

Contingency DIMS Seminar

Financial Markets Authority

FMA Boardroom Auckland | 16 March 2015

Topics for today

- What is DIMS?
- Understanding contingency DIMS
- Understand rebalancing – interactive session
- Making decisions
- Questions

FMA team here today

Colin Magee - Head of Primary Markets

Davina Rowan - Senior Solicitor, Compliance

Derek Grantham - Principal Consultant, Monitoring

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What is DIMS?

You are providing a DIMS if you:

Exercise discretion to make decisions
on behalf of your client

+

You have **authority** to make those decisions

What about advice?

Financial advice about using a Discretionary Investment Management Service is **not DIMS**

When it is DIMS

You are making the decisions

Examples:

- You have ongoing discretion and make decisions on your client's behalf
- You have discretion to act, and you execute trades even if the client fails to respond to a recommendation
- You rebalance your client's portfolio to a changing model portfolio

When it's not DIMS

Your client is making the decisions

Examples:

- You only execute transactions on your client's say so
- You rebalance your client's portfolio to a fixed proportion of specified financial products, which have been pre-agreed with the client

Example – Is it DIMS?

- Financial Adviser (FA) reviews client's investment objectives and recommends a portfolio of shares.
- For 'administrative convenience' the FA obtains written authority to complete future transactions involving the shares.
- FA always contacts the client to recommend changes to the portfolio. FA tells the client that she will proceed with proposed transactions unless she hears back from the client in 10 days. Generally the client agrees with the recommendations, which FA implements.

Financial Advice
(not DIMS)

DIMS
(not financial
advice)

Types of DIMS



DIMS	New License / Authorisation requirement?
Contingency	Not applicable
Class	Licence needed (Financial Markets Conduct Act)
Personalised	Authorisation needed (new eligibility requirements to be assessed under Financial Advisers Act)

Contingency DIMS

Financial Markets Conduct Regulations 2014 clause 183:

A person may provide DIMS without an FMC Act licence or FA Act authorisation in situations where:

- The DIMS is incidental to other financial services provided to that client; (i.e. the investment authority is *not* granted for the purpose of regular management of clients portfolio); and

The investment authority is granted in advance to cover either:

- a **known temporary period** (client must pre-agree necessary period);
- and/or**
- an **unexpected period** during which the client can't reasonably give instructions and there is an element of urgency to act

Contingency DIMS - Requirements

Requirements to provide contingency DIMS:

- The service can not be provided for more than 6 months aggregate in any 12 month period; and
- The provider nor any person associated with the provider cannot otherwise provide DIMS to the client; and
- The client's portfolio must be held directly by the client or by an independent custodian (not by the provider); and
- The Client Agreement must comply with the requirements; and
- The Investment Authority must comply with the requirements

Contingency DIMS - Client Agreement

The Client Agreement must:

- Be in writing
- Record that the AFA agrees to comply with the duties in FA Act ss39 & 40 to:
 - act honestly in providing that service
 - act in the best interest of the client
 - not make use of information acquired through providing that service in order to:
 - gain an improper advantage for the adviser or any other person; or
 - cause detriment to the client
- Provide for timing and content of reports to client, including why it was necessary to act (if applicable)
- Provide for right to immediately revoke investment authority either orally or by writing

Contingency DIMS - Investment Authority

The Investment Authority must:

- Be in writing
- Clearly disclose the scope of the investment authority, including
 - any limits on the nature or type of investments and on the proportion of each type of asset invested in, or
 - if there are no such limits, it must clearly disclose that fact
- Not permit the authority to be changed without the client's prior written consent

Points for reflection – start with the client

- Of your current clients...
 - how many make decisions themselves?
 - how many do **you** make decisions for on their behalf?
 - how many want **you** to make decisions on their behalf in certain circumstances, such as when they are unavailable?
- **How do you know** which of the above options are preferred by your clients?
- How are you meeting these client needs today – is there a gap?

Points for reflection – think smart

- Deciding your business model:
 - Regulation promotes investor confidence
 - Investors need to be confident that DIMS providers offering similar services are subject to similar eligibility requirements
- **Therefore:** ‘Client needs’ drive the choice to offer DIMS or not. Your business model drives the type of DIMS you offer
- **Consider:** Does a contingency DIMS, or a class license, enable you to meet different client needs, and does it future-proof your business?

Choices

- Complexity +

- Do not offer DIMS
- Offer contingency DIMS
- Offer class DIMS – operate under another party’s license
- Offer class DIMS – you hold the license
- Offer personalised DIMS – you are authorised under the FAA and comply with the additional eligibility requirements

Business Model

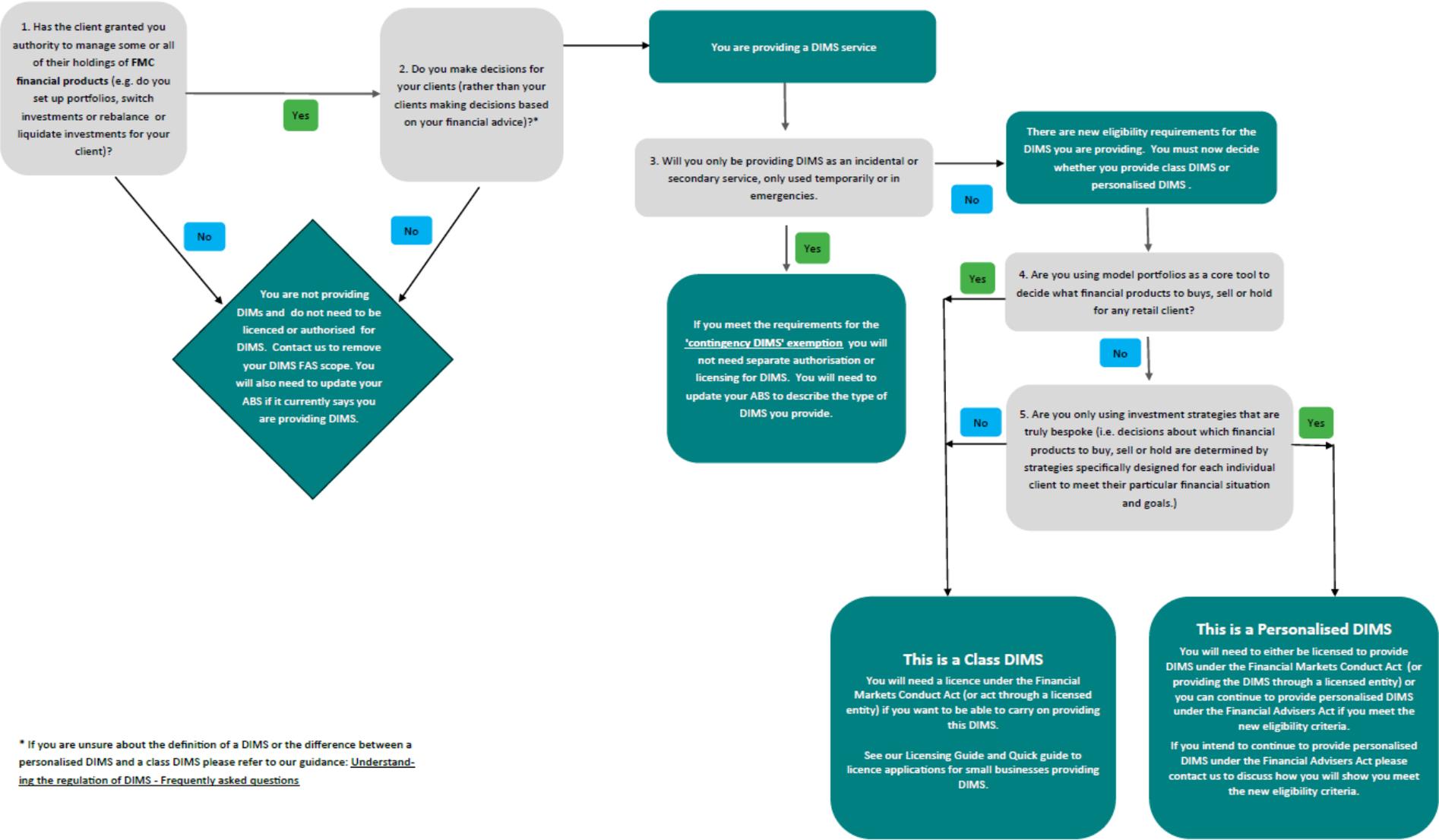
Gather Client Data	Risk Tolerance	Personalised Financial Advice	Implementation	Rebalance
<ul style="list-style-type: none"> Goals and objectives Investment needs Financial situation Financial needs 	<ul style="list-style-type: none"> Establish clients risk profile 	<ul style="list-style-type: none"> Initial recommendation of a particular mix of model portfolios/particular model portfolio Recommendation to enter into a DIMS facility 	<ul style="list-style-type: none"> Portfolio of financial products Multi sector funds 	<ul style="list-style-type: none"> Recommend changes act on the clients say so



<p><u>Apply Investment Engine</u></p>	<p>Using an investment strategy that is appropriate for your client, but not specifically designed for the client e.g.</p> <ul style="list-style-type: none"> + investment research + asset allocation – strategic/tactical + approved product list <p><u>Or</u> specifically design investment strategies for each client</p>		
<p><u>Switch on DIMS? Contingency? DIMS (class)?</u></p>	<table border="1"> <tbody> <tr> <td> <p>Exercise discretion - manage some or all of the clients holdings of financial products</p> </td> <td> <p>Have discretion to replace one financial product that the client has not expressly chosen or vary it to a changing model portfolio</p> </td> </tr> </tbody> </table>	<p>Exercise discretion - manage some or all of the clients holdings of financial products</p>	<p>Have discretion to replace one financial product that the client has not expressly chosen or vary it to a changing model portfolio</p>
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Decisions for AFA's currently authorised for DIMS

Start here



* If you are unsure about the definition of a DIMS or the difference between a personalised DIMS and a class DIMS please refer to our guidance: [Understanding the regulation of DIMS - Frequently asked questions](#)

Contingency DIMS – What should AFAs do?

What should an AFA do if they only want to provide DIMS that meet the requirements of the contingency exemption?

- Make sure you have an independent custodian (or clients directly hold their own financial products)
- Check and if necessary make changes to your client agreement
- Check and if necessary make changes to your investment authority
- Update ABS and disclosure as necessary
- Monitor the use of each authority to ensure you do not use DIMS as main way of managing portfolio or exceed 6 months within a 12 month time frame
- Ensure you can provide adequate reporting to clients
- Contact us to remove your DIMS FAS Scope

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