

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.

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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. This includes how to log in to the application portal and how to create a RealMe identity, if you don't already have one (you'll need one before you can apply). Here's [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 online application, in the same order you'll see them on the screen, 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 made online and you'll need to upload 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: There are tabs for each section of the online application. You can answer them in any order and edit your work as often as you need. All mandatory answers and documents must be supplied before you can submit your application. Once you've clicked submit you'll get a once-only chance to save and print a copy of your application, and we recommend you do this as you won't be able to access it again after submission.

We also strongly advise you to 'save and exit' frequently as you work through your application, as this is the only way your work will be saved online. You may also want to copy your answers to an offline document – but please note the online submission is the final and legal record of your application.

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 online

You apply for your licence online and upload any supporting documents straight into the application.

We don't accept hard copy applications unless we specifically request them.

To begin the application process click [here](#). 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.

Under the new regime 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 see our 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, 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.

Or you can go to the 'Review' tab on the application form to see the full list of questions online.

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 online application. This 'getting started' section covers the first two tabs of the online 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 online application, including the things 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 apply online (B) and read our comments (C), then assemble what you need before you start your application.

You can answer in any order, and return to any section to add, alter or delete something right up until you click submit.

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.

Uploading documents

If you upload a 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 and only upload it once. And you can do this at the end or at any time by going to the upload documents tab.

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 and you must have one **before** you can start your licence application.

- To **get an FSP number** you need to register on the FSP Register at www.fspr.govt.nz. As this process can take up to five working days we suggest you apply in advance.
- If you're **already registered as an FSP**, you need to log in to your FSP Register account and select the financial market service/s you want to be licensed for (we can't issue a licence until you do this). The licensed service won't be publicly visible on the register until we issue your licence.

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.

Here's a tip...

You can check out the questions first and create a document offline with all your narrative answers.

Then you can cut and paste your answers in – or just upload the whole document and refer us to the different sections as you answer the questions.

That way your work is also saved and safe!

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 upload 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 upload 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 last three tabs of the application – upload, end of form (where you self-certify), and review.

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

Review everything, click 'Submit' and you're nearly done!

But before you hit that submit button...

Have you...

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

Information for applicants

Our comments

20. Uploading documents

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

- You can go to the 'Upload Documents' tab at any time – to upload new items, see a list of items already uploaded, or to remove items
- You'll be asked for certain mandatory documents – they can be uploaded at the time we ask for them or later by going to 'Upload Documents'
- If you consider you have valid reasons for not having or providing a mandatory document, you can instead upload a document explaining your reasons for not supplying it
- Many questions allow you to upload supporting material – you'll be asked to give a document name and specific section we should read, then you'll need to go to the 'Upload Documents' tab to add your supporting document (you can do this at any stage)
- 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 mark the 'Self certification' box in the 'End of form' tab, you're signing the application – and certifying that to the best of your knowledge you have included everything material to the licence 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 submitting

You can review all the questions and your answers before you submit on the 'Review' tab. You can also download a PDF of your pending licence application before you submit.

23. Making fee payments

Once you've clicked the 'Submit' button you'll be asked to pay the application fee. You may pay by credit card or arrange pre-payment with us (direct payment). The application system will tell you the total amount to pay once you've reached that stage – you can also find the application fees on our website. For more about paying your fees please see [PART A](#).



Once you've submitted your application you can't access it again – so you can't view it or change anything.

24. Submitting your application

These are the main things you need to know:

- You won't be able to submit your application until you've answered all the mandatory questions, and attached any mandatory documents
- Once you've paid, you'll also be asked if you want a PDF copy of your application, as a record of the questions and your answers – this is the last time you'll be able to save or print off a PDF copy
- If for some reason later on you need another copy, please get in touch with us
- If you log in at a later date you'll see the record of your application and the date it was submitted – with a status next to it
- While we're still assessing your application the status will show as 'review'
- 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?

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 – 5:00pm, Monday to Friday.