

Information guide: Accountants' exemption reform

This information guide has been developed for members of CPA Australia and Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ).

1. Purpose

The purpose of this guide is to:

- provide an overview of the accountants' exemption reform
- outline the options to address the reform
- provide an overview of the new limited Australian Financial Services (AFS) licence, and
- provide an overview of the many resources available to members of CPA Australia and Chartered Accountants ANZ.

2. Overview of the reform

The accountants' licensing exemption, Regulation 7.1.29A, currently permits a recognised accountant to recommend the establishment or winding up of an interest in a self-managed superannuation fund (SMSF), without being licensed under the AFS licensing regime. A recognised accountant is defined as a full member of CPA Australia, Chartered Accountants ANZ or the Institute of Public Accountants.

The accountants' exemption will be removed from 1 July 2016.

From this date you will need to be licensed in some form under the AFS licensing regime if you want to continue providing this type of SMSF advice.

A new limited AFS licence is available that professional accountants who hold a public practice certificate / certificate of public practice can apply for under streamlined transitional provisions between 1 July 2013 and 30 June 2016.

Importantly other regulations, such as Regulation 7.1.29 and Regulation 7.1.33A, will remain in place. These exemptions permit a range of accounting services including compliance, tax advice related to financial products and broad asset allocation advice.

You are strongly encouraged to read *Financial advice and regulations: Guidance for the accounting profession* to ensure you have a clear understanding of what advice and services you can continue to provide without being licensed under the AFS licensing regime.

This publication is available from the either the [CPA Australia](#) or [Chartered Accountants ANZ](#)

Before considering the options available to address this reform you should consider the advice and services your practice currently provides, the services your clients want from you now and in the future as well as where your practice may be in five years time. The evolving nature of the industry, driven by factors such as technology and outsourcing, will continue to have a significant impact on traditional accounting services and this must be considered as part of the decision making process.

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3. Outline the options to address the reform

There are five options for you to consider to address the future removal of the accountants' exemption:

1. Refer

- Refer all SMSF, superannuation and financial planning related queries to an appropriately licensed financial adviser.
- Remember that APES 110 *Code of Ethics for Professional Accountants* requires you to disclose any benefits that you may receive from the referral to the client.
- A referral agreement has been included as part of *Financial advice and regulations: Guidance for the accounting profession* which you may wish to use.

2. Become an authorised representative of another entity's AFS licence

- Enables you to provide financial product advice, while the AFS licensee is responsible for ensuring compliance with the licence obligations.
- A table of considerations and key questions has been prepared to help you select a licensee that is appropriate for your practice, which can be accessed from either the [CPA Australia](#) or [Chartered Accountants ANZ](#) website.

3. Obtain your own limited AFS licence

- Enables you to provide a range of SMSF advice and 'class of product' advice and while you are responsible for ensuring compliance with the licence obligations, you also maintain your professional independence.
- Under this option you can select some or all of the available authorisations for the limited AFS licence. We recommend you select all available authorisations. Further guidance on this is provided in the *DIY AFS Licensing Kit*.
- If you hold a public practice certificate / certificate of public practice, a suite of comprehensive resources has been developed to assist you apply for your own limited AFS licence.

4. Obtain your own full AFS licence

- This will enable you to provide financial product advice, including product recommendations, in a broad range of areas, not just SMSFs.
- Note: if you have not previously provided licensed financial product advice you will need to obtain or employ the assistance of at least one appropriate qualified and experienced responsible manager for the AFS licence.
- For more information on this option, contact CPA Australia or Chartered Accountants ANZ.

5. Recruit/ Joint venture

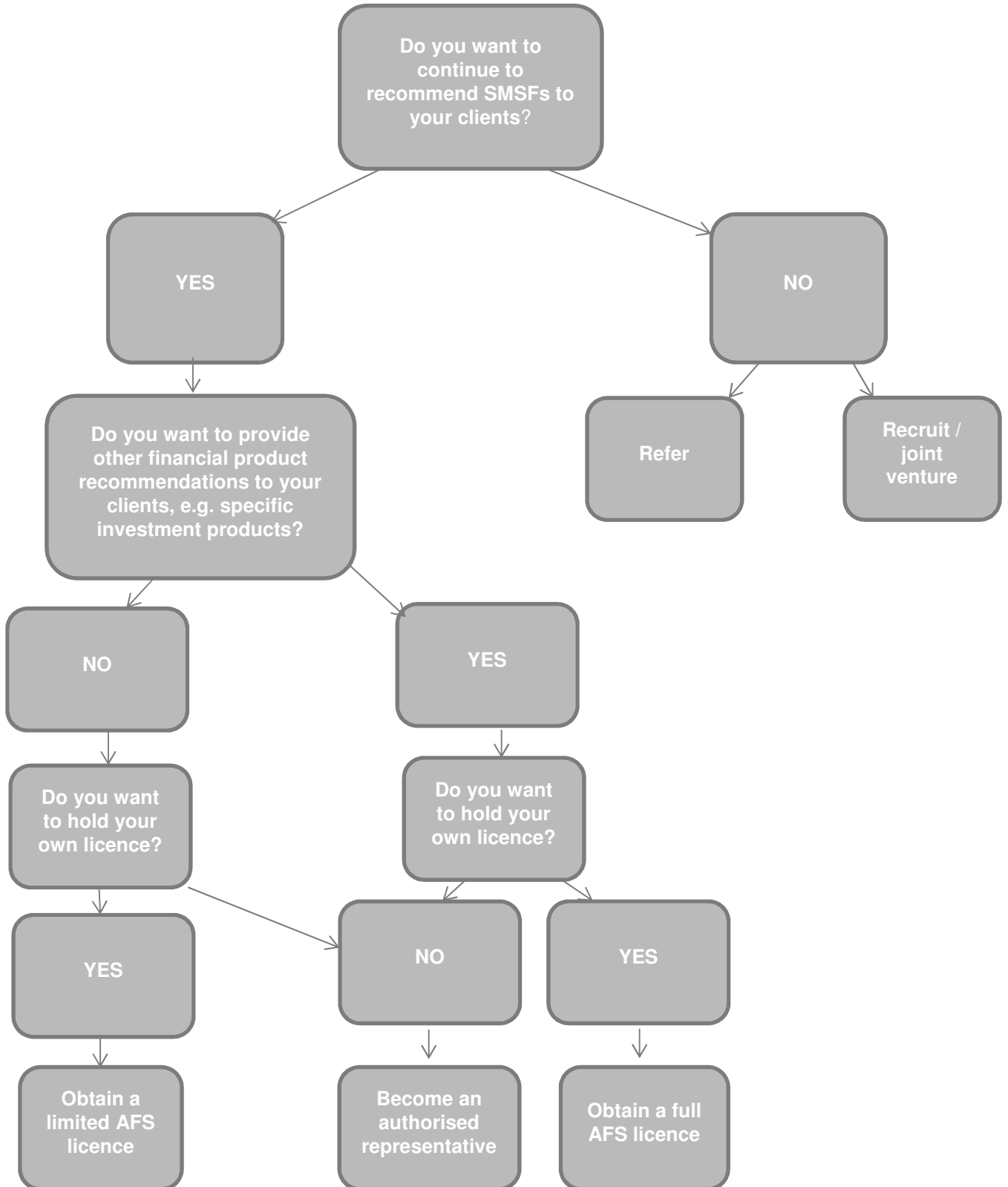
- This option allows you to provide a complete financial planning solution to clients without personally providing financial product advice.
- The key to making this option successful will be committing to integrating financial planning within the practice and investing adequate resources to make it happen.

Each of options has its own advantages and disadvantages. They are not mutually exclusive. For example, if you decide to apply for a limited AFS licence you will still need to have a referral or joint venture arrangement in place for your clients who require specific financial product recommendations.

You need to undertake your own due diligence to determine which option/s will be the most appropriate for you and your practice.

Before you can decide which option is right for you, you need to decide what advice and services you wish to provide to your clients going forward. You can then determine which options are available and which option/s may be appropriate for your practice.

The following decision tree has been developed to assist you work through this process.



4. The limited AFS licence

A new limited AFS licence has been introduced through the *Corporations Act 2001*, as amended by the *Corporations Regulations 2001*.

If you hold a public practice certificate / certificate of public practice you can apply for a limited AFS licence until 30 June 2016 without having to have first operated as a licensed financial adviser providing financial product advice.

Importantly you must still meet the education and training requirements to hold a limited AFS licence and provide financial product advice under the limited AFS licence.

You must also meet the other standard requirements to be granted an AFS licence.

Once granted a limited AFS licence, you can authorise staff within your practice as a representative to also provide the same scope of advice to clients as permitted by the limited AFS licence.

You are not required to authorise all staff within your practice. You only need to authorise staff that are client facing and who, for example, currently provide advice to clients on setting up a SMSF.

You must ensure that before you authorise any staff member that they meet the training requirements of RG 146 for the purposes of providing advice under the limited AFS licence.

4.1 Advice that can be provided under the limited AFS licence

The limited AFS licence will permit you to provide a far broader range of financial advice than the accountants' exemption currently allows. This includes holistic financial advice on SMSFs and class of product of advice, which is advice that does not involve a specific product recommendation, on:

- superannuation
- securities
- simple managed investment schemes (as defined in the *Corporations Regulations 2001*)
- general and life insurance, and
- basic deposit products.

This means that if you hold a limited AFS licence, with all available authorisations, you can for example:

- recommend and establish a SMSF
- make a recommendation in relation to the client's existing superannuation funds when making this recommendation, referred to as super switching advice refer to [ASIC guidance](#) for more information, or when providing advice to clients on contributions or pensions
- advise on a SMSF investment strategy
- advise whether the client should hold insurance cover directly or through a superannuation fund
- advise which simple managed investment scheme (MIS) would be appropriate for and in the best interests of a client, e.g. cash funds versus equity funds, and
- advise whether shares are an appropriate investment option given a client's relevant circumstances including their tolerance for risk and whether alternative classes of product might be more suitable.

Further examples of the types of financial advice that can be provided under the limited AFS licence have been included in Appendix 1.

4.2 The requirements to apply for the limited AFS licence

The broad requirements to apply for the limited AFS licence include:

- good fame and character of the responsible managers
- knowledge and training requirements (RG 105 and RG 146)
- general obligations (compliance, risk, people, resources)
- compensation and insurance arrangements
- internal and external dispute resolution, and
- financial requirements.

4.2.1 Education & training

There are two education and training requirements that you must meet before you can apply for a limited AFS licence. The first is the education requirements to be granted a limited AFS licence and the second is training requirements to provide advice under a limited AFS licence.

Importantly an appropriate education course will meet both the education and training requirements.

Organisational competence (RG 105) – Responsible Managers

AFS licensees must comply with the organisational competence obligation. Regulatory Guide 105 *Licensing: Organisational competence* states that ASIC will assess compliance with this obligation by looking at the knowledge and skills of the nominated 'responsible manager/s' for an AFS licence.

The nominated responsible manager is the individual who has direct responsibility for significant day-to-day decisions about the financial services being provided under the limited AFS licence. Each nominated responsible manager must have the appropriate knowledge and skills for their role in the business.

If you hold the public practice certificate / certificate of public practice you can be the responsible manager for the limited AFS licence.

You must still meet the knowledge / education requirements of RG 105.

These streamlining provisions end 30 June 2016.

From 1 July 2016 members will need to meet the minimum experience requirements, being three years experience as a licensed financial adviser within the past five years.

While there are five options to demonstrate you meet the knowledge requirements of RG 105, the two options relevant to professional accountants are:

- Option 3 - Holding a university degree in a relevant discipline and completing a relevant short industry course, or
- Option 4 - Holding a relevant industry- or product-specific qualification equivalent to a diploma or higher.

An example of a product-specific qualification would be a Diploma of Financial Planning. However, the **current** Diploma of Financial Planning only covers financial planning and RG 105 states that your knowledge must cover the financial services of the limited AFS licence. In addition to financial planning this includes:

- insurance
- investments (being simple MIS, securities and basic deposit products)
- superannuation, and
- SMSFs.

Therefore you will need to complete additional training beyond the Diploma of Financial Planning to cover these remaining specialist knowledge areas.

ASIC will also assess the currency of the course that you have completed. While there is no set rule, if the course is longer than five years old they may require you to update your currency of knowledge.

The Future of Financial Advice reforms have implemented a legislative obligation on the advice provider to act in the best interests of the client, as well as a number of other statutory obligations.

If you completed your training prior to 2012 it is unlikely that you are up to date with these new legislative obligations, therefore you should consider additional training.

Training (RG 146) – Financial product advice

You must also meet the training standards set out in ASIC's Regulatory Guide 146 *Licensing: Training of financial product advisers* in order to provide advice under the limited AFS licence. This requires you to complete training in the specialist knowledge areas of advice that you will be providing to clients.

The specialist knowledge areas covered by the limited AFS licence include:

- generic knowledge
- financial planning
- insurance
- investments (being simple MIS, securities and basic deposit products)
- superannuation, and
- SMSFs.

Under the limited AFS licence you, as the licensee, can authorise staff to provide advice within your practice as a representative. The staff member does not need to be a professional accountant nor are they required to meet the training or experience requirements of RG 105. However, they must meet the training requirements of RG 146.

Importantly, the onus is on you as the responsible manager of the limited AFS licence to ensure that an employee meets the training requirements of RG 146 before they are authorised. The easiest way to ensure this is to require the staff member to complete the same training that you completed in order to meet the requirements of RG 105. It will take time for the staff member to also complete this training, so it is important to consider this early so they can also commence their training. This includes planning for staff you consider may move into a client facing and advising role in the future.

CPA Australia's [RG 146 Compliance Solution](#) meets the knowledge requirements of RG 105 and the training requirements of RG 146 for the limited AFS licence.

Chartered Accountants ANZ provides guidance and solutions in regards to the RG 105 and RG 146 training requirements. For more information visit the Institute's website or email financial.services@charteredaccountantsanz.com.

4.2.2 The general obligations (RG 104)

Licensees must comply with the general obligations (s912A(1) *Corporations Act 2001*). ASIC Regulatory Guide 104 *Licensing: Meeting the general obligations* provides guidance on these requirements.

The 'broad compliance obligations' require you to:

- a) do all things necessary to ensure your financial services are provided efficiently, honestly and fairly
- b) comply with the financial services laws; and
- c) comply with the conditions on your AFS licence.

You will need to demonstrate as part of your application that you can comply with these obligations. What you need to do to will vary according to the 'nature, scale and complexity' of your business.

As a general overview you must:

- have adequate ongoing risk management systems, including a structured and systematic process for identifying, evaluating and managing risks faced by your business
- have measures in place to monitor and supervise any appointed representatives to ensure they are complying with financial services laws
- implement training plans for all appointed representatives to ensure they maintain the necessary knowledge and skills to competently provide advice and services under the limited AFS licence (refer RG 146), and
- have adequate financial, technology and human resources to provide all financial services covered by the limited AFS licence and carry out supervisory arrangements.

Importantly, as a public practice certificate holder you will already be familiar with, and have in place, procedures to meet some of these requirements.

The resources for the limited AFS licence include a detailed draft *Compliance Manual* that addresses these obligations and can be tailored to your practice.

4.2.3 Compensation and insurance arrangements (RG 126 and RG 165)

Licensees must have in place arrangements for compensating clients in case there is a breach of Ch 7 of the *Corporations Act 2001*. The primary way to comply with this obligation is professional indemnity (PI) insurance cover.

ASIC requires, as a minimum, a limit of at least \$2 million for any one claim and in the aggregate (plus legal fees) for licensees with total revenue from financial services provided to retail clients of \$2 million or less.

One of the key disclosure documents when operating under the AFS licensing framework is a Financial Services Guide (FSG). Your PI insurance must be disclosed in the FSG, and the FSG of your representatives, and explain whether the insurance will cover claims in relation to the conduct of representatives/employees who no longer work for you (but who did at the time of the relevant conduct).

Importantly the policy must be in the name of the entity applying for the limited AFS licence.

The CPA Australia Civil liability professional indemnity Policy now provides cover for the limited AFS licence. For further information contact Fenton Green on (03) 8625 3333 or cpa@fentongreen.com.au.

Chartered Accountants ANZ provide information on professional indemnity requirements and a range of brokers. For more information visit the website or email professionalstandards@charteredaccountantsanz.com

4.2.4 Internal and external dispute resolution

A limited AFS licensee will be required to have in place a dispute resolution system that consists of:

- internal dispute resolution (IDR) procedures that meet the standards or requirements made or approved by ASIC; and
- membership of one or more ASIC-approved external dispute resolution (EDR) schemes.

A dispute resolution procedure has been included as part of the draft *Compliance Manual*.

There are two ASIC-approved EDR schemes for the AFS licensing regime:

- Credit and Investments Ombudsman (CIO) – www.cio.org.au , (formerly Credit Ombudsman Service – COSL)
and
- Financial Ombudsman Service (FOS) – www.fos.org.au.

Note: Both EDR schemes will accept applications for membership from limited AFS licensees.

Further details on this requirement have been included in the *DIY AFS Licensing Kit*.

4.2.5 Financial Requirements (RG 166)

Base level financial requirements apply to all licensees. While there are further requirements, generally most small business licensees that do not hold client monies, will only need to comply with these requirements to meet their AFS licence conditions.

Importantly, client monies only refer to those client monies held in relation to the financial services being provided under the limited AFS licence.

The base level financial requirements are:

- **the solvency and positive net assets requirement** – at all times you must be solvent and have total assets that exceed total liabilities and at all times have no reason to suspect that total assets would no longer exceed total liabilities on a current balance sheet
- **the cash needs requirement** – you must have sufficient resources to meet your anticipated cash flow expenses, and
- **the audit requirement** – a limited AFS licensee holding no client money is not subject to the audit requirement, however a compliance certificate must still be lodged annually along with Form FS 70 *Australian financial services licensee profit and loss statement and balance sheet*.

Importantly, you do need to provide a range of financial statements when you apply for the limited AFS licence. These financial statements must be in the name of the entity applying for the limited AFS licence.

Further guidance on this is provided in the *DIY AFS Licensing Kit*.

4.2.6 The costs to apply and maintain a limited AFS licence

The following are indicative costs to apply for and maintain the limited AFS licence. They are based on a sole practitioner / small public practice applying for the licence and holding no client monies.

Individual circumstances will vary and therefore these costs should be used as a rough guide and not taken as applicable to each member and their practice.

Initial costs

ASIC Application Fee (corporate, partnership, trustee)	\$1,567
Bankruptcy check	\$50
Police check	\$40
Membership with EDR (incl. \$220 app fee)	\$495
Training	\$2,500 [#]
Professional indemnity	\$3,000*
TOTAL	\$7,652

[#] Training cost is indicative for one person completing courses for all authorisations under the limited AFS licence.

* Indicative total cost of the PI insurance policy, not just the additional cost to cover the limited licence. Note costs will vary between insurers.

Ongoing costs

ASIC Lodgement Fees	\$579
Membership EDR	\$275
PI Insurance Cover	\$3,000*
Ongoing training and compliance	\$2,000 [#]
TOTAL	\$5,838

[#] Training cost is indicative for one person.

* Indicative total cost of the PI insurance policy, not just the additional cost to cover the limited AFS licence. Note costs will vary between insurers.

6. Resources that will be provided to members

CPA Australia and Chartered Accountants ANZ have and will continue to develop a range of comprehensive resources to support and assist members through this reform.

The following table has been developed to provide you a clear understanding of what resources are available, in addition to this information guide, their purpose and who will be able to access each resource. Resources available to all members will be accessible from:

- CPA Australia at www.cpaaustralia.com.au/smsfadvise ; or
- Chartered Accountants ANZ at www.charteredaccountants.com.au.

To access resources restricted to members holding a public practice certificate / certificate of public practice, you must email your name and membership number to the professional body with whom you hold your public practice certificate/ certificate of public practice:

- CPA Australia at finplan@cpaustralia.com.au ; or
- Chartered Accountants ANZ at financial.services@charteredaccountantsanz.com .

Resource	Purpose	Member Access
Considerations when selecting an Australian Financial Services (AFS) Licensee	To provide guidance on the factors to consider, why they are important and examples of the questions you should ask when selecting an AFS licensee.	All members
Financial advice and regulations: Guidance for the accounting profession (Red Book)	To assist members understand what advice and services they can and cannot provide if they are not licensed.	All members
DIY AFS Licensing Kit	To provide a step-by-step guide to obtaining a limited AFS licence.	Members of who hold a public practice certificate / certificate of public practice.
Draft Compliance Manual	A draft compliance manual that can be tailored to your practice, which details the policies and procedures necessary to meet the compliance obligations of the limited AFS licence.	Members of who hold a public practice certificate / certificate of public practice.
Limited AFS licence Risk Register	Compliments the compliance manual, to record and track possible risks of non-compliance with the licence obligations and how these risks will be monitored.	Members of who hold a public practice certificate / certificate of public practice
Sample completed limited AFS licence application	Sample completed ASIC limited AFS licence application.	Members of who hold a public practice certificate / certificate of public practice.

Limited Australian Financial Services Licence: Your obligations (Green Book)	To assist members understand the obligations of holding a limited AFS licence.	Members who hold a public practice certificate / certificate of public practice.
Financial Services Guide (FSG) template	A template to prepare the FSG, which must be provided to a client when providing financial planning advice.	Members who hold a public practice certificate / certificate of public practice.
Statement of Advice (SOA) template	A template to prepare an SOA, a key disclosure document that must be provided to the client to explain the advice provided in writing.	Members who hold a public practice certificate / certificate of public practice.
AUSTRAC Kit (Not yet released)	To provide resources for members holding a limited licence to comply with their obligations under AUSTRAC	Members who hold a public practice certificate / certificate of public practice.

Additional CPA Australia resources

Resource	Purpose	Member Access
RG 146 Compliance Solution	To provide members with the training they need to apply for the licence (RG 105). To provide members and staff the training they need to provide advice under either a limited or full AFS licence (RG 146).	All members and non-members
Fact Sheet - CPA Australia Civil liability professional indemnity Policy	To provide members information and contact details about the PI insurance policy available for CPA Australia members who wish to apply for the limited licence.	Members who hold a public practice certificate.
Future of Financial Advice (FoFA) fact sheets	To provide members guidance on the key FoFA regulations requirements: <ul style="list-style-type: none"> • Best Interests Duty • Fee Disclosure statements • Conflicted Remuneration. 	All members

Additional Chartered Accountants ANZ resources

Resource	Purpose	Member Access
Financial Advice Training Solutions – Kaplan Professional	To provide members with details to meet the RG 146 and RG 105 requirements for the limited licence application	All members
Professional Indemnity Insurance Information and Guidance	To provide members with information on professional indemnity requirements	All members
Future of Financial Advice (FoFA) fact sheets	To provide members with details and checklists on the key FoFA regulations requirements <ul style="list-style-type: none">• Best Interests Duty• Fee Disclosure statements• Conflicted Remuneration.	All members

7. Further Information & Resources

CPA Australia

Information & resources on the accountants' exemption reform can be accessed from the CPA Australia [website](#)

Member queries - finplan@cpaaustralia.com.au

Chartered Accountants ANZ

Information & resources on the accountants' exemption reform refer to the [Chartered Accountants ANZ website](#)

Member queries – financial.services@charteredaccountantsanz.com

ASIC

[Limited AFS licence - Accountants and advice](#)

[Information Sheet 179 Applying for a limited licence](#)

Appendix 1: What can I do under my Limited AFS Licence?

The following are some examples of the advice that can be provided under the limited AFS licence.

SMSFs

No	Advice	Permitted under limited AFS licence?	Which authorisation?
1	Advise my client to set up an SMSF	Yes	Provide financial product advice
2	Advise my client about their superannuation products in relation their existing holdings to the extent required for: <ul style="list-style-type: none"> making a recommendation to establish an SMSF, or providing advice to a client on contributions or pensions under a superannuation product. 	Yes	Provide financial product advice
3	Help my client set up an SMSF.	Yes	Arrange for a person to deal in a financial product, including applying for, acquiring, varying issuing or disposing of financial products on behalf of another
4	Advise my client to exit their SMSF and roll their funds over into a pension product.	Yes	Provide financial product advice
5	Advise my client to buy BHP shares through their SMSF.	No – this is product specific advice	
6	Advise my clients that they should consider buying shares through their SMSF.	Yes - you are providing class of product advice on securities	Provide financial product advice that is 'class of product' advice: for securities
7	Arrange for my clients to buy shares (e.g. help my clients trade or do the trades for them).	No – this is dealing or arranging to deal in relation to securities.	
8	Do my clients tax for their SMSF.	This does not require licensing.	

Insurance

No	Scenario		Which authorisation?
1	Advise my clients about the type of life risk insurance they should buy.	Yes – but you cannot provide advice on a specific product.	Provide financial product advice that is 'class of product' advice: for life risk insurance.
2	Advise my client about the death and disability options in their existing superannuation product (e.g. if your client asks 'is this right amount of cover best life insurance?')	Yes – you can provide factual advice or provide advice on the type of cover that is included.	Provide financial product advice (this relates to the superannuation product)
3	Advise my client about how much life risk insurance they should have?	Yes	Provide financial product advice that is 'class of product' advice: for life risk insurance.
4	Advise my client about the underwriting process for a particular product.	No - this is product specific advice.	
5	Advise my client to switch their insurance product to a different product.	No - this is product specific advice.	
6	Advise my client that they might want to seek further advice from an appropriately licensed adviser about their life risk insurance cover as it might not be right for them.	Yes – you are providing your opinion as a professional that you are concerned about the client's situation. Importantly though you still cannot provide product advice.	

Securities (shares)

No	Scenario		Which authorisation?
1	Advise my client to hold direct shares through their SMSF	Yes	Provide financial product advice that is 'class of product' advice: for securities.
2	Advise my client about the types of shares (e.g. bank or mining) they should invest in.	Yes	Provide financial product advice that is 'class of product' advice: for securities.