

LEGAL AND COMPLIANCE



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14 compliance file review tips

File reviews are a key control used to demonstrate that an AFSL is compliant with financial services laws. Here are 14 quick and simple ways to help reduce your risk of non-compliance

THE PRESSURE potential on financial advisers to ensure that they can demonstrate that they have provided appropriate and compliant advice that is in the customer's best interest has never been greater.

It can be argued that these changes have nevertheless tightened the advice process and control environment and therefore taken steps to lift the image of the industry and trust in the profession.

The financial advice industry has and continues to go through a relatively large volume of change, most notably with regard to regulatory change (yes FOFA among others), which has meant that advisers need to be aware of and adapt to these changes to survive and succeed.

The added scrutiny to ensure that advice is in the client's best interest has come at a cost to advisers in terms of shifting time away from building relationships to time invested in developing and/or adapting to new processes, new technologies and new controls. It is therefore no surprise that financial advisers can become frustrated with the heightened focus on process and compliance and, in particular, participating in advice file audits.

Advice compliance file reviews is a key control used (among other things) to demonstrate that an AFSL is compliant with financial services laws. Below are 14 quick and simple ways to help reduce your risk of non-compliance, be better equipped if a client lodges a complaint against you and/or your AFSL and any potential remediation and impact on your professional indemnity insurance, and save you time at your next compliance audit, giving you back more valuable client facing time and potentially better client experiences.

Accurate and timely record keeping

1. Keeping accurate notes, at the time of the conversation or within a reasonable time after the fact, relating to conversations with your client(s) and, most importantly, the reasons why a particular strategy and/or financial product was recommended is paramount to demonstrating that you acted in the clients best interests. These should be dated and signed by the adviser.
2. It's good practice to email clients the rationale/reasoning for the actions that have been recommended or agreed

upon. This gives the client an opportunity to come back to confirm and/or clarify your recollection of events.

3. Always keep records from the client should they ask you to purchase or sell securities or other listed financial products i.e. execution only documentation. This could be as simple as an email from the client outlining the amount, price, timing (e.g. fill or kill, good for day). You must be careful to clearly document and record (if it is the case) that you have not given any advice. If you have given personal advice then you must follow through with an ROA (record of advice) or SOA (statement of advice).
4. If you are helping a client with personal insurance and unsure as to the correct occupational rating that has been applied to the insurance quote, you should contact the insurance provider's underwriter for a definitive ruling.
 - a) Before contacting the underwriter ensure that you collect as much information about your client's employment such as their duties, locations of work, relevant qualifications and other related information.
 - b) Information such as the time and date of the call, the rating and the underwriters name should be placed in a file note and also provided on the insurance application form once submitted.
5. Smart phones are a quick and easy way to take photos of notes or agreements that you have made. You can then email these to your clients in real time, and upload the photos to your network drive and/or cloud. This will reduce the time needed to compile the documentation required for a file review.
6. The entire content of client files, including advice documents, must be retained for seven years from the latest change or endorsement to a file. To help ensure the storage and safety of these files over this time, save your



documents to a reliable and secure network and/or cloud-based technology. This can help you access your client's information quickly, remotely and safely. Entering your client's information into a secure cloud network drive and/or financial planning CRM system strengthens your ability to efficiently and effectively comply with privacy and record keeping requirements.

7. Maintaining clear and logical file structuring can be painful and boring, but having a system where you can upload key and correctly labelled documentation can save you time down the track – firstly, when going through an audit or file review and, secondly,

should a client ever question why a decision was made.

Fact find/financial needs analysis

This usually forms the first document that you will fill out with a client and can form the basis for a strong SOA, so it's key that you dot all the I's and cross all the T's.

8. Ensure that all sections of the fact find are completed and the acknowledgement and disclaimers and notices section is signed by you and the client. If a client declines to answer any question in the FNA then clearly mark a line through the section and mark as "client did not disclose".

9. Ensure that the fact find includes the version of financial services guide (FSG) that you have given. Yes, this can be done in a separate file note, however by having it in here with a client signature confirming receipt you are clearly evidencing that the client has received the document.

10. List considerations and verbatim comments made by the client within this document as these can be included within the SOA and therefore evidence the logical sequence of how you arrived at a recommendation or course of action. For example, a client may specifically request that they want a high growth

investment strategy regardless of what their risk profile has or will indicate. This is an opportunity to document this discussion, highlight any risks and have the client sign to confirm.

11. Some advisers choose to record client conversations, which can add an additional level of protection. If you do decide to record a conversation you must ensure that you inform the client that the call is being recorded and obtain their consent to continue with the recording.

Paraplanning services

12. Finding a paraplanning service that suits your particular business

needs can be difficult. Nevertheless, using such a service is a great way to reduce the time taken to create an SOA and/or ROA, and should ensure that your SOA includes all the necessary elements to make it compliant. Of course, you must remember that the responsibility and liability rests with the person giving the advice i.e. the financial adviser.

13. Making an initial and relatively small investment in reviewing your advice documents early on can save you time, money and headaches in the future. If you are a new financial adviser, have decided that you are going to engage the services of a paraplanner or simply for peace of mind, you can gain a level of assurance that your advice documentation is compliant by arranging to have a sample of the paraplanners SOA's/ROA's reviewed by your compliance representative.
14. You should read the entire SOA before it is delivered to the client to ensure that it is compliant, clear, concise and effective – basically make sure that it makes sense!

You can see, there are many easy things you can do to improve your clients' files and not have to feel so nervous when it's time for a client file review.

If you require further information relating to your obligations and processes to follow, please contact your compliance representative or feel free to contact us at Advice Compliance Support. ●

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