

# GET IN SHAPE

*This is the twenty-sixth message from the Financial Services Council about future changes coming to financial advice regulation. The FSC's goal is to highlight key things you need to know about the Financial Services Legislation Amendment Act (FSLAA), its regulations and the Code of Conduct for Financial Advice as well as other financial services legislation. For more information, visit the [Professional Advice Knowledge Hub](#).*

## Your new obligations from 15 March 2021

From 15 March 2021, every financial advice provider will need to have a transitional licence in place. If you don't obtain a licence yourself, you need to be providing advice under someone else's licence as a "financial adviser" or a "nominated representative". If you want your own transitional licence and you haven't applied yet, [do it now](#).

You'll also need to be ready to comply with a range of new duties and obligations from 15 March. Assuming you advise retail clients, these [duties include](#):

- Taking reasonable steps to ensure your clients understand the nature and scope of the advice being provided, including any limitations. For example, you must explain if you're only able to give advice about certain products.
- Where there's a conflict of interest, you must give priority to your client's interests.
- You must exercise care, diligence and skill at all times.
- You must comply with the requirements of the new [Code of Professional Conduct for Financial Advice Services](#) (Code of Conduct), and in particular the requirements for ethical behaviour, conduct and client care.
  - These are requirements to:
    - Treat clients fairly
    - Act with integrity
    - Give financial advice that is suitable
    - Ensure the client understands the financial advice, and
    - Protect client information
  - There are also competency requirements in the Code of Conduct, for which there is a two-year transition period for those who are RFAs or AFAs when the law changes.
- You must only recommend financial products to clients that are offered in compliance with the Financial Markets Conduct Act and its Regulations.
- You must ensure you follow the new [disclosure regulations](#), making prescribed information available at various points in the advice process. Any information you make available to clients must not be false, misleading or incomplete.

As a financial advice provider, you must also:

- Make sure anyone you engage to give advice under your licence complies with all these duties.
- Have appropriate processes and controls in place when you engage nominated representatives. These should allow you to control the advice being given and the circumstances in which it is given.
- If you engage nominated representatives, ensure that you do not give, or offer to give, any inappropriate incentives.

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- Tell the FMA if you materially contravene your obligations. You must also let the FMA know if you change the legal structure of your business or make certain other changes, such as changes in directors or senior people.
- Comply with any licence conditions the FMA may include when granting your licence, including the standard conditions, and the licence conditions imposed by law.
  - There are two standard transitional license conditions, relating to record keeping and having an internal dispute resolution process.

### **What happens after 15 March 2021?**

From 15 March 2021, financial advice providers have three months to update your FSPR registration to link to any individual financial advisers you engage under your licence.

Then you have two years – up to 15 March 2023 – to go through the process of obtaining your full licence and ensuring you meet the competency requirements of the Code of Conduct.

As part of obtaining your full licence, you'll need to get ready to comply with the full licence conditions, which the FMA has set for licence holders and those authorised under a licence. These relate to:

- Record keeping
- Internal complaints process
- Regulatory returns
- Outsourcing
- Business continuity and technology systems
- Ongoing eligibility
- Notification of material changes

If you do not have all of these obligations under control, we recommend you seek legal advice or engage a reputable compliance consultant.

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#### Further details

You can find up-to-date information about FSLAA, the code, disclosure, licensing, and fees and levies as well as the Get In Shape Advice webinars on the [Professional Advice Knowledge Hub](#).

Questions? Get in touch via [fsc@fsc.org.nz](mailto:fsc@fsc.org.nz).

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