

ALERT

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Accountants must obtain limited AFSL to provide advice on SMSFs

The government has announced it will remove a licensing exemption that currently allows accountants to provide financial advice regarding self-managed superannuation funds (SMSFs) without an Australian Financial Services Licence (AFSL). A new 'limited financial services licence' (Limited AFSL) that enables licensees to provide advice on, or deal in, SMSFs has been introduced to replace the exemption.

The government has given accountants three years to comply with the new licensing requirements or to revise the scope of their business activities. From 1 July 2016, accountants must have either a Limited AFSL or an AFSL in order to advise clients on SMSFs. Among other things, the transitional arrangements lower the competency requirements for accountants who are members of specific professional organisations (Recognised Accountants).

Purpose of removing the exemption

Under the previous regime, Recognised Accountants were able to

advise on the acquisition and disposal of an interest in an SMSF without an AFSL. However, the practical operation of this exemption resulted in various undesirable consequences for consumers. For example:

- Accountants were not required to adhere to the regulatory requirements imposed on other financial service providers (eg ongoing training obligations and maintenance of dispute resolution procedures).
- Accountants were not permitted to advise on certain matters incidental to SMSFs (eg investment strategies for SMSFs).

In order to enable accountants to provide more balanced commercial advice to their clients, the *Corporations Amendment Regulations 2013 (No 3)* (Cth) were introduced to streamline the licensing regime for limited categories of financial advice.



Who can apply for a Limited AFSL?

A Limited AFSL is not restricted to accountants and any person who satisfies the eligibility requirements may obtain a Limited AFSL. Recognised Accountants can take advantage of the lower competency requirements for obtaining a Limited AFSL during the transition period from 1 July 2013 to 30 June 2016. Corporations and partnerships can also apply for a Limited AFSL if they have recognised Accountants who are responsible for and supervise the provision of financial advice (**Responsible Managers**) within their organisation.

What does a Limited AFSL cover?

Limited licensees may provide financial product advice on the following:

- a. SMSFs (eg making a recommendation to establish an SMSF, providing advice regarding contributions or pensions under a superannuation product).
- b. 'Class of product' advice (ie general advice regarding superannuation products, securities, simple managed investment schemes, general insurance products, life risk insurance products and basic deposit products). A limited licensee must not make a specific recommendation that a person invest in a particular financial product (eg a term deposit product offered at a particular bank or institution).
- c. Arranging to deal in an interest in an SMSF (eg applying for, acquiring, issuing, varying or disposing of an interest in an SMSF).

Key date

Recognised Accountants (and entities that employ Recognised Accountants) should consider applying for a Limited AFSL prior to 30 June 2016 to take advantage of the transitional arrangements. These arrangements dispense with the requirement to demonstrate 'appropriate experience' in providing financial services of a type that will be authorised under the prospective Limited AFSL. Recognised Accountants who apply for a Limited AFSL after 1 July 2016 will be required to demonstrate a minimum of three years' experience (or make a written submission to ASIC), in addition to meeting the 'knowledge' (ie training or qualifications) conditions currently required pursuant to the transitional arrangements.

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