March 2015

AUSTRALIAN
CFD & FX FORUM

Contents

Part A

Introduction and Agreement to Comply with Standards

The Australian CFD & FX Forum ("CFD & FX Forum") and each of the CFD & FX Forum members ("Members") are committed to enhancing the efficient operation, transparency and overall investor understanding and confidence in CFDs within Australia, and in the Australian CFD industry as a whole.

The CFD & FX Forum has established these Best Practice Standards ("Standards") with the purpose of:

- continuously improving existing CFD industry standards and addressing specific CFD industry issues and investor concerns that are not covered by legislation;
- building upon existing legislation to deliver additional benefits and raised standards to investors; and
- elevating investor perception and understanding in dealing in CFDs.

Each Member of the CFD & FX Forum contractually agrees to comply with these Standards as well as to promulgate and administer these Standards in consultation with other Members of the CFD & FX Forum.

Each Member agrees to incorporate a statement of compliance regarding these Standards, whether in full or by reference, in their respective Product Disclosure Statement.

In so doing Members must then also ensure that they have appropriate frameworks and controls in place to comply with the Standards, including policies and procedures (where appropriate).

Failure of a Member to comply with this commitment and with the Standards themselves will result in that Member ceasing to be eligible for membership in the CFD & FX Forum.

1. Scope of the Standards

These Standards apply to a Member in relation such Member's business of offering any CFD product through over the counter ("OTC") CFD models to clients in Australia.

A DMA model gives client direct access through a CFD provider to underlying exchanges where their orders are replicated in exchange order books and under the control of a client.

The Marketmaker model quotes buy and sell prices that are either based on a synthetic market or show the underlying bid and offer of an exchange. However trades are not, as a matter of course, passed into an exchange and it is up to the discretion of a CFD provider when it decides or is required to do so.

2. Review of the Standards

As industry best practice and financial markets evolve, the CFD & FX Forum commits to consulting on and (where necessary) amending the Standards to keep pace with new regulations, to continue to ensure the highest possible standards of its Members and require ongoing adherence with the objectives of the CFD & FX Forum. In furtherance of this aim, these Standards will be reviewed by the Members at least annually and may be amended at any time, with such process undertaken and agreed among Members in accordance with CFD & FX Forum Rules.

These Standards will also be subject to regular, independent reviews by a third party chosen by the Members at intervals of not more than three years.

3. Promotion of the Standards

Further to including a statement of compliance with the Standards in their Product Disclosure Statement, Members must make these Standards available to customers upon request, and publish the Standards on their website.

Each member may include in their disclosure, advertising (as appropriate) and education material a statement that they are Members of the CFD & FX Forum, that they have agreed to comply with the Standards and that they are a signatory to a memorandum of understanding regarding the same.

4. RG227 and the Standards

The Australian Securities and Investments Commission (ASIC) released *Regulatory Guide 227 Over-the-counter contracts for difference: Improving disclosure for retail investors* in August 2011. It sets out a number of disclosure benchmarks that OTC CFD providers must comply with on an "if not, why not" basis. This means that strict compliance with the benchmarks is not required by RG227 but if providers do not meet the disclosure benchmark, they are required to state that they don't in their Product Disclosure Statement (PDS) and explain why.

Under the Standards, each Member is committed to the benchmarks in RG227. Benchmark 2 Opening Collateral, particularly in respect of the credit card funding restriction, at a minimum must be disclosed on an "if not why not" basis. This means that each of the other benchmarks in RG227 are complied with on a "must have" basis and full compliance must be disclosed in a Member's PDS.

The Standards intend to raise the level of compliance by Members and ensure that all RG227 benchmarks are met to the greatest extent possible and, where possible, go above and beyond the benchmarks.

Each Member must comply with RG227 by:

including in their PDS adequate disclosure to help retail investors understand the risks associated with CFDs, assess the potential benefits and decide whether investing in CFDs is suitable for them; and

ensuring that their advertising and promotional material is consistent with information provided in their PDS.

The benchmarks for OTC CFDs issued to retail investors as set out at Table 1 of RG227 are as follows:

Benchmark	Description
1. Client Qualification	Benchmark 1 addresses the issuer's policy on investors' qualification for CFD trading.
2. Opening Collateral	Benchmark 2 addresses the issuer's policy on the types of assets accepted from investors as opening collateral.
3. Counterparty Risk – Hedging	Benchmark 3 addresses the issuer's practices in hedging its risk from client positions and the quality of this hedging.
4. Counterparty Risk – Financial Resources	Benchmark 4 addresses whether the issuer holds sufficient liquid funds to withstand significant adverse market movements.
5. Client Money	Benchmark 5 addresses the issuer's policy on its use of client money.
6. Suspended or halted underlying assets	Benchmark 6 addresses the issuer's practices in relation to investor trading when trading in the underlying asset is suspended or halted.
7. Margin Calls	Benchmark 7 addresses the issuer's practices in the event of client accounts entering into margin call.

Part B

The Standards

Summary of Standards

Standard	Description
Section One – Compliance	
Standard One: Compliance with Standards	Standard requires that Members comply with the Standards.
Section Two – Dealing with Customers	
Standard Two: RG227 Benchmark 1 – Client Qualification	Standard addresses RG227 Benchmark 1 and requires a written client qualification policy as set out in the Regulatory Guide.
Standard Three: RG227 Benchmark 2 – Opening Collateral	Standard addresses RG227 Benchmark 2 and specifies that only certain collateral should be used for new accounts and that a Member's PDS should explain the Member's policy in this regard.
Standard Four: Educational Material	Standard describes the types of educational material which can be used to increase a customer's or prospective customer's understanding of CFDs and what Members should take into consideration in this regard.
Standard Five: Advertising and Promotional Material	Standard requires that Member's brand advertising or sponsorship activity may mention the Members name or the product by name for recognition purposes only, but must not convey financial information about CFDs .Members must also ensure that advertising and promotional material is only published in financial markets based content.
Standard Six: Customer Complaints	Standard requires customer complaints to be handled in an efficient and effective manner.
Section Three – Customer Protection and Risk Management	
Standard Seven: RG227 Benchmark 5 – Segregation and Protection of Client Money	Standard addresses RG227 Benchmark 5 and requires full segregation of all client funds in a separate client trust account.
Standard Eight: Customer Credit Risk	Standard requires management of customer credit risk by real time monitoring, placing limits on customer CFD positions, back testing and stress testing.
Standard Nine: Risk Warnings and Risk Mitigation Tools	Standard requires Members to provide standardised risk warnings which a prospective customer must agree to prior to trading in CFDs and Members must maintain a margin policy. Also, Customers must be provided with a range of risk mitigation tools.
Standard Ten: RG227 Benchmark 6 – Suspended or halted underlying assets	Standard addresses RG227 Benchmark 6 and requires that Members not allow new CFD positions to be opened where there is a trading halt over the underlying asset or trading of the underlying asset has been suspended.
Standard Eleven: RG227 Benchmark 3 – Counterparty Risk – Hedging	Standard addresses RG227 Benchmark 3 and requires Members to have hedging strategies in place and maintain a policy to manage exposure to market risk from client positions.
Standard Twelve: Financial Resource Requirements	Standard addresses RG227 Benchmark 4 and requires Members to maintain a policy to maintain adequate financial resources. Members must maintain an NTA of over AUD 2 million or 10% of the average revenue calculated.
Section Four – Due Diligence & Business Continuity	
Standard Thirteen: Training and Competency of Employees	Standard requires Member's employees are adequately trained and are accredited in accordance with RG146. Members must also maintain a policy in this regard.
Standard Fourteen: Employee Screening	Standard requires Members to undertake pre-employment screening of all prospective employees. Members must also maintain a policy in this regard.
Standard Fifteen: Dealing with Intermediaries	Standard requires that Members will perform an initial due diligence to ensure intermediary relationships are appropriate. Members must also conduct an annual review on all intermediaries.
Standard Sixteen: Business Continuity Management	Standard requires that each Member has a BCM framework to ensure it can meet its financial and service obligations to customers in the event of a disruption.

Section One – Compliance

1. Standard One: Compliance with Standards

Members agree to use and maintain the Standards. Members are also required to conduct an annual review of compliance with the Standards and provide the CFD & FX Forum Membership Committee with an annual certification that they comply. Where the Standards impose an obligation on Members in addition to obligations applying under a relevant law, a Member agrees to comply with the Standards. That is not to say that any Member will not comply in full with its legal obligations, but that where an increased or additional commitment is specified within the Standards the Member will surpass the compliance standards required by the law.

Section Two – Dealing with Customers

2. Standard Two: RG227 Benchmark 1 - Client Qualification

Each Member must maintain and apply a written client qualification policy in accordance with Benchmark 1 of RG227 and this Standard 3.

Over and above the Benchmark 1 requirements of RG227, Members will also assist customers by offering a practice CFD account system, which will allow them to trade on a virtual basis for a period of time before proceeding to open an actual CFD account.

Any practice systems or equipment offered to prospective customers must be offered on a cost-free and non-obligatory basis.

Members will also set a minimum financial limit (with reference to the prospective client's income or net asset position or both) for the purposes of client qualification.

If the Member is unable to open a CFD account for a prospective customer due to the requirements under this Standard 2, further education may be offered to the prospective customer by the Member.

It is suggested that Members provide a statement to clients being clear about the purpose of Client Qualification and notifying that Client Qualification is not used for advice purposes.

3. Standard Three: RG227 Benchmark 2 - Opening collateral

Benchmark 2 of RG227 states that an issuer should only accept cash or cash equivalents as opening collateral for a new account. If credit cards are used, an issuer should accept no more than AUD 1000 via credit card to fund a new account.

An issuer's PDS should explain the types of assets the issuer will accept as opening collateral, and where the issuer accepts non-cash collateral, the PDS should explain why and the additional risks involved.

The Members have agreed that Benchmark 2 of RG227 will apply on an 'if not, why not' basis, that is, Members should endeavour to comply with its recommendations but, to the extent a Member does not comply, that Member must disclose in its PDS why it does not comply.

4. Standard Four: Educational Material

Educational material is material provided by a Member or a third party contracted by the Member, with the primary purpose of increasing a customer's or prospective customer's level of understanding of CFDs, other facilities and services offered by the Member and/or financial markets and trading in general.

Education includes, but is not limited to:

- written material such as guides, tools and checklists;
- seminars;
- webinars; and
- virtual trading accounts.

Education is distinguished from advertising and promotional material. Education must principally be informative, objective and impartial rather than promotional and as such it is not considered appropriate that any account opening or sign up activity is undertaken at the time of initial delivery.

Members must take the following into consideration, with regards to their educational material:

- the target audience, particularly the nature and complexity of such information compared with the audience's general level of understanding;
- the inclusion of risk warnings;
- the inclusion of appropriate disclaimers;
- their explanation of risks in trading CFDs and/or financial markets generally;
- whether a balanced view is given on trading, and the use of leverage; and
- the disclosure of relevant fees and charges.

5. Standard Five: Advertising and Promotional Material

Advertising and Promotional Material is material provided by a Member or a third party contracted by the Member, including intermediaries, with the purpose of marketing or promoting a Member's products and services. For the avoidance of doubt, the requirements of this Standard do not apply to anything that is considered brand advertising or sponsorship activity. To qualify as brand advertising or sponsorship activity the Members agree that the exempted advertising or promotional material may mention the Member by name or the product by name for recognition purposes only, but must not convey financial product and attributes information about CFDs (or any other regulated financial product offered by a Member) specifically.

Advertising and Promotional Material includes, but is not limited to:

- television and cinema advertising;
- radio advertising;
- print advertising, such as newspapers;
- email direct marketing;
- online advertising, such as electronic banners; and
- search engine marketing (SEM).

Members' advertising and promotional material must comply with relevant laws and regulations. Members must also ensure that they comply with RG227 and with the Good Practice Guidelines set out in RG234.

In addition, Members must ensure that Advertising and Promotional Material is only published or displayed in financial markets based content, or as a result of the target user's behavioural or contextual internet activity. When determining compliance with this Standard, Members must consider the actual audience that is likely to see the advertisement or promotional material. For example, it would not be considered appropriate to use non-brand/sponsorship advertising during a Financial Report segment of a mass broadcast channel such asChannel 9 news , however it would be considered appropriate to use such advertising in the more targeted Business Day section of The Age newspaper.

Members must ensure that Advertising and Promotional Material which mention leverage must not quantify that leverage.

Each Member should have appropriate contractual arrangements in place for third parties and intermediaries requirement to comply with this standard.

6. Standard Six: Customer Complaints

Members must take prompt action and apply both reasonable and considered outcomes to queries and complaints.

Specifically, Members must provide an initial response to complainants within 5 working days of the complaint being raised.

A final response to the complainant should be provided within 45 working days of the complaint being raised unless it is being dealt with through legal process or by an external dispute resolution provider, provider, such as the Financial Ombudsman Service (FOS). Members must include a statement in this final response to the affect that complainants may lodge a complaint with the external dispute resolution provider if the complaint is not resolved to their satisfaction. Members must also include the contact details for the external dispute resolution provider. Current contact details for FOS are as follows:

Financial Ombusman Service
GPO Box 3
Melbourne VIC 3001
Australia
Phone: 1300 780 808 or +61 03 9613 7366
Fax: +61 03 9613 6399
Website: fos.org.au

Section Three – Customer Protection and Risk Management

7. Standard Seven: RG227 Benchmark 5 - Segregation and Protection of Client Money

The Members are aware that the handling and use of client money by OTC derivatives providers has been the subject of regulatory debate and consultation. Pending the outcome of any such review and subsequent legislative reform, the Members are committed to the protection of client money as a key area in which the CFD & FX Forum must take the lead.

As such, each Member must, over and above any existing regulatory obligations, implement a full client fund segregation model. Accordingly, all client funds that a Member holds, including total client margins and net unrealised profits, must be fully segregated in a client trust account within one day of being ascertained and will be regarded as client money until such reconciliation calculation has been conducted.

For the avoidance of doubt, the client money calculation is as follows:

1. the sum of the balances for each client, calculated as follows:

that client's free cash, meaning money that is not currently being used by the client for any purposes
PLUS
margin paid by the client on open positions (because this money forms part of the client equity balance) because the Member is required to repay it to the client when the client closes his position
PLUS
the client's running profits
LESS
the client's running losses
LESS
any amounts owed by the client which are due and payable to the member.
provided that, if for any client the calculation above results in a negative number, zero must be used in the client money requirement calculation for that client;

2. plus any unallocated client money.

A client's equity balance means the amount which the Member would be liable to pay to that client (or the client to the Member) in respect of his CFDs if each CFD was liquidated at the Members then quoted closing rate. Note that no adjustment needs to be made for "Members equity balance" because the Member always deals as principal with clients, never as agent for clients.

Accordingly, a Member must not access money held in segregated accounts for ANY purposes, including using funds to hedge client trades or for its own operational purposes.

Each Member must only place funds with financial institutions that meet certain short-term and long-term external credit ratings provided by licensed Credit Rating Agencies. These ratings must be no less than short term A2(Moody's) or -A (Standard & Poor's/Fitch).

This Standard goes beyond the disclosure requirements of Benchmark 5 in RG227 by fully segregating all client funds rather than just disclosing policy on the handling of client money.

8. Standard Eight: Customer Credit Risk

Each Member's trading system must have the capability to monitor client positions and margins in real time. Total customer credit risk is to be monitored daily with reference to the market price movement of the underlying instrument in which the customer holds a position and the equity the customer holds in relation to the margining requirement calculated for their position.

Each Member must have and adhere to policies around margining and liquidations and its liquidation procedures must ensure that wherever possible a customer is liquidated before they enter a negative equity position and funds remain in the CFD account.

To manage customer credit risk, a Member must, where necessary, also place limits on the size of customer CFD positions and ensure that customers are aware of the limitations of the position size they can enter into. The criteria for setting customer limits can include, but is not limited to:

- the liquidity of the underlying stock;
- the volatility of the underlying stock;
- market capitalisation of the underlying stock;
- analysis of the concentration risk of the customer CFD portfolio; and
- previous financial history and financial status with the Member.

Back testing and stress testing must be conducted at least annually.

Back testing involves retrospective testing of factors affecting the credit risk model, such as capital, liquidity and counterparty risk, to ensure calculations are valid and the model is appropriate.

In this context, stress testing involves the application of a simulated test to exposures to gauge the impact on the Member company (or group of companies). Such measures will assist in considering whether there is sufficient liquidity in the Member company (or group of companies) to sustain losses arising from the test.

9. Standard Nine: Risk Warnings and Risk Mitigation Tools

9.1 Risk Warnings

The purpose of a risk warning is to provide a prospective customer with sufficient information to make an informed decision on whether to trade CFDs, highlighting the importance of seeking independent professional advice.

Each Member must provide standardised written risk warnings as part of their CFD account application process, which a prospective customer must agree to, prior to trading in CFDs. The risk warnings principles below must also be available on the CFD & FX Forum website (when established) and respective Member websites and cover at a minimum the following key points:

- risks associated with margins and leverage;
- customers do not have rights to, or any interest in, the underlying asset, which must also be disclosed within the body of Member advertising and promotional material;
- customers can lose more than their initial deposit, again explaining the concepts of margining and leverage with at least one example of a customer losing more than their initial deposit;
- importance of risk management, including the regular monitoring of positions and utilisation of stop loss functionality and other risk management tools;
- counterparty risk, including the risk of failure to fulfill obligations due to financial difficulty;
- distinction between over-the-counter and exchange traded derivatives;
- market volatility, including the risks associated with availability of prices and fluctuating financial markets; and
- technical risks such as the risk of system errors and outages and other circumstances that may affect transactions.

9.2 Risk Mitigation Tools

Members agree that all CFD customers will be provided with a comprehensive and appropriate range of risk mitigation trading tools that will permit them to trade in a manner that enables them to limit or reduce their exposure to losses for example automatic stop loss. Customers should not be required to use such tools should they not wish to, however, they must be prominently and clearly made available to all customers. Risk mitigation trading tools must be accompanied by reasonable and clear explanatory information to ensure customers can make themselves aware of how to use such tools, the advantages they may offer, working examples of how they operate and any other material deemed helpful.

Such risk mitigation trading tools may include for example stop losses or limited risk protection measures.

9.3 RG227 Benchmark 7 - Margin Calls

In accordance with Benchmark 7 of RG227, Members must maintain and apply a written policy about margining practices, which details:

how the Member will monitor client accounts to ensure it receives early notice of accounts likely to enter into margin call; what rights the Member may exercise (including the right to make a margin call or close out positions); and when the Member will exercise these rights and what factors it will take into account.

The policy should require the Member to take reasonable steps to notify customers before closing out positions.

The Member's PDS should explain its policy and margin call practices, and should clearly state that trading in CFDs involves the risk of losing substantially more than the initial investment.

10. Standard Ten: RG227 Benchmark 6 - Suspended or halted underlying assets

In accordance with Benchmark 6 of RG227, a Member should not allow new CFD positions to be opened when there is a trading halt over the underlying asset, or trading in the underlying asset has otherwise been suspended, in accordance with the rules of the ASX.

Each Member's PDS should clearly explain their approach to trading when underlying assets are suspended or halted on the ASX.

A Member should explain any discretions it has as to how it manages positions over halted or suspended assets, and how it determines when and how to use these discretions.

This includes any discretions the Member retains to change the margin requirement on a position, re-price a position or close out a position.

11. Standard Eleven: RG227 Benchmark 3 - Counterparty Risk – Hedging

Each Member must comply with *RG227 Benchmark 3 Counterparty risk – Hedging* by having in place hedging strategies with counterparties that the Member has assessed as being of strong financial standing and maintaining and applying a written policy to manage exposure to market risk from client positions, which:

includes the factors it takes into account when determining if hedging counterparties are of sufficient financial standing; and sets out the names of those hedging counterparties (as they stand from time to time).

Members must publish an up to date hedging policy on their website.

Members must ensure their PDS provides a broad overview of the nature of hedging activity the Member undertakes, the factors it takes into account when selecting hedging counterparties, and details of where to find more information (e.g. a reference to a website).

Further, Members must include in their PDS information about the significant risks associated with CFDs, and a clear explanation of counterparty risk.

The PDS should explain that, if the issuer defaults on its obligations, investors may become unsecured creditors and will not have recourse to any underlying assets in the event of insolvency of the issuer.

12. Standard Twelve: Financial Resource Requirements

12.1 RG227 Benchmark 4 - Counterparty risk

As an Australian financial services licensee, each Member has an existing regulatory obligation under *RG166 Licensing: Financial requirements* to maintain sufficient financial resources to conduct its financial services business.

RG166 includes a minimum level of net tangible assets (NTA) that must be held in liquid form and pairing this requirement with a reporting framework which encourages issuers to maintain adequate resources in protection of investor interests.

In accordance with *Benchmark 4 Counterparty Risk – Financial Resources* of RG227, each Member must maintain and apply a written policy to maintain adequate financial resources, which details how the Member:

- monitors its compliance with its Australian financial services license financial requirements; and
- conducts stress testing (in addition to the stress testing outlined in Standard Eight) on a daily basis to ensure it holds sufficient liquid funds to withstand significant adverse market movements.

In this context, stress testing involves the application of a simulated test to capital resources to gauge the impact on the liquidity position of the Member company (or group of companies).

The PDS should explain how the Member's policy operates in practice.

Member's must make their financial statements available free of charge

12.2 Surplus Liquid Funds

Each Member must, over and above any existing regulatory obligations, maintain a minimum level of net tangible assets (NTA), held in liquid form and equal to the greater of:

- AUD 2 million (in contrast to the minimum NTA of AUD 1 million set out in RG166); or 10% of the average revenue calculated in accordance with RG166.

An exception to the above requirement is as contemplated under RG166.18-21 in the form of an application for relief from capital requirements available for foreign prudentially regulated licensees who are regulated in a way that is comparable to regulation by APRA for entities of that kind, where applications are considered by ASIC on a case-by-case basis. Should such an application by a member be approved by ASIC, the minimum level NTA will be AUD 2 million and not the greater of AUD 2 million or 10% of the average revenue.

Each Member must also comply with all cash requirements, other financial requirements and reporting framework as set out in RG166 Appendix 8: OTC Derivatives Issuers.

Section Four – Due Diligence and Business Continuity

13. Standard Thirteen: Training and Competency of Employees

Members must ensure that their employees and representatives are competently and adequately trained to perform their role in accordance with the Standards.

In addition, all customer facing employees or agents of a Member must be accredited or supervised in accordance with *RG146: Licensing of Financial Product Advisers* and maintain continuing professional development (CPD). This is irrespective of the type of licensing regime under which the Member operates.

Employees or agents providing overflow or out of hours services in a limited capacity are exempt from this requirement provided they have adequate internal training and work under the supervision of someone who is appropriately accredited (or exempt).

A component of accreditation and CPD must include theory and practical training relating to CFDs, in particular the features and risks of trading CFDs. Accreditation must be through a training provider listed on the ASIC Training Register and CPD can be managed in-house or through a credible third-party provider.

Each Member must maintain a written policy outlining its requirements in accordance with this Standard 13.

14. Standard Fourteen: Employee Screening

Each Member must undertake pre-employment screening for prospective employees, and re-screen existing employees if there is material change in their responsibilities, to the highest possible level without contravention of applicable laws. Employee screening must include, amongst other things, identification checks, referee reports and criminal checks.

Each Member must maintain and apply a written policy for employee screening, which applies to both prospective employees and existing employees that are transferred or promoted internally (the "candidate"). The policy must include a requirement for the Member to obtain, for each candidate:

- verification of the identity of the candidate (if not already obtained);
- verification of Employment (e.g. through referee reports);
- verification of Qualifications (where applicable);
- criminal history search/police check; and
- ASIC related checks (e.g. banned and disqualified persons lists).

The Policy may include other such requirements that are considered necessary by the Member, in order to minimise the risk of employing an unsuitable candidate.

When seeking or providing information about a candidate, each Member must also comply with its obligations under the *Privacy Act 1988*, including but not limited to:

- making the candidate aware that he/she can gain access to
- the information;
- ensuring the candidate is aware of the purpose(s) for which the information is collected;
- ensuring the candidate is aware of the entities to which the Member usually discloses information of that kind;
- making the candidate aware of the main consequences if all or part of the information required is not provided;
- making the candidate aware that the Member will be collecting information from third parties about them;
- taking reasonable steps to ensure that the information collected, used or disclosure is accurate, complete and up to date; and
- ensuring the information is protected from misuse and loss from authorised access, modification or disclosure, is securely stored and only available to authorised persons.

15. Standard Fifteen: Dealing with Intermediaries

Intermediaries are defined as third party distributors of CFDs who provide financial product advice (i.e. either personal advice or general advice) and with whom a Member maintains a relationship, where this relationship is evidenced by a contractual agreement between the Member and the Intermediary.

Intermediary arrangements can include:

- multiple client accounts - where an account is opened for each client of the intermediary;
- white label agency model;
- intermediary acting as trustee for the underlying clients;
- managed discretionary accounts; and
- IDPS/investor directed.

As part of the initial process of establishing an Intermediary relationship, a Member must perform an initial due diligence and authorisation process to ensure Members foster appropriate Intermediary relationships.

This initial due diligence process must include the collection from the Intermediary and verification of the following:

- business controls and structure, as evidenced by a business plan or equivalent;
- appropriate authorisation from ASIC in the form of an Australian Financial Services License (AFSL), as applicable. Where it does apply, there must be no restrictions under its AFSL which would not allow the Intermediary to arrange for the provision of products and services offered by the Member;
- As applicable, evidence of being an Authorised Representative (as defined in the Corporations Act 2001) of an AFSL holder;
- evidence of Professional Indemnity Insurance (PII) as required under the Corporations Act 2001,
- names of all individual Authorised Representatives of the Intermediary who are authorised to provide financial services (if any);
- sufficient review of the Intermediary's risk and compliance controls relating to the supervision of its Authorised Representatives to ensure their compliance with relevant law;
- ASIC company searches on the company and directors; and
- confirmation that there has been no adverse media attention or legal proceedings (including on the Intermediary, its directors, Authorised Representatives or key employees).

In addition, the Member must conduct a review at least annually on all Intermediaries as part of the audit process, evidencing any material changes to the collection and verification points above. The review is also to include a certification from the Intermediary disclosing any regulatory surveillance or investigation within the period under review, that the Intermediary retains the authorities under its AFSL (as applicable), and that no restrictions have been placed on it which would limit its ability to arrange for the provision of products and services offered by the Member.

16. Standard Sixteen: Business Continuity Management

Business continuity management (BCM) is a whole of business approach to ensure critical business functions can be maintained or restored in a timely manner, in the event of material disruptions arising from internal or external events.

Each Member must have a BCM framework in place to ensure it is able to meet its financial and service obligations to its customers and other third party relationships in the event of a disruption. This includes having the infrastructure to open and close customer positions and provide adequate risk management and support services during the period of disruption.

- A Member's BCM framework must encompass:
- a risk assessment which considers plausible disruption scenarios and the likelihood of these scenarios occurring;
- a business impact analysis (BIA) which identifies all critical business functions, resources and infrastructure and assesses the impact of a disruption on each of these;
- a consideration of recovery strategies, based on the results of the BIA;
- business continuity planning, which includes a business continuity plan (BCP) that documents procedures and information which enable the Member to respond to a disruption, recover and resume critical business functions;
- established business continuity/crisis management teams, that invoke the BCP in the event of a disruption and primarily manage the recovery process; and
- review and testing of the BCP, at least annually, to ensure that it effectively manages the recovery and resumption of critical business functions during a disruption.

The BCM framework should be an integrated component of a Member's overall risk management and control framework.

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