

Standard Conditions for Qualifying Financial Entities (QFEs)

Section 67 of the Financial Advisers Act 2008 provides that a grant of QFE status may be subject to terms and conditions and may also incorporate standard conditions. The standard conditions in force from 20 January 2011 are set out below.

1. Capacity

- 1.1 The QFE must at all times maintain governance and compliance arrangements appropriate to the financial adviser services of the QFE, the QFE Group and its nominated representatives.
- 1.2 The QFE must at all times maintain procedures to:
 - i) ensure that retail clients receive adequate consumer protection, including clients of the QFE, any member of the QFE Group and its nominated representatives
 - ii) for personalised services provided by QFE advisers to retail clients in relation to category 1 products, ensure that consumer protection is of a similar standard to that provided by advisers who are subject to the Code of Professional Conduct for Authorised Financial Advisers taking into account the scope of category 1 products for which the financial adviser service is provided
 - iii) train employees of the QFE and the QFE Group and nominated representatives
 - iv) set standards for employees of the QFE and the QFE Group and nominated representatives.
- 1.3 The QFE must maintain procedures for monitoring the matters referred to in 1.2.
- 1.4 The QFE must ensure that its governance and compliance arrangements and procedures are substantially the same as, or improve on, the arrangements and procedures set out in the QFE's Adviser Business Statement (ABS) referred to in the letter of grant of QFE status from the Financial Markets Authority (FMA)¹ (the QFE's 'Initial ABS').
- 1.5 The QFE must maintain and keep current a written ABS, in accordance with the current QFE ABS Guide.

The QFE must ensure that this accurately reflects:

¹ All grants of QFE status made by the Securities Commission prior to 1 May 2011 should be read as granted by FMA by virtue of section 73 FMA Act 2011.

- i) the financial adviser services of the QFE, the QFE Group and its nominated representatives; and
- ii) the governance and compliance arrangements of the QFE over these services.

The QFE must provide a copy of its ABS to FMA with its Annual Report and on request within the time period specified.

- 1.6 The QFE must notify FMA in writing within five business days of becoming aware of any matter that the QFE or any member of the QFE Group believes has resulted or is likely to result in material non-compliance with the QFE's governance and compliance arrangements in 1.4.
- 1.7 The QFE must notify FMA in writing within five business days of becoming aware of any matter that the QFE or any member of the QFE Group believes has materially affected or is likely to materially affect the capacity of the QFE to fulfil its financial adviser service obligations.
- 1.8 The QFE must notify FMA if it intends to materially change:
 - i) the governance and compliance arrangements; or
 - ii) the financial adviser services of the QFE, a member of the QFE Group or its nominated representativesfrom those set out in the QFE's Initial ABS.
- 1.9 When making any notification under 1.6 to 1.8 above, the QFE should, as far as practicable, indicate to FMA its planned actions to maintain its capacity under section 1 of the standard conditions and its compliance with its obligations under the Financial Advisers Act.

2. Reporting and notifications

- 2.1 The QFE must report in accordance with the reporting and accounting requirements contained in the Reporting and Notifications Standard Conditions for QFEs.

3. Records

- 3.1 The QFE must ensure that relevant records pertaining to the financial adviser services of the QFE or QFE Group (including previous members of a QFE Group) and its nominated representatives are available for inspection by FMA at any time.
- 3.2 The QFE must ensure that relevant records pertaining to the financial adviser services of the QFE, QFE Group (including previous members of a QFE Group) or its nominated representatives are kept for a minimum of seven years.
- 3.3 The QFE must ensure that it keeps complete lists of the QFE's nominated representatives including commencement and termination dates.

4 Disclosure

- 4.1 In making disclosure under s25 of the Financial Advisers Act the QFE must disclose the information in Table 1 and Table 2 for the financial adviser services specified in the Tables.
- 4.2 If a QFE makes disclosure under s25 of the Financial Advisers Act in a form other than that set out in Regulation 8(5)(a-d) of the Financial Advisers (Disclosure) Regulations 2010, it must document why it believes the disclosure is appropriate for the service provided, taking into account the objectives for disclosure in s3(2)(b)(i) of the Act.
- 4.3 Where the QFE's disclosure under s25 of the Financial Advisers Act is not in writing, the QFE must inform the client that written disclosure is available on request.

TABLE 1: About the business

This table forms part of condition 4.1

	Information to be disclosed	For services relating to:	
		Category 1 products	Category 2 products
1	That the QFE takes responsibility for the financial adviser service/s provided by its QFE advisers.	yes	yes
2a	<ul style="list-style-type: none"> A general description of the QFE or QFE Group's connection to the products or services. If it is not practicable to provide the information in Table 2 Part 1 with the information above, an explanation that the client will be provided with more detailed information as soon as practicable. 	yes	not required
2b	A general description of the classes of financial product or a list of the financial products relating to the financial adviser service/s.	not required	yes
3	<ul style="list-style-type: none"> A general description of how the QFE, members of the QFE Group and its QFE advisers are remunerated for the financial adviser service/s. A statement of whether there are other factors that could have a material influence on the QFE and its advisers. If it is not practicable to provide the information in Table 2 Part 3 with the other information above, an explanation that the client will be provided with more detailed information as soon as practicable. 	yes	not required

4	<ul style="list-style-type: none"> An explanation that the QFE is licensed and regulated by FMA for its financial adviser service/s along with the contact details of FMA. An explanation that the client can obtain information about financial advisers from FMA and can report information about the QFE or its advisers to FMA. 	yes	yes
5	An explanation that the information provided is important and should help the client decide which financial adviser to choose.	yes	yes
6	An explanation that the client can check the status of the QFE and whether other entities are a member of the QFE Group on the register at www.fspr.govt.nz .	yes	yes

TABLE 2: About the service

This table forms part of condition 4.1

Information to be disclosed for services relating to Category 1 products	
1	The type(s) of financial adviser service provided (including financial products in relation to which the financial adviser service is provided).
2	Any fee(s) chargeable to the client for the financial adviser service, including the basis on which the fee will be charged, the amount or a reasonable estimate of the fee and when the client must pay the fee.
3	<p>Details of any material influence on the QFE or the QFE adviser, including any interest, incentives, remuneration, relationships or associations.</p> <p>In relation to the matters above, the QFE must disclose the amount (or rate) of the incentive or remuneration, to the extent practicable, and the name of the person who provides the remuneration if that person is outside the QFE Group.</p>

Definitions

In the conditions, the following terms have the meanings set out below:

Material influence (in Tables 1 and 2) An influence which a reasonable client would find reasonably likely to influence the adviser in providing the financial adviser service.

Remuneration Any commission, fee, or other benefit or advantage, whether pecuniary or non pecuniary, and whether direct or indirect; but does not include salary or wages of a fixed amount.

5. No endorsement

- 5.1 The QFE, any member of the QFE Group and its nominated representatives must not at any time state or imply that FMA has endorsed or approved the QFE's business, financial adviser services, or solvency, or any other agreements or business arrangements of the QFE.