



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 105

Licensing: Organisational competence

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About this guide

This is a guide for Australian financial services (AFS) licensees and AFS licence applicants.

This guide describes what we look for when we assess compliance with the 'organisational competence obligation', which is one of the general obligations under s912A(1) of the *Corporations Act 2001*.

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 regulatory guide was issued in December 2016 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 105, issued October 2007

This guide replaced:

- Section E of Regulatory Guide 164 *Licensing: Organisational capacities* (RG 164), issued 28 November 2001, updated 8 November 2002
- parts of Regulatory Guide 130 *Management investments: Licensing*, issued 3 August 1998, updated 4 November 1998, 2 June 1999 and 4 October 1999
- *Responsible officers: Demonstrating compliance with organisational competency obligations—An ASIC guide*, issued July 2003, withdrawn June 2007

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

Australian financial services (AFS) licensees must comply with the organisational competence obligation in s912A(1)(e) of the *Corporations Act 2001* (Corporations Act), and AFS licence applicants must be able to demonstrate in their licence application that they can comply with this obligation: see RG 105.1 and RG 105.9–RG 105.10.

We assess your compliance with this obligation by looking at the knowledge and skills of your ‘responsible managers’: see RG 105.2 and RG 105.14–RG 105.15.

What you need to do to comply will depend on the nature, scale and complexity of your business. However, this guide sets out our minimum expectations for demonstrating organisational competence: see RG 105.3–RG 105.8.

The organisational competence obligation

RG 105.1 If you are an AFS licensee, you must maintain the competence to provide the financial services covered by your AFS licence: s912A(1)(e) of the Corporations Act. We refer to this obligation as the ‘organisational competence obligation’. This is because this obligation requires you to be competent at the organisational level.

Note: This is not the same as the obligation under s912A(1)(f) to ensure that the representatives who provide financial services on your behalf are trained and competent to do so: see RG 105.20.

RG 105.2 We assess your compliance with this obligation by looking at the knowledge and skills of people who manage your financial services business. We refer to these people as your ‘responsible managers’.

Note: We used to refer to these people as ‘responsible officers’. We have replaced this term with ‘responsible managers’: see RG 105.34–RG 105.35.

What do you need to do to comply?

RG 105.3 The Corporations Act places responsibility on you to ensure you maintain the competence to provide the financial services covered by your AFS licence.

RG 105.4 What you need to do to comply will depend on the nature, scale and complexity of your business, including the size of your business, the financial services and products you provide, and the roles that individuals play in your

business. However, this regulatory guide sets out our minimum expectations for demonstrating organisational competence.

- RG 105.5 At a minimum, you need to nominate responsible managers who:
- (a) are directly responsible for significant day-to-day decisions about the ongoing provision of your financial services (see Section B);
 - (b) together, have appropriate knowledge and skills for all of your financial services and products (see Section B); and
 - (c) individually, meet one of the five options for demonstrating appropriate knowledge and skills (see Section C).
- RG 105.6 You also need to have measures in place to ensure you maintain your organisational competence at all times: see condition 4 of the standard AFS licence conditions in Pro Forma 209 *Australian financial services licence conditions* (PF 209).

Measures for maintaining organisational competence

- RG 105.7 We expect your measures for complying with the organisational competence obligation will ensure that you:
- (a) review your organisational competence on a regular basis and whenever your responsible managers or business activities change;
 - (b) maintain and update the knowledge and skills of your responsible managers; and
 - (c) keep records showing that you have reviewed your organisational competence and the steps you have taken to maintain your organisational competence.

Note: For more information on compliance measures, see Sections B and C of [Regulatory Guide 104](#) *Licensing: Meeting the general obligations* (RG 104).

- RG 105.8 We expect you to document your measures in some form. In our view, it is more difficult to show compliance where documentation is not in place. Documentation helps you demonstrate whether or not you are complying with the organisational competence obligation.

When do you need to comply?

Applying for an AFS licence

- RG 105.9 If you are applying for an AFS licence, you must be able to show that you can comply with the organisational competence obligation from the time you are granted a licence, and on an ongoing basis. We cannot grant you a licence if

we have any reason to believe you will not be able to comply with this obligation: s913B(1)(b).

Note: If you are applying for an AFS licence, you should read [Regulatory Guides 1–3 AFS Licensing Kit](#) (RG 1–RG 3). The *AFS Licensing Kit* explains the AFS licence application process and the ‘proof’ documents you may need to provide to support your application.

Ongoing compliance

RG 105.10 Once you have an AFS licence, you must maintain your organisational competence at all times. If we have reason to believe that you are not complying, we may take administrative action, which could include suspending or cancelling your licence, or imposing additional licence conditions: s915C(1)(a) and 914A(1).

Note: For guidance on our administrative powers, see [Regulatory Guide 98 Licensing: Administrative action against financial services providers](#) (RG 98).

RG 105.11 If we conduct a surveillance visit on your business, we may check your ongoing compliance with the organisational competence obligation, including the measures you have for ensuring compliance.

RG 105.12 If you breach or are likely to breach the organisational competence obligation, you may need to notify us of that breach: s912D.

Note: For guidance on breach reporting, see [Regulatory Guide 78 Breach reporting by AFS licensees](#) (RG 78).

Making changes to your business

RG 105.13 We expect you to review your organisational competence and ensure you will maintain it before you make any changes to your business, such as expanding your range of financial services or products or replacing a responsible manager.

When do you need to tell us about your responsible managers?

RG 105.14 You must nominate your responsible managers when you apply for an AFS licence or apply to vary your licence authorisations. You must also notify us if you change any of your responsible managers. This is explained in Section D.

RG 105.15 We may ask you about your responsible managers if we conduct a surveillance visit on your business.

Underlying principles

- RG 105.16 In setting out minimum expectations for demonstrating organisational competence, we aim to strike a balance between certainty and flexibility for licensees while promoting consumer protection and market integrity.
- RG 105.17 This guide focuses on the people in your business who are responsible for the quality of your financial services. In setting minimum expectations, we aim to ensure you have enough of these people with appropriate knowledge and skills so that you have the competence to provide all of your financial services efficiently, honestly and fairly.
- RG 105.18 What we consider to be appropriate knowledge is strongly influenced by the Australian Qualifications Framework and recognises that short industry courses, industry standards and Australian Prudential Regulation Authority (APRA) also have a role to play in setting benchmarks for organisational competence.

Our regulatory approach

Who does this guide apply to?

- RG 105.19 This guide applies to all AFS licensees and covers all kinds of financial services and products. It consolidates and harmonises our guidance on organisational competence, which was previously spread across a number of ASIC publications.

Does this guide cover the training and competence of representatives?

- RG 105.20 This guide does not cover the obligation to ensure that your representatives are trained and competent to provide the financial services covered by your licence: s912A(1)(f). To find out about that obligation, see Section E of RG 104. If your representatives provide financial product advice to retail clients, see also [Regulatory Guide 146](#) *Licensing: Training of financial product advisers* (RG 146).

Note: Effective from 24 September 2012, Sections D and E of RG 146 are under review. The review will enable ASIC to explore options pending final policy positions following from our consultation, and will take into account the proposed reforms announced by the Government on 17 October 2016.

B Nominating your responsible managers

Key points

You can nominate someone as a responsible manager if they:

- are directly responsible for significant day-to-day decisions about the ongoing provision of your financial services (see RG 105.21–RG 105.25) or, for some small-scale, heavily automated businesses, provide sign-off on the financial services provided (see RG 105.26–RG 105.33);
- meet one of the five options for demonstrating knowledge and skills in Section C (see RG 105.36); and
- are of good fame and character (see RG 105.38).

You also need to ensure that you nominate responsible managers whose combined knowledge and skills cover all of your financial services and products: see RG 105.39–RG 105.42.

Who can you nominate as a responsible manager?

Direct responsibility for significant day-to-day decisions

- RG 105.21 The people you nominate as responsible managers must have direct responsibility for significant day-to-day decisions about your financial services. The only exception is for some responsible managers of small-scale, heavily automated businesses: see RG 105.26–RG 105.33.
- RG 105.22 Who you nominate as your responsible managers will depend on the nature, scale and complexity of your business: see RG 105.47. In most cases, the people who have direct responsibility for significant day-to-day decisions about your financial services will be people who decide how your financial services are provided and supervise the provision of those services. A compliance manager or financial controller, for example, might not have the level of direct responsibility required. Your responsible managers do not need to actually provide financial services on your behalf, although they might do so.
- RG 105.23 The job description and title of responsible managers will vary from business to business. For example, in a small advisory business, the directors are likely to be the main people who have direct responsibility for significant day-to-day business decisions but, in a larger financial services group, anyone ranging from the chief executive officer down to middle management might have the required direct responsibility. For licensees that are regulated by APRA, the people with direct responsibility would usually include those who are ‘responsible persons’ for the purposes of APRA’s ‘fit and proper’ standard. If you are a body corporate, the people you nominate do not need to be ‘officers’

of the body corporate or ‘responsible officers’ as defined in s9 of the Corporations Act.

Level of involvement for responsible managers generally

RG 105.24 Responsible managers who have direct responsibility for significant day-to-day decisions about your financial services must have enough time available to fulfil their responsibilities. Before you nominate a person as a responsible manager, you need to consider their overall business commitments, including whether they are already acting as a responsible manager for other licensees or hold other business roles. If they do, you should consider whether they have enough time available to act as a responsible manager for you.

RG 105.25 In general, the more commitments a responsible manager has, the less likely they will be to have enough time available to act as your responsible manager. Examples of factors that may affect how much time a responsible manager has available include:

- (a) whether they are a key person or responsible manager for any other licensees;
- (b) how many staff they need to supervise and whether those staff are in different locations;
- (c) whether the other licensees share common systems or processes with you (e.g. they are in the same corporate group);
- (d) the nature, scale and complexity of the business of the other licensees (e.g. the size of their business and how many registered managed investment schemes (registered schemes) they operate); and
- (e) any other roles (both current and proposed) performed by the responsible manager, including engagement as a lawyer, accountant, or other professional adviser or consultant, and any directorships or other employment.

Level of involvement for responsible managers of small-scale, heavily automated businesses providing limited financial services

RG 105.26 We recognise that responsibility for decisions about the financial services provided may not require significant day-to-day involvement from responsible managers of all AFS licensees with heavily automated business models and a small client base—referred to in this guide as ‘small-scale, heavily automated businesses’. In this context, we consider that:

- (a) ‘heavily automated’ means the business relies on algorithms or other technology to deliver financial services in a consistent way following the input of required client information (i.e. there is extremely limited human discretion exercised by the licensee or its representatives in providing the financial services on a day-to-day basis); and

- (b) a licensee is small-scale if it has provided financial services to fewer than 1,000 retail clients.

RG 105.27 An AFS licence applicant with a small-scale, heavily automated business may nominate a responsible manager who will provide regular sign-off on the licensee's processes and systems, and the quality of the financial services provided. Such a responsible manager does not need to have day-to-day involvement in the business, but must be available as needed.

RG 105.28 This reduced level of involvement is available where:

- (a) the responsible manager meets one of the five options for demonstrating knowledge and skills (see RG 105.36);
- (b) the responsible manager is nominated as a key person on the licence (see RG 105.94);
- (c) the prospective licensee has a service agreement with the responsible manager (key person), under which:
 - (i) the responsible manager is responsible for decisions about the processes and systems that are subject to their sign-off, and for the quality of financial services generated through those systems; and
 - (ii) the responsible manager's review and sign-off must be completed at the time of the AFS licence application, at regular specified intervals and in other circumstances as appropriate (see RG 105.29–RG 105.32);
- (d) the licensee only provides limited financial services (see RG 105.33); and
- (e) a nominated director is named on the licence who has day-to-day involvement in the business and is responsible for ensuring that the responsible manager is consulted with and engaged, as needed, in relation to the financial services provided.

Sign-off requirements

RG 105.29 A responsible manager who is nominated as the key person, and who does not have day-to-day involvement in the business's financial services, must sign off on its processes and systems (and the services that are provided as a result):

- (a) at the time you apply for your AFS licence;
- (b) at regular specified intervals—every six months for the first year of operation, and every 12 months after that; and
- (c) in other circumstances as appropriate.

RG 105.30 Situations where we expect that the responsible manager (key person) will provide sign-off at the appropriate times include where there are material changes to the financial services provided through the automated processes and systems (e.g. changes to the business model, adjustments to the

assumptions underpinning an algorithm, or legislative reform), and where the financial services provided are not delivering the outcomes intended.

Note: If you are required to make changes to your financial services as a result of the sign-off process, you must also consider whether you have an obligation to lodge a breach notification: see RG 78.

RG 105.31 As the AFS licensee, we expect that you will:

- (a) monitor the financial services you provide, including the reports, recommendations or services that are produced by the algorithms and technology; and
- (b) establish processes to ensure that the responsible manager (key person) is involved as needed.

RG 105.32 A failure to involve the responsible manager (key person), as needed, or to maintain the appropriate processes, may indicate that you are not meeting your organisational competence obligation. Similarly, a failure by the responsible manager to provide sign-off at the appropriate times will mean that you are not complying with your obligations as an AFS licensee.

Financial services that may be provided

RG 105.33 As stated in RG 105.28(d), we will only allow a responsible manager to have a reduced level of involvement in a small-scale, heavily automated business where the licensee provides limited financial services. By ‘limited financial services’, we mean financial product advice and dealing in (other than issuing):

- (a) liquid financial products (listed and quoted Australian securities and simple managed investment schemes);

Note: A simple managed investment scheme is a registered scheme that invests at least 80% of its assets in a bank account where funds can be withdrawn within three months, or in arrangements where the investments can be realised at market value within 10 days: see reg 1.0.02 of the Corporations Regulations 2001 (Corporations Regulations).

- (b) non-cash payment facilities; and
- (c) financial products issued by a prudentially regulated business (e.g. deposit products, superannuation products and insurance contracts).

Note: Guidance on these financial services is available in [Regulatory Guide 36 Licensing: Financial product advice and dealing](#) (RG 36).

‘Responsible managers’ and ‘responsible officers’

RG 105.34 We previously used the term ‘responsible officer’ to identify the category of people we look at when assessing organisational competence. We now use the term ‘responsible manager’ to clarify that the people we look at for organisational competence purposes do not need to be ‘officers’ of the body corporate or ‘responsible officers’ as defined in s9 of the Corporations Act.

Note: We used the term ‘responsible officer’ in RG 164 and RG 130. Any person who was nominated as a responsible officer for the purposes of RG 164 or RG 130 is now taken to be a ‘responsible manager’.

- RG 105.35 Our policy on who we look at when assessing organisational competence will focus on the people you nominate who:
- (a) are directly responsible for significant day-to-day decisions about the ongoing provision of your financial services;
 - (b) have appropriate knowledge and skills for their role in your business; and
 - (c) have the capacity to fulfil the role in your financial services business.

Knowledge and skills

- RG 105.36 The people you nominate as responsible managers also need appropriate knowledge and skills for the financial services and products their role relates to. You need to be able to demonstrate that:
- (a) each responsible manager you nominate meets one of the five options for demonstrating appropriate knowledge and skills—the five options are explained in Section C; and
 - (b) together, the responsible managers you nominate have appropriate knowledge and skills to cover all of your financial services and products—this is explained in RG 105.39–RG 105.42.
- RG 105.37 If you nominate someone as a responsible manager but they do not meet one of the five options for demonstrating appropriate knowledge and skills, you cannot rely on this person to demonstrate that you meet the organisational competence obligation. If the person later acquires the knowledge and skills to meet one of the five options (e.g. by gaining enough relevant experience), you may then rely on them for organisational competence purposes.

Good fame and character

- RG 105.38 When nominating your responsible managers, you also need to ensure they are of ‘good fame and character’. Responsible managers are the people whose good fame and character we consider when we assess an application for an AFS licence.

Note: For more on our requirements in relation to good fame and character, see the *AFS Licensing Kit* (RG 1–RG 3).

Covering all of your financial services and products

What are appropriate knowledge and skills?

- RG 105.39 Together, your responsible managers need to have knowledge and skills that demonstrate:
- (a) you can provide all of the financial services and products covered by your licence and understand the legal and compliance obligations relating to those services and products; and

- (b) if you operate a registered scheme, unregistered scheme (including an investor-directed portfolio service (IDPS) or managed discretionary account (MDA) service) or custodial service—you understand the investment and operational issues of all the kinds of assets under management or, if relevant, the business operated by the scheme.

How do you ‘cover’ all of your financial services and products?

- RG 105.40 If you have a responsible manager with appropriate knowledge and skills for some, but not all, of your financial services or products, you need to ensure that your other responsible managers have appropriate knowledge and skills for the remaining services and products.
- RG 105.41 For example, if you deal in life and general insurance products, you could have one responsible manager with knowledge and skills in relation to advising and dealing in life insurance products and another with knowledge and skills in advising and dealing in general insurance products. Alternatively, one responsible manager could have knowledge and skills in relation to advising on both types of insurance products while the other responsible manager has knowledge and skills in relation to dealing in both types of insurance products. In both examples, each responsible manager would need to meet one of the five options in Section C for the services and products their role relates to.

Operating a managed investment scheme or custodial service

- RG 105.42 If you operate a registered scheme, unregistered scheme (including an IDPS or MDA service) or custodial service, you also need to have at least one responsible manager with knowledge and skills in relation to the kinds of assets under management or, if relevant, the business operated by the scheme: see RG 105.39(b). For example, if you operate a registered scheme that invests in financial assets (e.g. cash or shares), you could have:
- (a) a responsible manager with knowledge and skills in relation to the operation of a registered scheme (i.e. the financial service you provide); and
 - (b) a responsible manager with knowledge and skills in relation to investment in financial assets (i.e. the asset under management).

Each responsible manager would need to meet one of the five options in Section C for the services and products their role relates to.

How many responsible managers do you need?

RG 105.43 The number of people you need to nominate as responsible managers will depend on the nature, scale and complexity of your business: see RG 105.47. However, we expect that you will nominate two or more responsible managers.

RG 105.44 If you operate a large business, you will usually only need to nominate a subset of the people who can be responsible managers. If you are a smaller business, you may need to nominate everyone who can be a responsible manager. If you are an individual who holds or is applying for an AFS licence in your own name, you will need to nominate yourself as the responsible manager.

Note: The maximum number of responsible managers you can have nominated at any given time is 20.

RG 105.45 In some cases, we may accept you having only one responsible manager—for example, where you operate a one-person advisory business or where your main business is not the provision of financial services.

'Key person' licence conditions

RG 105.46 If you are heavily dependent on the competence of one or two responsible managers (e.g. in a small organisation with one or two principals), we will generally impose a 'key person' condition on your licence: see RG 105.94.

Nature, scale and complexity of your business

RG 105.47 Factors that can affect who you nominate as your responsible managers, and how many you need, include:

- (a) the financial services and products you provide;
- (b) the number of representatives who provide financial services on your behalf;
- (c) the size, structure and diversity of your operations;
- (d) the number of clients you have;
- (e) whether your main business is the provision of financial services; and
- (f) any conflicts of interest that may arise as a result of other positions held by the responsible manager(s).

C The five options for demonstrating knowledge and skills

Key points

You need to be able to demonstrate that each responsible manager meets one of the five options in Table 1: see RG 105.48–RG 105.49.

The five options are different combinations of training, qualifications and experience for demonstrating that responsible managers have knowledge and skills appropriate to their role: see RG 105.50–RG 105.86.

RG 105.48 You need to be able to demonstrate that each of your responsible managers has appropriate knowledge and skills for their role in your business. There are five options for demonstrating this: see Table 1.

RG 105.49 Each option has a knowledge component (generally requiring completion of relevant qualifications or training) and a skills component (generally requiring minimum years of relevant experience). Your responsible managers must meet both components of an option.

Table 1: The five options

Option	Knowledge component (e.g. qualifications, training)	Skills component (i.e. experience)
Option 1 (see RG 105.55–RG 105.57)	Meet widely adopted and relevant industry standard or relevant standard set by APRA	3 years relevant experience over past 5 years
Option 2 (see RG 105.58–RG 105.60)	Be individually assessed by an authorised assessor as having relevant knowledge equivalent to a diploma	5 years relevant experience over past 8 years
Option 3 (see RG 105.61–RG 105.65)	Hold a university degree in a relevant discipline <i>and</i> complete a relevant short industry course	3 years relevant experience over past 5 years
Option 4 (see RG 105.66–RG 105.70)	Hold a relevant industry- or product-specific qualification equivalent to a diploma (or higher)	3 years relevant experience over past 5 years
Option 5 (see RG 105.71–RG 105.74 and Example 1–Example 6)	If not relying on Options 1–4, you need to provide a written submission that satisfies us that your responsible manager has appropriate knowledge and skills for their role. Your submission must cover all of the information in RG 105.71. Some example situations where ASIC may, or may not, accept a responsible manager under Option 5 are outlined at RG 105.74.	

What are ‘relevant’ qualifications/training and experience?

- RG 105.50 Your responsible managers need to have experience and qualifications or training that are relevant to their role in your business. This means that their experience and qualifications or training need to be relevant to one or both of the following:
- (a) the financial services and products that their role relates to; and/or
 - (b) if you operate a registered scheme, unregistered scheme (including an IDPS or MDA service) or custodial service—the assets under management or business that their role relates to (see RG 105.42 for an example).

What kind of qualifications/training and experience do we accept?

- RG 105.51 RG 105.55–RG 105.70 give guidance on the qualifications and training we will accept under Options 1 to 4.
- RG 105.52 Options 1 to 4 also require minimum periods of relevant experience. We expect this to be practical experience that enables a responsible manager to understand the responsibilities and requirements of their role in your business. This generally includes experience in:
- (a) deciding how the financial services or products their role relates to are provided; and
 - (b) either actually providing those financial services or products or supervising others who do.
- RG 105.53 Option 5 is a flexible option that does not set minimum qualifications, training or periods of relevant experience: see RG 105.71–RG 105.74.
- RG 105.54 We will accept relevant overseas qualifications if they are comparable to Australian qualifications that meet one of the five options: see RG 105.80–RG 105.86.

Option 1: Relevant industry or APRA standard

- RG 105.55 We will accept a wide range of relevant standards for the knowledge component of Option 1. The onus is on you to demonstrate the relevance of a standard to your responsible manager’s role. Your responsible manager must also have three years relevant experience over the past five years.

Industry standards

- RG 105.56 As well as being relevant, industry standards must also be widely adopted. To be widely adopted, industry standards generally need to:
- (a) be endorsed by the appropriate industry body or bodies;
 - (b) have been developed with industry;
 - (c) address the competencies required for that sector, financial service or product; and
 - (d) represent the views of a significant number of industry participants.

APRA standards

- RG 105.57 We will accept a standard set by APRA if you are a body regulated by APRA and the standard is relevant to your responsible manager's role. For example, if you are a general insurer regulated by APRA, we will accept that a person who is a 'responsible person' for the purposes of APRA's Prudential Standard GPS 520 *Fit and proper* has appropriate knowledge about dealing in general insurance products.

Option 2: Individual assessment

- RG 105.58 Individual assessment means an assessment of a person's capability to undertake their current duties, taking into account their previous work experience. This type of assessment does not necessarily include a formal written examination. It may take the form of an oral or practical test, on-the-job assessment or some other form.
- RG 105.59 Individual assessment must be carried out by an authorised assessor. The assessor must verify that your responsible manager has knowledge relevant to their role and equivalent to a diploma.
- Note: You can find authorised assessors that carry out individual assessments by looking at the ASIC Training Register: see RG 105.77.
- RG 105.60 Individual assessment is generally more suited to experienced responsible managers who do not have formal qualifications. This is why Option 2 requires a longer period of relevant experience (i.e. five years relevant experience over the immediate past eight years).

Option 3: University degree and short industry course

- RG 105.61 Under Option 3, we will accept a responsible manager with a university degree that is only broadly relevant to their role if they have also completed a short industry course covering the specific knowledge not covered by their

degree. Your responsible manager must also have three years relevant experience over the past five years.

University degree

- RG 105.62 To rely on Option 3, your responsible manager's degree must be in a relevant discipline. We generally prefer this to be a financial discipline (e.g. economics, commerce, business, accounting or equivalent). In some cases, we may accept a degree in some other technical discipline (e.g. a degree in geology if your responsible manager's role relates to giving financial product advice about resource equities).
- RG 105.63 If your responsible manager has a university degree that is specifically relevant to the industry or product their role relates to, you will generally be able to rely on Option 4 instead.

Short industry course

- RG 105.64 To rely on Option 3, your responsible manager's short industry course must be specifically relevant to the industry or product their role relates to.
- RG 105.65 We will accept relevant short industry courses that are:
- (a) listed on the ASIC Training Register (see RG 105.77); or
 - (b) approved under the Australian Qualifications Framework or self-accredited by universities or other institutions of higher education (see RG 105.75–RG 105.76).

Option 4: Industry- or product-specific diploma (or higher)

- RG 105.66 To rely on Option 4, your responsible manager must have a diploma (or higher) that is specifically relevant to the industry or product their role relates to. They must also have three years relevant experience over the past five years.
- RG 105.67 We will accept relevant qualifications that are:
- (a) listed on the ASIC Training Register (see RG 105.77); or
 - (b) approved under the Australian Qualifications Framework or self-accredited by a university or other institution of higher education (see RG 105.75–RG 105.76).
- RG 105.68 Examples of qualifications that we will accept include the Diploma or Advanced Diploma of Financial Services (various providers) and the Diploma of Financial Markets (Finsia), provided they are relevant to your responsible manager's role.

RG 105.69 We will not accept an individual assessment by an authorised assessor for the purposes of Option 2 as an industry- or product-specific diploma.

Asset specialist qualifications for operating a registered scheme

RG 105.70 If you operate a registered scheme, Table 2 below sets out some of the qualifications we accept under Option 4 as demonstrating that your responsible managers have appropriate knowledge for the asset under management or the business operated by a registered scheme. However, you can rely on any of the five options to demonstrate that your responsible managers have appropriate knowledge and skills—you do not have to rely on Option 4.

Note: If you operate a registered scheme, you also need to have at least one responsible manager with knowledge and skills in relation to the financial service (i.e. the operation of the scheme): see RG 105.42.

Table 2: Relevant asset specialist qualifications for operating a registered scheme

Type of asset or business	Qualification
Financial assets Derivatives Mortgages IDPS-like schemes	Tertiary qualification (at least diploma) in business, accounting or actuarial studies
Primary production	Tertiary qualification (at least diploma) relevant to the underlying product (e.g. horticulture, viticulture, forestry)
Direct real property Time-sharing schemes	Tertiary qualification (at least diploma) in real estate or property, or a real estate agent's licence

Option 5: Other demonstration of knowledge and skills

RG 105.71 If you do not rely on Options 1 to 4, you need to be able to satisfy us that your responsible manager has appropriate knowledge and skills for their role by providing us with a written submission. Your submission must explain:

- (a) the nature of your responsible manager's role;
- (b) any relevant qualifications or courses they have completed;
- (c) their relevant experience over the past 10 years (this does not necessarily mean they need 10 years relevant experience);

- (d) any relevant credentials they have, including professional association membership or affiliation, or skills or knowledge recognised by an industry association, a regulatory body such as APRA, or some relevant overseas body; and
 - (e) why you think they have appropriate knowledge and skills for the financial services and products their role relates to.
- RG 105.72 Whether or not we accept a responsible manager as having adequate knowledge and experience under Option 5 will depend on:
- (a) each applicant's circumstances (based on the financial services or financial product authorisations sought); and
 - (b) the knowledge and experience of the particular responsible manager relative to the authorisations the licence applicant has sought.
- RG 105.73 Example 1–Example 3 below outline some situations in which we would consider that a responsible manager has appropriate knowledge and skills under Option 5. Example 4–Example 6 outline some situations in which we would not consider that a responsible manager has appropriate knowledge and skills.
- RG 105.74 These examples are meant to provide guidance and are not strict threshold requirements for a particular AFS licence applicant. This means that each case needs to be considered on its merits according to the relevant facts.

Examples where we may accept responsible managers under Option 5

Example 1: Digital advice business

Scenario

An AFS licence applicant proposes to provide personal advice to wholesale and retail clients across a range of financial products through a digital advice business model.

Note: Digital advice is the provision of automated financial product advice using algorithms and technology and without the direct involvement of a human adviser.

The applicant nominates three responsible managers to demonstrate its organisational competence.

RM1 has a Bachelor of Economics, Master of Business Administration and graduate diploma in applied finance and investment. RM1 has never provided financial advice to clients, but has six years experience at a senior level in a paraplanning division and supervised representatives providing financial planning advice to retail clients for one year.

RM2 has worked at an AFS licensee and developed financial product offers to medium-to-large-sized organisations. RM2 has over six years of experience in financial product educational support services, development of

investment mandates and portfolios, provision of client and custodial documentation, fund accounting and unit pricing.

RM3 satisfies Option 4 as they hold a Master of Applied Finance from an Australian university and have 10 years experience in the investment management industry.

Commentary

While RM1 has insufficient experience in considering retail clients' circumstances, the experience of RM2 and RM3 is relevant to the development of asset allocation alternatives.

Taking into account the nature, scale and complexity of the applicant's proposed business, ASIC would be prepared to accept the collective knowledge and experience of the three responsible managers for the purposes of granting the AFS licence authorisations sought.

Example 2: Securities trading and advice via a mobile application

Scenario

An AFS licence applicant proposes to provide general advice to retail clients, and to deal in securities to facilitate clients trading in securities, via a mobile application.

RM1 has a university degree in computer science, economics and international business. They have three years experience in advising on and dealing in securities, and have spent about two years developing the securities trading software.

RM2 has a non-financial markets degree from a foreign university, with six years regulated experience advising on and dealing in securities in the United Kingdom over the past 10 years. RM2 has also worked for a securities adviser in Australia for one year.

Both responsible managers have completed courses focused on educating responsible managers about Australian financial services laws and training that complies with RG 146 in providing advice to retail clients on securities.

RM1 meets the requirements of Option 3.

Commentary

ASIC may be satisfied that RM2 has demonstrated sufficient relevant experience over the past 10 years under Option 5.

Example 3: Non-cash payment facility issuer and market maker in foreign exchange contracts

Scenario

An AFS licence applicant intends to provide online cross border remittance services and make a market in foreign exchange contracts to retail and wholesale clients.

RM1 has a Bachelor of Computer Science. RM1 has never provided financial services to clients directly, but has seven years experience in developing foreign exchange trading systems, foreign risk management and settlement systems, as well as supporting foreign settlement and trading for major banks.

RM2 holds a Bachelor of Engineering. They have investment consulting experience in a foreign investment bank for more than three years, and a further six years experience in managing the proprietary portfolio of investment companies, involving deposit products and foreign exchange contracts.

RM1 and RM2 have completed training that complies with RG 146 in deposit products, non-cash payment facilities and foreign exchange contracts.

Commentary

While RM1 has not directly provided financial services, their experience in the foreign exchange technology platform with major Australian banks would be considered relevant to the applicant's proposed provision of financial services relating to automated foreign exchange remittance and making a market.

RM2 does not have relevant qualifications so cannot be considered under either Option 3 or Option 4. However, the relevant financial services experience of RM2 in the advisory and dealing areas of the business complements RM1's experience.

Accordingly, we would be prepared to accept RM1 and RM2 under Option 5 as their collective knowledge and experience mean the business will have adequate organisational competence for the AFS licence authorisations sought.

Examples where we may not accept responsible managers under Option 5

Example 4: Marketplace lending through securities

Scenario

An AFS licence applicant proposes to provide marketplace lending services to small-to-medium-sized enterprises funded by issuing securities.

The sole nominated responsible manager has 10 years experience in regulatory affairs and compliance, and two years in providing general advice and dealing services to wholesale clients in relation to deposit products.

Commentary

ASIC would not consider that this responsible manager has sufficient knowledge and skills under Option 5 because their experience is not relevant to the AFS licence authorisations being sought. The responsible manager's advice and dealing experience does not relate to the applicant's proposed business (i.e. the provision of advice and issue of securities associated with marketplace lending).

Example 5: Wholesale managed investment scheme

Scenario

An AFS licence applicant intends to operate a wholesale unregistered managed investment scheme as a marketplace lender. We require the applicant to have:

- a responsible manager with knowledge and experience in relation to operating a managed investment scheme; and
- a responsible manager with knowledge and skills in relation to the type of assets under management: see RG 105.42.

RM1 has eight years experience in commercial lending, credit and risk management. RM2 has two years experience in financial accounting and five years in business advisory services.

Commentary

ASIC would be satisfied that RM1 has demonstrated the required knowledge and skills in relation to the assets under management under Option 5.

We would not consider that RM2 has demonstrated the required knowledge and skills under Option 5 for operating a managed investment scheme.

We would not be satisfied that, when considered collectively, the responsible managers have the appropriate knowledge and skills for all of the AFS licence authorisations sought.

Example 6: Marketplace lending through a wholesale managed investment scheme

Scenario

An AFS licence applicant proposes to provide marketplace lending services to small businesses through an unregistered managed investment scheme.

RM1 seeks to be assessed under Option 5. RM1 has university degrees in mechanical engineering and computer science. RM1 also has over 10 years experience in corporate governance as a company director across multiple jurisdictions, with responsibility for capital raising and business development in the environmental, technology and financial sectors.

RM 2 seeks to be assessed under Option 4. RM2 has an Advanced Diploma of Financial Services and Certificate IV in Finance and Mortgage Broking, with over 10 years experience in funds management and five years in finance broking.

Commentary

We would not consider that RM1 has demonstrated the necessary competence under Option 5. This is because RM1's experience is not related to the financial services the AFS licence applicant wishes to provide or the financial products these services would relate to.

However, we would be satisfied that RM2 has sufficient relevant knowledge and experience under Option 4.

Explanations

What is the Australian Qualifications Framework?

- RG 105.75 The Australian Qualifications Framework is a government initiative that provides a nationally consistent framework for all qualifications in post-compulsory education. For a qualification to be accepted under the Australian Qualifications Framework, it must be assessed as meeting certain standards.
- RG 105.76 You can find qualifications that are accepted under the Australian Qualifications Framework by visiting www.aqf.edu.au/. You can also go to this website to check which universities and other higher education institutions can self-accredit their own qualifications.

What is the ASIC Training Register?

- RG 105.77 The ASIC Training Register is a register of training courses and authorised assessment services set up for our requirements for financial product advisers under RG 146. The ASIC Training Register is available on our website at www.asic.gov.au.

Note: The ASIC Training Register has been placed under review. The review will enable ASIC to explore options pending final policy positions, and will take into account the proposed reforms announced by the Government on 17 October 2016. The register content is valid up to 24 September 2012. For courses completed after that date, you will need to contact individual training providers directly to get information about the courses they provide and whether they meet the standards in RG 146.

- RG 105.78 You can also use the ASIC Training Register to find:
- (a) an authorised assessor to conduct a self-assessment;
 - (b) a relevant short industry course; or
 - (c) a relevant industry- or product-specific qualification.

However, you are not limited to the short courses and industry- or product-specific qualifications listed on the ASIC Training Register.

- RG 105.79 The courses listed on the ASIC Training Register are more suited to responsible managers whose role relates to the provision of financial product advice. You can rely on these courses for responsible managers whose role relates to the provision of other financial services. However, you need to be able to demonstrate the relevance of the course to your responsible manager's role.

What if your responsible manager has overseas qualifications?

- RG 105.80 If your responsible manager has a relevant overseas qualification, you need to be able to show that the qualification is comparable to an Australian qualification that meets one of the five options.

- RG 105.81 If your responsible manager has a relevant overseas qualification from a foreign university or other higher education institution, you need to provide a submission setting out the responsible manager's relevant overseas qualification and demonstrate:
- (a) the comparability of the overseas qualifications with Australian qualifications; and
 - (b) how it is relevant to the option selected.
- RG 105.82 International Education Online provides official information and advice on the comparability of overseas qualifications with Australian qualifications. International Education Online's 'Country Education Profiles (CEP) Online' is an online recognition tool to assist in determining the equivalence of qualifications from over 119 countries with Australian qualifications. CEP Online can be purchased and accessed from [International Education Online](#) or phone 1300 615 262.
- RG 105.83 If there is any doubt about the adequacy of your responsible manager's qualification based on the information on CEP Online, you can apply to International Education Online to make an assessment of the comparability of the individual qualification with Australian qualifications. This process may take up to three months.
- RG 105.84 To find out more about International Education Online's assessment of qualifications and CEP Online, go to [International Education Online](#).
- RG 105.85 If your responsible manager has some other kind of relevant overseas qualification, you need to be able to show that the qualification is recognised by a relevant overseas regulator. Relevant overseas regulators include the Financial Conduct Authority (UK), Financial Markets Authority (New Zealand), National Association of Securities Dealers (US), Canadian Dealers Association, Securities and Futures Commission (Hong Kong), and the Monetary Authority of Singapore.

Overseas qualifications and financial product advice

- RG 105.86 If your responsible manager's role relates to the provision of financial product advice, we expect your responsible manager to also complete a relevant short industry course listed on the ASIC Training Register: see RG 105.77. This is so that they can become familiar with Australian regulatory requirements (e.g. obligations under the Corporations Act) and relevant features of the financial services industry peculiar to Australia (e.g. taxation and superannuation requirements).

Note: Depending on the financial product advice the responsible manager provides, they may also need to be notified and registered on ASIC's financial advisers register.

D Telling us about your responsible managers

Key points

You must tell us about your responsible managers when you:

- apply for an AFS licence or apply to vary your AFS licence authorisations (see RG 105.87–RG 105.96); or
- change any of your responsible managers (see RG 105.97–RG 105.99).

You may also need to tell us about your responsible managers if we conduct a surveillance visit on your business.

Applying for an AFS licence or varying your licence authorisations

RG 105.87 You must demonstrate your organisational competence when you apply for an AFS licence. You may also need to demonstrate your organisational competence if you later apply to vary your licence authorisations.

RG 105.88 When you apply for an AFS licence, or to vary your licence authorisations, you must nominate your responsible managers in your application and answer questions about their role, training and experience, and which of the five options in Section C they meet. You must also support your application with a ‘core proof’ demonstrating that your responsible managers:

- individually meet one of the five options in Section C for demonstrating appropriate knowledge and skills; and
- together have appropriate knowledge and skills to cover all of your financial services and products: see Section B.

Note: See the *AFS Licensing Kit* (RG 1–RG 3) for guidance on the licence application and licence variation processes and the core proof for demonstrating organisational competence.

RG 105.89 If you apply to vary your AFS licence authorisations, you may need to add responsible managers to cover your new financial services or products. If so, you must also notify us: see RG 105.97.

What if you cannot demonstrate organisational competence?

RG 105.90 If you cannot demonstrate your organisational competence, we may refuse your licence application (under s913B(1)(b)) or decide to grant you more limited authorisations than those you are applying for.

Licence authorisations for registered schemes and IDPSs

- RG 105.91 If you want to operate a registered managed investment scheme or an investor-directed portfolio service (IDPS), you can either apply for a narrow authorisation—that is, a ‘named scheme’ or ‘named IDPS’—or apply for the broad ‘schemes of a particular kind’ authorisation or IDPS authorisation.
- RG 105.92 The narrow authorisation will only permit you to operate the particular registered scheme or IDPS named on your AFS licence. The broad authorisation will allow you to operate more registered schemes of the same asset kind, or more IDPSs, without varying your licence. However, you must ensure that you have the organisational competence for the extra schemes or IDPSs before you start operating them.
- RG 105.93 Before we can grant you a broad authorisation, you must first be able to demonstrate that you have the organisational competence and capacity (e.g. systems and resources) to operate multiple schemes of the same asset kind, or more IDPSs. You can generally demonstrate this if you have been operating two or more registered schemes or IDPSs for at least the past two years. If you are a first-time applicant, we will consider granting you a broad authorisation if you can show that you have the same level of competence and capacity as an experienced licensee.

Key person licence conditions

- RG 105.94 If we are satisfied with your organisational competence but we think you are heavily dependent on the capacity, knowledge and skills of one or two responsible managers, we will generally impose a ‘key person condition’ on your licence. The key person condition will name those responsible managers whose competence we think you heavily depend on.
- RG 105.95 For example, we may impose a key person condition if you are a small organisation with one or two principals, or if only one responsible manager has the knowledge and skills relevant to a particular financial service or product. We will also impose a key person condition for licensees who nominate a responsible manager who will provide sign-off: see RG 105.26–RG 105.33.
- RG 105.96 If a responsible manager who is a key person leaves your business, the licence condition will require you to:
- (a) nominate another responsible manager to replace them, or if you have not appointed someone to replace them, give us reasons why not; and
 - (b) demonstrate that you continue to have the organisational competence for all of your financial services and products.

Note: The standard key person condition is condition 3 of PF 209.

Changing your responsible managers

RG 105.97 Once you have an AFS licence, you have an ongoing obligation to formally notify us when you change any of your responsible managers. This means you must tell us when you add or remove any of your responsible managers.

Note: We maintain details of your responsible managers as part of our register of AFS licensees under s922A and reg 7.6.05. You must notify us if information in the register changes: see reg 7.6.04(1)(b). To do this, use ASIC form FS20.

RG 105.98 If the responsible manager you are changing is named on your licence as a key person, you must also apply to vary the key person condition on your licence.

Note: To vary a key person condition, use ASIC form FS03.

When do you need to add or remove a responsible manager?

RG 105.99 You may need to add or remove a responsible manager if:

- (a) your business changes (e.g. it expands to cover new services or products, or the roles of people within your business change); or
- (b) a responsible manager leaves your business or is no longer involved in significant day-to-day decisions about your business.

Key terms

Term	Meaning in this document
advice	Financial product advice
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
client	A retail client (unless otherwise specified)
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
custodial service	Custodial or depository service as defined under s766E of the Corporations Act
financial product	A facility through which, or through the acquisition of which, a person does one or more of the following: <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) Note: This is a definition contained in s763A of the Corporations Act: see also s763B–765A.
financial product advice	A recommendation or a statement of opinion, or a report of either of these things, that: <ul style="list-style-type: none"> • is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or • could reasonably be regarded as being intended to have such an influence. This does not include anything in an exempt document Note: This is the definition contained in s766B of the Corporations Act.
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act

Term	Meaning in this document
general advice	Financial product advice that is not personal advice Note: This is a definition contained in s766B(4) of the Corporations Act.
general obligations	The obligations of an AFS licensee under s912A of the Corporations Act
IDPS	Investor directed portfolio service
licensee	An AFS licensee
MDA	Managed discretionary account
organisational competence obligation	The obligation in s912A(1)(e) of the Corporations Act
personal advice	Financial product advice given or directed to a person (including by electronic means) in circumstances where: <ul style="list-style-type: none"> the provider of the advice has considered one or more of the client's objectives, financial situation and needs; or a reasonable person might expect the provider to have considered one or more of these matters Note: This is the definition contained in s766B(3) of the Corporations Act.
reg 7.6.04 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.6.04)
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
retail client	A client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations
RG 146 (for example)	An ASIC regulatory guide (in this example numbered 146)
s912A (for example)	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified
simple managed investment scheme	A registered scheme that invests at least 80% of its assets in a bank account where funds can be withdrawn within three months, or in arrangements where the investments can be realised at market value within 10 days: see reg 1.0.02 of the Corporations Regulations

Term	Meaning in this document
small-scale, heavily automated business	An AFS licensee, or AFS licence applicant, with a heavily automated business model and a small client base. 'Heavily automated' means the business relies on algorithms or other technology to deliver financial services in a consistent way following the input of required client information (i.e. there is extremely limited human discretion exercised by the licensee or its representatives in providing the financial services on a day-to-day basis). A licensee or applicant is small-scale if it has provided financial services to fewer than 1,000 retail clients
you	AFS licensee or applicant for an AFS licence

Related information

Headnotes

compliance measures; general obligations; knowledge and skills; nature, scale and complexity; organisational competence; responsible manager

Pro formas

[PF 209](#) *Australian financial services licence conditions*

Regulatory guides

[RG 1–3](#) *AFS Licensing Kit*

[RG 36](#) *Licensing: Financial product advice and dealing*

[RG 78](#) *Breach reporting by AFS licensees*

[RG 104](#) *Licensing: Meeting the general obligations*

[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 181](#) *Licensing: Managing conflicts of interest*

Legislation

Corporations Act, Ch 7; s9, 912A, 912D, 913B, 914A, 915C

Corporations Regulations, regs 1.0.2, 7.6.04, 7.6.05

ASIC forms

FS01 *Application for AFS licence*

FS03 *Application for variation of authorisation and other conditions*

FS20 *Change of details for an Australian financial services licence*