



Strategi
Compliance

GUIDANCE NOTE

WHAT DOES COMPLIANT FINANCIAL ADVICE REALLY LOOK LIKE

What compliant financial advice really looks like

A common misconception is that compliant financial advice is something black and white and set out in law. The reality is somewhat different and harder to define. When pressed for an answer, our standard response is: “It depends on the scope of the engagement, the client goals, product solutions, client understanding and business service proposition.”

There are rules that must be followed, but these are more principles based than prescriptive. And they need to be related to the client’s specific situation to determine whether the advice is likely to be compliant.



What is financial advice

A person gives financial advice if the person-

- a. Makes a recommendation or gives an opinion about acquiring or disposing of (or not acquiring or disposing of) a financial advice product; or
- b. Makes a recommendation or gives an opinion about switching funds within a managed investment scheme; or
- c. Designs an investment plan for a person that-
 - i. Purports to be based on-
 - an analysis of the person’s current and future overall financial situation (including investment needs); and
 - the identification of the person’s investment goals; and
 - ii. includes 1 or more recommendations or opinions on how to realise 1 or more of those goals; or
- d. Provides financial planning of a kind prescribed by the regulations.



Operating within the framework

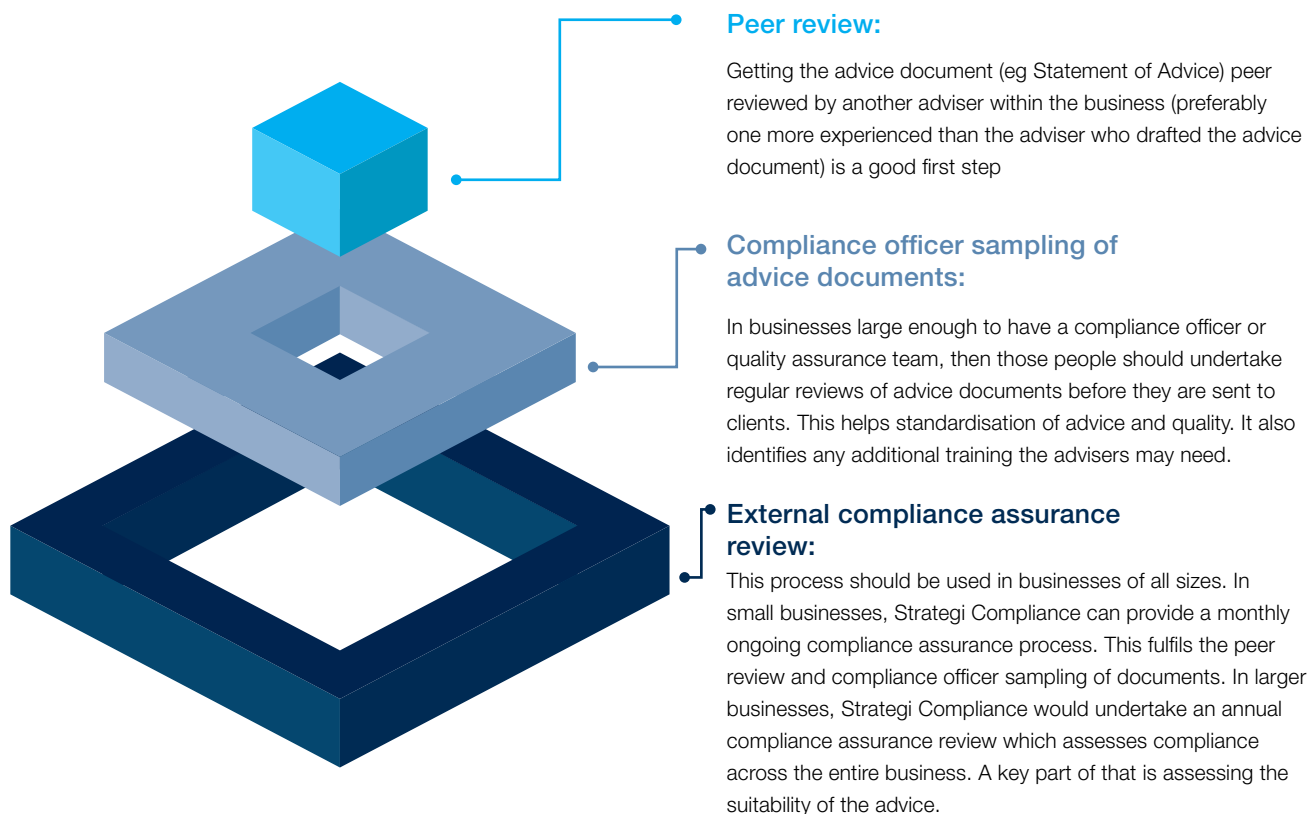
Compliant advice needs to meet the requirement of the advice framework it should be provided within, which includes the following :

- the duties contained in sections 431I-431P of the Financial Markets Conduct Act 2013;
- the Code of Professional Conduct for Financial Advice Services; and
- the standards outlined in the New Zealand Certificate in Financial Services (Level 5) V2.

Technology is playing a larger role in assessing compliance. However, some of the solutions coming to market are focussing more on the process side of delivering financial advice rather than the qualitative outputs. Some of the technology solutions look for defined processes with prescribed document names and look to see if certain documents have been uploaded to a specific task. This is just one part of the advice process assessment. It acts as a high-level flag to identify if the defined process has been followed and the defined documents have been uploaded

to the system. Many of these technology solutions lack the capability to identify if the uploaded documents are blank or correctly completed. They also lack the capability to assess if the advice is 'fit for purpose' and meets the needs of the client.

At this stage in the evolution of financial advice compliance, human intervention is still required to assess the quality of the advice provided. Strategi Compliance recommends human intervention at three levels :



The six-step advice process

Compliant advice is more than just checking that a fact find, statement of advice and disclosure information has been provided. We need to check that the entire six-step advice process has been followed to the extent it is applicable for each client situation.

Over time, an increasing focus will be applied to step 6 relating to ongoing monitoring of the advice suitability. However, this is the focus of another guidance note.



What do we look for?

When reviewing client files for compliance, we take a holistic approach. We look at the overall client file and the advice process around it, rather than just reviewing one or two documents.

The following list outlines the key questions the Strategi Compliance team look to answer when assessing compliance .

Has the scope been set?

It is clear from file notes, advice documents or other means that the scope of advice between the client and the financial advice provider (FAP) has been clearly established? Is it clear as to what is and is not being covered and does the client understand the implications of this?

Are the client's goals clear?

It is difficult to assess if the advice recommendations are appropriate if the goals are not clearly defined. Ideally, goals should be expressed using the SMART acronym - specific, measurable, achievable, realistic and time bound.

Are the scope, goals, and recommendations all in alignment?

We cross reference the goals with the scope and recommendations to assess whether the recommendations are likely to achieve the stated goals. The emphasis here is on advice outcomes and whether the advice is likely to meet the needs of the client.

Has sufficient information been provided?

The advice and supporting information do not legally have to be in writing but it would be difficult to provide a verifiable audit trail if the advice (or a good portion of it) was not in writing or recorded in some way. We check to see if sufficient information has been provided to the client to ensure a reasonable person could make an informed decision.

Is the advice clear, concise, and effective?

Has all communication in the six-step advice process been provided in a way that is clear, concise and effective? Has jargon been removed, is the language and explanation at a level the client is likely to understand? We also check to see any ambiguity has been removed, it is sufficiently brief and appropriately formatted so the client is likely to read it.

Have reasonable steps been taken to ensure the client understands?

We look across the entire advice process to check measures have been taken by the FAP or adviser to ensure the client understands the advice provided, plus its nature and scope. This includes reviewing the documented advice process to see if things like client follow-up calls were made, whether advisers and staff are trained to assess client understanding, and whether there are prompts for clients to ask questions. We also look to see the right language is being used and things like information sheets are provided.

Have disclosure obligations been met?

We assess compliance with the Financial Markets Conduct Regulations 2014 by reviewing the publicly available disclosure information, how and when the stage two and three disclosures were made, and we sample the relevance of the content against the products recommended. The stage four complaints disclosure is assessed by looking at the complaints process, the content of the stage four document, the complaints register and checking the understanding of the process with advisers and administrators.

Is the advice 'balanced'?

Does the advice provide pros and cons and where appropriate, options to consider? Is there anything that may be considered misleading, deceptive or confusing?

Is the rationale documented?

Does the client file contain sufficient evidence of the research undertaken, and were there reasonable grounds for the advice provided? This may include documented assumptions, independent research reports, and capture of relevant client information.

Are steps taken to keep client data private?

We look for advice documents with 'confidential' or similar wording prominently displayed. This helps to show the FAP/adviser is taking appropriate steps to protect client data. We check to see if staff are trained on privacy, and cyber-security actions and that the IT structure is robust.

Is ongoing monitoring and reporting clear?

Is there an agreement or understanding in place between the client and the FAP/adviser regarding ongoing monitoring of the client and the recommended solution? Is it clear as to the respective responsibilities between the client and the FAP?



Note

If you need help with any aspect of assessing your compliance, then please contact:

Strategi Compliance

email: info@strategi.co.nz

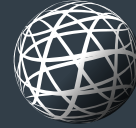
call: 09 414 1300



Next steps

We encourage every FAP to review their advice process in light of the checklist above, and identify how they can deliver regulated financial advice in a more meaningful and easier to understand way.

The team at Strategi are happy to help you achieve this. [Contact us](#) for details.



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For more information about the contents of this article, or for advice or guidance in implementing its contents, contact:

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