



## 10 Steps To Setting Up A Foreign Exchange Trading Business in Australia

Did you know it is illegal to operate a foreign exchange business in Australia without an Australian Financial Services Licence?

We can assist with each of the steps below – we've done this lots of times!

In setting out this checklist, we assume that you deal with retail clients, and that you won't be providing personal advice (typically this business model provides general advice only. We can still help if you do want to provide personal advice). The steps are usually the same regardless of whether you offer an order-matching platform (like MetaTrader4 (MT4) or MT5) or whether you have your own platform where you are the counter party to client positions.

- Decide on **legal entity** that will hold the licence (Eg. your existing overseas company, or a new or existing Australian company).
- Apply for an **Australian Financial Services Licence**. This includes nominating "Responsible Managers", describing your business in certain template documents, appointing an accountant, appointing an auditor, arranging insurance and establishing compliance systems. [Here's an article](#) that breaks down this process into more detail (and includes a mind map).
- Prepare your **Product Disclosure Statement** (we assume you're an issuer of forex contracts and not just a forex broker). Key resources are [ASIC Regulatory Guide 168](#) and ASIC's report on [CFDs and CFD providers in Australia](#).
- Make sure you're **handling client money** in a compliant manner. Check out [ASIC Regulatory Guide 212](#).
- Prepare your **Financial Services Guide**. ASIC guidance is found in [ASIC Regulatory Guide 175](#) - Section C, page 18.
- Ensure your **Responsible Managers** (or at least those RMs responsible for advice), marketing and sales staff are appropriately **trained** according to [ASIC's RG 146](#) and [ASIC's RG 105](#) (for Responsible Managers).
- Revise your **trading terms and conditions** and **account opening form** for compliance with Australian law.
- Ensure you have fully rolled out a compliant **Anti-Money Laundering & Counter Terrorism Financing Part A and Part B program** (this will impact significantly on your account opening and ongoing monitoring obligations).
- Revise your **employment agreements** so they comply with Australian law.
- Implement an **ongoing compliance program**.

Further Information: ASIC has released a guide titled "Doing Financial Services Business in Australia" [RG 121](#).

About us: Our clients include global forex traders and physical forex dealers, government regulators and other derivatives brokers. Contact us on +61 3 9670 8200 or email Paul Derham at [pauld@hnlaw.com.au](mailto:pauld@hnlaw.com.au).



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