

# The AFSL variation Process

## How do I apply to vary an AFS licence?

The application process is completed using an online form (ASIC Form FS03) via the AFS licence portal, where you will be asked whether the application is to vary licence authorisations (i.e. financial services, financial products or clients) and/or licence conditions (i.e. amending or removing the key person condition). Where the variation involves licence authorisations, you will be required to attest that you have systems and processes in place, as you did when applying for the original AFS licence.

Some supporting documentation about the licensee and key personnel (Responsible Manager(s)) also needs to be prepared and submitted with the application. The supporting documentation and Responsible Managers warrant further discussion and are explained in more detail in the following sections.

## What is the AFSL variation application process?

Before you even think of starting the application process, you need to be 100% sure that:

- the authorisations you will be requesting to vary on your AFSL cover all of the business activities; and
- the Responsible Managers you currently have or are adding can demonstrate that they have the required level of skills and experience in the authorisations currently on the AFSL or being added to the AFSL.

If you have all of the above, you may be ready to commence the application process

for an AFSL. However, the tricky part isn't over yet!

You will need to collate the material (core proof documents) required to lodge an application with ASIC, and have them prepared, ready for lodgement. This includes the following:

- **Business Description:** This is a detailed overview of your business, including the types of financial services and products you are currently providing and will provide, anticipated growth, your sources of business income, typical client types, service delivery location and models, and organisational chart.

**TIP:** a detailed transaction example will bring together this whole proof document, resulting in an easier assessment for ASIC.

- **Fit and Proper check of Applicant and Controllers:** Each fit and proper person needs to provide the following:
  - a statement of personal information; and
  - copies of a national criminal history check and a bankruptcy check also less than 12 months old.

Fit and proper persons include the following:

- Responsible Managers;
- Directors, Secretaries and Senior Managers of the licence applicant and its controlling entity (or in the case of multiple controllers, entities); and
- Individuals who control the applicant.

These documents are to be accompanied by a signed Declaration.

**TIP:** ensure that your records in relation to Directors and Secretaries of the Applicant and the Controller match with ASIC's registers.

- Table of Organisational Expertise: This is a critical document that details the relevant knowledge, experience and skills of each of the Responsible Managers.

Where the variation is solely for the removal or amendment of the key person condition, you must prepare this document for each Responsible Manager.

Where the variation of the Licence is to add new financial services or financial products, this document must be prepared for those Responsible Managers who are supporting the variation component of the application.

- Additional proofs: Depending on the authorisations being requested, you may need to prepare additional supporting documents. For example, if you are a payments provider who intends to facilitate overseas payments through currency transfers by adding foreign exchange authorisations including making a market, you will be required to prepare a range of additional documents (see Tables 1 and 2 in ASIC Info Sheet 240).

## Are you adding Responsible Managers?

Where you are adding Responsible Managers as part of the variation application, you will be required to also prepare and submit an online ASIC Form FS20 via the AFS licence portal. For each Responsible Manager being appointed, you will also be required to lodge the following documents with ASIC:

- copies of qualifications;
- copy of a criminal history check (less than 12 months old);

- copy of a bankruptcy check (less than 12 months old);
- statement of personal information (with wording accepting nomination as Responsible Manager); and
- two relevant business references attesting to the financial services experience of the Responsible Manager (the references must be less than 12 months old).

## The process

ASIC's [online application process](#) continually updates as you respond to questions. Note that many questions are worded as statements asking you if systems, documents or processes are in place. There is a [sample of the entire online AFSL application](#) that is quite useful to help you understand how the process works, and to get a sense of some of the questions being asked.

Once you lodge your AFSL variation application (and accompanying FS20 if required), and submit the required documents to ASIC, you will need to allow for somewhere in the vicinity of 4 to 6 months for the whole process to reach a conclusion. More complex applications take longer.

As part of the assessment process, you may receive requests for additional information to be provided. Generally, these requests are in the form of questions from an ASIC analyst looking to gain a deeper understanding of your business, processes, procedures, activities, etc. ASIC may also request copies of the following documents before the AFSL is varied:

- updated cash flow projections and financial statements. This may include the need to strengthen the financial position of the licensee so as to meet any new financial requirements being imposed due to the new financial services being provided; and

- copy of professional indemnity insurance which meets the requirements set out in ASIC Regulatory Guide 126

## Consider the cost

What is your time worth to you? You will have to balance the cost of outsourcing the variation application process or spending time doing it yourself.

If you decide to outsource it, you will still be involved in the process. You may even wish to outsource certain tasks and do some parts yourself to cut down on some of the costs. Alternatively, you may decide to start the process yourself, and seek assistance from a licensing service provider to review your documents before submitting the application to ASIC.

*Holley Nethercote Compliance* has over 20 years of experience in assisting licensees with variation applications. If varying a licence to accommodate a change in business activities, it can be useful beforehand to obtain external legal advice as to which additional authorisations are required. *Holley Nethercote Lawyers* can provide this legal advice. Please reach out to us for assistance with your licence variation plans.

## Still have questions?

See our other Fact Sheets from our AFSL Series below:

1. [Do I need an Australian Financial Services Licence \(AFSL\)?](#)
2. [Should I have my own AFSL?](#)
3. [Key AFSL Requirements](#)
4. [AFSL Costs](#)
5. [Top 10 Tips for a successful AFSL Application](#)

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