

Independent Trustee

PART B6:

Your guide to applying for a market service licence as an individual under the Financial Markets Conduct Act

All the questions you'll be asked, the minimum standards you'll need to show you meet and information about the details and supporting documents you'll need to provide.

Please make sure you read this guide in conjunction with our 'Part A' licensing guide.

NOTE: It is important to complete the application form using Adobe Reader only. This is due to other reader providers not being compatible with Adobe and the answers may not save permanently in the form.

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PART B6: How do I apply for a licence to be an independent trustee?

To apply for an independent trustee licence you need to read both PART A and PART B of our licensing application guide.

PART A: Gives general guidance about the licensing process. Click the link to [PART A](#).

PART B (this document): Gives specific information for the type of licence you're applying for. It outlines the minimum standards for the licence, sets out all the questions you'll be asked in the application form, in the same order you'll see them and gives guidance on what you might need to tell us and the types of supporting documents you'll need to provide. Your application can only be submitted via email using the Adobe editable pdf and you'll need to attach your supporting documents.

Please note these guides may be updated from time to time, so please check our website for the latest version before you apply.

Important notes: All answers and documents must be supplied before your application can be accepted.

This guidance is of a general nature and does NOT replace your own careful reading of the requirements in the Financial Markets Conduct Act 2013 ('FMC Act'), applicable regulations, legal or other expert advice on your application. Applicable regulations include the Financial Markets Conduct Regulations 2014 (the 'Regulations') and any other regulations that are made pursuant to Part 9 of the FMC Act (together the 'Applicable Regulations').

Any questions?

To begin the application process click [here](#). If you have any questions please call us on 0800 434 566. We're open for calls from 8.30am to 5pm, Monday to Friday. Overseas callers can reach us on +64 3 962 2695.

It's all done by email

You apply for your licence using the Adobe editable pdf form and email, attaching any supporting documents, to licensing@fma.govt.nz. We don't accept hard copy applications unless we specifically ask for them. If you have any questions please call us on 0800 434 566.

Who is this licence for?

Independent trustee

This licence is for someone who is, or will be, the independent trustee for a restricted managed investment scheme.

A restricted scheme is identified as 'restricted' on the Register of Managed Investment Schemes. It includes KiwiSaver schemes, and workplace superannuation or legacy schemes. See section [6](#) of the FMC Act for more information.

For the definition of 'independent' please see section [131\(3\)](#) of the FMC Act.

All restricted managed investment schemes are required to have a licensed independent trustee – this may be a corporate or individual trustee. This guide is for individuals who want to apply for a licence.

Things you need to know before you apply

Scope

This guide is for **individual applicants** seeking a licence to be an **independent trustee**.

Please contact licensing@fma.govt.nz for a guide for Independent Trustees (Corporate) if you're a corporate entity and want to apply for an independent trustee licence.

Eligibility criteria

- To issue you with a licence to be an independent trustee (Corporate), we must be satisfied that you meet the criteria set out in section [396](#) of the Financial Markets Conduct Act (FMC Act).
- Some criteria set specific **requirements** you must meet, such as being registered on the Financial Service Providers Register. Others are more general and apply to all aspects of your role. For example you must be "capable of effectively performing the service" (section [396\(c\)](#) of the FMC Act).
- To help you understand these criteria, we have described the **minimum standards** we expect you to meet. However, these standards do not change or limit the criteria set out in the FMC Act or Applicable Regulations – you must show that you will meet these criteria in your role as a licensed independent trustee at all times during the course of your licence.

Meeting the minimum standards

- We expect all licensees to meet the minimum standards, but there is flexibility in how you do so. For example, there are some minimum standards you may not be able to meet until you're licensed.
- When you're explaining how you will meet a minimum standard, you can also tell us why your approach is appropriate for your role as an independent trustee – and show us how you'll meet the requirements once you're licensed.

Please note

After you submit your application, we may ask you to provide more information to help us make a final decision on your licence.

Ongoing obligations

- a. As a licensee you'll have ongoing obligations, including:
 - Meeting all the relevant requirements of the FMC Act and Applicable Regulations
 - Meeting the criteria in the FMC Act
 - Maintaining the minimum standards for the duration of your licence
 - Meeting any standard or specific conditions imposed on your licence.
- b. The consequences for a breach of licence are set out in sections [406](#) and [414](#) of the FMC Act.

Licence conditions

If we issue you with a licence it will contain conditions that support your licensee obligations. The [standard conditions](#) for the different types of licence are available on our website. We may also set extra licence conditions on a case by case basis.

In your application you'll need to demonstrate that you can meet these conditions – or ask us for a limit or variation in your licence.

The questions are in this guide

The questions we ask help us assess how you meet the minimum standards. Under Part B – What do we ask, we list all the questions, in the same order as they appear on the application form.

Please remember

You can contact us for information at any time before you apply – and after you're licensed – just call **0800 434 566**.

Information for applicants

A. Getting started

This guide is divided into sections, following the order of the application form. This 'getting started' section covers the first sections in the form, which ask for details about you, your business, and your application.

What will we ask?

In each section you'll find the list of questions in the application form, including the documents we ask you to provide.

The guide has been designed so that you can read the minimum standards (A), see what you'll be asked when you complete the form (B) and read our comments (C), then assemble what you need before you start your application.

Many questions only need a YES/NO or similar short answer. If you're asked to explain something you can key your answer straight into the form, and/or supply a supporting document.

Supporting documents

If you will be attaching a supporting document we'll ask for a document name and the section you're referring us to. This means you can add one document (such as a policy manual) to support several answers.

B. What do we ask?

- » What is your FSP number?
- » Is this a separate or related body application? (*See comment 2*)
- » What type of licence are you applying for? (*See comment 3*)

Applicant details

- » Please tell us your name, address, phone and email.
- » Do you have any relevant parties (as defined in the Regulations)?

Application details

- » Do you request any special limits on your licence? If YES, please provide brief details.
- » Please describe your role as an independent trustee.

C. Our comments

1. FSP registration number

This is your financial service provider number. Refer to Part A Guide, Page 6, 'You'll need an FSP number to select the financial service.' You must have completed this before the licence can be issued.

2. Related bodies

We ask if you're making a separate or related body application. It's important you **select the 'Separate'** option. As an individual independent trustee you can't include related body corporates as authorised bodies under your licence.

3. Type of licence

As an independent trustee you can't apply for any other licence type at the same time.

Supporting information

If the narrative fields on the form do not allow sufficient space you can attach a supporting document as well.

When answering a question refer to the supporting document by name and the specific part you want us to read in relation to that question.

4. Relevant parties

Relevant parties are defined in regulation [189](#) of the Regulations and include anyone who is able to exert a substantial degree of influence over your activities. It is also anyone whose wishes you act, or are accustomed to act, in accordance with.

Relevant parties will need to complete a more limited declaration with details of their relationship with the applicant and give us consent to make checks with third parties such as the Ministry of Justice. You'll find the templates for these [declarations](#) on our website. The form numbers are:

- **SD3.1** for directors of relevant parties
- **SD3.2** for senior managers of relevant parties, or
- **SD3.3** for other individual relevant parties.

5. Limits on your licence

You may ask for a special limit on your licence, for example if you only want to provide independent trustee services to certain scheme/s.

Please note, even if you don't ask for a limit, we may place one on your licence if you can only demonstrate the capability and resources to provide a limited market service. But we will consult with you before granting a licence that is more restricted than you applied for.

6. Describe your role as an independent trustee

Your comments should cover the general nature and scale of any entity/s you are a trustee of, including ownership, corporate structure and any other information you think is relevant to your role.

If you provide any financial services or products, other than the proposed licensed service, please give an outline of what these are, and note if any of these must be licensed.

If you're not an existing trustee, please give a brief summary of your history in the financial services industry, if any.

Minimum standards

A. Fit and proper

You must demonstrate that you are a fit and proper person to be an independent trustee.

Minimum standards

- You are a fit and proper person to hold your position as an independent trustee. This requirement broadly covers the tests of:
 - Good character** – covering integrity, probity, trustworthiness, character and reputation
 - Capability** – competence, skills and experience to be an independent trustee (the next section on capability asks for more information about this).
- You must satisfy the 'independent' requirement under the FMC Act.

Minimum standards

The minimum standards in this guide apply at the time you seek your licence – and on an ongoing basis.

Information for applicants

B. What do we ask?

- » Please explain how you meet and maintain the minimum standards for 'fit and proper'?
- » You must attach a completed declaration. (*See comment 7*)
- » Please certify that you satisfy the independent requirement of the FMC Act. (FMC Act section [131\(3\)](#)).

C. Our comments

7. What do you need to supply?

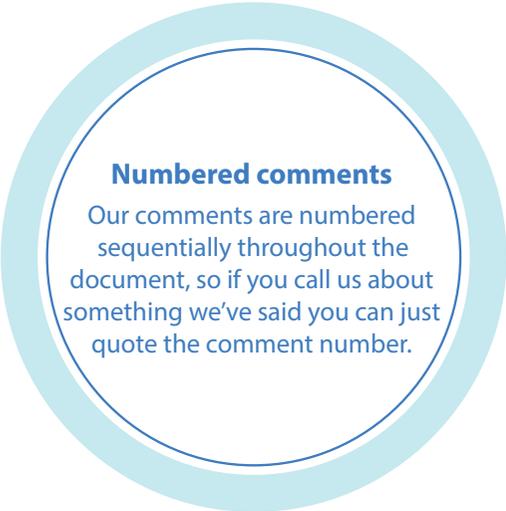
Please complete the [declaration template \(form SD1.4\)](#) provided on our website, then attach this to your application. This is a combined declaration and certificate for individual independent trustees only. This asks about your background and past conduct, employment details and qualifications, and to give us your consent to make checks with third parties such as the Ministry of Justice.

8. How will we assess good character?

Good character means your integrity, probity, trustworthiness and reputation. Our assessment is based on factors including (but not limited to):

- Information in the declaration provided with your application
- Feedback from checks made with third parties
- Conduct indicating past non-compliance
- Convictions or involvement in dishonesty, deceit, theft or fraud
- Failure to manage business or personal financial affairs
- Dismissal from a position of trust
- Adverse information from other government agencies and regulators.

If you're a member of a professional body, please tell us if there have been any complaints or disciplinary actions against you during your membership, and include the name of the body.



Numbered comments

Our comments are numbered sequentially throughout the document, so if you call us about something we've said you can just quote the comment number.

9. How will we assess your capability?

We assess your employment history, qualifications and experience in relation to your role as an independent trustee (we ask for more information about relevant past roles in the next section on 'capability').

10. Independence:

When you accept a position as the 'independent trustee' of a restricted scheme, you must ensure that you meet the legislative criterion of 'independence' at all times (there's a check box in the form for you to confirm this). We'll also expect you to self-certify that you meet this criterion on an annual basis.

You can check the definition of independent in section [131\(3\)](#) of the FMC Act.

Minimum standards

A. Capability

You must have the right skills and experience to be able to properly and effectively perform the independent trustee role.

Minimum standards

1. You have an understanding of the nature and duties of trusteeship.
2. You have relevant skill and knowledge to effectively perform the independent trustee role.
3. You demonstrate a commitment to keeping your skills up to date (for example, through a continuing professional development plan or by attending relevant courses).

Information for applicants

B. What do we ask?

- » Describe how you will meet (and continue to meet) the minimum standards of capability for an independent trustee
- » How long have you been involved in the financial services industry?
- » What other relevant roles have you held? For each relevant role you've held, please provide: The name of the organisation, country, your position, year you started/finished, a description of relevant experience.
- » Please supply names of your referees and their contact details.
- » Please summarise relevant continuing professional development undertaken in the last 3 years, and provide the name of course/event and date undertaken.

C. Our comments

11. We need to assess if you have the right skills and experience to be a licensed independent trustee. You must have an understanding of the nature and duties of trusteeship – for example, you may have a Workplace Savings NZ Inc's Certificate in Trusteeship or other relevant qualifications, held community trustee roles or been an independent trustee before with proven experience in the role.
 - If you **have been an independent trustee** before, we'll consider your industry experience, including the length and experience of previous roles and the size and complexity of scheme/s you have been a trustee for.
 - If you have **NOT been an independent trustee** before, you may not be able to demonstrate depth and breadth of experience in that particular role, but we'll expect you to have strong general business and management experience and some of this preferably in financial services. You'll need to explain how your experience relates to the independent trustee role, and comment on your overall capability to perform that role.
12. Relevant roles – the primary role of an independent trustee is to be 'the independent voice' of the scheme's trustees, so relevant roles may include experience with superannuation scheme operations for example.

13. Please provide the names, phone and email contact details of two referees. The FMA will contact your nominated referees to ask them to complete a short questionnaire style of reference. A referee should be someone who has worked with you in a relevant professional capacity so they are qualified to attest to your capability to act as an Independent Trustee, for example:

- the Chair of a superannuation scheme you are or have recently been a trustee of; or
- if you have no trusteeship experience yet, a manager you have worked with who is well placed to speak to your governance and investment management capability.

A referee should not be someone who is related to you, in a close personal or business relationship with you, or a relative of someone who is in a close personal or business relationship with you.

14. If you're a member of a professional body, please provide details including the name of the body, your designation, the date the designation was awarded, and confirm your membership is up-to-date.

Minimum standards

A. Professional indemnity

You must maintain an appropriate level of professional indemnity insurance cover for the nature and scale of your trusteeship/s.

Minimum standards

1. You maintain an appropriate level of professional indemnity insurance to cover risks related to your trusteeship/s (if cover is available).
2. Your level of professional indemnity insurance cover is adequate and appropriate for the nature, scale and complexity of the market service you're licensed for – there is no set minimum cover, it depends on your business.
3. You have sufficient resources to meet any policy excess.

Information for applicants

B. What do we ask?

- » Please show you have adequate professional indemnity cover for each scheme you are a trustee of, and explain how you assessed this cover was adequate.
- » Please tell us about any material exclusions or conditions in your policy/s.
- » Do you have more than one professional indemnity policy? If YES, provide a summary of your policies.
- » You must attach copies of relevant insurance certificates.

C. Our comments

15. Level of cover

Please tell us the level and scope of cover you think is necessary for your role, and explain how you assessed this and why you think that level and scope is reasonable.

We expect you to have cover at or above that level and scope:

- If you don't think you need cover please explain why
- If you can't get suitable cover please explain the steps you took to try and arrange cover.

If you have more than one policy, please provide a summary – this should show the scheme name, the insurer, amount of cover, and dates of cover.

16. Exclusions and conditions

We only require information on exclusions or conditions that could affect your cover as a licensed independent trustee. For example, **there could be** other parts of your business, not within the scope of your licence, that are covered by the same policy. We don't need to know about **exclusions that would have no impact** on the cover for the licensed business.

17. Current claims

Please tell us if there are any current claims notified under your policy/s that relate to your role as an independent trustee.

Minimum standards

A. Governance and compliance

You must have adequate and effective policies and systems or arrangements to exercise your powers or perform your duties under the FMC Act.

Minimum standards

1. You have adequate and effective procedures to monitor your compliance with your regulatory obligations, in particular your professional duty of care and reporting obligations to the FMA.
2. You have an adequate process to identify, and resolve deficiencies in, any of your policies and systems for monitoring compliance with your regulatory obligations.
3. You have procedures or arrangements to:
 - Ensure you can identify serious problems with managed investment products in the scheme, and/or any events that give you grounds for concern. This includes events that may indicate governance issues with the scheme.
 - Report the serious problem or event to the FMA.

Information for applicants

B. What do we ask?

- » How will you ensure you meet your obligations as an independent trustee?
- » How will you ensure you receive sufficient and timely information so you can identify material issues or concerns?

C. Our comments

18. Processes

You'll need to explain your processes for ensuring you:

- Meet your legal obligations
- Can identify and assist in resolving potential conflicts of interest within the trustee/director group
- Report any concerns to the FMA.

We would expect you to have a process to identify the relevant obligations under the FMC Act. You may then develop manuals or worksheets to help ensure you meet these obligations.

19. Identifying serious problems or material concerns

Please explain your processes or arrangements for identifying serious problems with managed investment products in the scheme and/or any events that give you grounds for concern.

For example, you may determine the company appointed trustees have recommended, and passed by a majority, decisions favouring the sponsoring employer that are not in the best interests of members and beneficiaries.

Final steps

This section covers the finalisation of the application – end of form (where you self-certify) review, then email with attached supporting documents.

At the end you're asked to **certify that you've told us everything material to the licence.**

Review everything and you're nearly done!

But before you hit that send email button...

Have you...

- Answered all the questions – and given the answers you think best portray how you meet the minimum standards?
- Attached your declaration and any other supporting documents needed?
- Checked there's nothing you want to add, change or delete?
- Arranged how you're going to pay?

Information for applicants

Our comments

20. Attach documents

These are the main things you need to know: *(also see PART A for more details)*

- You'll be asked for certain mandatory documents – they can be attached to the email you send us your application form. If the file size is too large, please email licensing@fma.govt.nz. They will supply you details to upload to a databox.
- If you consider you have valid reasons for not having or providing a mandatory document, you can instead attach a document explaining your reasons for not supplying it
- Many questions ask for supporting material – please include in the application form the document name and specific section we should read.
- You can refer to one document for several questions – but it is essential your documents are clearly named and the sections in them are numbered – so we can find the bits you want us to read.

21. Certifying your application

When you select the 'self-certification' box, you're signing the application – and certifying that to the best of your knowledge you have included everything material to the licence/s sought. It means you need to be sure the information you're providing is true, correct and complete – that nothing material has been left out.

22. Review before emailing

Please review all the questions and our answers before you email to us.

23. Making fee payments

We will send you an invoice once we have received your application form – you can also find the application fees on our website. For more about how to pay your fees how to pay your fees please see PART A.

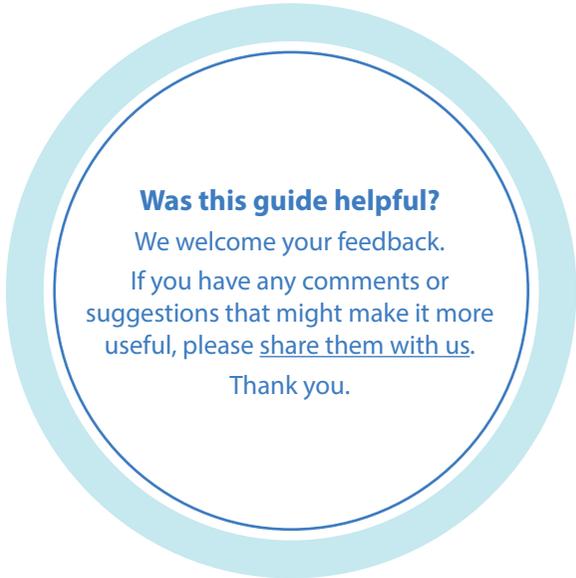


If you have any questions,
talk to us on 0800 434 566,
or email us at
licensing@fma.govt.

24. Submitting your application

These are the main things you need to know:

- You need to have answered all the mandatory questions, and attached any mandatory documents
- The limit on email size is 153600(kB)
- We will issue you with an invoice and instructions on how to pay the licence fee
- You need to pay the invoice before we will start assessment of the application
- We will tell you if not enough information has been provided with the application for us to accept it.
- If for some reason we may need to place limits on your licence, or decline your application, we'll contact you first so you have the chance to discuss it with us
- If we issue a licence, we'll confirm it in writing and set out the conditions that apply.



Was this guide helpful?

We welcome your feedback.

If you have any comments or suggestions that might make it more useful, please [share them with us](#).

Thank you.

Any questions?

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