

FINANCIAL SERVICES PROVIDERS: ANNUAL COMPLIANCE REPORTING OBLIGATIONS—WHAT YOU NEED TO KNOW

The following is a summary of the primary annual or periodic compliance-related obligations that may apply to Financial Services Providers.

The summary is not intended to be a comprehensive review of a Financial Services Provider's tax, corporate, fundraising or other annual requirements, nor an exhaustive list of all of the obligations of a Financial Services Provider under statutes or regulations or a specific Code of Conduct.

Although some of the obligations listed apply only to APRA regulated ADI's, non-ADI's (such as securities exchange listed entities, brokers or financial planners) will have to comply with any other relevant licence and continuous disclosure requirements.

Some obligations have fixed dates (see over), others are continuous or as part of an annual internal program.

Annual Assessment of Compliance Program

At least annually, you should review your compliance policies and procedures to assess their effectiveness in preventing statutory and licence breaches. Are you acting efficiently, honestly and fairly?

The review should be conducted with special focus on your specific business model and any changes to it and its products and services during the reviewed year, and all the actual and potential conflicts of interest that might result from that business model and those changes. The annual assessment process should be documented and those document(s) should be presented to the Risk and Audit Committee for noting.

The annual assessment process should include a detailed review of:

- Your Compliance Risk Framework and compliance plan;
- Conflicts of Interest – for example, director and staff disclosures, accuracy of disclosures in your FSG and PDS and in your marketing documents and compensation arrangements;
- Your Complaints, Disputes and Breaches Register: how they are monitored and reported, and errors fixed?
- Your Website and Marketing Campaigns– test the accuracy of marketing statements, disclaimers and footnotes and the adequacy of your records, review your Social Media policies and procedures;
- Your training register for your representatives;
- The role of your Responsible Managers and monitoring of licence conditions (eg AFSL, Australian Credit Licence);
- Compliance with Codes of Practice;
- New and changed products (do you have a product development checklist, are they authorized under your licences?, are the terms and conditions accurate and not misleading);
- Your contracts register and arrangements with third party providers, strategic alliances and outsourcing (especially cross border arrangements);
- Your resources (skills, HR, financial, technological).

Anti-Money Laundering

A Financial Services Provider should review its anti-money laundering program on an annual basis to determine whether the program is reasonably designed to ensure compliance with the AML/CTF Act given the business, customer and geographic risks of the Financial Services Provider.

Insurance

Have you reviewed your Directors and Officers Liability Insurance, professional indemnity insurance and other insurances to ensure they are appropriate and adequate?

Privacy

Have you reviewed your privacy policies and the collection, use and disclosure of customers' personal information and its accuracy and security? Do you have a Data Breach Notification procedure?

**FINANCIAL SERVICES PROVIDER
REPORTING CALENDAR (in chronological order)**

| Issue | When |
|--|--|
| ASIC unclaimed money return for year ending 31 December | 31 March each year |
| Austrac AML/CTF Compliance report for year ending 31 December | 31 March each year |
| Workplace Gender Equality report for businesses with 100 or more employees | Between 1 April and 31 May each year for prior 1 April to 31 March |
| Renew Australian Financial Complaints Authority annual membership | After 30 June each year |
| Statement under the Modern Slavery Act (if more than \$100 million revenue) | Annually from 30 June 2020 (for calendar-year-reporting entities) or 31 December 2020 (for financial-year-reporting entities) |
| Australian Financial Services (AFS) licensees and representatives of AFS licensees who provide personal advice to a retail client and who enter into or have an ongoing fee arrangement with those clients must provide those clients with a fee disclosure statement (FDS) in writing on an annual basis. | Annually |
| Banking Code of Practice or Customer Owned Banking Code of Practice: an annual compliance statement | 31 August each year for the previous financial year |
| Send or make available to members copies of the financial report, director's report and auditor's report (or a concise report). | by the earlier of 21 days before the next AGM or 4 months of the end of the financial year: s 315 Corporations Act. |
| Lodge annual reports with ASIC | within 4 months after the end of the financial year (3 months if you are disclosing entity): s 319 Corporations Act. |
| Lodge annual CPS 220 risk management declaration with APRA (for ADI's and insurers) | within 4 months after annual balance date (3 months if you are disclosing entity) |
| AFS licence: lodge with ASIC FS 70 and FS71 for each financial year | Licensees with a financial year ending 30 June are required to lodge the profit and loss statement and the balance sheet by 31 October of the relevant year. |
| AGM timing | You must hold your AGM within 5 months of the end of your financial year: s250N(2) Corporations Act. |
| Credit licence annual compliance certificate | Within 45 days of licence issue anniversary each year |
| Annual ePayments Code report | Each data collection period starts on 1 January and ends on 31 December of that year. The report needs to be lodged with ASIC by 1 March the following year. |

Warning – Bright Law © This checklist is provided only to indicate the typical regular reporting obligations. It excludes the reporting and information recording obligations listing on the following page.

OTHER OBLIGATIONS

- Austrac Suspicious Matter, Threshold Transactions and International Funds transfer Instruction Reports as required
- ASIC and APRA breach reports (as relevant)
- ASIC reporting of changes to AFS and Credit licenses including appointment of, and changes to, responsible managers, authorised representatives and financial advisers
- Privacy Commissioner Data Breach Notification
- APRA reports including APS 330 disclosure and APS 910 Financial Claims Scheme reports
- FATCA reports (if applicable)
- Commonwealth Tax (including income tax, FBT, GST) and State Tax and stamp duty obligations and payments of supervisory levies
- Hardship procedures
- Enforcement procedure, credit reporting and default credit listings
- Complaint and Dispute Resolution procedures
- Business name changes and renewals
- Company changes and renewals
- Land Title and PPS Register registration and changes
- Employment, workplace and OHS obligations
- Board election and fit and proper procedures
- ABS reporting
- Age Discrimination Act
- Disability Discrimination Act
- Racial Discrimination Act
- Sex Discrimination Act