DRAFT REGULATORY GUIDE 176

Foreign financial services providers

November 2026

About this guide

This guide is for foreign financial services providers (FFSPs) that intend to rely on a specific exemption regime applying to FFSPs under the Corporations Act to provide financial services in Australia or to clients in Australia.

It explains when an FFSP may be eligible to rely on an AFS licence exemption, conditions associated with relying on an exemption, and requirements for the FFSP to notify ASIC of certain matters.

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 draft guide was issued in November 2026 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 176, issued June 2012 and March 2020
- Superseded Policy Statement 176, issued September 2003, reissued May 2005, rebadged as a regulatory guide 5 July 2007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

Financial services providers that carry on business in Australia must hold an Australian financial services licence (AFS) licence, unless they are eligible for an exemption under the *Corporations Act 2001* (Corporations Act).

Foreign financial services providers (FFSPs) that are based outside of Australia and offer their services to clients located in Australia may be eligible for certain AFS licence exemptions.

FFSPs who wish to rely on the above exemptions must notify ASIC of this intention and comply with the associated exemption conditions.

Who this guide is for

RG 176.1 This guide is for foreign financial services providers (FFSPs) who intend to provide financial services in Australia or to clients located in Australia. FFSPs are overseas-based financial services providers that offer services including (but not limited to) banking, investment management, wealth management, market making and financial advisory services.

Purpose of this guide

RG 176.2 Generally, entities that carry on a financial services business in Australia will need to hold an AFS licence, unless an exemption under the Corporations Act or the Corporations Regulations applies.

> Note: 'Carrying on a business' includes conduct that is 'intended to induce people' in Australia to use financial services you provide: s911D. For more general guidance on the financial services regime in Australia for people or companies from overseas who propose to conduct a financial services business in Australia, see Regulatory Guide 121 *Doing financial services business in Australia* (RG 121).

RG 176.3 This guide explains the AFS licence exemptions that are available to FFSPs.

> Note: In this guide, references to sections (s) are to the Corporations Act, unless otherwise specified. References to regulations (regs) are to the *Corporations Regulations 2001* (Corporations Regulations), unless otherwise specified.

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What this guide covers

AFS licence exemptions for FFSPs

RG 176.4 The *Treasury Laws Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Act 2026* amends the Corporations Act to introduce a new regulatory framework for FFSPs.

RG 176.5 Table 1 sets out the licensing exemptions applicable to FFSPs. More information about the eligibility requirements for each exemption is at Section B.

RG 176.6 If you intend to rely on these exemptions, you must comply with certain conditions (see Section C). This includes notifying ASIC about your intended reliance on an exemption no earlier than 15 business days before and no later than 15 business days after starting to provide financial services.

Table 1: Overview of the exemptions under the FFSP regime

Exemption	Description
Comparable regulator exemption	If you are authorised, registered or licensed by a comparable regulator to legally provide the same or substantially the same financial service in a place outside Australia, you are exempt from the requirement to hold an AFS licence where you provide financial services to wholesale clients in Australia.
Professional investor exemption	If you provide financial services to professional investors, you are exempt from the requirement to hold an AFS licence if you provide those financial services from outside Australia (except during limited marketing visits).
Market maker exemption	If you are making a market for derivatives on a prescribed licensed financial market, you are exempt from the requirement to hold an AFS licence if you provide financial services from outside Australia.

‘Fast track’ fit and proper person test exemption

RG 176.7 If you are an FFSP seeking to establish more permanent operations in Australia, you may be exempt from the fit and proper person test when applying for an AFS licence if:

(a) you hold any foreign authorisations administered by a comparable regulator necessary to legally provide the same or substantially the same financial services in a comparable jurisdiction as those to be provided under the AFS licence; and

(b) the AFS licence, if granted, would be restricted to the provision of financial services to wholesale clients.

Note: For more information, see RG 176.26 -RG 176.27.

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B AFS licence exemptions for FFSPs

Key points

You must meet certain eligibility requirements to rely on the licence exemptions for FFSPs.

Summary of exemption eligibility criteria

RG 176.8 You may be able to rely on AFS licence exemptions under the FFSP regime if you:

(a) are licensed, authorised or otherwise regulated by a prescribed foreign regulator (the *comparable regulator exemption*);

(b) provide financial services from outside Australia (except during limited marketing visits) to professional investors (the *professional investor exemption*); or

(c) provide a financial service from outside Australia that involves making a market for derivatives on a prescribed licensed financial market (the *market maker exemption*).

RG 176.9 You may rely on more than one exemption if you meet the eligibility requirements for each exemption.

RG 176.10 When you commence providing financial services in reliance on an exemption, you must notify ASIC no more than 15 business days before and no less than 15 days after you start providing the service.

Note: ASIC will publish further detail on its website about the notification process ahead of the commencement of the new regime.

RG 176.11 You may voluntarily notify ASIC at any time if you no longer intend to rely on an exemption. The notice takes effect when received by ASIC.

RG 176.12 summarises the eligibility criteria for each of the FFSP exemptions.

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Table 2: Eligibility for an FFSP exemption

Eligibility requirement	Comparable regulator exemption: s911A(2)(ep)	Professional investor exemption: s911A(2)(eo)	Market maker exemption: s911A(2)(eq)
What financial service do you intend to provide?	The exemption applies to all types of financial services (unless otherwise restricted).	The exemption applies to all types of financial services (unless otherwise restricted).	The exemption applies only to a financial service that involves making a market for derivatives that are able to be traded on a prescribed licensed financial market.
Who do you intend to provide financial services to?	The financial service must be provided only to wholesale clients.	The financial service must be provided only to professional investors.	There is no restriction on who the financial service may be provided to.
Where do you intend to provide the financial service from?	The financial service may be provided either inside or outside Australia.	The financial service must be provided from outside Australia, except during limited marketing visits. *For information, see RG 176.18-RG 176.22.*	The financial service must be provided from outside Australia.
Are you established outside Australia?	You must be a foreign company or a partnership formed outside Australia.	Your head office and principal place of business must be located outside Australia.	Your head office and principal place of business must be located outside Australia.
Do you comply with relevant foreign financial services laws?	You must have and maintain any authorisation, registration or licence administered by a comparable regulator that is necessary to legally provide the same or substantially the same financial service in a comparable jurisdiction as you intend to provide to Australian clients. *For more information, see RG 176.13–RG 176.17*	You must reasonably believe that providing the same or substantially the same financial service as you intend to provide to Australian clients would not contravene any law applying in the place the financial service is provided from, or where your head office or principal place of business is located. *For more information, see RG 176.23-RG 176.25.*	You must reasonably believe that providing the same or substantially the same financial service as you intend to provide to Australian clients would not contravene any law applying in the place the financial service is provided from, or where your head office or principal place of business is located. *For more information, see RG 176.23-RG 176.25.*

Guidance on eligibility criteria

Supervision by a comparable regulator

RG 176.13 You must have and maintain any authorisation, registration or licence administered by a comparable regulator that is necessary to legally provide

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the same or substantially the same financial service in a comparable jurisdiction as you intend to provide to Australian clients: s911A(2)(ep)(iii).

RG 176.14 The Minister determines comparable regulators.

> Note: At the time of publication of this draft guide, no comparable regulators have been prescribed for the purposes of the comparable regulator exemption.

RG 176.15 Various types of financial services and products are defined under Australian law, and these definitions may not exactly match the way financial services and products are provided in other jurisdictions. We will generally follow the definitions under the Australian law in considering whether a person holds an appropriate licence or authorisation in the foreign jurisdiction.

RG 176.16 The requirement to hold any authorisations, registrations, or licences only applies where there is a specific requirement in the comparable jurisdiction that an entity must hold an authorisation, registration, or licence to provide the same or substantially the same financial service. If it would otherwise be legal to provide that financial service in the comparable jurisdiction without an authorisation, registration or licence, you are not required to hold a relevant authorisation, registration or licence in order to rely on the comparable regulator exemption.

RG 176.17 If you are from a jurisdiction that has not been determined by the Minister as having a comparable regulator, you are not eligible to rely on the comparable regulator exemption.

Marketing visits under the professional investor exemption

RG 176.18 The professional investor exemption applies only if you provide financial services from outside Australia or the financial services are provided during limited marketing visits to Australia.

> Note: A foreign company must not carry on business in Australia unless it is registered as a foreign company under the Corporations Act: s601CD. For guidance on the circumstances in which a foreign entity is carrying on a business in Australia, see RG 121.

RG 176.19 There is no restriction on the types of financial services that can be provided during a marketing visit, provided you reasonably believe that it would not contravene any foreign laws applying in the place the financial service is provided from, or where your head office or principal place of business is located: see RG 176.23–RG 176.25.

RG 176.20 The total length of marketing visits that a representative of the FFSP may make in any financial year is 28 calendar days: s911E. The 28-day limit applies separately to each representative (e.g. an individual employee of the FFSP).

RG 176.21 A day is counted if there is any contact between the representative and a client on that day. Marketing visit days do not have to be consecutive.

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For example, if a representative arrives in Australia on 1 April and departs on 8 April, but only meets with clients on 3 and 5 April, that will be counted as two days of marketing visits.

RG 176.22 You must give reasonable assistance to ASIC so that we can assess your compliance with s911E. Maintaining records can assist you to monitor your compliance with the marketing visits limitation. For example, you may maintain records of your representatives' marketing visits to Australia, including:

(a) the names of clients they meet with;

(b) the dates of those meetings;

(c) details of financial services provided during the meeting;

(d) details of financial products offered; and

(e) any other details of matters discussed that are relevant to the financial services or financial products provided.

Compliance with foreign laws

RG 176.23 To rely on the professional investor exemption or the market maker exemption, you must reasonably believe that providing the same or substantially the same financial services as you intend to provide in Australia would not contravene any law applying in the place:

(a) you are providing the financial service from;

(b) your head office is located; or

(c) your principal place of business is located.

RG 176.24 This requirement does not restrict the provision of financial services that are permitted, but not otherwise regulated, in any of these places.

RG 176.25 A 'reasonable belief' requires the existence of facts sufficient to create such a belief in a reasonable person in your position. For example, you could undertake reasonable inquiries, including obtaining legal advice (if necessary), to determine whether you have complied with this condition.

'Fast track' fit and proper person test exemption

RG 176.26 Entities applying for an AFS licence must provide information to allow ASIC to be satisfied that we have no reason to believe that the directors, officers and senior managers of the entity are not fit and proper persons.

RG 176.27 If you are licensed by a comparable regulator, you are not required to satisfy the fit and proper person test when applying for an AFS licence if:

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(a) the foreign licence covers the same or substantially the same financial services; and

(b) the AFS licence, if granted, would be restricted to the provision of financial services to wholesale clients (s913B(2A)).

Note: For further information about AFS licensing, see Regulatory Guide 1 *Applying for and varying an AFS licence* (RG 1).

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C Exemption conditions

Key points

If you rely on an exemption under the FFSP regime, you must comply with the exemption conditions.

If you contravene any of the conditions of an exemption, or ASIC believes you are not a fit and proper person, ASIC can take action, including cancelling the exemption from applying to you or imposing additional conditions.

Summary of conditions

RG 176.28 Table 3 summarises the conditions associated with each exemption.

Table 3: Conditions that apply to each exemption

Condition	Comparable regulator exemption	Professional investor exemption	Market maker exemption
Agree to submit to the non-exclusive jurisdiction of the Australian courts when proceedings are brought by ASIC: s911H(3)-(5). Note: Notification of your agreement forms part of the approved form for initial notification of reliance on an exemption.	Yes	Not applicable	Yes
Consent to information sharing between ASIC and the comparable regulator: s911N(2). Note: Notification of your consent forms part of the approved form for initial notification of reliance on an exemption. For more information, see RG 176.29–RG 176.30.	Yes	Not applicable	Not applicable
Comply with reasonable requests for assistance from ASIC: s911H(2) For more information, see RG 176.33–RG 176.35.	Yes	Yes	Yes
Give written notice to clients that the FFSP is exempt from the requirement to hold an AFS licence: s911K For more information, see RG 176.31–RG 176.32.	Yes	Yes	Not applicable
Comply with a direction from ASIC to provide specified information about the FFSP's financial services: s911J. Note: You must notify ASIC within the time specified in the direction or a reasonable time. For more information, see RG 176.33–RG 176.35.	Yes	Yes	Yes

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Condition	Comparable regulator exemption	Professional investor exemption	Market maker exemption
Do all things necessary to ensure that financial services are provided efficiently, honestly and fairly (if the financial services business that the FFSP carries on is carried on predominantly in Australia): s911M For more information, see RG 176.36–RG 176.40.	Yes	Yes	Yes
Have an agent in Australia: s911P For more information, see RG 176.46–RG 176.47.	Yes	Not applicable	Not applicable
Notify ASIC of any change to the FFSP's contact details: s911L. Note: You must notify ASIC as soon as practicable after the change happens.	Yes	Yes	Yes
Notify ASIC of any significant enforcement action, significant disciplinary action or significant investigation undertaken against the FFSP by any regulator, government authority or relevant financial market operator in any place outside Australia: s911N(4). Note: You must notify ASIC as soon as practicable, and no more than 15 business days after you become aware, or would reasonably be expected to have become aware, of the action or investigation: s911N(5)(a). For more information, see RG 176.41–RG 176.45.	Yes	Not applicable	Not applicable
Notify ASIC of any contravention of a condition for the exemption: s911Q. Note: You must notify ASIC as soon as practicable, and no more than 30 business days after you become aware, or would reasonably be expected to have become aware, of the contravention: s911Q(a).	Yes	Yes	Yes

Guidance on exemption conditions

Information sharing between ASIC and comparable regulator

RG 176.29 If you rely on the comparable regulator exemption, you must consent to us and the comparable regulator sharing information about you: s911N. Information sharing may include us asking the comparable regulator:

(a) for access to information about the FFSP that is only available from the comparable regulator;

(b) to supervise or investigate activities of the FFSP conducted outside Australia; and/or

(c) to take enforcement action against the FFSP in the jurisdiction of the comparable regulator.

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RG 176.30 We are permitted to release information obtained through the exercise of ASIC's compulsory powers in certain cases: see Regulatory Guide 103 *Confidentiality and release of information* (RG 103). This includes disclosure to overseas governments and their agencies to enable or assist them to perform their functions and exercise their powers.

Notice to clients

RG 176.31 If you rely on the comparable regulator exemption or the professional investor exemption, you must give each client written notice (includes electronic, e.g. email) that you are exempt from the requirement to hold an AFS licence and identify the exemption you are relying on: s911K.

RG 176.32 The notice only needs to be given once to each recipient for each kind of financial service provided in reliance on the exemption. A notice may cover more than one kind of financial service that the person has provided, or intends to provide, the recipient under that exemption. This is intended to achieve a balance between ensuring that clients are adequately informed and reducing regulatory burden for FFSPs.

Providing assistance or information to ASIC

RG 176.33 If you receive a written direction from ASIC to give a statement containing information about the financial services you provide in reliance on the exemptions or your financial services business, you must include any information, statements, explanations, or other matters required, and be accompanied by any other material specified.

RG 176.34 ASIC may direct that you must give a statement in a written form specified by ASIC (such as in electronic form).

RG 176.35 You must also give reasonable assistance to ASIC. We may reasonably specify the type of assistance you must provide, or the manner or form in which you must reasonably give ASIC access to your books or other information.

Ensure financial services are provided efficiently, honestly and fairly

RG 176.36 If the financial services business you carry on is carried on predominantly in Australia, you must do all things necessary to ensure that financial services provided in reliance on the exemption are provided efficiently, honestly and fairly: s911M.

RG 176.37 Factors that may be relevant in assessing whether the financial services business you carry on is predominantly in Australia include (but are not limited to):

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(a) the proportion of clients located in Australia;

(b) the proportion of financial services revenue derived in Australia; and

(c) the location of your business operations.

Note: The provision of certain financial services is not subject to the efficiently, honestly and fairly condition—s911M(3).

RG 176.38 This condition imposes a standard of conduct on FFSPs whose business is predominantly in Australia that is consistent with the fundamental obligation that applies to AFS licensees.

RG 176.39 Where the condition applies, you need to do all things necessary to ensure the financial services are provided in a way that meets all of the elements of 'efficiently, honestly and fairly'.

RG 176.40 You may fail to comply with the 'efficiently, honestly and fairly' obligation if you, for example, breach:

(a) a fiduciary obligation to a client; or

(b) a significant obligation that applies to you under a foreign law.

Note: For further guidance on our approach to the broad compliance obligations applying to AFS licensees, including the obligation to provide financial services efficiently, honestly and fairly, see Regulatory Guide 104 *AFS licensing: Meeting the general obligations* (RG 104).

Notification to ASIC of significant enforcement actions, disciplinary actions, and investigations in other jurisdictions

RG 176.41 If you rely on the comparable regulator exemption, you must notify ASIC of any significant enforcement actions, significant disciplinary actions and significant investigations against you: s911N. You must notify ASIC regardless of whether these occur in the jurisdiction of the comparable regulator or in any other jurisdiction outside Australia.

RG 176.42 A significant investigation, enforcement or disciplinary action in a foreign jurisdiction does not have to be completed before you must notify ASIC about it—that is, you should not wait for a finding, settlement or an outcome by the relevant regulator. Investigation, enforcement action and disciplinary action can be separate stages of a matter, so you should notify us each time an action is taken against you in a particular matter.

RG 176.43 This requirement does not apply if giving such a notice would be contrary to a law in force in another jurisdiction (such as a secrecy provision prohibiting the sharing of this information: s911N(6)).

RG 176.44 To determine whether an enforcement action, disciplinary action or investigation is 'significant', you should consider:

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(a) whether the action relates to the provision of the financial service under the comparable regulator exemption or services of the same kind provided elsewhere;

(b) the extent to which the relevant conduct indicates that your arrangements to ensure compliance with your obligations under either the Australian financial services laws or the laws relating to the regulation of financial services in any other jurisdiction are inadequate;

(c) the number and frequency of breaches;

(d) whether your actions have resulted in material loss or damage to a client(s);

(e) the size (severity) of the penalty (if applicable); and

(f) whether the action, or conduct the subject of the action, is serious enough that it can be reasonably likely to be relevant to any assessment by us that you may continue to rely on the exemption.

Note: This list is not exhaustive.

RG 176.45 If you are not sure whether an investigation, enforcement or disciplinary action is significant, we encourage you to notify us about it within the requisite timeframe.

Appointment of an agent

RG 176.46 If you rely on the comparable regulator exemption, you must have an agent in Australia: s911P. Your agent must be authorised to accept service of process and notices on your behalf. You must not unduly restrict the scope of the agency appointment.

RG 176.47 Relying on the comparable regulator exemption does not, of itself, require an FFSP to register under Division 2 of Part 5B.2 of the Act. An FFSP that is not otherwise carrying on business in Australia may appoint a local agent under Division 2 of Part 5B.2 without being registered as a foreign company.

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What happens if you contravene a condition

RG 176.48 If you contravene any of the conditions of your exemption, we may take any of the following actions:

(a) apply to the court for a civil penalty declaration and a pecuniary penalty order; or

(b) after taking reasonable steps to give you notice of the proposed decision and a reasonable opportunity to appear (or be represented) at a private hearing and make submissions, either:

(i) in writing, cancel your exemption for the provision of some or all kinds of financial services; or

(ii) impose additional conditions on your future use of the exemption.

Additional conditions

RG 176.49 We may impose additional conditions on you as an alternative to cancelling your exemption: s911U.

RG 176.50 We are likely to impose additional conditions if we consider it more appropriate to adjust the conditions under which you operate in Australia, rather than cancelling the application of the exemption to you outright.

RG 176.51 Examples of possible additional conditions that we could impose include:

(a) limiting the types of financial products or services that you may provide under the exemption;

(b) strengthening disclosure obligations to recipients of the financial service; or

(c) requiring you to provide regular reports (e.g. quarterly) to ASIC on the financial services provided under the exemption.

RG 176.52 Any additional conditions will be determined on a case-by-case basis at the discretion of ASIC.

RG 176.53 If we propose to impose additional conditions, we will give you written notice and reasons. We will also give you the opportunity to appear at a hearing and to make a submission to ASIC: s911V.

RG 176.54 You may request that an additional condition imposed by ASIC be varied or revoked: s911U(3).

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If you are not a fit and proper person

RG 176.55 We may also cancel in writing your exemption if we reasonably believe that you are not a fit and proper person to provide a financial service: s911S.

RG 176.56 To determine whether you are no longer fit and proper for your role, we will consider whether you have:

(a) had any licence or authorisation suspended or cancelled;

(b) been banned or disqualified by a competent authority in any jurisdiction from providing financial services;

(c) been disqualified by a competent authority in any jurisdiction from managing a corporation;

(d) refused or failed to give effect to a determination made under a mandatory dispute resolution scheme in any jurisdiction; or

(e) been convicted of an offence in the last 10 years.

Note: For more information on our approach to determining whether a person is fit and proper, see RG 1.

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Key terms

Term	Meaning in this document
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 in s9.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
ASIC	Australian Securities and Investments Commission
comparable regulator	A regulator determined by the Minister under s911W(1)
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
Corporations Regulations	*Corporations Regulations 2001*
FFSP	A foreign financial services provider
FFSP regime	AFS licence exemptions that may be available to FFSPs under s911A(2)(eo), (ep) and (eq)
financial services law	Has the meaning given in s761A of the Corporations Act
making a market	Has the meaning given in s766D of the Corporations Act
professional investor	Has the meaning given in s9 of the Corporations Act, as modified by reg 7.6.02AE and s1241K
reg 7.1.18 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.1.18), unless otherwise specified
retail client	A client as defined in s761G and 761GA of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations
s911Q (for example)	A section of the Corporations Act (in this example numbered 911Q), unless otherwise specified
wholesale client	A client who is not a retail client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations

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Related information

Headnotes

Australian financial services licence, comparable regulator exemption, FFSP, foreign financial services provider, licensing, market maker exemption, professional investor, professional investor exemption, relief, wholesale clients

Regulatory guides

RG 1 *Applying for and varying an AFS licence*

RG 51 *Applications for relief*

RG 103 *Confidentiality and release of information*

RG 104 *AFS licensing: Meeting the general obligations*

RG 121 *Doing financial services business in Australia*

Legislation

Corporations Act 2001, s9, 601CD, 601CF, 761A, 761G, 761GA, 766D, 911A, 911D, 911E, 911H, 911J, 911K, 911L, 911M, 911N, 911P, 911Q, 911S, 911U, 911V, 911W, 913B, 926A, 1241K

Corporations Regulations 2001, regs 7.1.18–7.1.26, 7.1.28 and 7.6.02AE

Treasury Laws Amendment (Genetic Testing Protections in Life Insurance and Other Measures) Act 2026

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