

DISTRIBUTION OF FINANCIAL PRODUCTS UNDER FSR LAWS

	REFERRERS	DISTRIBUTORS	AUTHORISED REPRESENTATIVES
Services	<ul style="list-style-type: none"> • Referrals only – Cannot provide any financial services. Referring is limited to informing a person that they know a financial services provider that can provide the service and giving the contact details for that provider. • No advice - Cannot make / give any general or personal advice – i.e. influencing or marketing statements about a product or provide comparisons with other (competing) products. • No ‘arranging’ or dealing – Cannot be “significantly involved” in applying for, varying and cancelling policies and arranging for an intending insured to do these things. • Can also provide - Factual information, editorial content/media advertising, quoting, generic insurance advice, passing on prepared documents, risk management and claims handling. 	<ul style="list-style-type: none"> • No advice - Cannot make / give any general or personal advice – i.e. influencing or marketing statements about a product or provide comparisons with other (competing) products. • Arranging or dealing - Applying for, issuing, varying and cancelling policies and arranging for an intending insured to do these things. • Can also provide - Factual information, editorial content/media advertising, quoting, generic insurance advice, passing on prepared documents, risk management and claims handling. 	<ul style="list-style-type: none"> • Advice - General and/or Personal Advice. Can make influencing/marketing statements about the products and comparisons with other (competing) products. • Arranging or dealing - Applying for varying, issuing and cancelling policies and arranging for an intending insured to do these things. • Can also provide - Factual information, editorial content/media advertising, quoting, generic insurance advice, passing on prepared documents, risk management and claims handling.
Products	Can be used for any financial products / services.	Can be used only for general insurance products and ‘bundled’ consumer credit insurance but no other financial products / services.	Can be used for any financial products / services.
Appointment	Good practice to appoint the individual or business/association as a Referrer in writing (in order to regulate the relationship from a legal perspective) - but there is no legal requirement to appoint them in writing.	Need to appoint the individual or business/association in writing – often an agreement is used for this purpose. Note, a Distributor cannot also be an Authorised Representative of the licensee.	Need to appoint the individual or business/association in writing – often an agreement is used for this purpose.

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'Sub-authorisation'	Not applicable.	Yes – but only a body corporate Distributor can 'sub-authorise' others (e.g. employees) to provide services on behalf of the licensee.	<p>Yes - If providing general advice on and/or dealing in general insurance products, basic deposit products, facility for making non-cash payments, consumer credit insurance product and cash management rust interest.</p> <p>An Authorised Representative can 'sub-authorise' others (e.g. employees) regardless of whether the Authorised Representative is a partnership, body corporate or trust. This is referred to as acting as an "Authoriser".</p>
'Cross Endorsement'	Not applicable.	Not applicable.	Yes - 'Cross endorsement' consent is required from other licensees who have or want to appoint the person or company as an Authorised Representative.
Revocation / Changes to details	Should revoke the Referrer Agreement in writing (if appointment was in writing).	Should revoke the authority to act as a Distributor in writing. No need to record changes to name and contact details.	Should revoke the authority in writing. Need to record change to name and contact details for businesses/organisations and individuals.
Notification to ASIC	Not applicable.	Not applicable.	Yes - Required to notify appointment, change to details and revocation. This is not required for Authorised Representatives who are 'sub-authorised'.
Liability for Acts or Omissions	<p>Yes – If the Referrer is acting as an agent or "representative" of a licensee, same as for Authorised Representatives.</p> <p>(Note that the Referrer Agreement can specify that the Referrer must indemnify the licensee re liability for acts or omissions).</p> <p>If a Referrer does not need to be an agent or "representative" there is no liability but referrers who are not "representatives" must disclose to client the remuneration they receive for the referral when making the referral – see below.</p>	<p>Yes - Same as for Authorised Representatives as Distributors are also "representatives" of a licensee.</p> <p>(Note that the Distributor Agreement can specify that the Distributor must indemnify the licensee re liability for acts or omissions).</p>	<p>Yes - All licensees are jointly and severally liable for acts of representatives in terms of loss suffered by a client who relies on the representations and actions of the representative.</p> <p>Extent of liability depends on whether acts or omissions related to a service that was within authority and whether a financial product was issued following the act or omission.</p> <p>The AR Agreement can specify that the Authorised Representative must indemnify the licensee re liability for acts or omissions.</p>

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Marketing / Branding	<ul style="list-style-type: none"> • General - Limited ability to market and promote financial services and products. Promotional material and activities must not give the client the impression that advice is being given by the Referrer. • Advertising - Advertising and promotional material must identify the insurer and refer the consumer to the PDS. • Circulating information prepared by licensee - Can distribute documents/brochures/information prepared by the licensee about products/services. • No 'white branding' or endorsement - Cannot 'white-brand' or endorse the product. • 'Co-branding' - May be able to 'co-brand' – i.e. both logos appear on promotional material as long as no advice is given. 	<p>Same as for Referrers.</p> <p>Disclosure of the relationship and identity of the Licensee is required in business documents used in connection with the financial services they provide.</p>	<p>Can 'white-brand', 'co-brand' and endorse the product because advice can be given by the Authorised Representative but disclosure of the relationship and identity of the licensee is required in business documents used in connection with the financial services they provide.</p> <p>Can include influencing statements and comparisons with other competing products in advertising and promotional material (but must comply with trade practices legislation).</p> <p>Advertising and promotional material must identify the insurer and refer the consumer to the PDS.</p>
Remuneration Disclosure	<p>Yes – If the Referrer is not an agent or "representative" of the licensee. The person must disclose to the person any benefits (including commission) that they may receive for referring the person or which is attributable to the referral service. The disclosure must be in the same form as the referral.</p> <p>No - If the Referrer is an agent of the licensee but the licensee will need to disclose the remuneration it pays to Referrers in its FSG.</p> <p>Remuneration disclosure may be required for advertising / media related activities (if using an information service like a website to advertise the products).</p>	<p>Yes – Distributors must tell the client about</p> <ul style="list-style-type: none"> • The Licensee's dispute resolution system and how that system can be accessed; • Provide written information about who the Distributor acts for and any remuneration or other benefits the Distributor receives. <p>This information can be incorporated in the Licensee's FSG.</p>	<p>Yes – Authorised Representatives must disclose remuneration to retail clients if they receive commission/fees/other benefits for providing services or which is attributable to the provision of the service.</p> <p>May need to disclose remuneration to wholesale clients if this is required to manage conflicts of interest regarding the Licensee.</p>

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<p>Point of Sale Disclosure Documents/ Warnings (Retail Clients ONLY)</p>	<p>No - Cannot provide any financial service so no point of sale documents should be used by Referrers (e.g. Financial Services Guide, Product Disclosure Statement).</p> <p>Referrers can hand out 'prepared documents' including FSG and PDS but care needs to be taken if a Referrer is permitted to distribute these documents as this with other activities performed by the person may constitute 'arranging'.</p>	<p>Yes – see below for details.</p> <p>Financial Services Guide - A Distributor is not required to give an FSG. The Licensee is still required to give an FSG to clients. In many cases, the Licensee will ask the Distributor to give the Licensee's FSG along with information about remuneration and dispute resolution (see above).</p> <p>General Advice Warning - No GA Warning needs to be given because no general advice can be given.</p> <p>Statement of Advice - No SOA is required because no personal advice can be given.</p> <p>Product Disclosure Statement - Product issuer's PDS must be given to the client before the insurance policy is issued.</p>	<p>Yes – see below for details.</p> <p>Financial Services Guide - An Authorised Representative must have its own FSG. Where there has been sub-authorisation, the sub-authorised person can use the Authoriser's FSG and does not need to use a personalised version.</p> <p>For Authorised Representatives acting on behalf of multiple licensees, a 'tailored' FSG can be used for the sale of a particular product without the need to disclose relationships/remuneration with all other licensees.</p> <p>Authorised Representatives must disclose remuneration received for providing services in their FSG. A joint FSG can be used for the Authorised Representative and their licensee to avoid having to give 2 FSGs (i.e. because at law, both the AR and the licensee have an obligation to give an FSG).</p> <p>General Advice Warning - GA Warning needs to be given if general advice is given.</p> <p>Statement of Advice – If authorised to give personal advice to clients on financial products then SOA may be required. There are exclusions for certain financial products including certain deposit products, travellers' cheques, motor, home, travel and other personal and domestic property insurance products and cash management trust interest.</p> <p>Product Disclosure Statement - Product issuer's PDS must be given to the client before the product is issued.</p>

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Training	<p>General – Training is recommended to understand the nature of the referral services that can be provided (prudent to do this if the Referrer is acting as an agent /"representative" of the licensee).</p> <p>Records - Need to keep records of training completed and plans for training for all representatives (inc Referrers who are "representatives" of the licensee).</p>	<p>General - Ongoing training to maintain skills and knowledge and to understand the nature of the services that can be provided. Licensees are obliged to ensure that their Authorised Representatives are adequately trained and competent to provide the services for which they are authorised.</p> <p>Note, RG146 training is not appropriate as Distributors cannot provide any advice.</p> <p>It is good practice to include training on the financial services that can be provided should be given including difference between advice and factual information, how to give any required disclosure documentation (i.e. for retail clients FSG and PDS) and ASIC Act/ Trade Practices Act requirements for advertising and promotional activities (e.g.misleading and deceptive conduct).</p> <p>Records - Need to keep records of training completed and plans for training for all representatives (inc Distributors).</p>	<p>In some cases it may be appropriate and possible to use a Combined FSG and PDS (subject to the conditions in the Corporations Act).</p> <p>General - Ongoing training to maintain skills and knowledge and to understand the nature of the services that can be provided. RG146 designates the minimum training requirements for retail client advisors. Licensees are obliged to ensure that their Authorised Representatives are adequately trained and competent to provide the services for which they are authorised.</p> <p>It is not necessary to train Authorised Representatives using the traditional RG146 training for Authorised Representatives who provide general advice as they can rely on the customer service exemptions in RG146.</p> <p>For the "customer services representative" exemption, specific training on the scripts and predetermined text supplied by the Licensee should be given. It is good practice to include training on the difference between general and personal advice and factual information, how to give any required disclosure documentation (i.e. for retail clients FSG and PDS) and ASIC Act/ Trade Practices Act requirements for advertising and promotional activities (e.g.misleading and deceptive conduct).</p> <p>Records - Need to keep records of training completed and plans for training for all representatives.</p>

	REFERRERS	DISTRIBUTORS	AUTHORISED REPRESENTATIVES
Monitoring and Supervision	<p>Yes - Licensees are responsible for ensuring that their Referrers who are "representatives" comply with financial services laws.</p> <p>No – If the Referrer is not an agent or representative of the Licensee.</p>	<p>Yes - Licensees are responsible for ensuring that their Distributors comply with financial services laws.</p> <p>This requires monitoring and supervision of their activities and robust consequence management.</p>	<p>Yes - Licensees are responsible for ensuring that their Authorised Representatives comply with financial services laws.</p> <p>This requires monitoring and supervision of their activities and robust consequence management.</p>
PI Insurance	<p>Yes - Licensees must have compensation arrangements that cover the provision of financial services by its representatives (inc Referrers where these people are agents or "representatives" of the licensee).</p>	<p>Yes - Licensees must have compensation arrangements that cover the provision of financial services by its representatives (inc Distributors).</p>	<p>Yes - Licensees must have compensation arrangements that cover the provision of financial services by its representatives (inc Authorised Representatives).</p>

This document has been prepared by Gold Seal Risk Management Services Pty Ltd ABN 72 100 974 294. It provides guidance as to the application of the Corporations Act for the sale of general insurance products via unlicensed intermediaries or agents. While it draws attention to important regulatory considerations, caution should be exercised in relying on its contents, as it is not exhaustive and is not intended to be used as a substitute for legal advice on a particular situation.