



IFP Product Distribution and Research Policy

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Version:

Version	Date	Amendments
1	October 2021	New policy.

References

Regulatory Guide 274: Product design and distribution obligations

1 Purpose of document

1.1 Background

- (a) Australian Financial Services Licensees (**AFSLs**) must do all things necessary to ensure that the financial services covered by the licence are provided efficiently, honestly and fairly (s912A(1)(a)) and take reasonable steps to ensure that its representatives comply with the financial services laws (s912A(1)(c)).
- (b) Representatives who provide personal advice to retail clients are subject to the best interests duties under *Division 2 of Pt 7.7A of the Corporations Act 2001 (Act)*.
- (c) Part 7.8A of the Act was inserted into the Act so that laws regarding design and distribution obligations (**DDO**) will apply to AFSLs who issue and/or distribute certain financial products. ASIC's guidance on DDO is set out in *Regulatory Guide 274: Product design and distribution obligations (RG 274)*.

1.2 Purpose and framework

This policy (**Policy**) is developed by the Licensee for the purposes of assisting the Licensee and its representatives to meet:

- (a) its obligations as a 'distributor' under DDO; and
- (b) ASIC's expectations set out in RG 274.

1.3 Responsibility

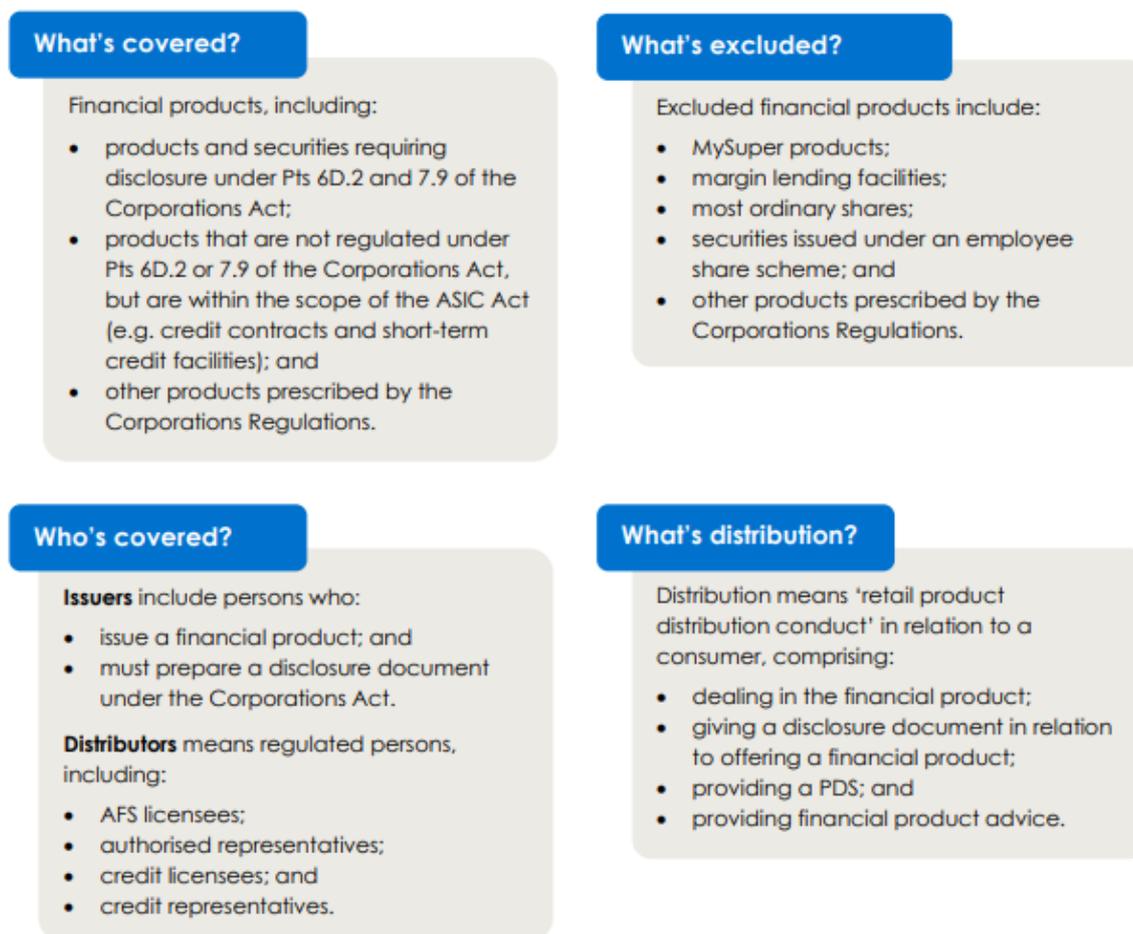
The Responsible Manager/s (or a delegate with appropriate experience and seniority) will be responsible for ensuring that the Licensee:

- (a) meets the requirements of this Policy; and
- (b) reviews this Policy on an annual basis (unless more immediate updates are required due to legislative or regulatory change).

2 Overview

2.1 What is covered under DDO

Figure 1: Coverage of the design and distribution obligations



2.2 Overview of obligations for a product distributor

- (a) DDO requires issuers and distributors to develop and maintain effective product governance arrangements across the life cycle of financial products to ensure that retail clients are receiving products that are likely to be consistent with their objectives, financial situation and needs.
- (b) Under DDO, the Licensee and its representatives are classified as 'distributors'.
- (c) As distributors, the Licensee has the following obligations:
 - (i) not to distribute a financial product unless a Target Market Determination (**TMD**) has been made for it;
 - (ii) take reasonable steps that will, or are reasonably likely to, result in distribution of a product being consistent with the TMD;

- (iii) have robust product governance arrangements in place to help ensure that it complies with its obligations, including the reasonable steps obligation; and,
- (iv) comply with distribution conditions in the TMD for the product and any distribution agreement with the issuer. In doing so, the Licensee needs to consider what additional steps are reasonable for it to take in the particular circumstances.

2.3 What is a TMD?

- (a) The TMD is a written document that describes the class of consumers comprising the target market for a product. The TMD also sets out matters that are relevant to the product's distribution and review.
- (b) The issuer must ensure that the TMD meets several content requirements, including but not limited to specifying conditions and restrictions on the distribution of a product and specifying the kinds of information that a distributor must report to the issuer.

3 DDO governance arrangements

3.1 Establishing an approved products list (APL) or product selection method

- (a) To ensure the Licensee meets its DDO obligations and the products recommended by Representatives are of a certain minimum standard, the Licensee may:
 - (i) establish an APL; or
 - (ii) establish certain threshold requirements based on ratings awarded by external research parties – see Appendix A.
- (b) In establishing the APL (or establishing the threshold requirement for products), the Licensee will have regard to its typical client base. Financial products that are generally not suitable or relevant to its client base will not be included in the product selection process.
- (c) The Licensee's general position is that only products that meet the requirements in paragraph 3.1(a) can be recommended to retail clients.
- (d) If a Representative intends to recommend products that do not meet the requirements set out in 3.1(a), the Representative must obtain approval from the Licensee before the Representative can recommend such products.
- (e) The Licensee will ensure that the TMD for the relevant product is accessible to the Representative to enable the Representative to discharge its obligations.

3.2 Risks assessment

- (a) The key risk for the Licensee in distributing financial products governed by the DDO regime is that retail clients who are outside of the TMD are recommended the product and this may cause harm to the retail client.

- (b) The Licensee has considered this risk and believes this risk to be **low** for the following reasons:
- (i) The Licensee maintains an approved products list (**APL**) to ensure products on the APL are suitable for the Licensee's client base. The products on the APL are likely to be:
 - (A) Superannuation products
 - (B) Life insurance products
 - (C) Investment productsthat meet a minimum threshold requirement determined by the Licensee.
 - (ii) The Licensee will primarily distribute the products via recommendations set out in Statements of Advice (personal advice). Representatives who provide personal advice are required to carry out specific product investigations prior to recommending clients acquire such products. In doing so, advisers are expected to review the TMD for suitability of the product to the relevant retail client (s961B(2)(e)(i)).
- (c) Given paragraph 3.1(b)(ii), the Licensee and its representatives are exempt from the 'reasonable steps' requirement that applies to distributors when distributing products in that manner (see definition of 'excluded conduct' in s994A(1)).
- (d) With the above parameters in place, the Licensee believes the risks of harm suffered by retail clients is likely to be low.
- (e) **General advice or execution only services** - From time to time (infrequent), the Licensee's representatives may carry out execution only transactions for the client. When doing so, the Licensee expects its Representatives to confirm that the relevant client is within the parameters of the TMD.
- (f) In particular, the exemption from taking 'reasonable steps' to ensure that a product is distributed consistently with the TMD does not apply to general advice or execution only services. Therefore, when providing execution only or general advice services to retail clients, advisers need to take reasonable steps to ensure the distribution of that financial product is consistent with the TMD of that product.

3.3 Reviewing TMDs

The Licensee will periodically review the TMDs for the products on its APL (where applicable) to ensure the following are observed:

- (a) the Licensee is complying with the distribution conditions of the TMD;
- (b) the Licensee understands changes in review triggers; and
- (c) the Licensee understands the reporting obligations of the relevant product.

3.4 Documenting

The Licensee will document:

- (a) when the APL and TMDs have been reviewed by the Licensee; and
- (b) the outcome of the review and whether any changes have been made to the APL, having regard to the TMDs on the APL.

3.5 Training for Representatives

The Licensee will organise training for its Representatives within 3 months of the commencement of DDO to ensure Representatives understand their obligations under DDO.

4 Considering the TMD when giving advice

4.1 How DDO applies to financial advisers

Under DDO, an adviser who gives personal advice is classified as a 'distributor' and as a distributor, the adviser must comply with the following obligations:

- (a) review and understand the TMD of a product before you recommend it;
- (b) notify the issuer of a significant dealing in the product that is not consistent with the TMD;
- (c) report Information about complaints and matters specified in the TMD to the product issuer; and
- (d) keep records of how you are meeting your TMD obligations (ie. retain product research and consideration of TMD in your advice file).

4.2 What advisers should be looking at when considering the TMD

- (a) Does the retail client fit the class of consumers described in the TMD?
- (b) Are there any distribution conditions or restrictions in the TMD (e.g. personal advice only, not suitable for general advice)?
- (c) What are the review triggers (e.g. events that reasonably suggest the TMD is no longer appropriate)? Do the review triggers apply to the client?
- (d) Is the TMD currently being reviewed?
- (e) What are the reporting requirements for this product?

4.3 Incorporating DDO into your product investigation safe harbour step

- (a) To comply with DDO, ASIC considers that advisers should be considering the product TMD to ensure the clients are within the target market of the TMD prior to facilitating the client acquire that product. This should form part of the product investigation component of the best interest duties.
- (b) Advisers should take note to ensure there is evidence on file of them considering the TMD when investigating the product. This can be done via commentary in the adviser's file notes. As part of the determining whether the client fits within the TMD, advisers should consider the following:
 - (i) the client's investment objectives;
 - (ii) the product use;
 - (iii) the risk profile of the client;

- (iv) investment timeframe of the client; and,
- (v) frequency of product access by the client

4.4 Can you recommend a product to a client if the client is outside the TMD?

- (a) It may be appropriate to recommend a client outside of the target market to acquire a financial product, when acquisition would be in the best interests of the client. For example, it may be appropriate in the broader context of a client's investment asset allocation (taking into account their relevant circumstances), to recommend a higher risk product as part of the overall asset allocation as part of the portfolio construction.
- (b) For example, if the risk profile of a client is 30 (growth) / 70 (defensive) – ie. moderately conservative, it may still be appropriate for the client to acquire growth assets (e.g. equity and / or property funds) provided that the proportion of growth assets is appropriate for their risk profile and asset allocation.
- (c) It would be up to the adviser to exercise judgement to demonstrate how their recommendation meets the best interests duties and appropriateness test.

5 Reporting

5.1 Reporting to the product issuer

- (a) The Licensee and adviser will monitor the TMD for each relevant product and report information to the issuer in accordance with the TMD. In particular, the Licensee will report:
 - (i) information about whether they have received complaints about a product and, if so, how many complaints they have received during a reporting period;
 - (ii) any other information that the issuer specifies in the TMD to assist the issuer to determine whether an event or circumstance has occurred that would reasonably suggest that the TMD is no longer appropriate; and,
 - (iii) when they become aware of a significant dealing in the product that is not consistent with the TMD.
- (b) The Licensee will report the information described above to the issuer as soon as practicable, but in any case within 10 business days, after the end of the relevant reporting period.
- (c) If there are no matters to be reported during a reporting period, the Licensee and adviser will not be required to lodge a NIL report to the issuer.

6 Significant Dealings

6.1 What is a 'significant dealing'

- (a) The 'significant dealing' obligation requires the licensee and advisers to report when they become aware of a significant dealing that is not consistent

with the TMD. This means that the licensee and advisers will be reporting a number of their own dealings that are not consistent with the product's TMD.

- (b) A 'significant dealing' is a dealing in a product that is identified as 'significant' by the product issuer. The term 'significant dealing' is not defined under the Corporations Act. Accordingly, a 'significant dealing' may differ from product issuer to product issuer (depending on the product) and what each product issuer considers to be significant dealings in their product.
- (c) The issuer may set out the kinds of dealings they consider significant, and therefore reportable, in the TMD. The Licensee and adviser are required to be familiar with the matters that have been identified as 'significant dealings'.
- (d) Where an issuer has not specified the kinds of dealings they consider significant, the licensee and advisers will consider whether or not a dealing is significant in the circumstances. The Licensee and adviser may wish to consider the following factors when determining significance:
 - (i) of those consumers who acquire the product, the proportion of consumers who are not in the target market, including the proportion of consumers acquiring the product who are part of a class that has been excluded from the target market;
 - (ii) the actual or potential harm to consumers, including the amount of any financial loss, resulting from consumers who are not in the target market acquiring the product
 - (iii) the nature and extent of the inconsistency of distribution with the TMD (noting that distribution to a consumer can be either more or less consistent with a target market along a continuous spectrum)
 - (iv) the proportion of gross income or premium obtained for the product from consumers acquiring the product who are not in the target market, and
 - (v) the time period in which these acquisitions outside the target market occurred.

6.2 Reporting 'significant dealings'

- (a) The obligation to notify the issuer of a significant dealing is intended to help the issuer make timely and appropriate decisions (for example, a decision to review a TMD) and to meet its obligation to report significant dealings to ASIC.
- (b) If the Licensee becomes aware of such a dealing, the Licensee will notify the issuer in writing as soon as practicable, and in any event within 10 business days after becoming aware.
- (c) This obligation to report a significant dealing extends to personal advice providers, or those that engage in conduct associated with such advice.

7 Record keeping

7.1 Record keeping

The Licensee is required by law to keep the following information for a period of 7 years:

- (a) the number of complaints the distributor receives in relation to the financial product;
- (b) the steps the distributor has taken to ensure that its distribution is consistent with the TMD;
- (c) any information that the distributor is required to report to the issuer (for the purpose of prompting a review), as specified in the TMD;
- (d) the dates on which the distributor reported to the issuer the following:
 - (i) the number of complaints received during a specified reporting period;
 - (ii) other information specified in the TMD that the distributor must report; and
 - (iii) any significant dealings in the product; and
- (e) the substance of its reporting to the issuer.

Appendix A - Approved products list and minimum product threshold

Until further notice, the Licensee via its investment committee, has determined that it will maintain an open APL. The Licensee has a contractual relationship with Zenith Investment Partners who are a professional external research consulting firm. For the most part, the Licensee has determined that its representatives may select from:

(a) products that the research consultant has assigned a “recommended” product rating to (with the exception of property-based investments) in conjunction with the product issuer providing a TMD and DDO;

(b) property-based investments that the research consultant has assigned a “highly recommended” rating in conjunction with the product issuer providing a TMD and DDO;

(c) where an application has been made to the investment committee by a representative of the Licensee for the inclusion of a non-researched product by the Licensee’s research consultant, but has a TMD and DDO issued by the product provider and any other relevant material (eg. a PDS), the Licensee via its investment and Compliance committees may add the product to its APL (eg. An Industry Superannuation Fund where the issuer or trustee is a member of the Industry Funds Association).

(d) for listed securities, appropriate research should be gathered by the representative from an approved research team which is part of a broking firm (eg. Bell Potter). In the absence of a TMD or DDO for a specific listed security, the representative should ensure that a risk profile questionnaire approved for use by the Licensee identifies the suitability of listed securities is in the best interests of the client.

Appendix B – Getting ready for DDO

- If the product I recommend has a TMD:
 - have I reviewed the TMD to ensure it is appropriate for my client base?
 - Do I understand what the significant dealings are for that product?
 - Have I aligned the products with the target clients in accordance with the TMD?
- Have I set up my APL or otherwise determined my ratings threshold for products that may be recommended under my licence?
- What processes and policies will I be using to track the TMD and its content?
- What can my CRM/Advice software do to help me keep track of my obligations?
- Have I trained my advisers on the DDO requirements? In particular, what they need to do under best interests duty?
- When will the TMD's be available for the key products you deal in? What are the issuers doing to help capture data?
- How regularly will I need to review the TMDs? What are the trigger events for each TMD?
- Consider if 'house rules' need to be established for products where the client is not in the target market. I.e. Allowed when used in blended portfolios to meet a client's risk profile and diversification
- What additional register/s will I need to keep?