

FSPR Webinar – Financial Advice New Zealand:

Date Change Questions:

When does the new financial advice regime (as defined in the Financial Services Legislation Amendment Act 2019) come into effect?

Commerce and Consumer Affairs Minister, Hon Kris Faafoi, has agreed that this date would be delayed from 29 June 2020 to early 2021, due to the disruptions caused by COVID-19. The existing regime under the Financial Advisers Act 2008 will continue to apply until a date is set for the new regime to commence. The new Code of Professional Conduct for Financial Advice Services will come into force on the same date.

Has the window for transitional licensing been extended?

Yes, the Companies Office and the Financial Markets Authority will be accepting applications for transitional licences up until the date that the new regime commences. As above, this date not yet been decided upon and will be communicated when available.

I have already applied for a transitional licence/the FMA have approved my transitional licence. Do I need to re-apply?

If you have already applied for a transitional licence, or if your licence has been approved by the FMA, you do not need to apply again.

Will our transitional licenses still be valid for two years?

Yes, transitional licences will still be valid for two years from the date the new financial advice regime commences. For example, if the new financial advice regime begins in March 2021, the licence will be valid until March 2023.

Applying for a Transitional Licence:

I'm a financial adviser, how does the new regime affect me?

Anyone giving financial advice to retail clients from the commencement of the new advice regime must operate under a 'financial advice provider' licence issued by the Financial Markets Authority (FMA). A person giving financial advice may either:

- *hold a licence in their own name;*
- *be licensed as an authorised body under another provider's licence*
- *be engaged by a licensed provider to give advice.*

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What is a 'financial advice provider'?

- A financial advice provider is a person or a registered company that provides a financial advice service. A financial advice provider must be licensed by the FMA to give financial advice to retail clients.
- If you or your company are intending to be registered as a Financial Advice Provider, you can apply for a transitional licence.
- Those currently listed on the FSPR as an 'authorised financial adviser' or a 'registered financial adviser' will be automatically reclassified on the register as a 'financial adviser' when the new regime begins.

What does it mean to be 'engaged' under a financial advice provider?

Financial advisers that are 'engaged' by a financial advice provider are covered by that provider's licence. The provider must ensure you comply with your legal duties.

When the new regime begins, a financial advice provider must record on the Financial Service Providers Register (FSPR) that it has been engaged financial advisers (details on how to do this will be released by the Companies Office).

What is a transitional licence?

To give people and businesses time to adjust to the new regime, there will be two phases to the licensing process - transitional and full.

- A transitional licence is a temporary licence that allows individuals or registered companies to operate as a financial advice provider during the two-year transition period.
- A transitional licence will be valid for two years starting from the commencement of the new regime. This will give you time to apply for a 'full' financial advice provider licence.

How do I apply for a transitional licence?

Applying for a transitional licence is a simple two-step process involving the selecting the transitional licencing service on Financial Service Provider Register (FSPR) and making an application on the FMA website.

First, you'll need to decide if you or (if applicable) your registered business, wants to hold your licence. Then you'll need to log in to the FSPR and select the service 'Licenced Provider - Transitional Licence'. To do this this, you will need your:

- **RealMe® login, and**
- **FSPR online services account**

After the registrar has confirmed you have successfully chosen this service, you then need to apply for the licence through the [FMA's website](#).

What is a 'full' licence?

- A full licence is a financial advice provider licence that you must have by the time your transitional licence expires, if you wish to continue providing advice to retail clients.
- Full licence applications open from the commencement of the new regime. The application process will be more comprehensive than the transitional licence application process.

What is an authorised body?

An authorised body (in relation to the financial advice service) is a company/entity named on another company/entity's financial advice provider's licence to provide a licensed service.

Authorised bodies are still considered to be financial advice providers, but do not hold their own licence

How do I apply to as an authorised body?

To apply to become an authorised body, you need to register your company on the FSPR (if you haven't already done so) and select the service 'Authorised Body – Transitional Licence'.

Once you've received confirmation and selected the service 'Authorised Body - Transitional licence', you'll need to provide your company's FSP number to the financial advice provider whose licence you will operate under. They'll need this when naming you on their licence application to the FMA.

You **DO NOT** need to apply to the FMA for a licence.

Registration on the FSPR:

I have completed the registration of my company and had my transitional licence approved by the FMA; how come I can't see my company when I search for it the FSPR?

The date of registration (for the purposes of billing and filing) is the date an FSP becomes registered and visible on the FSPR.

- If the only financial service, you have selected is a transitional licence service (ie. the services 'Authorised Body – Transitional Licence' or 'Licenced Provider - Transitional Licence'), then your company will become registered as at the commencement of the new regime.

This is because the transitional licence does not become active until the new regime commences and companies can only be on the register if they are offering an active service.

When do I have to file an annual confirmation for my newly registered company?

Financial service providers get charged a registration fee and FMA levy on application. Once registered you are required to file an annual confirmation notice (ACN) each calendar year after registration (which has a registration fee and FMA levies).

You do not need to file an annual confirmation notice if you aren't registered, and you do not need to file an annual confirmation notice in the calendar year of registration (eg. If they are registered in 2020, the first ACN in will be in 2021).

When I login to my online services account it says “Awaiting LA Authorisation” next to my registration what does this mean?

Awaiting LA authorisation means “Awaiting Licence Authority Authorization”. This status of ‘awaiting licence authority authorisation’ will remain until the licence comes into effect.

This is because the transitional licence does not become active until the new regime commences and companies can only be on the register if they are offering an active service.

Sole Advisers:

I’m a sole adviser in the current regime, what do I need to do?

If you’re an individual currently relying on the sole-adviser exemption, and you wish to operate in a similar manner in the new regime, you may want to look at registering your company on the FSPR as a financial advice provider and offering advice as a financial adviser engaged with your company’s licence.

We have created guides on the FSPR to assist you in registering your company and selecting your relevant transitional licencing service [here](#).

Are sole adviser businesses entitled to a levy relief?

- *Yes. The registration fees for a company on the FSPR include an FMA levy of \$460.00 (plus GST). The new regulations offer relief from this levy for those who:*
 - *have registered a company on the FSPR between 25 November*
- AND**
- *have indicated the company’s intention to apply for a financial advice provider licence or to be an authorised body under another financial advice provider’s licence.*

You can apply for a levy relief when registering your business on the FSPR.

General Queries:

Where can I go for information on the new regime?

The FSPR has a webpage that includes information on the new regime and guides on how to register yourself or your business. [Visit the FSPR Financial Services Legislation Amendment Act landing page](#).

The FMA also has pages on their website, dedicated to providing useful information on how you may structure yourself or your business in the new regime. [Visit the FMA website](#).

When will the new commencement date be announced?

At this stage, no formal date for the commencement of the new regime has been announced. Due to ongoing disruptions caused by COVID-19, our contact centre is experiencing extremely high call volumes. Rather than calling, please check the [following section](#) of the FSPR website; we will be updating this as more information becomes available.