



Setting up a new financial services firm in Australia

Tasks, time and tenacity

Lynda Dowling

This paper provides an overview of what it entails to set up a brand-new financial services firm in Australia. It is not an easy feat, and those involved need a unique set of skills, especially tenacity.

It is based on a case study detailing what was required to establish Australian financial services firm Webull Securities (Australia) Pty Ltd (Webull), initially a start-up providing financial services to retail investors, and later to wholesale clients, on behalf of its large US parent entity in accordance with its strategy to be licensed and launched in several regions globally.

The initial key items considered were as follows:

- What did the firm wish to do in relation to financial services?
 - What types of financial services and financial products did the firm wish to offer?
 - How would these financial services be provided (e.g. app only/ app and desktop etc.)?
 - To what types of clients did the firm want to position its services and products?
- Considerations for the firm necessary to achieve its goal; namely:
 - appointing a CEO and chief compliance officer (CCO)
 - setting and working within a budget

- obtaining an Australian financial services (AFS) licence
- ascertaining the support functions required
- determining the number of employees needed.
- How to get everything done in the anticipated timeframe?
- Measures of success.

What did the firm wish to do in relation to financial services?

As a primary considerations, senior executives agreed upon the Australian firm's strategic aims. These were to:

- within a year (or less if possible), secure an AFS licence from the Australian Securities and Investments Commission (ASIC), then launch the firm accordingly
- become a trading participant of the Australian Securities Exchange (ASX) and Cboe Australia Pty Ltd (Cboe) and gain market share.
- create a name for the Australian company and have the company incorporated in Australia and registered with ASIC
- appoint an external legal firm to assist with company creation etc.

What types of financial services and products did the firm wish to offer?

As some financial services and financial products can be complex

and involve more regulation scrutiny than others, it was imperative to consider all relevant factors accordingly when selecting the financial services and financial products to ensure that everything was captured within the firm's risk framework and evidenced to relevant regulators accordingly.

It was agreed that in its first year, the firm would aim to provide the following services to clients.

General financial product advice for the following classes of financial products

- Deposit and payment products limited to basic deposit products and deposit products other than basic deposit products
- Derivatives
- Interests in managed investment schemes excluding investor directed portfolio services
- Securities.

Deal in financial products

1. Issuing, applying for, acquiring, varying, or disposing of a financial product in respect of the following classes of financial products:
 - a. Standard margin lending facility
 - b. Derivatives
2. Applying for, acquiring, varying, or disposing of a financial product in respect of the following classes of financial products:
 - a. Deposit and payment products limited to basic deposit products and deposit products other than basic deposit products
 - b. Interests in managed investment schemes excluding investor-directed portfolio services
 - c. Securities
 - d. Derivatives.

How would financial services and financial products be provided?

With the new Australian entity becoming part of an already well-established and reputable online trading firm which had been in the US for a few years, it was agreed for consistency that all new entities would provide services and products by way of:

- the firm's mobile app
- desktop.

It was imperative for the Australian entity that initially, clients were able to trade on a self-directed trading platform. In time, the Australian entity hoped to establish a trading desk whereby clients would be able to speak directly to trading representatives.

What types of client did the firm want?

Establishing the client base early on was critical and dovetailed with the need to gain the relevant AFS licence. This was because the particular client category dictated what information the firm needed to provide ASIC as part of the AFS licence application process.

For the Australian entity, it was decided that the aim was to be licensed for providing financial services to:

- retail clients (as defined under section 761G of the *Corporations Act 2001* (Corporations Act))
- wholesale clients.

Considerations for the firm in order to achieve its goal

Appointing a CEO

The candidate needed a financial services background and the ability to 'hit the ground running'. The CEO spent time determining the Australian firm's concept, undertaking a detailed analysis of its competitors and the market, including the various generations of investors. Thus, with the business concept and structure agreed, the CEO was able to prepare a detailed business plan accordingly within critical timelines.

Appointing a chief compliance officer (CCO)

One of the first tasks for the new CEO was to appoint a chief compliance officer (CCO). The CCO would work closely with the CEO on key requirements pertaining to the set-up of the new firm, and build out requisite compliance frameworks, policies, procedures, and other regulatory requirements.

Setting a budget

Along with the business plan created by the CEO and approved by senior executives, a detailed budget was created in conjunction with the business plan.

Licensing

With the business plan and budget agreed by senior executives, the following licensing options were considered:

- a) Apply directly to ASIC for the firm's own AFS licence
- b) Purchase an AFS licence, or
- c) Become an authorised representative on a third-party's AFS licence.

The firm's preference was to apply to ASIC directly for its own AFS licence. However, as a back-up, should the firm not gain an AFS licence, or the application took far too long (it can take up to 12 months to gain an AFS licence), then options b) and c) would be considered.

Key lessons for those thinking of obtaining an AFS licence

It is important to identify key lessons for those who may be interested in obtaining an AFS licence either by applying directly to ASIC or going through the 'back door' and essentially purchasing an AFS licence or becoming an authorised representative on a third-party's AFS licence (known in the industry as 'hiring an AFS licence'). These are outlined in the following discussion.

Upon an applicant going through a thorough AFS licence application process and having met all of ASIC's stringent licensing requirements, then ASIC will issue an AFS licence.



**Lynda Dowling,
Webull
Securities**

Lynda is chief compliance officer within the local Australian entity of global fintech Webull, and played a key role helping the firm start up from scratch in Australia. She has over 20 years' compliance experience supporting high-performance businesses in investment banking, stockbroking, domestic commercial banking, and inter-dealer broking. Lynda holds the Governance Risk and Compliance Institute senior accreditation of Certified Compliance and Risk Professional (CCRP).

Note: These licensing requirements are as per ASIC's Licensing Kit, comprising:

- Regulatory Guide 1 *AFS Licensing Kit: Part 1—Applying for and varying an AFS licence*
- Regulatory Guide 2 *AFS Licensing Kit: Part 2—Preparing your AFS licence or variation application*
- Regulatory Guide 3 *AFS Licensing Kit: Part 3—Preparing your additional proofs.*

It can be quite common in the financial services industry to purchase an AFS licence, however, there are key advantages and disadvantages. Some key pros and cons are highlighted in the following sections.

Disadvantages of purchasing an AFS licence

Some AFS licence applications can be lengthy and difficult, depending on the licence authorisations being applied for. The average turnaround from ASIC to grant an AFS licence is between eight and 12 months, but some cases have been identified in the financial services industry where it has seen it take up to 12 months (and more).

With most AFS licence applications, firms usually need external legal assistance which can be costly and ongoing. For example, if the AFS licence application is taking a significant amount of time, the process would usually involve ongoing questions from ASIC's licensing section that would potentially need the assistance of a law firm.

In accordance with ASIC's website page *FS01 Application for AFS Licence*, application fees can range quite substantially, with costs further blown out if a law firm is needed to help with the application.

As part of the AFS licence application process, key individuals such as officers of the firm (directors) need to meet ASIC's very granular "fit and proper person" regime. This can be particularly onerous if a global firm with directors of the Australian entity located overseas applies for an AFS licence, as relevant overseas probity checks have to be provided to ASIC in the preferred manner.

A responsible manager for the new AFS licence must be appointed for each licence authorisation being sought. This could cause the applicant having to appoint several responsible managers in order to have all of the AFS licence authorisations covered from a supervisory competency capacity.

Advantages and other items to consider when purchasing an AFS licence

Purchasing an AFS licence would usually be much quicker (a few weeks), as this process entails the buyer of an existing AFS licence essentially 'inheriting' the company then notifying ASIC accordingly by submitting to the Regulator a Change of Control Notice. However, whereas this may be quicker, the buyer would need to ensure that the existing AFS licence contains all authorisations required to prevent an AFS licence variation which is just as onerous sometimes as a new application.

Purchasing an AFS licence may not always be cheaper. Depending on the type of AFS licence being sought, some sellers in the industry charge quite significant prices (for instance, up to and more than \$1 million). In addition, there is no official marketplace for the selling of AFS licences—essentially, it tends to be a word-of-mouth process. Further, some legal firms would possibly be aware of who was selling an AFS licence. Either way, purchasing an existing AFS licence is certainly not as onerous as applying for a new one.

The buyer of an AFS licence would 'inherit' key items, functions and requirements of the existing AFS licensee, such as:

- employees to include existing ASIC responsible managers
- internal frameworks
- relevant systems for the business
- the existing client base.

However, it is important to note that simply inheriting a company with its existing AFS licence could pose other problems for the buyer because the buyer inherits any of the company's ongoing matters. For instance:

- any ongoing litigations the company is going through
- key ongoing client complaints/disputes that are with the Australian Financial Complaints Authority (AFCA)
- regulatory breaches that have occurred and any civil penalties, enforceable undertakings, licence conditions etc. imposed on the firm.

Fortunately, Webull gained its AFS licence in under five months, so the firm did not need to consider other licensing options.

What support functions are required?

With any new firm, a fundamental item to consider is the type of support required for the business and if this will be provided locally, or offshore (if a global firm).

Essential support functions include:

- IT
- auditing
- legal
- compliance, along with monitoring and surveillance systems
- client onboarding and know-your-customer (KYC) obligations.
- clearing and settlement
- operations
- finance
- payroll
- trading and systems.

It is important to note that for any material function that is outsourced, the AFS licensee needs to take into consideration ASIC Regulatory Guide 104 *Licensing: Meeting the general obligations*, where the regulator sets out the following key requirements pertaining to outsourcing:

- A service level agreement (SLA) must be in place for each outsourced item
- Measures need to be in place to ensure due skill and care is taken when choosing suitable service providers
- The licensee can and will monitor the ongoing performance of service providers
- The licensee will deal appropriately with any actions by service providers that breach SLAs.

Bonds and guarantees

Depending on what is being outsourced, the service provider may require a large bond/bank guarantee (for instance, in the case of outsourcing clearing and settlement services).

For Webull's new Australian entity, the firm kept outsourcing to a minimum, comprising functions that could not be undertaken in-house. For example, clearing and settlement to a well-known ASX clearing and settlement participant.

What number of employees were needed?

With any start-up, budgets are key, as they may be quite constrained. This needs to be considered when a firm is seeking to put together its team. For example, a tight budget may necessitate recruiting just a

few staff initially who have the right qualities (for instance, a resilient mindset) and fit in with the firm's goals and workplace culture.

The CEO and CCO worked together as sole operators for around the first seven months before the following lead appointments were made:

- Head of IT
- Senior project manager
- Head of product.

Getting it all done in the anticipated timeframe

Having a stringent and robust plan locked in, and with an anticipated launch of within a year (with all relevant regulatory authorisations in place) was quite daunting. In Webull's case, an 'all hands-on deck' approach combined with all employees having a clear understanding of what was required helped manage the magnitude of this situation effectively.

As the Australian entity was part of a global group, it was fortunate enough to gain support from other regions, and use already-implemented functions (for instance, its app). However, this still involved a large amount of work to have things tailored specifically for the Australian market.

The following sections summarise what each initial appointee focused on in the first few months.

CEO

Upon commencing in November 2021, the CEO liaised continually with global executives regarding the firm's business plan, ascertained expectations, managed the budget, and worked closely with each initially appointed individual to cement the firm's strategic approach.

Global executives had previously appointed a local external legal firm to assist with registering the business and to gain an AFS licence, whereby the CEO took over this task to help the law firm prepare the AFS licence application and register the firm and its related entities.

From each day onwards, the CEO was involved in all aspects of the firm's creation, including:

- sourcing key service providers
- holding numerous meetings with potential service providers
- working with domestic and overseas government agencies such as the Australian Taxation Office, and US Internal Revenue Service
- liaising with regulators
- interviewing employees
- working with the CCO on building out the firm's required frameworks etc.
- gaining relevant insurances for the firm (e.g. professional indemnity insurance, and later building premises insurance)
- working with the firm's US clearer, and with regional offices accordingly
- sourcing the firm's authorised deposit-taking institutions (ADIs) which resulted in the ADI being used globally

- reaching out to the global auditor who had been appointed by the group chief financial officer, and helping the CCO appoint requisite surveillance providers.

CCO

When the CCO commenced, her first task was to assist the CEO and external legal firm in the AFS licence application, with the sole aim of getting it lodged before the Christmas holiday period (due to the upcoming summer holidays).

The application was lodged successfully within the set timeframe, whereby the CCO focused on the following requirements and related tasks over the 2021 period:

- Compiling the firm's "fit and proper person" items required to support the AFS licence application.
 - Creating Webull's compliance and risk framework, with key regulatory obligations being the firm's key policies and procedures, and management supervision plan; the latter comprising a:
 - a) detailed business overview of the firm's operations
 - b) risk matrix (documenting the firm's identified risks, and control mechanisms etc.)
 - c) granular compliance monitoring and testing program
 - d) supervisory framework
 - Preparing significant disclosure documentation such as product disclosure statements, financial services guides and target market determinations
 - Drafting relevant agreements and terms of business for internal legal and external legal review
 - Fulfilling Capital Adequacy Procedures (in preparation for the firm's aim of being an ASX participant)
 - Submitting necessary regulatory applications such as:
 - a) ASX and Cboe trading participant applications
 - b) Australian Transaction Reports and Analysis Centre (AUSTRAC) approval for a digital currency exchange (in case the firm decided to offer digital assets at a later period)
 - c) approval of an automated order processing (AOP) system from ASIC
 - d) Core Capital Approval as per ASIC Market Integrity Capital Rules 2021.
 - Helping each section build out their own operating procedures
 - Creating key content for the firm's Australian website
 - Assisting with the annual external audit on the firm.
- The CEO and CCO came from large well-known financial institutions which were licensees and market participants. Their experience and expectations helped Webull implement high standards in relation to its main frameworks and create the right workplace culture. Moreover, this accorded with a fundamental directive from the firm's senior executives globally.

Head of IT

It was critical that this individual was highly experienced in all aspects of IT required by an AFS licensee. Upon commencing, the head of IT focused on putting



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together the firm's business continuity plan and other essential IT frameworks required by an AFS licensee and market participant.

The head of IT worked closely with the CEO, colleagues and other sections, some in different regions, on important projects, along with key service providers in preparation for the firm becoming a market participant. Further, they were instrumental in implementing pivotal IT systems from scratch for Webull's permanent offices.

Senior project manager

It was an important requirement for the Australian entity to appoint a project manager to collaborate with the firm's overseas developers on building the app for Australian purposes, creating all key mechanisms required for progress reporting etc., and working with all individuals on the relevant requirements the firm needed in relation to project management.

Head of product

The head of product was another high-priority appointment, whereby they worked very closely with the project manager in accordance with the firm's aim of:

- providing a number of financial products within a short time-frame,
- ensuring the app and products aligned with the expectations of Australian investors (from various age cohorts)
- instigating community education, marketing campaigns etc.
- building the firm's local website.
- sourcing artificial intelligence (AI) providers for facial biometrical client onboarding, anti-money-laundering (AML) services, and payment services.

Measures of success

The following sections outline the milestones around Webull's successful launch of its Australian operations.

AFS licence granted

In May 2022, the firm's AFS licence application was approved by ASIC and a draft version sent accordingly, with the final AFS licence received in June 2022. This was no mean feat for the firm, especially as the timeframe was much shorter than expected by senior management, and even surprised the industry.

Approval of digital currency exchange

A related entity to Webull Securities was approved by AUSTRAC to operate as a digital currency exchange, however, as at the time of writing, this product is currently not provided by the group in any region.

Permanent offices

Now that the firm had its AFS licence, permanent offices could be sought. On that, the CEO and CCO found suitable permanent offices for the firm within a sought-after location within the Sydney CBD.

Launch date agreed for the business

It was determined that an ideal launch date for the Australian Webull app would be in December 2022. This initial launch would comprise offering US Securities (to include fractional shares) to retail investors.

Recruit other key personnel

In preparation for the firm's launch in December 2022, the following positions were filled:

- Head of client success, client success managers, and associates
- Compliance officer
- Finance manager.

Head of client success

It was imperative to recruit a head of client success to build out the client services function for a financial services firm and train up, where relevant, the new client services representatives, increase client services numbers, work with IT in relation to the call centre set-up for clients, and develop the app accordingly to allow clients to contact client services in a seamless manner.

Compliance officer

A compliance officer was appointed to undertake the firm's AML monitoring and trade monitoring, with another compliance officer appointed in June 2023.

Finance manager

A finance manager was recruited shortly afterwards to put together the firm's finance framework, work with the outsourced payroll provider, work with the firm's ADI and clearer in relation to all finance matters, and later recruit an assistant accountant and credit officer.

Build the app for Australian purposes

The app was put through a development loop, refined and tailored for Australian investors. All employees were involved in every aspect of the user experience (from the account opening process through to trading and settlement in US securities) along with granular pre-production testing, ensuring everything was ready for a December launch.

Create the firm's local website

While this project was led by head of product, all sections of the business were heavily involved in creating Webull's Australian website, from graphics to all text (including relevant agreements, disclosure documents, disclaimers etc.) to ensure it aligned with Australian investors' requirements and expectations.

Marketing campaigns

In anticipation of the firm's launch date of 17 December 2022, marketing campaigns were developed by the firm's marketing team, with all other employees involved along the way. In addition, a marketing framework was created by the CCO, reviewed, and approved by the CEO and implemented accordingly.

Importantly, this included instances where the firm might interact with influencers/key opinion leaders (KOLs), given ASIC's current focus on such people possibly breaching the Corporations Act in terms of:

- providing unauthorised financial product advice
- dealing by arranging, and
- misleading or deceptive conduct.

Key registrations for the firm

With an AFS licence in place, the CCO was then able to register the firm with AFCA as part of its external dispute resolution (EDR) obli-

gations. The CCO also registered the firm and subsequent related entity with AUSTRAC and lodged relevant information, for instance, the firm's auditors etc., with ASIC.

Launch and further measures of success

The firm was launched on 17 December 2022, initially offering US securities, exchange-traded funds (ETFs), fractional shares and exchange-traded options. There were a total of 11 local employees at the time.

Trading participant of the ASX and Cboe

Relevant applications were lodged with both exchanges (ASX and Cboe) in January 2023 along with the necessary items to support each application. Following on, in May 2023, Webull was accepted as a trading participant by each exchange.

On 27 July 2023, the ASX held a 'ring the bell' event for the official membership of Webull Securities as a trading participant.

AOP system approved by ASIC

In preparation for becoming a trading participant using an industrywide recognised AOP, the CCO worked with CEO and head of IT to prepare and lodge the required application to ASIC in February 2023. This was approved by the regulator in April 2023.

Additional financial products released

From launch to the date this paper was written (September 2023), the following financial products were made available within a nine-month timeframe:

- Cash management account
- Standard margin lending facility (US Securities and Australian Securities)
- Australian Securities, partly paid securities and warrants
- Hong Kong and China Connect Securities
- Smart Portfolio ETF Balancing.

Before the end of 2023, Webull will also be providing:

- Moneybull—an intuitive auto-sweep feature, where clients' unallocated cash is automatically channelled into a USD money market trust fund, helping to ensure clients receive an enhanced yield
- ASX and Cboe warrants.

Additional employees recruited

Over time, the firm recruited the following additional employees:

- Compliance officer
- Credit risk officer
- Operations
- Product manager
- Marketing manager
- Trading representatives (accredited designated trading representatives).

As at the date of this paper being written, the firm is already planning its 2024 pipeline, with the aim of-

fering further financial products. In addition, it has just finalised putting in place the essential items required to offer financial services to institutional clients.

Industry recognition

Eleven months in from launch, the firm was voted the winner of the Adam Smith Awards Asia 2023 award for Best Investing Solution, recognising excellence and achievement in the corporate treasury space.

Final thoughts and considerations

It was an exciting journey to be involved in the creation of a new Australian financial services firm. In terms of optimising the process and 'going the distance', it pays to:

- be organised
- determine the business concept as soon as possible
- create a very granular business plan
- hire employees who hold a variety of skill sets that can be useful across a small start-up
- have determination, drive and believe in the firm's strategy. **FS**



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Depending on what is being outsourced, the service provider may require a large bond/ bank guarantee.