



# Standard Conditions for Authorised Financial Advisers

Pursuant to section 55 of the Financial Advisers Act 2008 (**the Act**), the Authorised Financial Adviser (**AFA**) is authorised by the Financial Markets Authority (**the FMA**) to provide the financial adviser services specified in the Certificate of Authorisation subject to terms and conditions. Those terms and conditions include, by way of incorporation, the following standard conditions:

## 1. Requirement to have and maintain an Adviser Business Statement (ABS)

The AFA must maintain and keep current a written Adviser Business Statement (**ABS**) in accordance with the most current published version of the AFA ABS Guide. The AFA must ensure this accurately reflects the AFA's business and compliance arrangements. The AFA must provide annual confirmation to the FMA that the AFA's ABS is current and must provide a copy of the ABS to the FMA on request and within the time period requested.

## 2. Reporting

The AFA must report in accordance with the periodic and other reporting, accounting and notification requirements contained in the Regulatory Reporting Guide for AFAs.

## 3. Notifications

The AFA must notify the FMA in writing within five business days of any significant matter concerning the AFA's authorisation, or financial adviser activities including:

- changes to the AFA's financial services business or activities, including any changes that may affect the AFA's financial adviser service or services (FAS scope) authorised by the FMA
- changes that may impact upon the Certificate of Authorisation, the period of authorisation, or any exemption granted to the AFA by the FMA
- any serious breach by the AFA of any of the following: the Act or any regulations made under the Act, the Code of Professional Conduct for Authorised Financial Advisers, the standard conditions (or any other terms and conditions) of authorisation
- any adverse findings, convictions, or rulings by any regulator, professional body or any court or tribunal in New Zealand or overseas, relating to the AFA where any such finding or ruling would have been a matter required to be disclosed in the AFA's initial application for registration and authorisation

- any changes to the AFA's relationship with a Qualifying Financial Entity (**QFE**) or employer, such as joining or leaving a QFE or changing employers
- any other matter that has arisen since the date of grant of authorisation, which would have been required to be disclosed at the time of the AFA's application to be authorised.

## **4. Records**

The AFA must ensure all records pertaining to his or her financial adviser business are available for inspection by the FMA at any time. This includes:

- the AFA's client files containing the records required by Code Standards 12 and 13,
- the continuing professional development records and personal professional development plan required by Code Standards 17 and 18,
- and any other records required to be kept under the Act or any regulations.

## **5. Client money**

Where the AFA acts as an intermediary for a client in the receipt, holding, payment or transfer of client money or client property, the AFA must act in accordance with the brokers' conduct and trust accounting obligations in Part 3A of the Financial Advisers Act 2008 (even if the obligations would not otherwise apply to the AFA).

## **6. Supervising trainee advisers**

Where the AFA is responsible for supervising trainee financial advisers, the AFA must act professionally and must always ensure there is an appropriate level of supervision of the trainee including during any client interaction. The supervising AFA must ensure the trainee does not provide services to clients that can only be provided by AFAs.

## **7. No endorsement**

The AFA must not at any time state or imply the FMA has endorsed or approved the AFA's business, advice, or solvency, or any other agreements or business arrangements of the AFA.

## **8. Outsourcing**

Standard condition 8 applies only to those authorised to provide personalised DIMS.

If the AFA outsources any process/system necessary for the effective and proper running of the personalised DIMS (or any other authorisation obligation), the AFA must be satisfied the provider is capable of performing the service to the standard required to enable the AFA to meet the AFA's authorisation obligations. The AFA must have a legally binding agreement with the provider. The AFA must also ensure that records pertaining to the DIMS are available for inspection when requested by the FMA.

## 9. Financial resources

Standard condition 9 applies only to those authorised to provide personalised DIMS.

The AFA must calculate the AFA's net tangible assets (**NTA**) at least monthly, including as at the AFA's balance date each year. If the AFA's calculation shows the AFA did not have positive net tangible assets at any time, the AFA must notify the FMA and provide an explanation, unless:

- (a) the AFA has previously notified the FMA that the AFA has negative net tangible assets and explained:
  - i. The circumstances that cause the AFA to have negative NTA, including the nature of any significant intangible assets or related party receivables' and
  - ii. Whether the AFA considers having negative NTA adversely impacts on the AFA's ability to provide DIMS effectively on an ongoing basis and why' and
- (b) the FMA has advised in writing that the AFA does not need to provide further notifications in respect of having negative NTA arising from those circumstances, and
- (c) there has been no material change from the position and circumstance described to the FMA in the most recent previous notification.

Upon request from the FMA the AFA must, within the time frame requested by the FMA, engage a qualified auditor and enter into agreed procedures to review the calculation of the AFAs NTA. The auditor's report must include a statement that, as at the NTA calculation date, in the auditor's opinion, the AFA calculated the AFAs net tangible assets correctly.