



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 1

AFS Licensing Kit: Part 1— Applying for and varying an AFS licence

July 2015

About this guide

This is a guide for applicants applying for an Australian financial services (AFS) licence or to vary their AFS licence.

Applicants should also read Part 2 of the AFS Licensing Kit (RG 2), which outlines how to:

- complete the online forms FS01 *Application for AFS licence* and FS03 *Application for variation of authorisation and other conditions*; and
- prepare 'core' supporting proof documents.

Applicants will need to read Part 3 (RG 3) if they are asked to send us 'additional' proof documents.

Note: It is an offence under s915C(2) of the Corporations Act to provide false or misleading information to ASIC. False or misleading information in an application (including a material omission) may also be grounds to revoke any AFS licence granted based on the application.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This version was issued in July 2015 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 1, issued as a regulatory guide July 2007, reissued November 2007, January 2008, May 2010, June 2012 and July 2014
- Superseded AFS Licensing Kit Part 1, issued February 2002 (version 1), updated October 2002 (version 2), April 2003 (version 3), October 2003 (version 4), March 2004 (version 5) and September and December 2004 (version 6), revised November 2005 (version 7)
- *How do you get an Australian financial services licence?—Process guideline*, issued October 2001

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

If you want to run a financial services business, you generally need an AFS licence: see RG 1.1–RG 1.4.

To apply for an AFS licence, you must complete Form FS01 *Application for AFS licence* online and provide supporting proof documents to ASIC at the same time. You must also pay the application fee when you lodge your application (i.e. Form FS01 and core proofs) with ASIC: see RG 1.5–RG 1.15.

What is an AFS licence?

- RG 1.1 An Australian financial services (AFS) licence authorises you and your representatives to provide financial services to clients. Without an AFS licence, you generally can't carry on a financial services business. You will provide financial services if you:
- (a) provide financial product advice;
 - (b) deal in a financial product;
 - (c) make a market for a financial product;
 - (d) operate a registered scheme;
 - (e) provide a custodial or depository service; or
 - (f) provide traditional trustee company services.
- RG 1.2 AFS licences are regulated under the *Corporations Act 2001* (Corporations Act). The requirements you must meet before we can grant you an AFS licence are set out in s913B. You can find a copy of the Corporations Act at www.comlaw.gov.au.
- RG 1.3 ASIC assesses applications for AFS licences as part of our role as regulator of the financial services industry. When we assess a licence application, we consider whether you:
- (a) are competent to carry on the kind of financial services business you are applying for;
 - (b) have sufficient financial resources to carry on the business you are proposing (see s912A(1)(d)), unless you're regulated by the Australian Prudential Regulation Authority (APRA). However, if you hold a registrable superannuation entity licence (RSE) licence from APRA and are also authorised to operate registered managed investment schemes, you must comply with s912A(1)(d);

- (c) have adequate risk management systems (see s912A(1)(h)), unless you're a body regulated by APRA. However, if you are an RSE licensee authorised to operate registered managed investment schemes, and the risk does not relate solely to your operation of a regulated superannuation fund, you must comply with s912A(1)(h); and
- (d) can meet your other obligations as an AFS licensee if we grant you a licence.

RG 1.4 When you operate under an AFS licence, it means that:

- (a) you must meet the AFS licensee requirements under the Corporations Act; and
- (b) if something goes wrong, consumers have protections under the law.

How do I get an AFS licence?

RG 1.5 If you need an AFS licence, you must complete an application consisting of Form FS01 and supporting core proof documents. You must lodge your application with ASIC and pay the application fee. However, before you do that you must make sure that you:

- (a) know your business and understand which financial services and products you need to select in your application to enable you to carry on that business;
- (b) understand the obligations of an AFS licensee and have appropriate systems and processes in place to meet them; and
- (c) are able to provide the documents we require (i.e. core proof documents) or may request (i.e. additional proof documents) to prove that you can meet the AFS licensee obligations.

RG 1.6 How long it takes us to assess your application for an AFS licence will vary depending on the quality of the information you provide, our analysis of your business and the market you propose to operate in.

RG 1.7 You can minimise the time we'll need to spend on your application by properly describing your proposed business, selecting all appropriate authorisations for that business, providing in your proof documents all the information we ask for and promptly responding to all other queries we may have. If you don't do these things, it will delay our assessment or we might not even accept your application for lodgement.

Know your business and think about the financial services and products you will provide

- RG 1.8 Choosing the financial services and products that you want to be authorised for is very important. You should only apply for authorisations that cover the financial services and financial products that are relevant to the business you want to carry on. The authorisations that you can choose are explained in more detail in Part 2 of the AFS Licensing Kit. Part 2 is *Regulatory Guide 2 AFS Licensing Kit: Part 2—Preparing your AFS licence application or variation application* (RG 2).
- RG 1.9 Don't apply for authorisations just in case you might want them in the future—if your business changes, you can apply to vary your licence at that time. Section F of this guide explains how to apply for a licence variation.

Understand the AFS licensee obligations

- RG 1.10 AFS licensees have obligations under s912A and 912B of the Corporations Act requiring them to:
- (a) operate their business efficiently, honestly and fairly;
 - (b) maintain the organisational competence to provide the financial services covered by their AFS licence;
 - (c) ensure their representatives are competent and adequately trained to provide the financial services;
 - (d) have adequate financial, technological and human resources to provide the financial services;
 - (e) have risk management systems;
 - (f) have arrangements in place for managing conflicts of interest;
 - (g) have dispute resolution systems and compensation arrangements for retail clients;
 - (h) comply with the financial services laws and ensure their representatives comply with them; and
 - (i) comply with the conditions on their AFS licence.
- RG 1.11 If we grant you an AFS licence, you must comply with each of these obligations from day one in relation to all of the financial services and products covered by your licence. You need to have systems and processes in place that will enable you to comply with these obligations at the time you apply for your licence. When you complete your application, you'll be asked to make declarations and certifications to this effect.
- RG 1.12 If we grant you an AFS licence, it will include conditions that support the AFS licensee obligations. You can find a description of the standard conditions that may be put on your licence in *Pro Forma 209 Australian*

financial services licence conditions (PF 209). This is available on our website at www.asic.gov.au/afsl.

RG 1.13 You'll find more information about complying with the AFS licensee obligations in the ASIC regulatory guides available on our website at www.asic.gov.au/rg. For a list of relevant regulatory guides see 'Related information' at the back of this guide.

RG 1.14 You can also contact the relevant industry association for more help. You'll find a list of contact details at www.asic.gov.au/fsrhelp.

Proof documents

RG 1.15 When you apply for an AFS licence, you need to provide proof documents as part of your application. How many and what type will depend on the complexity of the financial services and products you apply for as well as our analysis of your business and the market you propose to operate in. This is explained in more detail in Section C and in Parts 2 and 3 of the AFS Licensing Kit (RGs 2 and 3).

B Where do I get an application form?

Key points

Form FS01 is an electronic form that you complete online. The form automatically tailors itself to the financial services and financial products you select, so that you're only asked questions that might be relevant to you: see RG 1.16–RG 1.24.

If you can't apply online, you can complete a paper pre-application form, FS05 *Preliminary application for an Australian financial services licence*, but it will take longer and cost more for you to apply this way: see RG 1.26–RG 1.27.

- RG 1.16 Form FS01 is an electronic form that you complete online using our eLicensing system. To access it you need to go to our website at www.asic.gov.au/afsl.
- RG 1.17 RG 2 explains how to get a user name and password for the eLicensing system so that you can start your application. Once you've started your application, you can save and resume it as many times as you like before you finalise and submit it to us. You can also print off a copy of your draft application at any time. The information you enter in your online application is protected by industry-standard encryption and stored on a secure server at ASIC.

What questions will I be asked?

- RG 1.18 The eLicensing system tailors the FS01 to your business so that you're only asked questions about the financial services and products you're applying for. It's important to make sure that you select the correct authorisations.
- RG 1.19 The FS01 has five parts:
- (a) Part A is where you enter your details as the applicant and the details of a contact person, select the financial services and products you want to be authorised to provide and answer questions that give us a basic description of your business.
 - (b) Part B is where you will be asked questions that relate to the obligations you will have as an AFS licensee and your ability to meet them.
 - (c) If you've selected certain complex financial services or products in Part A, the system will trigger more detailed questions about those services or products in Part C.
 - (d) In Part D the system will generate declarations and certifications based on your answers in Parts A and B (and C, if relevant). You will be signing these declarations when you sign a print-out of your application form.

- (e) Part E is where the system identifies the core proof documents you need to send as part of your application, as well as listing some other proof documents. If we later ask you to provide additional proof documents, these will generally be one or more of the other proof documents listed in Part E.

- RG 1.20 You can see all of the possible questions in Form FS01 by looking at the sample AFS eLicensing application on our website. You can download this sample AFS eLicensing application from www.asic.gov.au/afsl or click on a link to it when you are in the online application. Looking at the sample application is particularly useful if someone else is filling out your application for you. Remember that the eLicensing system tailors the application form according to the financial services and financial products you select, so you won't be asked all of the questions in the sample application.
- RG 1.21 You'll need to refer to RG 2 before you start your online application and as you work your way through it. It's a good idea to print it off and have it next to you while you're filling out the online form. For help with our eLicensing system, phone ASIC on 1300 300 630.

What happens when I've completed Form FS01?

- RG 1.22 After you've answered all of the questions, it's important to review the form carefully before you finalise it. You can click on 'Print Draft' to print a draft version for checking. Make sure your answers are correct and you understand the certifications and declarations (Part D) that you'll be signing. It's a criminal offence to make false or misleading statements in your application. Once you've finalised the online form, you won't be able to change your answers.
- RG 1.23 When you're satisfied that the application form is complete, the system will lead you through steps to finalise the form and print off a final copy before you submit it online. You need to sign this print-out.
- RG 1.24 You must ensure that you've also completed the core proof documents listed in Part E. Immediately after you submit Form FS01 online, you will need to email copies of your core proof documents and your signed print-out of Form FS01 to: licensing.afslproofs@asic.gov.au. We will only accept your application for lodgement if you submit the online application form and email your print-out of the form and your core proof documents at the same time. Any delay in lodging your core proof documents and the print-out of your signed application form will result in your application being rejected for lodgement.

- RG 1.25 The eLicensing system calculates the statutory fee you need to pay and generates a payment remittance advice (this is not a tax invoice because statutory fees are GST-free). You can either pay the fee by BPAY or send a cheque when you lodge your application with us. To find out how much the fee will be, click on the 'Fees for lodging documents and how to pay them' link at www.asic.gov.au/afsl.

What if I can't apply online?

- RG 1.26 There's no equivalent paper form for applying for an AFS licence. If you can't apply online (e.g. because you don't have access to the internet), you'll need to complete a paper pre-application, Form FS05 *Preliminary application for an Australian financial services licence*. You can either phone ASIC on 1300 300 630 and ask us to send you Form FS05, or ask someone to download it for you from our website at www.asic.gov.au/afsl.
- RG 1.27 Note that it takes considerably longer to process paper applications because we have to enter your data into the eLicensing system so that it creates a tailored paper application form for you to complete. The statutory application fee is also higher when you apply this way.

C What do I need to send to ASIC?

Key points

Immediately after you have submitted Form FS01 online, you need to email us a scanned signed copy of the form and copies of the four core proof documents: see RG 1.28–RG 1.29 and RG 1.32–RG 1.39.

The size limit of each email that we will accept is 10MB. If necessary, to meet size limits, please send multiple emails containing separate core proof documents. Make sure that you include the applicant name and application reference number in the subject line of your email.

Please post a cheque for the application fee if you haven't already paid by BPAY.

We won't begin to assess your application until we receive all of these documents and your payment: see RG 1.31 and RG 1.41–RG 1.42.

In some cases, we may ask you to send us additional proof documents within the specified time frame before we can complete our assessment: see RG 1.47–RG 1.49.

- RG 1.28 When you submit Form FS01 online, you must immediately also send us:
- (a) a scanned signed print-out of the form and copies of the four core proof documents outlined in RG 1.32. You should email these to licensing.afslproofs@asic.gov.au. Make sure that you include the applicant name and application reference number in the subject line of your email. RG 2 explains the core proof documents in more detail, including the information you must include in them. You'll need to read RG 2 before you prepare your core proof documents; and
 - (b) a cheque by post if you haven't already paid the application fee by BPAY. If you will be paying by cheque, please advise us of this in the email containing the scanned signed print-out of Form FS01 and the copies of your core proof documents.
- RG 1.29 If you don't apply online, you must post us the signed paper application form we tailored to you, together with your cheque and copies of your core proof documents.
- RG 1.30 You should keep a copy of your signed print-out of Form FS01 and originals of your core proof documents for your own records.
- RG 1.31 We won't begin to assess your application until it is complete—that is, until we receive your scanned signed printout of Form FS01, the copies of your core proof documents, and your payment (or email advice that you have sent a cheque). If you do not send us all of these documents at the same time, we will reject your application and you'll need to re-apply. See Appendix 1 for a

checklist setting out all of the documents you must supply as part of your application.

Core proof documents

- RG 1.32 The four core proof documents you must send us are:
- (a) A5 Business Description;
 - (b) People Proofs for each responsible manager;
 - (c) B1 Organisational Competence—this includes a Table of Organisational Competence and, if relevant, a Submission on a Responsible Manager’s Competence; and
 - (d) B5 Financial Statements and Financial Resources—unless you’re regulated by APRA. However, if you are an RSE licensee authorised to operate registered managed investment schemes, you must send this proof.

See Appendix 1 for a checklist that sets out all of the documents you must supply as part of your application.

- RG 1.33 We’ll scan your core proof documents into our document imaging system and then destroy them, so if you can’t email these to us, only send us copies rather than your original documents.

A5 Business Description

- RG 1.34 This core proof relates to the questions at A5 in Form FS01. It should provide an overview of your financial services business and include an organisational chart. We need this information so that we can understand the business you’re applying to be licensed for. This core proof is explained in more detail in Section E of RG 2.

People Proofs

- RG 1.35 These help us to assess your organisational competence and the good fame and character of your responsible managers. Your responsible managers are the people you’ve nominated in your application as being responsible for significant day-to-day decisions about your financial services business.
- RG 1.36 You need to provide the following People Proofs for each responsible manager:
- (a) Statement of Personal Information;
 - (b) copies of qualification certificates;
 - (c) copy of a bankruptcy check;

- (d) copy of a national criminal history check; and
- (e) copies of two business references (at least one of these should be from someone external to the responsible manager's current organisation).

Note: Business references are not required if you are applying for a limited AFS licence between 1 July 2013 and 30 June 2016 and your nominated responsible manager(s) are recognised accountants.

RG 1.37 It can take six weeks or more to get national criminal history checks, so you need to organise these before you start your licence application. This core proof is explained in more detail in Section E of RG 2.

B1 Organisational Competence

RG 1.38 We need this core proof to make sure you have the organisational competence to provide the financial services and products you've selected in your application. We assess your organisational competence by looking at the competence of your responsible managers. In this core proof, you need to detail each responsible manager's experience and qualifications relevant to each authorisation you've selected in your application. Appendix 2 in RG 2 includes an example of how to set out this information in the table format we require.

B5 Financial Statements and Financial Resources

RG 1.39 You also need to provide this core proof to show that you have the financial resources to carry on the business you're proposing. In it you need to identify which financial requirements apply to you and provide documents, including financial statements, demonstrating that you can comply with them. This core proof is explained in more detail in Section E of RG 2.

RG 1.40 If you are regulated by APRA you do not need to provide this core proof. However, if you are an RSE licensee authorised to operate registered managed investment schemes, you will need to provide this proof.

Completeness check

RG 1.41 After we receive your scanned signed print-out of Form FS01 and copies of your core proof documents, we'll undertake a 'completeness check' (also called a 'pre-lodgement check') to see whether your application is complete and acceptable for lodgement. If it doesn't pass this check, we will reject your application for lodgement and you'll have to re-apply.

RG 1.42 You should ensure that:

- (a) your online application, Form FS01, is complete;

- (b) you've printed off a copy of the finalised FS01 and signed it;
- (c) your core proof documents are complete, contain all of the information requested in Section E of RG 2 and are tailored to your business (i.e. they must not be generic proofs and, if you are part of a corporate group, they must cover your particular financial services business);
- (d) immediately after submitting Form FS01 online, you email us your scanned signed print-out of the form and copies of all of the core proof documents outlined earlier; and
- (e) you've paid the application fee (i.e. you've paid via BPAY or you've advised in your email that you are paying by cheque and have posted this to us).

RG 1.43 If you're not applying online, you should ensure that you've signed the paper application form tailored to you, provided copies (not originals) of all of the core proof documents and posted these to us at the same time, together with your payment by cheque.

Assessment process

RG 1.44 Provided your application passes the completeness check, we'll assign it to one of our licensing analysts for assessment.

RG 1.45 When we assess applications, our level of assessment will vary depending on our analysis of your business and the market you propose to operate in. We've developed this approach to make our assessment process as efficient and effective as possible.

RG 1.46 If we need more information, such as additional proof documents or any other information to support your application, we'll send you an email or letter or contact you by telephone. You should respond to all our requests promptly and within any timeframe we specify. If you don't, it will delay our decision, or we may decide to assess your application on the basis of the information we do have.

Additional proof documents

RG 1.47 In some cases, we might need to ask you to send us additional proof documents before we can complete our assessment of your application. You'll need to make sure we receive them within 10 business days of our request.

RG 1.48 To understand what information you need to give us in each additional proof we request, you'll need to refer to Regulatory Guide 3 *AFS Licensing Kit*:

Part 3—Preparing your additional proofs (RG 3). Also make sure that your additional proof documents are tailored to your business. They must not be generic proofs and, if you are part of a corporate group, they must cover your particular financial services business.

- RG 1.49 The additional proof documents will generally be one or more of those listed in Part E of your application print-out. However, we might need to ask you for other proof documents not listed on your print-out if, for example, you haven't selected your authorisations correctly.

What happens to the information and proof documents I send to ASIC?

- RG 1.50 The information you provide in your application is confidential, except for basic information about your business that is uploaded to a searchable public register after you receive your licence. See the privacy statement on our website for more information.
- RG 1.51 Your proof documents are also confidential. If these are sent in by post they will be scanned into our document imaging system and then destroyed.

What if my application fails the completeness check?

- RG 1.52 If your application is rejected at the completeness check stage, we'll send a letter explaining why we've rejected your application for lodgement. You can then reapply for an AFS licence. We'll hold your fee payment for your next application unless you write to us for a refund.

Can I withdraw my application?

- RG 1.53 You can withdraw your application at any stage of the application process. If you withdraw it at the completeness check stage, we'll hold your fee payment for your next application unless you write to us for a refund.
- RG 1.54 If you withdraw your application after it has been accepted for lodgement, we won't be able to refund your application fee or hold it over if you decide to reapply.

What happens when I reapply?

- RG 1.55 You can reapply using a copy of your original Form FS01 so that you don't have to start again from scratch: see RG 2 for more information. However,

you will need to send us new core proof documents. Please ensure that you rectify any deficiencies we identified in your original core proof documents before you reapply.

D When will I get my AFS licence?

Key points

If we decide to grant you an AFS licence, we'll first send you a draft licence. Once you've confirmed that you wish to proceed, we'll send you your final licence: see RG 1.56–RG 1.64.

If we're considering refusal of your application for an AFS licence, we'll send you a letter explaining why and your options: see RG 1.65–RG 1.66.

Getting a draft licence

- RG 1.56 If we decide to grant you an AFS licence, we'll first send you a draft licence containing the proposed service and product authorisations and other conditions on your licence. We'll send your draft licence by email to the address that you've given us in Part A of your application.
- RG 1.57 You need to carefully check the authorisations and other conditions on your draft licence. If there's a problem with your draft licence, you need to let us know as soon as possible.
- RG 1.58 If your draft licence looks right, you must formally confirm that you wish to proceed before we can send you your final licence. Do this by printing off the accompanying confirmation notice, signing it and sending it back to us.
- RG 1.59 Your draft licence will also be accompanied by a 'requirements letter' listing any outstanding matters you need to finalise before we can grant your final licence. For example, you might need to provide us with details of your professional indemnity insurance. You'll need to finalise these outstanding matters as quickly as possible. If you don't do this in a reasonable timeframe, we may withdraw our offer of a licence. You'll need to contact us if you have any problems finalising these outstanding matters.
- RG 1.60 If your financial service authorisations include operating a registered managed investment scheme, you need to register your scheme with us **after** you receive your draft licence. Don't lodge your scheme documents for registration before then. Once you've received your draft licence, you have up to four months to lodge your scheme documents. You'll find more information about registering a managed investment scheme on our website at www.asic.gov.au/mis.

Getting a final licence

- RG 1.61 After we've received your signed confirmation notice, and any other requirements set out in the requirements letter have been addressed, we'll send your final licence by email to the address that you've given us in Part A of your application.
- RG 1.62 If you've applied to operate a registered managed investment scheme and we agree to register the scheme, we'll grant your final licence and register the scheme on the same day, provided that you have met the AFS licensing requirements and supplied the signed confirmation notice. It's likely that the scheme registration application will be refused if you have not met the licensing requirements or have not provided the signed confirmation notice within 14 days of you applying for registration of the scheme.
- RG 1.63 If you want to frame your AFS licence, you'll need to print off and frame the first page. This shows your name, ABN (or ACN or ARBN), licence number, the date your licence takes effect and your financial service and product authorisations. The rest of your licence sets out the other conditions that apply to your licence. While we've tried to standardise as many AFS licence conditions as possible (see PF 209), your application may require some specific conditions that reflect your particular business. We'll discuss these with you during the assessment process.
- RG 1.64 When we grant you an AFS licence, it doesn't mean that we endorse:
- (a) any information you've provided to us in your application or proofs; or
 - (b) any additional information you've provided during the assessment of your application.

What if my application is refused?

- RG 1.65 When we assess your application, we may conclude that you don't meet all of the requirements in s913B of the Corporations Act. For example, if we have reason to believe you don't have the capacity to provide the financial services and products you've asked to be authorised for, and therefore won't be able to comply with your AFS licensee obligations, we must refuse to grant you an AFS licence.
- RG 1.66 Before we can refuse to grant an AFS licence, we will refer your application to an ASIC 'delegate', who is an impartial person authorised to make the final decision. If the delegate is thinking of refusing to grant you an AFS licence, they'll send you a letter explaining why and giving you two options:
- (a) You can appear at a hearing and/or make submissions. This will give you an opportunity to further explain why you believe you should be granted an AFS licence. If, after considering any submissions, the

delegate decides not to grant you an AFS licence, they will send you a further letter setting out their decision and reasons why. They'll also tell you how to apply to the Administrative Appeals Tribunal for a review if you're unhappy with the final decision.

- (b) You can choose to withdraw your application. If you take this option, we won't be able to refund your application fee or hold it over if you decide to reapply.

E What do I need to tell ASIC after I get my AFS licence?

Key points

Once we've granted you an AFS licence, you are obliged under the Corporations Act to notify us about certain things: see RG 1.67–RG 1.69 and RG 1.72.

You can notify us using the Licensees portal on our website. If you can't access the Licensees portal, you can use a paper form, but this will cost you more and will take longer for us to process: see RG 1.70–RG 1.71.

- RG 1.67 ASIC maintains public, searchable registers of information such as the details of AFS licensees, AFS authorised representatives and ASIC-registered auditors. For more information, see www.asic.gov.au/search.
- RG 1.68 After you receive your AFS licence, you are obliged under the Corporations Act to notify us about certain things. For example, you need to tell us when:
- (a) you appoint an auditor (if you haven't already done so in your licence application);
 - (b) you appoint authorised representatives to operate under your licence, or you revoke their appointment, or their details change (e.g. address or other contact information); and
 - (c) the details of your responsible managers change.
- RG 1.69 You can find out what forms you need to lodge and the timeframes and fees that apply by checking the summary of notification and lodgement requirements on our website at www.asic.gov.au/fscompliance.
- RG 1.70 To lodge the relevant form, go to the Licensees portal at www.asic.gov.au/licensees. To access the Licensees portal, you'll need the user name and password you selected when you applied for your licence. If you've forgotten them or you need extra ones for staff, apply for them online via the Licensees portal.
- RG 1.71 If you can't access the Licensees portal, phone ASIC on 1300 300 630 for a paper form. Note that it takes longer to process paper forms and the statutory fee is higher than for forms lodged online.
- RG 1.72 The summary of notification and lodgement requirements on our website also outlines other important AFS licensee notification obligations, such as the need to:
- (a) lodge your annual accounts and audit report each year; and
 - (b) advise us of any significant breaches or likely breaches of your obligations as an AFS licensee. You can find out more about breach reporting by referring to Regulatory Guide 78 *Breach reporting by AFS licensees* (RG 78).

F How do I vary my AFS licence if my business changes?

Key points

If your business changes, you need to apply to vary your AFS licence. To make a variation application you need to:

- complete and lodge Form FS03 *Application for variation of authorisation and other conditions*;
- provide supporting core proof documents to ASIC at the same time; and
- pay the required fee: see RG 1.73–RG 1.75 and RG 1.78–RG 1.113.

Form FS03 is an online form: see RG 1.76. If you can't apply online you can complete the paper Form FS03X *Application to vary the authorisation conditions and other conditions of an Australian financial services licence*, but it will take longer and cost more for you to apply this way: see RG 1.77.

- RG 1.73 If your business changes (e.g. you want your AFS licence to cover more financial services or products), you need to apply to vary your licence.
- RG 1.74 To vary your licence, you need to complete and lodge ASIC Form FS03 and core proof documents. The process for this is very similar to the process for completing and lodging an application for a new licence, which is outlined in earlier sections of this guide.
- RG 1.75 Before you complete Form FS03, you need to:
- (a) understand which authorisations to select for any financial services or products you want to add to your licence (you should refer to RG 2 before you apply);
 - (b) understand the obligations that apply to the variation you are requesting and be able to meet them (remember that you'll be making declarations and certifications when you apply); and
 - (c) be able to provide proof documents that demonstrate your capacity to provide the additional financial services or products. Core proof documents will need to be lodged as part of the application: see RG 1.89–RG 1.92.

Where can I find Form FS03?

- RG 1.76 Form FS03 is an electronic form that you complete online using our eLicensing system. To access it, you need to go to the Licensees portal at www.asic.gov.au/licensees. You'll need your licence number, plus the user name and password you selected when you initially completed your

AFS licence application. If you've forgotten your user name or password or you need extra ones for staff, apply for them online via the Licensees portal.

- RG 1.77 If you can't apply online (e.g. because you don't have access to the internet), you can phone ASIC on 1300 300 630 for the paper application form, FS03X. You can also download it from our website. Note that it takes longer and the statutory fee is higher when you apply this way.

What kind of variation do I want?

- RG 1.78 Whether you apply online (using Form FS03) or fill out the paper application (Form FS03X), you need to select whether you are applying to vary:
- (a) the authorisation conditions on your AFS licence (i.e. your financial service and/or product authorisations);
 - (b) the other conditions on your licence (e.g. key person or standard licence conditions); or
 - (c) both.

Varying financial service and/or product authorisations

- RG 1.79 If you're applying online, the system will fill in the current authorisations on your AFS licence. You need to check that these are correct and add any new financial services and/or products by clicking on them. If you want to remove any financial services or products, click on them to de-select them.
- RG 1.80 If you're filling in the paper form, tick all of the financial services and products you want to be authorised to provide (including the authorisations already on your licence that you want to keep). Leave blank any financial services and products that you want to remove from your licence.

Varying other AFS licence conditions

- RG 1.81 If you're applying online, the system will provide you with a free-text box to type in so that you can explain to us which conditions you want to vary and why you should be allowed to do this.
- RG 1.82 Try to make your answer as clear and concise as possible so that we won't have to ask you for more information. You need to provide the same information if you're filling out the paper form.

Finalising and submitting your variation application

- RG 1.83 If you're applying online, the system will lead you through steps to finalise, print and submit Form FS03. After you've answered all of the questions, it's important to review the form carefully before you finalise it. You can click on 'Print Draft' to print a draft version for checking. Make sure that your answers are correct because you won't be able to change them after you have finalised the form online. You'll also be making declarations and certifications about the accuracy of your answers and your ability to provide the financial services and products affected by the variations to your AFS licence. It's a criminal offence to make false or misleading statements in your application.
- RG 1.84 You should also ensure that you've completed the required core proof documents because these form part of your variation application and you must email them to licensing.afslproofs@asic.gov.au immediately after you submit the online form. We might ask you for additional proofs when we are assessing your application.
- RG 1.85 You should sign the final print-out of your online form and pay the fee if you're paying by BPAY. The signed print-out is for your own records—unlike the print-out of Form FS01, you don't need to send your print-out of Form FS03 to us.

What do I need to send to ASIC?

- RG 1.86 When you submit Form FS03 online, you must immediately also send us:
- (a) copies of the core proof documents outlined in RG 1.89–RG 1.91. You should email these by email to licensing.afslproofs@asic.gov.au. Make sure you include the applicant name and application reference number in the subject line of your email. RG 2 explains the core proof documents in more detail, including the information you must include in them. You'll need to read RG 2 before you prepare your core proof documents; and
 - (b) a cheque by post if you haven't already paid the application fee by BPAY. If you will be paying by cheque, please advise us of this in the email containing the copies of your core proofs.
- RG 1.87 If you don't apply online, you must post us the signed paper application, Form FS03X, together with your cheque and copies of your core proof documents.
- RG 1.88 See Appendix 2 for a checklist setting out all of the documents you must supply as part of your application.

Core proof documents

- RG 1.89 If you're applying to vary your financial service or product authorisations, or key person condition, the core proof documents you need to send us as part of your application are:
- (a) A5 Business Description (so that we can understand how your business will work); and
 - (b) B1 Organisational Competence (to demonstrate that you have the organisational competence to provide your financial services and products, including any new ones).
- RG 1.90 These core proof documents should cover all of the financial services and products that will be provided under your AFS licence, not just the variation you're requesting.
- RG 1.91 If you're applying to vary the other conditions on your licence, you only need to send us an A5 Business Description.
- RG 1.92 For a brief explanation of these core proof documents, see RG 1.32–RG 1.39. Section E of RG 2 explains them in more detail, including the information you need to include in them. You should read the information in Section E of RG 2 and prepare your core proof documents before you apply for your licence variation. Remember that the information in your core proofs needs to cover the changed circumstances you are describing in your variation application.

Completeness check

- RG 1.93 After we receive your variation application (i.e. the completed Form FS03 and your core proof documents), we'll do a 'completeness check' (also called a 'pre-lodgement check') on them to ensure that they are complete and acceptable for lodgement. If your application doesn't pass the completeness check it will be rejected and you'll have to re-apply.
- RG 1.94 You must ensure that:
- (a) you've provided copies of the core proof documents outlined in RG 1.89–RG 1.92 immediately after you submit your online application (if you're applying online);
 - (b) your core proof documents are complete, contain all of the information requested in Section E of RG 2 and are tailored to your business (i.e. they must not be generic proofs and, if you are part of a corporate group, they must cover your particular financial services business); and
 - (c) you've paid the application fee.

- RG 1.95 If your variation application is rejected at the completeness check stage, you'll have to reapply. We'll hold your fee payment for your next application unless you write to us for a refund.
- RG 1.96 You can reapply using a copy of your original Form FS03: see RG 2 for more information. However, you'll need to send us new core proof documents. Please ensure that you rectify any deficiencies we identified in your original core proof documents before you reapply.

Assessment process

- RG 1.97 Provided your application passes the completeness check, we'll assign it to one of our licensing analysts for assessment.
- RG 1.98 When we assess applications, our level of assessment will vary depending on our analysis of your business and the market you propose to operate in. We've developed this approach to make our assessment process as efficient and effective as possible.
- RG 1.99 If we need more information, we'll contact you by telephone, or send you an email or letter. You should respond to all our requests promptly and within any timeframe we specify. If you don't, it will delay our decision, or we may decide to assess your application on the basis of the information we do have.

Additional proof documents

- RG 1.100 In some cases, we might need to ask you to send us additional proof documents before we can complete our assessment of your variation application. These will generally be one or more of the documents listed in Part E of your application print-out. However, we might need to ask you for other proofs not listed on your print-out if, for example, you haven't selected your authorisations correctly.
- RG 1.101 You'll need to make sure we receive these **within 10 business days** of our request. It's important that you understand what information you need to give us in each additional proof document we request. You'll need to refer to Part 3 (RG 3) and remember that your additional proof documents also need to cover the changed circumstances you're describing in your variation application. Also make sure that your additional proof documents are tailored to your business. They must not be generic proofs and, if you are part of a corporate group, they must cover your financial services business.

What happens to the information and proof documents I send to ASIC?

- RG 1.102 The information you provide in your variation application form is confidential, except for basic information about your business that is uploaded to a searchable public register on our website after you receive your varied licence. See the privacy statement on our website for more information.
- RG 1.103 Your core and additional proof documents are also confidential. If these are sent in by post they will be scanned into our document imaging system and then destroyed.

What if my licence variation involves changes to my responsible managers?

- RG 1.104 If you're applying to vary your authorisations or other conditions, and you also want to add or remove one or more responsible managers, you need to also complete and submit Form FS20 *Change of details for an Australian financial services licence* as well as Form FS03. Form FS20 is available from the Licensees portal at www.asic.gov.au/licensees.
- RG 1.105 If you're adding responsible managers, you'll need to provide People Proofs for each new person. People Proofs include:
- (a) a Statement of Personal Information;
 - (b) copies of qualification certificates;
 - (c) copy of a bankruptcy check;
 - (d) copy of a national criminal history check; and
 - (e) copies of two business references (at least one of these must be from someone external to the responsible manager's organisation).
- RG 1.106 Section E of RG 2 explains these proofs in more detail. Note that it can take **six weeks or more** to get national criminal history checks, so you need to apply for these before you submit Form FS20.

Can I withdraw my application?

- RG 1.107 You can withdraw your application at any stage of the application process. If you withdraw it at the completeness check stage, we'll hold your fee payment for your next application unless you write to us for a refund.
- RG 1.108 If you withdraw your application after it has been accepted for lodgement, we won't be able to refund your application fee or hold it over if you decide to re-apply.

When will I get my varied licence?

- RG 1.109 If we decide to grant the variation to your AFS licence, we'll first send you a draft varied licence. You'll need to check the authorisations and other conditions on your draft licence and formally consent to it before we can send you your final licence. Do this by printing off the accompanying consent notice, signing it and sending it back to us. If you withdraw your variation application, your current licence will remain in operation.
- RG 1.110 Your draft licence will also be accompanied by a 'requirements letter' listing any outstanding matters you need to finalise before we can grant the final varied AFS licence. For example, you might need to provide details of your professional indemnity insurance if you didn't have these under your initial licence. You'll need to finalise these outstanding matters as quickly as possible. If you don't do this in a reasonable timeframe, we may withdraw our offer of a varied licence. You'll need to contact us if you have any problems finalising these outstanding matters.

What if my variation application is refused?

- RG 1.111 We may refuse your variation application if we don't believe you have the capacity to provide the additional financial services or products you've asked to be authorised for, or we think your request to change your other (non-authorisation) conditions isn't appropriate.
- RG 1.112 If we refuse to grant your variation, we'll write to you and explain the reasons why. We'll also tell you how to apply to the Administrative Appeals Tribunal for a review of our decision. Under the Corporations Act we aren't required to offer you a private hearing or the opportunity to make submissions if we refuse to grant a variation to your AFS licence.
- RG 1.113 If we refuse your variation application, your current licence will still be valid.

Appendix 1: Application for an AFS licence—documentation checklist

Once you've submitted the online application form, you must immediately email the following documents to ASIC or your application will be incomplete.

- Signed print-out of the application form
- A5 Business Description
- B1 Organisational Competence
 - B5 Financial Statements and Financial Resources, including signed balance sheet, profit and loss statement (if already trading) and cash flow projection—unless you're regulated by APRA. However, if you are an RSE licensee authorised to operate registered managed investment schemes, you must send this proof.
- People Proofs for each responsible manager:
 - Statement of Personal Information
 - copies of qualification certificates
 - copy of a bankruptcy check
 - copy of a national criminal history check
 - copies of two business references (at least one of these should be from someone external to the responsible manager's current organisation)

Note 1: Business references are not required if you are applying for a limited AFS licence between 1 July 2013 and 30 June 2016 and your nominated responsible manager(s) are recognised accountants.

Note 2: If you are a body regulated by APRA, you don't need to provide a bankruptcy check, national criminal history check or business references for your responsible managers.

- Please also ensure that the application fee has been paid.

Scan the print-out of your application form and copies of all your core proof documents and email these to ASIC at licensing.afslproofs@asic.gov.au quoting the applicant name and application reference number in the title of the email. If your email will exceed the 10MB limit, please send multiple emails containing separate core proof documents.

Appendix 2: Application for an AFS licence variation—documentation checklist

Once you've submitted the online application form, you must immediately email the following documents to ASIC or your application will be incomplete.

- A5 Business Description
- B1 Organisational Competence (if varying the key person condition or the authorisations held)
- Please also ensure that the application fee has been paid.

Scan copies of all your core proof documents and email these to ASIC at licensing.afslproofs@asic.gov.au quoting the applicant name and application reference number in the title of the email. If your email will exceed the 10MB limit, please send multiple emails containing separate core proof documents.

Additionally, if you are advising of new responsible manager(s) via Form FS20 *Change of details for an Australian financial services licence*, the following proof documents will need to be emailed to FS20proofs@asic.gov.au, quoting the licensee name and lodgement reference number in the title of the email:

- People Proofs for each responsible manager:
 - Statement of Personal Information
 - copies of qualification certificates
 - copy of a bankruptcy check
 - copy of a national criminal history check
 - copies of two business references (at least one of these should be from someone external to the responsible manager's current organisation)

Note 1: Business references are not required if you are varying a limited AFS licence between 1 July 2013 and 30 June 2016, provided your licence authorisations remain within the scope of limited financial services and your nominated responsible manager(s) are recognised accountants.

Note 2: If you are a body regulated by APRA, you don't need to provide a bankruptcy check, national criminal history check or business references for your responsible managers.

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an Australian financial services licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
body regulated by APRA	Has the meaning given in s3(2) of the <i>Australian Prudential Regulation Authority Act 1998</i>
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
financial services laws	Has the meaning given in s761 of the Corporations Act
general obligations	The obligations of an AFS licensee under s912A(1) of the Corporations Act
limited AFS licence	An AFS licence that only includes authorisations to provide one or more limited financial services
limited financial services	Has the meaning given in regs 7.6.01BA(3), 7.6.04(3), 7.8.12A(4) and 7.8.14B(3) of the Corporations Regulations 2001
PF 209 (for example)	An ASIC pro forma (in this example numbered 209)
reg 7.6.04 (for example)	A regulation of the Corporations Regulations 2001 (in this example numbered 7.6.04)
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
regulated superannuation fund	Has the meaning given in the <i>Superannuation Industry (Supervision) Act 1993</i>
representative	Has the meaning given in s910A of the Corporations Act
RG 166 (for example)	An ASIC regulatory guide (in this example numbered 166)
RSE licence	Registrable superannuation entity licence (granted by APRA)

Term	Meaning in this document
RSE licensee	A person who holds a registrable superannuation entity licence (granted by APRA)
traditional trustee company services	Has the meaning given in s601RAC(1) of the Corporations Act
trustee company	Has the meaning given in s601RAB(1) of the Corporations Act
you	Applicant for an AFS licence or a variation to an AFS licence

Related information

Headnotes

additional proofs, adequacy of resources, application form, Australian financial services licence, authorisations, compensation arrangements, compliance arrangements, core proofs, dispute resolution, financial products, financial services, limited AFS licence, limited financial services, organisational competence, representatives, responsible managers, risk management, variation

Pro formas

PF 209 *Australian financial services licence conditions*

Regulatory guides

RG 2 *AFS Licensing Kit: Part 2—Preparing your AFS licence or variation application*

RG 3 *AFS Licensing Kit: Part 3—Preparing your additional proofs*

RG 36 *Licensing: Financial product advice and dealing*

RG 104 *Licensing: Meeting the general obligations*

RG 105 *Licensing: Organisational competence*

RG 126 *Compensation and insurance arrangements for AFS licensees*

RG 146 *Licensing: Training of financial product advisers*

RG 165 *Licensing: Internal and external dispute resolution*

RG 166 *Licensing: Financial requirements*

RG 167 *Licensing: Discretionary powers*

RG 175 *Licensing: Financial product advisers—Conduct and disclosure*

RG 181 *Licensing: Managing conflicts of interest*

Legislation

Australian Prudential Regulation Authority Act 1998, s3(2)

Corporations Act, Ch 5D, Ch 7, s9, 761A, 910A, 911B, 912A, 912B, 913B, 914A

Information releases

IR 05-61 ASIC cuts paperwork for AFS licence applicants

ASIC forms

FS01 Application for AFS licence

FS03 Application for variation of authorisation and other conditions

FS03X Application to vary the authorisation conditions and other conditions of an Australian financial services licence

FS20 Change of details for an Australian financial services licence