

Authorised representative appointments

The purpose of this factsheet is to outline some of the obligations of authorised representatives based on the requirements of the Corporations Act 2001 and usual contractual arrangements.

This factsheet is a guide only and does not amount to legal advice.

Appointment

Australian financial services (AFS) licensees are able to appoint persons or companies as "authorised representatives" to provide financial services on behalf of a licensee. Any such appointments must be made in writing.

Body corporate authorised representatives are also able to appoint sub-authorised individuals to provide the financial services. Licensees generally retain the discretion to approve the appointment of sub-authorised individuals.

Authorised financial services and activities

Authorised representatives are only permitted to provide the financial services the licensee is authorised to provide. However, licensees are able to restrict the appointment to specified financial services.

It is important to note that authorised representatives cannot be appointed to operate registered managed investment schemes or provide financial services that are not covered by the licensee's AFS licence.

It is common for the appointment of authorised representatives to be restricted, as follows:

- Financial planning licensees

Authorised representatives of financial planning licensees or dealer groups are generally authorised to provide personal advice and deal in a wide range of financial products. The financial products are often restricted to those included on the licensee's "approved product list".

- Responsible entity licensees

Authorised representatives of responsible entity licensees are generally only authorised to provide general advice and deal in interests in the managed investment schemes operated by the licensee.

This means the authorised representative must not, under any circumstance, consider the objectives, financial situation or needs of a particular client.

Capacity disclosure

Authorised representatives must not hold themselves out as holding an AFS licence. This means all stationery, business documents, letters and emails must make it clear that the authorised representative is acting in the capacity as an authorised representative of the licensee.

Accordingly, it is advisable for authorised representatives to—

- disclose in all documents their authorised representative number (which is issued by the Australian Securities and Investments Commission)
- disclose the authorising licensee's details, including name and AFS licence number in all documents, and
- disclose the capacity in which financial services are being provided.

Disclosure obligations

Where financial services are provided to retail clients, then the authorised representative is required to provide the client with the following:

- Product disclosure statement (PDS)—provide a copy of the PDS (and supplementary PDS, if required) to the client when an offer is made to invest in a financial product. Applications to invest must be made on an application form attached to or accompanying the PDS (or supplementary PDS).
- Financial services guide (FSG)—an FSG must be provided to the client as soon as possible after the first contact with the client relating to the provision of financial services. The FSG should be provided at the beginning of the first client meeting.

If the client requests the provision of the financial services before an FSG can be given to them, e.g., over the telephone, then an FSG must be sent to them as soon as possible, and in any event, no later than five days after the financial services have been provided.

- Statement of advice (SOA)—an SOA must be provided to a client where personal financial product advice is provided.
- General advice warning—if general advice is provided, then the client must be provided with the following warning at the same time, and by the same means as any general advice is provided (i.e. in writing or orally):
 - The advice has been prepared without taking account of the client's objectives, financial situation or needs.
 - The client should, before acting on the advice, consider the appropriateness of the advice, having regard to their objectives, financial situation and needs.
 - If one is available, then the client should obtain a PDS relating to the product and consider the PDS before making any decision about whether to acquire, dispose or hold the financial product.
 - Commission details—disclose the details of any commission, fees, remuneration or any other benefits the authorised representative will receive in connection with the provision of the financial services. If the actual amount is not known, then the method for calculating the commission payable must be provided.

Other obligations and duties

As a general rule, authorised representatives are required to do the following:

- Keep records of all advice provided to each client, including details of any discussions, marketing material, FSGs and PDSs provided. Records must be retained for at least seven years.
- Attend any training session as required by the licensee.
- Refer all complaints to the licensee.
- Advise the licensee of any breach or incidence of non-compliance as soon as it has been discovered, such as a failure to provide a client with the general advice warning or FSG as required.



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