

WEB3 AND FINANCIAL PRODUCTS AND SERVICES

If you have a web3 business, such as issuing or distributing cryptocurrency, NFTs or are building a business using blockchain technology, you may need to comply with the Australian Financial Services (AFS) law. Under the Corporations Act, Australian financial services businesses are required to have an AFS Licence (AFSL) unless they are exempt from holding one.

This fact sheet explains common financial products and services that are relevant to web3 businesses.

WHAT IS A FINANCIAL PRODUCT?



A financial product means:

- making a financial investment: when your client contributes money or money's worth to generate a financial return; they do not have day-to-day control over the contribution; or
- managing a financial risk: when you arrange to mitigate, avoid or limit the impact of financial fluctuations on your client's investment; or
- making a Non-Cash Payment (NCP): where your client makes a payment through means other than physically delivering Australian or foreign currency. Examples of NCP facilities include direct debit, pre-paid cards, and gift cards.

You will need an AFSL (or to be exempt) to provide any of these financial products.

WHAT ARE MANAGED INVESTMENT SCHEMES?



An MIS is a collective investment scheme where your clients pool their money or contributions to invest together or undertake a common enterprise. The Corporations Act defines an MIS as including:

- contribution – clients contribute money or money's worth to acquire rights to benefits produced by the scheme;
- pooling – contributions are pooled to produce financial benefits or interests in property; and
- control – clients do not have day-to-day control over the scheme's operation.

WHAT ARE SECURITIES?



Securities include legal or equitable rights in an entity (eg. shares in a company), as well as the option or right to acquire shares in an entity (eg. options in a company).

WHAT ARE SOME COMMON FINANCIAL SERVICES?



Financial product advice: a recommendation or opinion that influences, or is intended to influence, a client to make decisions on a financial product. Financial product advice can be personal advice (considering a customer's objectives, financial situation, and needs) or general advice.

Dealing in a financial product: includes issuing, applying for, acquiring, varying or disposing of a financial product (principally or on behalf of a client) or arranging a dealing in a financial product.

Making a market: when a client states the prices at which they propose to acquire or dispose of financial products on their own behalf through a facility, and other parties reasonably expect that they will be able to regularly effect transactions at the stated prices.

Providing custodial or depository services: when you hold financial products or beneficial interests in financial products in trust on behalf of your client (usually for a fee).