



Strategi
Compliance

BEST PRACTICE
PREPARING FOR 15 MARCH
2021 CHECKLIST



Introduction

On 15 March 2021, all those who provide regulated financial advice, will move from operating under the Financial Advisers Act 2008 into operating under the Financial Markets Conduct Act (FMCA) 2013.

15 March 2021 is the date upon which all those providing regulated financial advice must be compliant with the relevant legislation,

regulation, Code, good conduct obligations and where applicable, with any new product provider agreements.

What one needs to be compliant with is covered in the Strategji Institute [Closing the Gaps](#) course plus in the *Strategji Institute Regulatory guide for the financial services industry Edition 5*.



Regulatory guide for the financial services industry Edition 5

An electronic copy of the regulatory guide is provided as part of the [Closing the Gaps course](#). A hard copy can be obtained for:

- If enrolled in the Closing the Gaps course: \$30 plus GST
- If not enrolled in the Closing the Gaps course \$55 plus GST

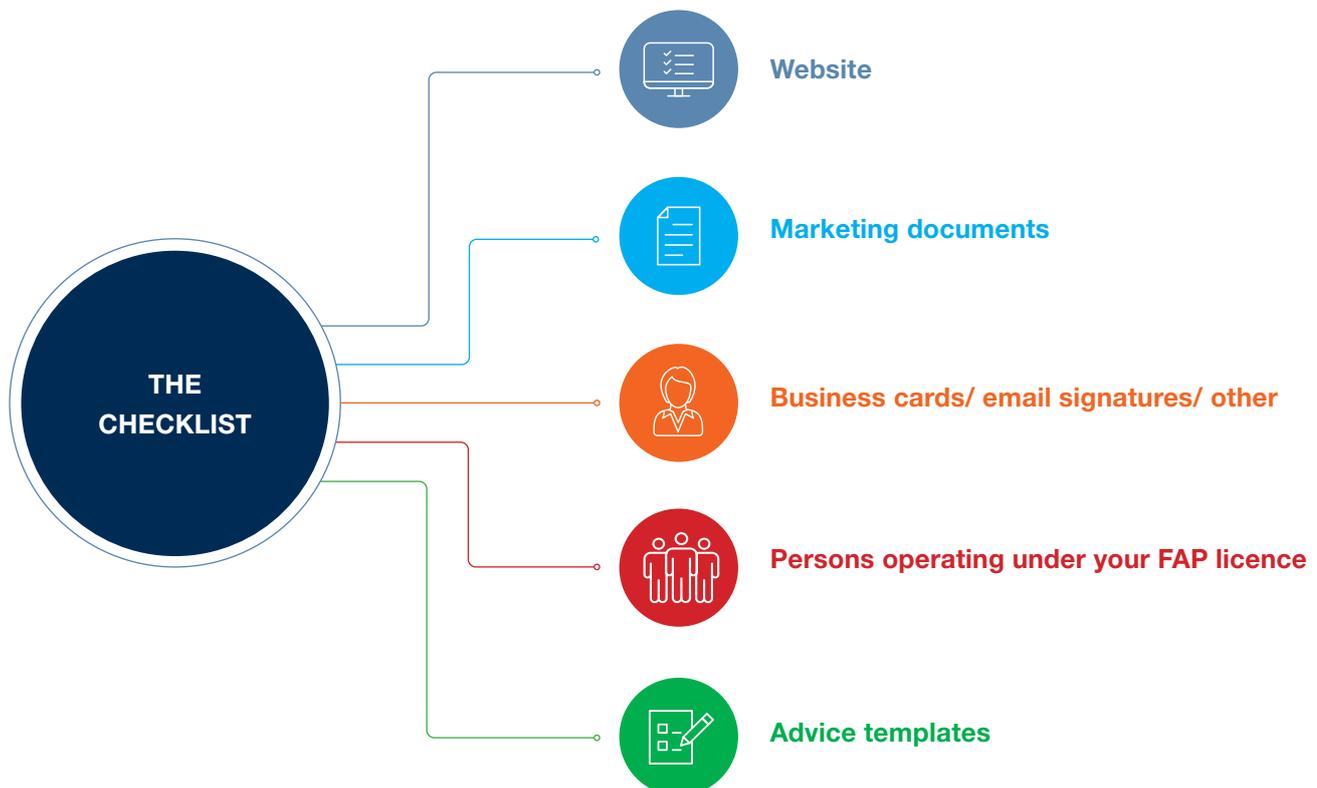
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Checklist overview

We have divided the Preparing for 15 March 2021 checklist into the following areas:



What does this checklist provide?

This checklist provides a list of practical items which will need to be in place and operational on 15 March. Prior to 15 March, businesses and individuals must continue to operate in accordance with the current legislation.

This checklist does not purport to be a comprehensive list of every action that is required. It is the individual responsibility of every transitionally licensed FAP, authorised body, financial adviser or nominated representative to ensure they have taken the required steps to be compliant on 15 March 2021.

Preparing for 15 March 2021 checklist

SERIAL	ITEM	ACTIONS	✓
WEBSITE			
1	Disclosure	<ul style="list-style-type: none">• Draft publically available disclosure information. Have it signed off and ready to go live on 15 March. Ensure there is a prominent button/link on home page that takes the viewer to the relevant section of the website where the disclosure information is located.• Remove the wording 'A disclosure statement is available on request and free of charge'.• In other parts of the website where a viewer may land, (e.g. adviser profiles) have a link to the disclosure information.• In any wording on the website (including articles), remove reference to disclosure statements and replace with wording relating to what you call your publicly available disclosure information, e.g. "Important information about us".• Outline how people can obtain other disclosure information.	
2	Privacy Act 2020	<p>The Privacy Act 2020 came into force on 1 December 2020. The website will need amending to reference the Privacy Act 2020. This will involve:</p> <ul style="list-style-type: none">• Greater prominence of the link to the Privacy statement/policy.• Publication of the Privacy Statement and possibly also the Privacy Policy.• Changes in the T&Cs section on the website.	
3	Consumer legislation	<ul style="list-style-type: none">• Read and understand the Fair Dealing Rules under FMCA.• Read and understand the Fair Trading Act 1986 and the Consumer Guarantees Act 1993.• Do a complete review of your website to ensure it contains nothing that is misleading, deceptive, contains unsubstantiated representations, false or misleading representations, likely to confuse or mislead, or is likely to be deemed unfair practices under the Fair Trading Act 1986. See the <i>Regulatory guide for the financial services industry Edition 5</i> to obtain an explanation.	

- 4 Legal status**
- Review all references to the business to ensure it is clear whether the business is a licensed FAP or an authorised body (unlicensed FAP) operating under the licence of the named FAP.
 - If all those providing regulated financial advice are financial advisers, then ensure they are referred to by that term. If all the advisers are nominated representatives, then they need to be referred to as nominated representatives. The term 'financial adviser' has been a generic term up until now. From 15 March onwards, it will be a specific legal term so care needs to be taken when using it.
 - Remove reference to RFAs, AFAs, QFE advisers.
 - If the business is a single licensed FAP and the FAP is the individual, then the sole adviser cannot be referred to as a financial adviser. Instead, the individual needs to be referred to as a financial advice provider (FAP).
 - A business will need to hold a specific licence to engage nominated representatives, so do not call your people nominated representatives unless legally you are entitled to do so.
 - Only list on the website the products you are licensed/registered to provide advice on.

MARKETING DOCUMENTS

- 5 Disclosure**
- Remove from all documents 'A disclosure statement is available on request and free of charge.' Ideally replace it with a link to your publicly available disclosure information.
 - Where appropriate, explain the disclosure process.
 - You may want to have a hard copy document which also serves as the stage 1 publicly available disclosure.
 - Change reference to your licence status e.g. an authorised body operating under the licence of XX or mention the business is a licensed FAP. If you are a single adviser business and a licensed FAP in your own right, then delete all reference to being a financial adviser and replace with financial advice provider.

- 6 Terminology**
- Remove the generic term 'financial adviser', ensure you replace it with the correct legal terminology for the status of the advisers, e.g. financial adviser or nominated representative.
 - If a QFE, remove the term QFE and replace with financial advice provider.
 - Remove reference to RFAs, AFAs, QFE advisers.
 - Only list within the marketing documents the products you are licensed/registered to provide advice on.
 - Amend all adviser profiles.

- 7 Consumer legislation**
- Do a complete review of all your marketing material to ensure it contains nothing that is misleading, deceptive, contains unsubstantiated representations, false or misleading representations, likely to confuse or mislead, or is likely to be deemed unfair practices under the Fair Trading Act 1986. See the *Regulatory guide for the financial services industry Edition 5* to obtain an explanation.

BUSINESS CARDS/ EMAIL/ SIGNATURES/ OTHER

- 8 Business cards**
- Remove reference to AFA, RFA or QFE adviser and replace with financial adviser, nominated representative or financial advice provider – based upon your legal status.
 - The above terms should not be added to the end of your qualifications as they are designations not qualifications.
 - Add in the correct legal status and whether the licensed FAP or an authorised body of the *XX FAP*. Include the *FSP #*.
 - Only list on the business card the products you are licensed/registered to provide advice on.
- 9 Email signature block**
- Update to reflect the Privacy Act 2020.
 - Remove reference to AFA, RFA or QFE adviser and replace with financial adviser, nominated representative or financial advice provider – based upon your legal status.
 - The above terms should not be added to the end of your qualifications as they are designations not qualifications.
 - Add in the correct legal status and whether the licensed FAP or an authorised body of the *XX FAP*. Include the *FSP #*.

- 10 Other signoffs in documents such as letter templates, memos etc.**
- Remove reference to AFA, RFA or QFE adviser and replace with financial adviser, nominated representative or financial advice provider – based upon your legal status.
 - The above terms should not be added to the end of your qualifications as they are designations not qualifications.

PERSONS OPERATING UNDER YOUR LICENCE

- 13 Recording authorised bodies**
- An authorised body is an unlicensed FAP. There should be a formal signed agreement between the licensed FAP and the authorised body. This agreement would outline the obligations of the authorised body.
 - The authorised body must be listed on the transitional licence of the FAP.
- 14 Updating the FSPR**
- By 15 March 2021, all those providing regulated financial advice must be operating under a FAP.
- The holder of the FAP licence will have until 15 June 2021 to notate on the FSPR all those who operate under its licence.

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ADVICE TEMPLATES

- 11 Advice process**
- Review your entire advice process to see how you can make it clear, concise and effective, plus avoid repetition.
 - Decide if you are going to provide advice in writing or via some other means.
 - Document your advice process and cross reference it to the principles.
 - Look at how you will handle the four stages of disclosure within the process.
 - Document how you demonstrate you took reasonable steps to ensure the client understood the nature and scope of the advice provided.
- 12 Advice templates**
- Amend terminology relating to AFA, RFA, QFE adviser etc.
 - Reference whether the business is a licensed FAP or an authorised body under *XX licensed FAP*. Include *FSP #*.
 - Clearly show if the advice is being provided by a financial adviser, nominated representative or financial advice provider.
 - Include the appropriate disclosure when required.
 - Amend client acknowledgement sections of SOA.
 - Amend scope of advice or engagement document wording.
 - Update documents to reflect the Privacy Act 2020.
 - Remove reference to the Trustee Act 1956 and the Perpetuities Act 1964 and replace with the Trusts Act 2019 and amend any explanatory information to reflect the Trusts Act 2019.
 - Undertake a 'clear, concise and effective review' to ensure the documents are easily understood by clients.



Assistance in getting ready for 15 March 2021

The Strategi compliance and licensing team is available to help existing and new clients be prepared for the changes which occur on 15 March.

If you have any queries, please contact:

✉ info@strategi.co.nz

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For more information about the contents of this Preparing for 15 March 2021 checklist, or for advice or guidance in implementing its contents, contact:

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