

CONSIDERATIONS WHEN SELECTING AN AUSTRALIAN FINANCIAL SERVICES LICENSEE

A GUIDE FOR CPA AUSTRALIA PUBLIC PRACTITIONERS

FINANCIAL ADVISORY SERVICES

Many practices provide integrated accounting and financial advice services to their clients and do so operating under another entity's Australian Financial Services licence (AFSL). As the accountants' exemption, Regulation 7.1.29A, was repealed on 1 July 2016 accountants can no longer recommend the establishment or winding up of a self-managed superannuation fund unless they are appropriately licensed.

One of the options for providing licensed advice is to consider operating as an authorised representative under another entity's AFSL. There are a number of important factors that should be considered when selecting a licensee. This guide has been developed to highlight these factors, provide guidance on why they are important and examples of the questions you should consider as part of your AFS licensee selection process. Note: These are not all the factors you should consider. There is also value in speaking to other professional accountants who operate under the licensees you may be considering.

THINGS TO CONSIDER	WHY	WHAT TO ASK A LICENSEE
<p>INDEPENDENCE</p> <p>Need to consider how your independence may be affected by the type of licensee you select.</p> <p>Note: Under the <i>Corporations Act 2001</i> there are restrictions on the ability of a licensee or its representative to use terms such as independent, impartial or unbiased.</p>	<p>Many licensees will have affiliations with financial institutions, product providers and insurance companies.</p> <p>This may be beneficial in terms of support and resources; however, if you wish to remain independent, such affiliations may impact your ability to do so.</p>	<p>Is independence important to you?</p> <p>If so, you will need to consider whether you want to be able to call yourself independent, or whether it is sufficient to work in an independent way.</p> <p>It is common for a professional accountant to provide financial planning services through an institution-owned licensee.</p>
<p>STRUCTURE OF THE LICENCE HOLDER</p> <p>In the financial services market place there are different types, structures and sizes of licensees that provide offerings to accounting practices wanting to provide financial advice services.</p> <p>For example</p>	<p>The type and size of the licensee will usually reflect the level of resources and support you will receive.</p> <p>Institutionally owned</p> <ul style="list-style-type: none"> • Usually extensive resources and support provided. • Where you are providing specific financial product advice the approved product list may be restricted to 	<p>Do you have your own practice?</p> <p>If you already own your own practice, you should be considering a franchisee type model licence holder and you will need to work as an authorised representative, not just a representative.</p> <p>How will you be operating under the licensee?</p>

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<ul style="list-style-type: none"> • Institutionally owned licensees such as banks and insurance companies. • Non-institutionally owned licensee: franchise model. • Non-institutionally owned: boutique/ specialist licensees. 	<p>products controlled by that organisation.</p> <ul style="list-style-type: none"> • Some models will allow you to continue to work out of your own premises. <p>Non-institutionally owned: franchise model</p> <ul style="list-style-type: none"> • As an authorised representative you can trade under your own name, but licensee's name must be displayed more prominently than your business name in all materials. • The approved product list may be restricted for compliance reasons. <p>Non-institutionally owned: boutique</p> <ul style="list-style-type: none"> • Operating under a boutique or specialist licensee may have a greater level of independence. • Normally need to become a part of the practice, as either an employee or partner. <p>Note: Your licensee ownership details are included on the Financial Adviser Register</p>	<p>What are the branding implications for your practice, for example your letterhead?</p>
<p>SPECIFICS ABOUT THE LICENSEE</p> <p>It is important to gain a thorough understanding of the licensee, including its expertise and experience. This will help you assess whether the licensee aligns and complements the needs and culture of your practice.</p>	<p>To maintain an AFS licence, the licensee must comply with specific ongoing obligations.</p> <p>ASIC assess a licensee's ability to comply by assessing the responsible managers of the licensee, including who they are and how many responsible managers have been appointed for the licence.</p> <p>Other important factors include adequacy of resources for the nature, size and complexity of the licence.</p> <p>If possible, speak to professional accountants who are already licensed under the licensee.</p>	<p>How long has the licensee held an AFS licence?</p> <p>How many authorised representatives operate under the licence? How many were appointed in the past 12 months? How many accounting practices operate under the licence?</p> <p>Are the compliance resources appropriate for the size of the licence?</p> <p>How many complaints or claims has the licensee had in the past 12 months?</p>
<p>SERVICES YOU WISH TO OFFER</p> <p>For example, full financial product advice or SMSF and 'class of product</p>	<p>One of the most important decisions you need to make is what type of financial advice (e.g. products and services) you want</p>	<p>Will any limitations or restrictions be placed on your authorisation? If so, what are they?</p>

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<p>advice' only.</p> <p>The types of services you will be able to provide to your clients will depend on:</p> <ul style="list-style-type: none"> • what the licensee is authorised to provide advice on • what the licensee is prepared to authorise you to provide advice on. <p>Do you want to provide non-product strategic advice as per the limited licence authorisations or full financial products advice?</p> <p>Note: There is also a difference between providing advice and dealing in a financial product:</p> <ul style="list-style-type: none"> • advice is intended to influence a person(s) decision about a particular financial product or class of products and can be either personal advice or general advice • dealing involves applying for or acquiring a financial product, issuing a financial product, varying a financial product, or disposing of a financial product. 	<p>to provide to your clients (and what advice your clients want from you). Do you want to provide limited or full financial product advice?</p> <p>Where you want to provide advice about specific financial products, the licensee will provide an approved product list with a range of financial products.</p> <p>It is likely that you will want to be able to advise and deal. You will need to ensure your licence holder has the capacity to authorise you for both.</p> <p>Note: Any limitation placed on the type of advice that can be provided will be set by the licensee. This will be based on what the licensee wants you to advise on and this may be based on the authorised representative's existing education and experience in the area in which advice is to be provided (e.g. equities or managed funds, risk insurance, SMSFs, etc.), and on the licence conditions placed on the licensee by ASIC.</p>	<p>If you initially want to only provide limited advice are you able to provide full financial advice if you decide to at a later stage?</p> <p>Does the licensee have authorisations on its licence for all areas should you wish to consider this at a later time?</p> <p>Do you have the necessary education and experience for the area/s in which you seek to provide financial advice to your clients'?</p> <p>If you don't, can you gain that experience and expand your authorisation? If so, what are the costs?</p>
<p>PRODUCTS YOU WISH TO OFFER</p> <p>This is relevant where you want to provide <u>full financial product advice</u>. That is advising clients on specific financial products e.g. ABC equity fund or XYZ cash management fund.</p> <p>If this is the case the licensee will have an approved product list that you will use. An approved product list is a list of investment, risk insurance products, superannuation and classes of financial product that the licensee you choose will have that it has approved for use by its authorised representatives.</p>	<p>The licensee will usually develop an approved product list based on both internal and external research.</p> <p>The approved product list is often a modified version of larger product lists provided by research houses.</p> <p>Licensees have an obligation to research the products before placing them on their approved lists.</p> <p>There may be products or asset classes specifically excluded from its approved product list.</p>	<p>How is the approved product list formed? What resources are allocated to internal and external research?</p> <p>Does the licensee you wish to join cover the full range of products?</p> <p>What is the process of retention or updating products on the licensee's approved list?</p> <p>Have you considered what products, if any, your existing/potential client base may require?</p> <p>If it is not clear why the approved product list excludes certain products that you may wish to advise on, ask the licensee why?</p>

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<p>LICENCE CONDITIONS</p> <p>Are there additional conditions on the licence?</p>	<p>ASIC may impose additional licence conditions on a licence in certain circumstances. For example, ASIC may require the appointment of an independent expert to review all aspects of the licensee's arrangements for compliance with its general licensee obligations.</p> <p>There may also be a key person condition on a responsible manager.</p>	<p>Request a copy of the full licence, as some conditions are not publicly available to view on the ASIC website.</p> <p>If there are additional obligations on the licence? Why have these been imposed?</p> <p>What risks may this pose for your practice?</p>
<p>REMUNERATION</p> <p>There are a range of remuneration structures in the financial services industry, for example, commissions, flat dollar fees, percentage of funds invested.</p>	<p>Some licensees may require you to charge your clients in a particular way. For example, a flat fee to be charged for advisory services provided.</p>	<p>How do you currently charge your clients? Does this align with the licensee's method of charging and remuneration?</p> <p>What method/s of remuneration is acceptable for the licensee?</p> <p>Are there referral fees when referring clients to other specialists?</p>
<p>TRAINING</p> <p>In addition to the initial training requirements to become an authorised representative, there are ongoing training requirements to maintain your knowledge and skills.</p>	<p>Most licence holders provide training in-house for you. You should consider the type of training, e.g. is it solely free training provided by fund managers or product manufacturers.</p> <p>Where only a minimal amount of training is provided by the licence holder, the cost for being a part of that group should be less.</p> <p>A licensee that does not set a minimum level of ongoing training may be at risk of breaching their licence obligations. This could pose a risk to your practice in the event of an ASIC audit.</p> <p>In an ASIC report on the industry, it was noted the differences between licensees' commitment to ongoing training and reiterated its importance.</p>	<p>What is the content of ongoing training? Does the training cover compliance requirements and legislative updates?</p> <p>How frequently does the licensee provide training to their authorised representatives (i.e. monthly, annually, bi-annually or as changes to relevant legislation arise)?</p> <p>Are there a certain number of hours of training per annum prescribed by the licensee?</p> <p>Is the licensee or the authorised representative responsible for maintaining a training register?</p> <p>What training does the licensee recognise? Does this include training offered by the professional accounting bodies?</p>
<p>CPE RECOGNITION.</p> <p>As members of CPA Australia there are a range of professional membership requirements and</p>	<p>CPA Australia provides an extensive range of continuing professional education (CPE) events and has ongoing CPE obligations. However, members are not limited to only attending CPE provided by their</p>	<p>For ongoing CPE purposes does the licensee formally recognise the CPE provided by CPA Australia that members may complete or attend?</p>

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obligations.	<p>professional body.</p> <p>AFS Licensees also have an obligation to ensure authorised representatives meet certain ongoing training – CPE regulatory requirements.</p>	
<p>SERVICES AND SUPPORT PROVIDED</p> <p>Services and support provided should be an important consideration in the selection of a licence holder.</p> <p>Software</p> <p>Research</p> <p>Paraplanning</p> <p>Technical support</p> <p>Compliance Audits</p>	<p>You need to ensure that the licensee will provide appropriate services and support, initial and ongoing, as well as have a robust compliance framework.</p> <p>Do you have a choice about the software that you use? If you are only giving advice in a restricted capacity you may not need to use the entire software package. Therefore, you will want to avoid paying for the entire package.</p> <p>You will need up-to-date research on markets, products and economics to ensure that you are able to appropriately advise your clients. Licensees should provide you with access to the necessary research to perform your task as an adviser to your clients.</p> <p>This service means you can dedicate time to meeting and building a relationship with the client.</p> <p>You should expect to get some technical support from your licence holder. Licence holders may publish technical updates; have a website facility for searching information and/or a hotline to contact someone with a specific query.</p> <p>It is common for a licensee to conduct compliance reviews and audits on its representatives to ensure it can discharge its obligations. It also ensures any breaches of the law or potential exposure to liability is discovered and remedied. Audits also</p>	<p>Am I going to get the initial and ongoing support I need, both technical and compliance?</p> <p>ASIC can revoke a licence if it fails to meet ongoing compliance obligations.</p> <p>What components of software are provided, or available as optional extras?</p> <p>Will the facilities meet your needs to provide information on products you will be recommending to your client/s? It is not enough to rely on an approved product list, you must also understand any product you recommend and demonstrate it is suitable for their needs.</p> <p>If you want support writing plans, check that there is a paraplanning service and what are the associated costs? You should also check the qualifications of the paraplanners.</p> <p>You may have resources in-house or from other sources so technical support is not something you are seeking from a licence holder.</p> <p>How frequently are compliance reviews/audits undertaken? How are compliance reviews/audits conducted? Is there an additional cost?</p> <p>For a licence holder to meet their</p>

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	focus on the quality of the advice being given to clients.	licence obligations you should expect to be audited at least twice a year, with random spot audits as well.
<p>PRACTICE DEVELOPMENT AND MANAGEMENT</p> <p>Templates</p> <p>Stationary</p>	<p>Practice development support is important for start-up practices and provides specific support to build your practice and deal with integration issues when adding financial planning to your business.</p> <p>There are a number of compliance obligations, including disclosure obligations such as providing the client a Financial Services Guide (FSG), Statement of Advice (SOA).</p> <p>Stationery must not give the impression that the person with whom they are dealing is anyone but the licence holder.</p>	<p>If you have little or no experience with licensed financial planning it is strongly recommended that you obtain practice management support, either through your licence holder or directly to ensure the venture is successful.</p> <p>Does the licensee provide such templates? If so, are they easy to use?</p> <p>If no stationery is provided, you need to ensure that your authorised representative number and details of the licensee are disclosed on all stationery used (i.e. business cards, letterhead, etc.).</p>
<p>FEES AND CHARGES</p> <p>To operate as an authorised representative under another entity's licence entails fees and charges. These fees are one of the more complex areas to compare and there are several options.</p> <p>For example:</p> <ul style="list-style-type: none"> • an initial flat dollar-based fee to join, that may include set-up costs for software/hardware • then an annual flat dollar-based fee • the fee may be dependent on the number of individuals authorised, • fee tiered by authorisation type (e.g. super, investment, insurance, securities) • fee based on the percentage of fees received from clients. 	<p>It is important to understand the associated fees, what they include and how they are calculated to ensure appropriate comparisons can be achieved.</p> <p>For example, if a licensee does not take a percentage of any business written or the fees you charge, their annual fee could be higher.</p> <p>If the fee seems particularly low compared to other licence holders, explore why this is the case. It could be that the services and support may be minimal or restricted.</p>	<p>What are all the fees and charges that you will need to pay?</p> <p>What is the basis for the fee structure?</p> <p>Is it tiered? A base fee that increases with each authorisation you have</p> <p>Is it based on certain pre-requisites? For example, how many authorised representatives the practice has?</p> <p>What support and services does this include?</p> <p>How frequently does the fee have to be paid?</p>

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<p>PI COVER AND LIABILITY</p> <p>If you are a public practitioner, you will already be familiar with the requirement to have Professional Indemnity (PI) insurance to cover your activities as an accountant. However, this cover will almost certainly not extend to any activities that include advice about financial products under the Financial Services Reform Act 2001. You will therefore need to ensure that the licensee you choose has sufficient cover in place that is appropriate for the activities you will be undertaking.</p> <p>Importantly, authorised representatives can be held personally liable for serious breaches of the best interests duty (implemented as part of the Future of Financial Advice reforms).</p>	<p>It is common for licensees to have a blanket PI cover in place for its representatives and authorised representatives (particularly as under the Corporations Act the licensee is responsible for the actions of its representatives).</p> <p>The licensee may also require you to have a separate structure for your accountancy and financial planning practices.</p> <p>As an authorised representative, you do not have control over procedures and systems used by the licensee, which may include advice templates. However, you may still be personally accountable to ASIC if there is a breach of the best interests' duty.</p>	<p>Will you be covered under your PI policy for providing advice under the licensee?</p> <p>Does the fee to be licensed include PI cover, or is there an additional fee?</p> <p>What are the implications for your PI insurance?</p> <p>Are the licensee systems, procedures and support adequate to ensure ongoing compliance with your legislative obligations?</p>
<p>AUTHORISED REPRESENTATIVE AGREEMENT</p> <p>This is an agreement between you (the authorised representative) and the licensee (the organisation or individual, if natural person licensee), who is ultimately responsible for the advice you provide to clients.</p>	<p>The agreement should cover all of the following issues:</p> <ul style="list-style-type: none"> • scope, term and remuneration • sub-authorisations, warranties • training requirements, licensee obligations • access to premises, information, ownership • control of information, and • restraints, professional indemnity insurance, termination, reporting requirements, dispute resolution. 	<p>Do you have a thorough understanding of the terms you will be bound by under an Agreement?</p> <p>Have you considered the likely impact of any restrictions which will be placed upon you under an Agreement?</p> <p>How easy is it to unwind the agreement if you wish to leave?</p> <p>Are you required to refer clients to a financial planner associated with the licensee?</p> <p>'Who owns the client'? This relates to the arrangements such as access to clients and client files in the event that you change licensee and are no longer an authorised representative of that licensee.</p>

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<p>ABESB Standards</p> <p>As members of CPA Australia there are a range of professional membership requirements and obligations.</p>	<p>APESB standards issued by the Accounting Professional and Ethical Standards Board (APESB) contain the professional and ethical requirements relating to the conduct and performance of professional services across various types of engagements and assignments. They are mandatory for accounting professionals who are members of CPA Australia.</p>	<p>Is the licensee aware of the standards issued by the APESB? For example, APES 110 Code of Ethics for Professional Accountants and APES 230 Financial Planning Services.</p> <p>How does the licensee assist members who are authorised representatives to meet these obligations?</p> <p>Specifically, how does the licensee support members with the application and implementation of APES 230 Financial Planning Services?</p>

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