

What is the licensing system?

There are two types of licence that might apply to the work of financial counsellors.

- If you carry on a business giving advice about financial products you are required to hold an Australian Financial Services Licence. The *Corporations Act* imposes this requirement.
- If you provide credit services you are required to hold an Australian Credit Licence. The *National Consumer Credit Protection Act 2009 (Cth)* imposes this requirement.

The Australian Securities and Investment Commission operates both of these licensing schemes.

How does the licensing system apply to financial counsellors?

Financial counselling services are exempt from the licensing requirements for both an Australian Financial Services Licence and a Credit Licence. However these exemptions are subject to strict conditions. It is important that you understand the exact terms of the exemptions. If you operate outside the terms of the exemption, then the exemption will not apply.

Which financial counselling services are exempt from licensing?

The financial counselling services that are exempt from licensing are counselling and advocacy services

that help people in financial difficulty. Financial counsellors are not the same as financial planners or financial advisers. Most financial counsellors work in community organisations, although some are employed by government. The services provided by financial counsellors are free, confidential and independent.

What are the conditions for exemption from an Australian Financial Services Licence?

In 2003, the Australian Securities and Investment Commission made a Class Order [CO3/1063] that provided licensing relief for Financial Counselling agencies.

This means that if you give financial product advice as part of a financial counselling service, your financial counselling agency is not required to hold a licence as long as the agency:

- Does not charge any fees or receive any remuneration arising from the financial counselling service; and
- Does not run, and is not associated with, a financial services business; and
- Ensures its staff do not provide any financial product advice outside the terms of the exemption; and
- Ensures its financial counsellors are a member of, or eligible for membership of, a financial counselling association; and
- Ensures its financial counsellors have appropriate training and adequate skills and knowledge.

What are the conditions for exemption from an Australian Credit Licence?

The *National Consumer Credit Protection Regulations 2010* provide that financial counselling services are exempt from the requirement to hold a credit licence. This means that if you engage in credit activity as part of a financial counselling service, your financial counselling agency is not required to hold a licence.

The terms of the exemption are similar to those for relief from holding a financial services licence. These are that the agency:

- Does not charge any fees or receive any remuneration arising from the financial counselling service; and
- Ensures that the agency and its staff do not provide any other credit activity outside the terms of the exemption; and
- Ensures its financial counsellors are a member of, or eligible for membership of, a financial counselling association; and
- Ensures its financial counsellors have appropriate training and adequate skills and knowledge.

How can I get more information about this?

If you are working as a financial counsellor you should read the full terms of the licensing relief. You can find these documents in links from the Australian Securities and Investments Commission website or from the AFCCRA website.