

Full Licensing Standard Condition

Outsourcing

This Workbook is one in a series of workbooks to assist Financial Advice New Zealand members meet their obligations and standard conditions under full licensing requirements.

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WORKBOOK OVERVIEW

We have created this Workbook for our members to use as a guide to help prepare for the full licensing conditions as explained in detail on the page below.

If you are granted a full financial advice provider (FAP) licence by the FMA, the licence will be subject to conditions. See section 402 of the Financial Markets Conduct Act 2013 (**FMC Act**).

Your licence application will include details of your FAP business and details of how you will comply with:

- Financial Markets Conduct Act 2013 (FMC Act)
- Financial Markets Conduct Regulations 2014 (FMC Regulations)
- Code of Professional Conduct for Financial Advice Services
- **Conditions** imposed by the FMA (standard conditions)
- Or **specific conditions** applied by the FMA.

Conditions will include:

- a condition that the licensee or authorised body may, under the licence, only provide the market services or class of market services to which the licence relates and for which each person is authorised under the licence (see section [402\(1\)\(a\)](#) of the FMC Act)
- conditions imposed by the FMA under section [403](#) of the FMC Act – these will generally include: the **standard conditions** and any **specific conditions** any conditions imposed by regulations.
- As at November 2020 the relevant regulations are the [Financial Markets Conduct Regulations 2014](#) (the **FMC Regulations**)

Standard conditions

Where we refer to full FAP licence standard conditions, this means the following conditions which will be effective on and from 15 March 2021:

1. Record keeping
2. Internal complaints process
3. Regulatory returns
4. **Outsourcing**
5. Business Continuity and technology systems
6. Ongoing requirements
7. Notification of material changes

STRUCTURE OF THIS WORKBOOK

This Workbook is part of a series of workbooks. Each workbook will deal with one Standard Condition for full financial advice providers' licences. There are seven Standard Conditions in total.

Section A – Standard Condition

Provides the actual wording of your obligations with commentary from the Financial Markets Authority (FMA).

Section B – Examples of policies, processes, and controls

Provides examples of actions that evidence your obligations, with examples of practical policies, procedures and controls.

Section C – Supporting tools or templates

For the Outsourcing standard condition we have put together a checklist for due diligence purposes.

SECTION A – STANDARD LICENSING CONDITION 4 OUTSOURCING

Condition:

If you outsource a system or process necessary to the provision of your financial advice service, you must be satisfied that the provider is capable of performing the service to the standard required to enable you to meet your market services obligations.

Explanatory note from the FMA:

This condition only covers those outsource arrangements where you rely on the outsource provider to meet your market services licensee obligations as they relate to your financial advice service (licensee obligations).

Important matters that you should consider when conducting due diligence on a proposed outsource provider include:

- the outsource provider's previous experience.
- public reports and information about their service.
- reported complaints about them, and their complaints handling procedures.
- their operating jurisdiction and any protections/controls imposed in that jurisdiction.
- the business continuity and critical technology system arrangements the outsource provider has in place to meet the standard in standard condition 5.

Other important information you should consider in respect of your outsource arrangements includes:

- being satisfied that each provider is, and remains, capable of performing the service to the standard required to enable you to meet your financial advice service licensee obligations.
- having contractual arrangements with each provider that enable you to effectively monitor their performance and take appropriate action for non-performance and having suitable termination provisions to enable you to continue to meet your financial advice service licensee obligations at all times.
- ensuring that any records held by providers pertaining to your financial advice service obligations are readily available to you and to us in accordance with standard condition 1 – Record keeping.
- regular reviews of your outsource arrangements, at a frequency appropriate to the risk involved.
- recognising that outsource arrangements and business continuity and technology systems are often interrelated. (Refer to standard condition 5 – Business continuity and technology systems).

SECTION B – EXAMPLES OF POLICIES, PROCESSES AND CONTROLS

Actions that demonstrate the standards have been met.

In this section we take the Outsourcing standard condition and list some examples of key actions that could demonstrate you are meeting your market services obligations.

Examples of some outsourced service providers

- Accountant
- Lawyers
- Compliance
- Training
- IT support
- CRM
- Research houses
- Marketing

Evidence

List actions taken regarding the standard licence conditions by doing the following:

- 1. Develop Business Policies**
- 2. Develop Procedures – tasks**
- 3. Develop Controls – checks**

It is very important that your policies, processes, and controls are not too complex or complicated.

From the worked examples you will realise you already have many 'policies, procedures, and controls', but you may need to work on building, adapting, articulating and documenting these to meet the Outsourcing standard condition.

An FMA review will likely be based on the evidence you supply – so it is vital your PPCs are documented and accessible.

1. Outsourcing

Example of policies, processes and controls

1. Develop Policy statement

We will only engage with businesses and use their services once they have been through a thorough due diligence process and meet our criteria.

2. Develop Processes and Procedures (tasks)

- Review each provider and the services they are providing.
- Ensure they have the experience and qualifications to provide the services stated.
- Keep a track of contract renewal dates and service level agreement reviews.
- Use a checklist to record your findings at each stage.
- Keep supporting documentation to evidence the process you have been through and to show how the providers meet your criteria.

3. Develop Controls (check it is working)

- An outsource provider register is kept and reviewed periodically by the director or compliance officer in the FAP.
- Record all reviews and checks in a register that is updated as changes are made, or reviews are completed throughout the year. (Record keeping standard condition)
- Any issues that arise will be managed and outcomes recorded in our outsource provider register, including any notifications to the FMA.

SECTION C – SUPPORTING TOOLS AND CHECKLISTS EXAMPLE

Checklist – Outsourcing due diligence

1. Service provider information

Name and contact details

2. What services are being provided and how did we select this provider?

Did we research and seek them out to support our FAP?

What research did we do and how did this make the selection process robust?

Were they recommended to us?

3. Roles and responsibilities

What are the main services and functions they are providing?

Who is responsible for the delivery of these services?

Is this dependant on anyone else?

4. Background information on the service provider

How long have they been in business?

What information have we been able to find out about them?

What is their experience in providing this particular service and are they experts in their field?

Are there any conflicts of interest we need to be aware of?

5. Regulatory information

Have they ever been subject to regulatory action, investigation, or warnings?

What type of provider are they – registered/ licensed /or not applicable?

6. Risks and controls

What risks have we identified in relation to having a contract or agreement in place with the service provider?

Who will monitor the relationship and manage any risks?

7. Service level agreements and contracts

Have we put in place a service level agreement?

Do we have a commercial contract in place?

What does the service detail in regards to tasks and duties of the provider?

How do we cancel or exit a contract with the provider if you need to?

How do we manage any dispute that might arise?

8. Ensure we have a sign off process to accept the provider once the due diligence process has been completed and we are happy with the outcome.

The information provided in this workbook is for general information only and is not legal advice.

The source of information used in this workbook is based on 'Introductory Guide to Full Licence Requirements' - Version 4 published by the Financial Markets Authority in April 2021 and the standard conditions for full financial advice provider licences. FMA Nov 2020.

Please refer to the information provided and seek advice in relation to meeting the standard conditions specifically for your Financial Advice Provider Licence.

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PO Box 5513, Wellington 6140

0800 432 101

info@financialadvice.nz