

# Disclosure of lack of independence

Recommendation	Existing law	Summary of proposed reform	Comments
<p><b>Recommendation 2.2 – Disclosure of lack of independence</b></p> <p>The law should be amended to require that a financial adviser who would contravene section 923A of the Corporations Act by assuming or using any of the restricted words or expressions identified in section 923A(5) (including “independent”, “impartial” and “unbiased”) must, before providing personal advice to a retail client, give to the client a written statement (in or to the effect of a form to be prescribed) explaining simply and concisely why the adviser is not independent, impartial and unbiased.</p>	<p>Section 923A limits providers from using certain restricted words (eg independent, unbiased), unless the meet specific requirements surrounding receiving no commissions, and not being subject to conflicts.</p>	<p>The section 923A requirements remain the same, but in addition, any provider, who would otherwise contravene section 923A by using a restricted word, must give clients a written statement in a form prescribed by ASIC disclosing their lack of independence before providing personal advice, as well as include equivalent information in their Financial Services Guide.</p>	<p>The general industry response to the section 923A requirements has been that it is too onerous to comply in practice, such as to operate without any conflicts of interest. Most providers prefer to not use the restricted words. In practice, this may mean the majority of the financial advice industry will need to include the prescribed wording in their disclosure documents.</p>