legislation to establish the CSLR passed.
- > The establishment of the CSLR will support ongoing confidence in the financial system's dispute resolution framework by facilitating the payment of compensation to eligible consumers who have received a determination for compensation from AFCA which remains unpaid.
- > AFCA confirms its support for the creation of a CSLR.
- > AFCA looks forward to working with the Government and stakeholders to help implement this important reform.



Dixon Advisory

- > ASIC has cancelled the Australian Financial Services Licence held by Dixon Advisory and Superannuation Services, effective 5 April 2023.
- > The terms of the cancellation require Dixon Advisory to maintain membership of AFCA until 8 April 2024. This means it will continue to be possible to lodge a complaint with AFCA because Dixon Advisory remains a member until that time.
- > ASIC previously informed former clients of Dixon Advisory to consider lodging complaints with AFCA to preserve possible eligibility under a potential future CSLR.
- > Dixon Advisory complaints currently remain on 'pause' awaiting passing of CSLR legislation.
- > As at 1 June 2023, AFCA has received more than 1,700 complaints since the August 3 announcement by ASIC advising former clients of Dixon Advisory and Superannuation Services to consider contacting AFCA if they believe they have suffered loss due to misconduct related to financial advice. This takes the total for Dixon to more than 1,800 complaints.
- > AFCA will only be able to fully assess the impact of the CSLR and its relevance to paused complaints once the scheme is legislated. We will review all relevant complaints as soon as that occurs.

Case Study 1 – Insurance Advice

Case Study 721796 - Facts

- > The complainant is Ms P and brought this complaint as the administrator of the Estate of the late Mr P (the estate). Ms P is the late Mr P's ex-wife and mother to his children.
- > The late Mr P was a client of the financial firm's adviser. In June 2018, the adviser recommended Mr P rollover his existing superannuation and replace existing life and total and permanent disability (TPD) cover for \$500,000 within a new superannuation fund. The insurer declined the new insurance application due to Mr P's existing medical conditions and Mr P died in an accident on 29 April 2019 without insurance.
- > The estate claims the adviser should have advised Mr P to retain the existing policies. The estate seeks the benefit of the cover as if it had remained in force. The financial firm says Mr P was aware that the insurer declined his new insurance application and decided to proceed with the rollover knowing his existing insurances would be cancelled.



Case Study 721796 – Decision

Did the financial firm provide advice in Mr P's best interests?

- > The initial advice provided in the SOA dated 5 June 2018 was in his best interests. New information about Mr P's health came to light at the time of advice implementation. The adviser's best interest's duty continues to apply. The adviser failed to consider new information and provide further amended advice to Mr P to retain his existing insurance. The adviser did not act in Mr P's best interests.



Case Study 721796 – Decision

Is the complainant entitled to compensation?

- > Mr P relied on the advice of the adviser. When the new information came to light Mr P specifically asked for the adviser's advice.
- > But for the failure I am satisfied if the adviser had advised Mr P to retain the existing life and TPD insurance of \$436,437, Mr P would have retained the cover.
- > The complainant should be compensated for the loss of insurance.





Case Study 2 – SMSF Property advice

Case Study – 624981

Facts

- > The complainants say they were given inappropriate advice by the financial firm to commence the SMSF and purchase property.
- > The financial firm, which is a member of a group of companies, including a realty arm, markets itself as providing comprehensive financial planning services and a range of financial products.
- > The financial firm says that AFCA cannot consider the complaint because the property has not been sold and no loss has been crystallised. However, if AFCA does consider the matter, the financial firm says it has not engaged in any wrongdoing.



Case Study – 624981

Facts

- > The financial firm says the complainants came to them with the express purpose of purchasing property and it was only engaged to set-up the SMSF and did so on a transactional basis. If any advice was found to have been provided about the SMSF, it was general in nature only, as it did not take into account the complainants' individual circumstances.



Case Study – 624981

Findings

- > Personal advice was provided by the financial firm.
 - Mr M made a recommendation to commence the SMSF and purchase property in consideration of the complainants' circumstances.
 - The financial firm is responsible for Mr M's conduct as he purported to act on its behalf and also because it is responsible for conduct of the realty arm of the business, as it is a wholly owned subsidiary of the financial firm.



Case Study – 624981

Findings

- > The financial firm did not provide appropriate advice to the complainants.
 - The advice was not appropriate for the complainants' circumstances.
 - The complainants were not suitable candidates to run an SMSF, nor is there any clear evidence they wanted to take on trustee responsibilities.
 - The recommended strategy resulted in the complainants having an excessive proportion of their superannuation invested in property and exposed them to single sector asset class risk.



Case Study – 624981

Findings

- > The financial firm's conduct caused the complainant loss.
- > Although the property must be sold to determine exactly how much that loss is, to ensure the complainants do not carry the risk of sale, the financial firm must pay the complaints upfront-compensation before they are required to sell the property.



Case Study – 624981

Findings

- > The determination was in favour of the complainants. The financial firm must pay the complainants \$111,095.32 plus interest to the date of the payment. As the loss is based on an estimate of the value of the property at 18 September 2015, the complainants must market and sell the property in an arm's length transaction within 6 months of the payment.





Case Study 3 – Insurance Advice

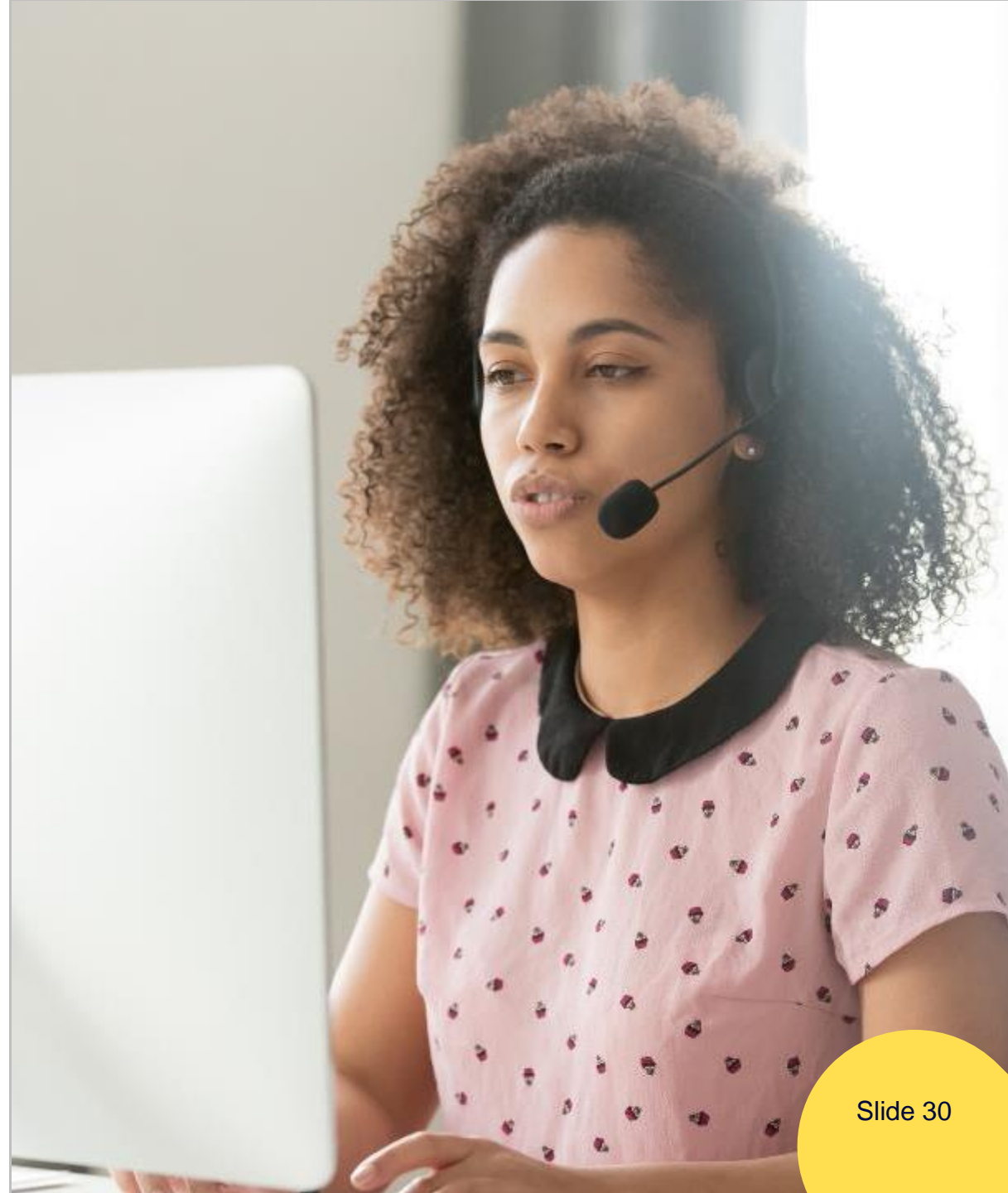
Case Study – 747581 – Facts

- > The client, Mr A worked as a driller on a fly-in fly-out basis
- > Mr A sought advice to protect him from the unforeseen consequences of illness, injury or death
- > SOA recommended \$750,000 for term life and TPD covers, \$250,000 for trauma cover, and income protection with a two year benefit
- > Insurance premiums (except trauma) were funded using the client's membership balance in superannuation
- > No issues with the life, TPD and trauma cover. The complaint focused on the failure to recommend an income protection contract with an age 65 benefit.



Case Study – 747581 – Findings

- > The determination was in favour of the adviser. Therefore no compensation was payable
- > The recommended advice was tested against Mr A's goals
- > The advice may have limitations when balanced against Mr A's goals
- > Mr A made an informed choice to enter an income protect contract with a two year benefit period, rather than seeking a longer benefit period
- > It is not necessary to assume that the advice needs to recommend automatically the most comprehensive benefit for Mr A.



Tips for advisers

Tips for financial advisers

1. Take detailed file notes.
2. Explain the scope of advice.
 - > It is extremely important to ensure the client understands the scope of advice
3. Clearly understand and summarize goals and objectives.
 - > For example, to retire at 65 on an income of \$50,000 pa, not just “wealth creation” or “capital security”
 - > How will the recommended strategy achieve the goals and objectives?



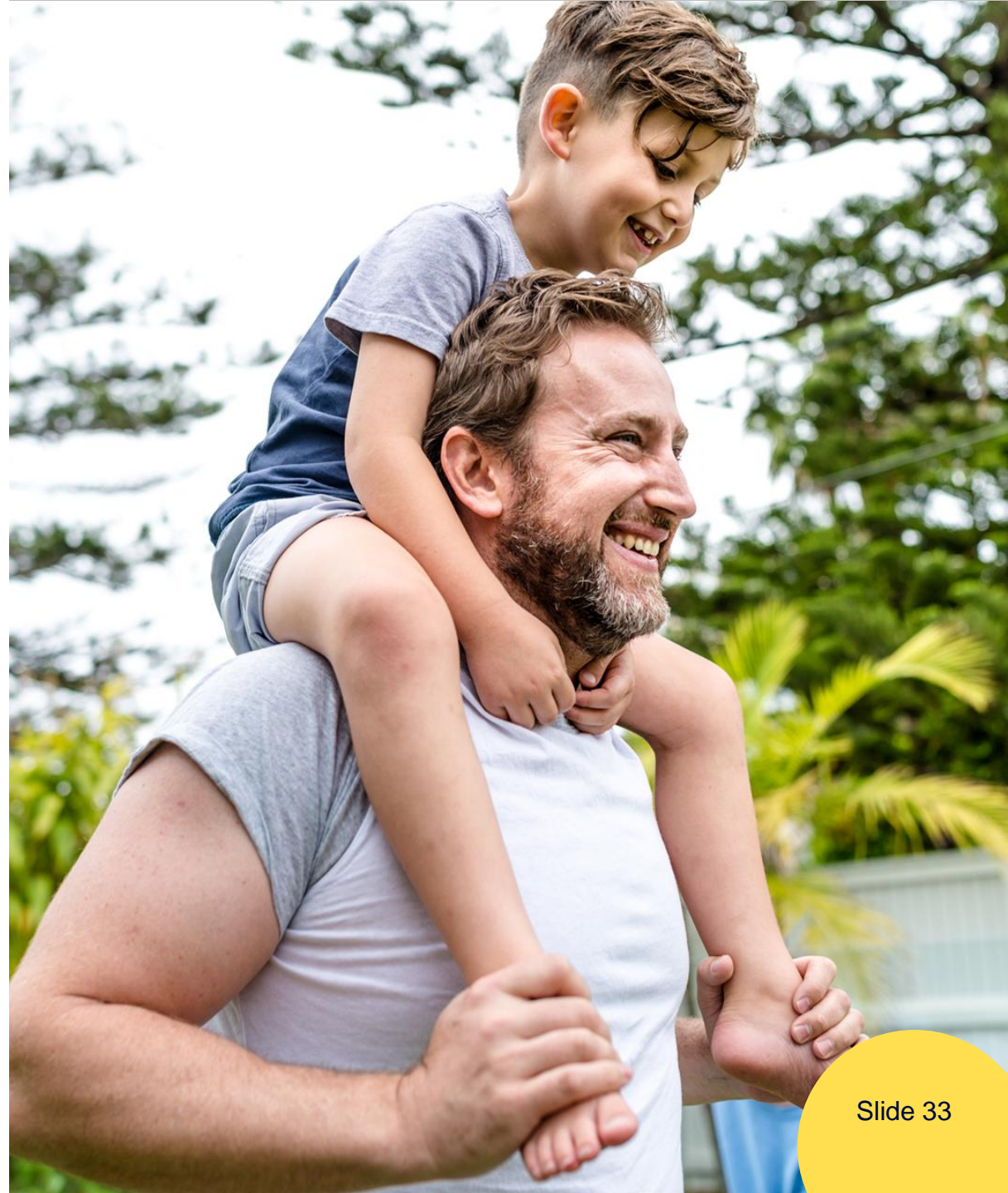
Top tips for financial advisers

4. Understand and explain the products recommended

- > Products are getting more and more complex. Cryptos. Explain them in simple terms.

5. Super switching and SMSFs

- > Need good reasons to recommend a switch
- > Need compelling reasons to recommend an SMSF, especially where the account balance is low
- > Set out alternatives



Top tips for financial advisers

6. Turn clients away if necessary

- > If you don't offer the product or have the requisite expertise
- > Consider carefully how to proceed if clients are seeking a return that does not match their risk profile

7. Use risk profiling tools carefully

- > Consider inconsistencies in answers provided
- > Consider the client as a whole
- > Don't amend the risk profile lightly



Top 10 tips for financial advisers

8. Manage conflicts of interest adequately.
9. Document carefully if a client wants to act against your advice.
 - > Are you endorsing the advice?
 - > Are you providing an execution-only service
10. Make sure the consumer provides informed consent to the advice.



More information

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Thank you

