

28 October 2022

Financial Markets Authority
1 Grey Street
Wellington 6140

By email: consultation@fma.govt.nz

Dear Sir/Madam,

ICNZ submission on Proposed Regulatory Returns for Class 3 FAPs

Thank you for the opportunity to submit on the proposed regulatory return form for Class 3 Financial Advice Providers (FAPs) under the Financial Markets Conduct Act 2013 (FMCA).

By way of background, the Insurance Council of New Zealand - Te Kāhui Inihua o Aotearoa (ICNZ's) members are general insurers and reinsurers that insure about 95 percent of the New Zealand general insurance market, including about a trillion dollars' worth of New Zealand assets and liabilities. ICNZ members provide insurance products ranging from those usually purchased by individuals (such as home and contents, travel, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability, business interruption, professional indemnity, commercial property and directors and officers insurance).

Our submission covers three broad themes: Clarity, Purpose, and Efficiency.

- **Clarity** – we have found some instances where the terminology is unclear or even in conflict within the document. We have noted these in the feedback form attached and, where possible, offered proposed amendments.
- **Purpose** – aligned with clarity, there are several questions about why the information is being requested and how it enables the FMA to ensure participants are complying with licence conditions.
- **Efficiency** – in several instances, we believe the data being requested would already be held by the FMA, having been collected through the licensing process itself. As such, the data should be pre-populated with the opportunity for the FAP to update if necessary. It would be better for the FMA and participants to flag whether anything has changed from the initial application, or perhaps from the last annual report, otherwise the FMA will surely need to do a comparison exercise for every class 3 entity.

Other overarching feedback includes:

- While many of the questions appear straightforward and easily answered, some could require new systems to be put in place, with the associated setup and ongoing costs.
- Class 3 FAPs comprise a diverse group of providers, and so a one-size-fits-all approach can have some general issues:
 - It seeks to apply the same reporting requirements to entities for which financial advice is their entire business (e.g. financial advisers or brokers) as it does to entities

where financial advice is only one aspect of their operations (possibly even a small aspect).

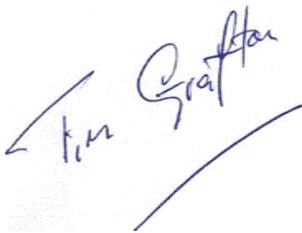
- The return seems to apply the same requirements to first-time licensees (such as brokers) as it is to financial institutions that are dual-licensed (by the RBNZ for many years now) and that already have regular, material interactions with the FMA. This runs the risk of potential duplication of information (e.g., outsourcing, business continuity, cyber incidents). With many financial institutions subject to the COFI regime, the concern is that the future holds further potential overlaps.
- Looking ahead, the FMA will need to consider how this regulatory return will integrate with the COFI annual return that will come into play due course. For example, based on the proposed FAP return, it seems the FMA might be asking FIs that are FAPs to report on their complaints data sub-divided against the separate but overlapped classes of 'regulated financial advice' and 'relevant service and associated product' under COFI. The usefulness of this and the practicality for entities needs to be explored.

The proposed template is a valuable first draft of an important feature of the regulatory regime. We consider it would be important for the FMA to continue developing this form with the assistance of a small group of industry participants. ICNZ would be willing to organise a meeting with the FMA to discuss. It would be useful, for example, to understand which annual return questions are intended to inform regulatory oversight and which are just for data collection, and to discuss the practicality and purpose of some of them.

We attach as appendices the response form (Appendix A) and the template regulatory return (Appendix B) distributed as part of this consultation process.

Please contact Greig Epps (greig@icnz.org.nz) if you have any questions on our submission or require further information.

Yours sincerely,



Tim Grafton
Chief Executive



Greig Epps
Regulatory Affairs Manager

Appendix A – Feedback form for Class 3 FAP regulatory returns

Feedback form	
<h3>Consultation paper: Regulatory returns for licensed Class 3 financial advice providers</h3>	
<p>Please submit this form electronically in both PDF and MS Word formats and email it to consultation@fma.govt.nz with 'Class 3 regulatory returns for FAPs: [your organisation's name]' in the subject line.</p>	
<p>Submissions for the Class 3 FAP Regulatory Return consultation close 28 October 2022, at 5pm.</p>	
<p>Date: 28 October 2022 Number of pages: Cover – 2; this feedback form – 6; template return - 28</p>	
<p>Name of submitter: Greig Epps</p>	
<p>Company or entity: Insurance Council of New Zealand</p>	
<p>Organisation type: Industry Association</p>	
<p>Contact name (if different):</p>	
<p>Contact email and phone: greig@icnz.org.nz / 04 914 2224</p>	
Question number	Response
1. Do you agree with the proposed reporting period for the regulatory returns? If not, what is your preferred reporting period, and why?	<p>ICNZ recommends that the reporting period be aligned with the financial reporting year of organisations. This allows organisations to align existing annual compliance reporting processes in place and reduce complexity and cost. It also means that the Regulator can spread its review of regulatory returns, rather than be inundated with a return from every organisation at one time.</p> <p>Further, we would suggest that the return be due within a three to five (3-5) month timeframe of the FAP's balance date, rather than a fixed date each year. (<i>See also Q7 below</i>).</p> <p>We note that questions 24-26 of the proposed Regulatory Return framework seek information about the FAP's finances for the return period. If the regulatory return date were a fixed date in each year, but not aligned with the FAP's financial year, the required information may risk being incomplete or miscalculated, compared with data that will have been through an audit process on completion of a financial year. Requiring a FAP to have that information with respect to a fixed return period that does not overlap with that FAPs financial year could create additional, unnecessary compliance burden.</p> <p>In the alternative, the FMA should consider accepting financial data reported in the regulatory return "<i>as at</i>" the licensed FAP's most recent balance date.</p> <p>It is important that the Regulatory Return Framework is completed well in advance of 30 September 2024 (when the first returns are due) – FAPs will need a significant lead-time to establish the relevant reporting infrastructure and attestation procedures.</p>

<p>2. Do you believe the requested information is appropriate and sufficiently well defined? Is there any information we shouldn't be asking for, or any clarifications we should make? Please give your reasons for this.</p>	<p>Further information can be found in the specific responses to the proposed return document issued as part of this consultation.</p> <p>Vagueness/Clarity: Broad and vague reporting requirements will be more open to interpretation by organisations. In turn, this will make it difficult for the Regulator to effectively compare, rate, and assess compliance standards and value across organisations.</p> <p>Several questions ask for the FAP to provide a subjective assessment of its compliance with relevant obligations under the Financial Markets Conduct Act. It is questionable whether the FMA will obtain any value out of the subjective "rating" questions, given the real risk that different FAPs will interpret the questions differently, and therefore respond differently. Those questions will also increase the compliance burden of completing the regulatory return, given the need for the self-assessment to be approved internally.</p> <p>As far as it is possible, objective measures should be used to elicit the information the FMA requires.</p> <p>Purpose: The assessing of applicability and measure of these compliance responses should be related to market licensee obligations from the Act.</p> <p>The FMA should restrict the question to the licensed financial advice operations and applicable licence conditions so it can satisfy itself that the FAP has an ongoing capability to effectively perform the financial advice service in accordance with the applicable eligibility criteria and other requirements in the FMC Act.</p> <p>Several questions appear to contemplate a particular "type" of licensed FAP, and do not account for the possible diversity of distribution models among licensed class 3 FAPs. For instance, there are several questions about the retail/wholesale client boundary, which are less relevant for insurers who distribute their own products and do not make the "retail/wholesale" distinction in their sales process.</p> <p>There are also questions which relate to the revenue attributable to the licensed FAP's financial advice service, which appear to only to contemplate a licensed FAP generating revenue directly from its financial advice service.</p> <p>Efficiency: We suggest that the questionnaire be pre-populated with information from the FAP's licence application. Where that information has changed since the application was made or the last return was submitted, then the FAP should have the ability to amend/update the data.</p>
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<p>3. Is there any other information we should ask for? If so, please state what, and how it would improve the returns?</p>	<p>We suggest that it would be helpful for the Regulatory Return to incorporate fields for added context through free-form additional text, where appropriate.</p> <p>Licensed FAPs may wish to provide commentary with respect to their answers to certain questions.</p>
<p>4. Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.</p>	<p>The more granular reporting requirements are, the more change and cost is needed across systems and processes to ensure that the appropriate data points are captured to support the regulatory reporting request.</p> <p>Significant system changes will be required to answer several of the questions set out in the proposed framework. Some questions seek data from licensed FAPs that is not currently collected. For instance, questions regarding the retail/wholesale client boundary and questions about revenues attributable to the licensed FAP will all require system changes.</p> <p>If the reporting was implemented as proposed (depending on interpretation of some questions), there could be potentially material costs due to additional reporting requirements. Even if the FMA incorporates industry feedback to amend the proposed regulatory return, implementation costs would still be considerable.</p> <p>One member's "back of the envelope" estimate of potential costs was:</p> <ul style="list-style-type: none"> • Setting up new reports could be approximately \$120,000 (for two full time staff on the Data Team to work on this for around three months). • Ongoing costs could be around \$150,000 per annum, to cover the 2-3 months of effort per year, involving multiple teams and senior level approval processes. <p>This process relies heavily on the FMA being clear about the need, relevance, and use of the information requested, especially as it relates to confirming compliance by licensees with the conduct regulations. Industry participants might need some leeway to answer questions requiring financial data to make it clear that the financial data is provided only "to the extent that data is available".</p>
<p>5. We want the market to benefit from this information too. As such, are there any aggregate reports that could be generated from the data that would be useful for the industry (while maintaining the confidentiality of commercially sensitive data)?</p>	<p>Generally speaking, the most helpful information will be commercially sensitive. The FMA must ensure confidentiality is maintained.</p> <p>Aggregate reports about particular products that generate replacement business or drive complaints would be helpful for the market.</p> <p>Reports might include the following topics:</p> <ul style="list-style-type: none"> • Types of financial advice • Types of financial advice products

	<ul style="list-style-type: none"> • Percentage of revenue derived from financial adviser services relating to the product types. • Complaints <p>With respect to complaints, ICNZ is working on a project to publicise industry complaints data. Once published, we propose this report is taken into consideration to ensure there is no duplication.</p>
<p>6. We want to consider whether regulatory returns could be used to gather demographic information for FAPs advisers or their retail clients (or both). What demographic information do you hold that could be provided for a) those engaged under your FAP licence, and b) your retail customers?</p>	<p>The Regulatory Returns will already impose a significant additional reporting burden on licensed FAPs, many of whom will already face significant regulatory reporting (for instance, IPSA returns in the case of licensed insurers).</p> <p>This is unnecessarily expanding the scope of the regulatory returns. Such information has no relevance to monitoring an FAP's ongoing capability to effectively perform the financial advice service in accordance with the applicable eligibility criteria and other requirements in the FMC Act.</p> <p>It would be good to understand why this information is required, specifically:</p> <ul style="list-style-type: none"> - How does demographic information of financial advice providers help evaluate the industry's risk of material issues and risk concentrations? We note this activity/data collection would drive additional costs to the business from an FTE perspective, as ongoing reporting will need to be developed and maintained. - For many members, there is no existing provision in customer privacy policies to provide this information; this would need to be obtained and sound reasoning provided for the change. <p>The FMA should accordingly be mindful of proposals to expand the Regulatory Return beyond what is necessary to ensure adequate oversight over licensed FAPs.</p> <p>More detailed concerns with this proposal include:</p> <ul style="list-style-type: none"> • possible privacy issues • impracticality (insurers collect some information of a demographic nature where it is relevant to underwriting but don't generally collect demographic information¹) • the potentially commercial sensitive nature of such information • potential for extra costs associated with this further reporting requirements
<p>7. Do you have any concerns about the proposed timeframe for gathering and submitting regulatory returns</p>	<p>There will be improvement gains through the use of a digital reporting structure, but it is still important to note the extensive time and effort required to gather this foundational data. To enable licensees to accurately report annually to the FMA, the</p>

¹ For example, most insurers are not able to provide location data for clients, as address data relate to the risk, not the individual.

<p>(i.e. a three-month window)? If so, please specify.</p>	<p>process will be heavily reliant on internal sources/stakeholders and competing resources.</p> <p>If the industry’s feedback on reporting requirements is incorporated, the three-month timeframe may be sufficient. However, if the proposals were implemented in the current form, there could be challenges due to the volume of reporting requirements and the time needed to gather relevant details.</p> <p>Based on the industry’s experience with the QFE ABS reporting process under FAA 2008, it would be preferable to have something like:</p> <ul style="list-style-type: none"> • A licensee must send the FMA a written report in respect within 5 months after the end of its financial year (the reporting year).
<p>8. Do you have any other comments on the proposed regulatory returns?</p>	<p>There is a sense among industry participants that the FMA will have existing access to much of the information being requested in this return; from sources such as:</p> <ul style="list-style-type: none"> - The original licence application, - Companies office reporting, or - From the “ongoing disclosure” licence condition which requires the reporting of any material change. <p>The request for some of this data runs the risk of being seen by the industry as an ambitious data collection exercise about organizations, with a tenuous (or unexplained) connection back to the FAP market services licensee obligations under the legislation.</p> <p>This process appears to be a “one size fits all” approach for an industry group that is, in fact, a diverse group of Class 3 providers. Specific comments are made in the proposed return feedback, but we list here two general issues:</p> <ul style="list-style-type: none"> - The proposed return is applying the same reporting requirements to entities for which financial advice is their entire business (e.g. financial advisers or brokers) to entities where financial advice is only an aspect of the business (potentially only a small aspect). - The process involves financial institutions that are dual licenced (by the RBNZ and FMA), which already have material regular interactions with the FMA, and is applying the same requirements to other organisations (such as brokers) that are being licensed for the first time by the FMA. This leads to potential duplication (e.g., outsourcing, business continuity, cyber incidents). With many financial institutions to be subject to the COFI regime in future there will possibly be further overlaps. <p>We encourage the FMA to continue working with its regulated entities, understanding the impact of these reporting requirements, and including the RBNZ in these conversations to ensure that the overall regulated reporting requirements falling on entities are well integrated and inefficient. This should thereby</p>

	avoid unnecessary additional costs for entities and avoid distracting them from meeting their customers' needs.
Feedback summary. Use for general comments or if you wish to highlight anything in particular.	
Please note: Feedback is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information included in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.	
Thank you for your feedback. We appreciate your time and input.	

Appendix B – Proposed Class 3 FAP regulatory return with comments

Part	#	Questions we will ask you	Guidance	Feedback on the question
Before you begin		Please enter your Financial Services Provider (FSP) number.	This is the number associated with your registration on the Financial Service Providers Register. If you have more than one FSP number (e.g. one as a Financial Adviser and one for a business), it is important you enter the FSP number that is specific to the licence.	This field could also be pre-populated, especially if the return is completed on a digital platform requiring user authentication (such as RealMe or the use of “keys” as with maintenance of companies on the Companies Register).
		Name of licenced FAP (THIS WILL PRE-POPULATE THE FAP DETAILS)		No comment.
		Class of licensed FAP (THIS WILL PRE-POPULATE THE CLASS)	The FMA specifies three licence classes for FAPs. Please see here for more information.	No comment.
		Are you filing this return on behalf of [FAP NAME] and do you have authorisation from [FAP NAME] to file on its behalf? <ul style="list-style-type: none"> • Yes • No 	The questions in this Regulatory Return relate to the licensed FAP and to any Authorised Bodies engaged by the FAP. You must have authorisation to submit the form on behalf of each Authorised Body.	As noted above, it will be good to have clarification about the security protocols to be used to access and complete the regulatory return. If this form will be completed by someone who requires a Real Me account to sign-in, then authentication of authority to complete the form should already exist. A list of authorised persons might be provided to FMA with the licence application (and any changes updated to FMA as part of ongoing disclosure).
		Below is a list of the regulatory return filings for which [FAP NAME] is registered. Select one of the options below to continue with the annual return filing.		No comment.
		Reporting period details (THIS WILL PRE-POPULATE THE CORRECT REPORTING PERIOD) Are the entity details (including the licence class) and the period shown above correct? <ul style="list-style-type: none"> • Yes • No 	Please check the above entity details (including the licence class) and reporting period to ensure they are correct.	No comment.

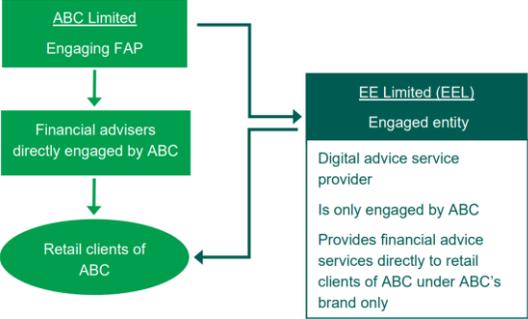
Part	#	Questions we will ask you	Guidance	Feedback on the question							
Part 1 – BUSINESS and infrastructure	1.	<p style="text-align: center;">Business structure</p> <p>Please answer the follow questions that relate to [FAP NAME]'s business structure.</p>									
	a.	<p>Select how [FAP NAME] operates its licensed financial advice business?</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">FAP operating as an individual</td> <td style="width: 20%;"></td> </tr> <tr> <td>FAP operating as an entity</td> <td></td> </tr> </table>	FAP operating as an individual		FAP operating as an entity			<p>We suggest this is pre-populated from FAP licence application. This should be information already supplied to the FMA, particularly in relation to Class 3 entities. This question should perhaps ask if anything has changed since licensing or the submission of the previous return?</p>			
	FAP operating as an individual										
FAP operating as an entity											
b.	<p>Select which ways [FAP NAME] provides its advice? Select all that apply.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Through engaging one or more financial advisers</td> <td style="width: 20%;"></td> </tr> <tr> <td>Through engaging one or more nominated representatives</td> <td></td> </tr> <tr> <td>Directly through a digital advice facility (See Note 1)</td> <td></td> </tr> <tr> <td>Directly through other means</td> <td></td> </tr> </table>	Through engaging one or more financial advisers		Through engaging one or more nominated representatives		Directly through a digital advice facility (See Note 1)		Directly through other means		<p>Note 1: A FAP licence to provide a financial advice service may cover advice provided by a natural person, or otherwise, including a digital advice facility.</p> <p>A digital advice facility (also known as 'robo-advice') is automated advice generated by a computer programme using algorithms and based on the information provided to a FAP – usually via a website or mobile app – without any direct human involvement at the providers' end.</p> <p>Please note that a digital advice facility is not where a FAP provides regulated financial advice merely through digital means, e.g. emails or text messages.</p>	<p>Again, we suggest these data are pre-populated from the FAP licence application.</p>
Through engaging one or more financial advisers											
Through engaging one or more nominated representatives											
Directly through a digital advice facility (See Note 1)											
Directly through other means											

Part	#	Questions we will ask you	Guidance	Feedback on the question												
	2.	<p>How long has [FAP NAME] been providing financial advice in the New Zealand market?</p> <table border="1"> <tr> <td>Less than or equal to 6 months</td> <td></td> </tr> <tr> <td>Greater than 6 months to 1 year</td> <td></td> </tr> <tr> <td>Greater than 1 year to 3 years</td> <td></td> </tr> <tr> <td>Greater than 3 years to 5 years</td> <td></td> </tr> <tr> <td>Greater than 5 years to 10 years</td> <td></td> </tr> <tr> <td>Greater than 10 years</td> <td></td> </tr> </table>	Less than or equal to 6 months		Greater than 6 months to 1 year		Greater than 1 year to 3 years		Greater than 3 years to 5 years		Greater than 5 years to 10 years		Greater than 10 years		<p>This question should be answered as at the end of the reporting period.</p> <p>Your answer should be based on the date the entity or individual commenced providing regulated financial advice in New Zealand. This is not necessarily the date the FAP licence was granted.</p>	<p>There are two issues with this question:</p> <ol style="list-style-type: none"> 1. Is this question necessary? Why will the FMA need to get licence holders to re-indicate every year how long they have been providing financial advice for, when FMA will have this information already (as is required in FAP licence application)? 2. If this question is nonetheless considered necessary, the FMA will need to clarify whether the use of 'financial advice' here is intended to mean something different from 'regulated financial advice' in the FAP licence application process. <p>Expanding on that second point, "regulated financial advice" is a concept created by the FSLAA amendments to the Financial Markets Conduct Act. The question should be clear as to whether the FMA requires information about financial advice given under the previous Financial Advisers Act regime, or only financial advice given under the current regime.</p>
Less than or equal to 6 months																
Greater than 6 months to 1 year																
Greater than 1 year to 3 years																
Greater than 3 years to 5 years																
Greater than 5 years to 10 years																
Greater than 10 years																
	3.	<p>Financial advisers</p> <p>Our records indicate that the following number of Financial Advisers are engaged under [FAP NAME]'s FAP licence, as at the end of the return period.</p> <p>(THIS WILL PRE-POPULATE THE CURRENT NUMBER OF FINANCIAL ADVISERS AS AT THE END OF THE RETURN PERIOD)</p> <p>Is this number correct?</p> <ul style="list-style-type: none"> • Yes • No 	<p>When you engage a Financial Adviser under your own FAP licence, you must record details of the engagement on the Financial Service Providers Register (FSPR). This number must be consistent with the current information on the FSPR. If the numbers do not match, you will be asked to provide the correct number and to ensure the FSPR is updated to reflect this.</p> <p>This number should include all Financial Advisers who are engaged directly and through authorised bodies.</p>	<p>No comment.</p>												

Part	#	Questions we will ask you	Guidance	Feedback on the question
	4.	<p>These questions regarding Nominated Reps will only be displayed if Nominated Reps are selected in question 1a.</p> <p>Nominated Representatives</p> <p>Please provide answers to the following questions about the Nominated Representatives who are engaged under [FAP NAME]'s FAP licence.</p>		No comment.
	a.	<p>How many Nominated Representatives are engaged under [FAP NAME]'s FAP licence, as at the end of the return period?</p> <p>NR = <input data-bbox="367 635 591 667" type="text"/></p>	<p>A FAP must keep an up-to-date record of its Nominated Representatives. See section 431T of the Financial Markets Conduct Act.</p>	No comment.

Part	#	Questions we will ask you	Guidance	Feedback on the question								
	b.	<p>Select which of the options below best reflects the maturity of [FAP NAME]'s process and controls in respect to the financial advice given by its Nominated Representatives.</p> <table border="1"> <tr> <td>Processes and controls are established, and reviewed at least annually</td> <td></td> </tr> <tr> <td>Processes and controls are established, and reviewed when required</td> <td></td> </tr> <tr> <td>Processes and controls established, but are not reviewed</td> <td></td> </tr> <tr> <td>Processes and controls are not established.</td> <td></td> </tr> </table>	Processes and controls are established, and reviewed at least annually		Processes and controls are established, and reviewed when required		Processes and controls established, but are not reviewed		Processes and controls are not established.		<p>This question asks for the FAP's self-assessment on the maturity of their processes and controls that limit the nature and scope of the advice that Nominated Representatives give, and regulate what advice is given and the circumstances in which it is given to customers.</p> <p>By 'established', we mean approved, documented and operating in practice.</p> <p>The duties of FAPs who engage Nominated Representatives are explained in section 431R of the Financial Markets Conduct Act.</p>	<p>It would be helpful to understand the purpose of this question, which is repeated multiple time throughout the return.</p> <p>If a licence has been granted, then surely the entity can assume that FMA was comfortable with the initial level of maturity. Is this, for example, simply intended to measure the self-assessed development of entities that start at a lower level of maturity?</p> <p>Furthermore, this question requires a subjective assessment and is likely to provide limited value or insight to the FMA, given the likelihood that different FAPs will take a different approach to the self-assessment. An objective metric would be of assistance here.</p> <p>We believe that this will increase the compliance burden on FAPs given the need for internal approval of the assessment at each reporting year, which may not be justified considering the limited utility of the question.</p> <p>If this question is to be included, it would be of assistance if the FMA were able to include a free text field for FAPs to provide further context where possible. That would enable a FAP to explain their answer.</p>
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	5.	<p>Authorised Bodies</p> <p>These questions in regards to Authorised Bodies will only be asked if the FSP number entered at the beginning of the regulatory return has authorised bodies on the FSPR.</p> <p>Please provide answers to the following questions about Authorised Bodies who are named on [FAP NAME]'s FAP licence.</p>		<p>No comment.</p>								

Part	#	Questions we will ask you	Guidance	Feedback on the question								
	a.	<p>Our records indicate that the following number of Authorised Bodies are named on [FAP NAME]'s FAP licence.</p> <p>(THIS WILL PRE-POPULATE THE NUMBER OF AUTHORISED BODIES AS AT THE END OF THE RETURN PERIOD)</p> <p>Is this number is correct?</p> <ul style="list-style-type: none"> • Yes • No 	<p>An Authorised Body is an entity named on your licence who can provide the licensed service without needing its own licence.</p> <p>All Authorised Bodies named on your licence must be registered on the FSPR as a Financial Advice Provider.</p>	No comment.								
	b.	<p>Select which of the options below best reflects the maturity of [FAP NAME]'s process and controls to maintain control and supervision over the provision of financial adviser services by its Authorised Bodies.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Processes and controls are established, and reviewed at least annually</td> <td style="width: 20%;"></td> </tr> <tr> <td>Processes and controls are established, and reviewed when required</td> <td></td> </tr> <tr> <td>Processes and controls are established, but are not reviewed</td> <td></td> </tr> <tr> <td>Processes and controls are not established</td> <td></td> </tr> </table>	Processes and controls are established, and reviewed at least annually		Processes and controls are established, and reviewed when required		Processes and controls are established, but are not reviewed		Processes and controls are not established		<p>This question asks for the FAP's self-assessment on the maturity of their supervision and controls over the provision of the financial advice service by any Authorised Body named under its licence.</p> <p>By 'established', we mean approved, documented and operating in practice.</p> <p>Licences that cover Authorised Bodies are explained in section 400 of the Financial Markets Conduct Act.</p>	<p>Similar to the response to Q4b, this question requires a subjective assessment and is likely to provide limited value or insight to the FMA. We expect that different FAPs will take a different approach to the self-assessment. An objective metric would be of assistance here.</p> <p>It will also increase the compliance burden on FAPs given the need for internal approval of the assessment at each reporting year, which may not be justified considering the limited utility of the question.</p> <p>If this question is to be included, it would be of assistance if the FMA were able to include a free text field for FAPs to provide further context where possible. That would enable a FAP to explain their answer.</p>
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	6.	<p>Does [FAP NAME] have arrangements in place where it <u>directly</u> engages entities to provide advice on its behalf?</p> <ul style="list-style-type: none"> • Yes • No 	<p>This question relates to an arrangement where a FAP has chosen to engage an entity directly to give advice on the engaging FAP's behalf.</p> <p>This does not relate to advice being provided by individuals or entities directly engaged by the licensed FAP, or those individuals who are indirectly engaged via an interposed persons arrangement.</p> <p><u>Who is an engaged entity?</u></p> <p>The diagram below provides an example of an engaged entity.</p>  <p>In this example, ABC is a FAP that directly engages Financial Advisers to provide financial advice on its behalf to its retail clients. ABC also has an arrangement in place with EEL, an entity that provides financial advice to retail clients of ABC through a digital advice service. ABC has a FAP full licence (Class 3), and has received approval from the FMA that it can engage EEL to provide advice on its behalf.</p> <p>A FAP that engages another person to give regulated financial advice must take all reasonable steps to ensure they comply with the relevant duties. This requirement is set out in section 431Q of the Financial Markets Conduct Act.</p>	No comment.

Part	#	Questions we will ask you	Guidance	Feedback on the question
	7.	<p>Does [FAP NAME] have arrangements in place where it <u>indirectly</u> engages individuals via an interposed person?</p> <ul style="list-style-type: none"> • Yes • No 	<p>An interposed persons arrangement is where a FAP engages individuals (whether Financial Advisers and/or Nominated Representatives) <u>indirectly</u> through one or more other persons (the ‘interposed persons’) to give advice on behalf of the engaging FAP.</p> <p>This does not relate to advice being provided by individuals or entities directly engaged by the licensed FAP.</p> <p><u>What is an interposed person?</u></p> <p>The diagram below provides an example of an interposed person.</p> <p>In this example, DEF is operating under a FAP full licence and directly engages Bob to provide financial advice to DEF’s retail clients. Bob’s entry on the FSPR shows that he is engaged by DEF. Meanwhile, Mary is also a Financial Adviser who is <i>indirectly</i> engaged by DEF, through the entity IPL, to provide financial advice on financial products to DEF’s retail clients. DEF has a FAP full licence (Class 2) and has received approval from the FMA to engage IPL as an interposed person to provide advice on its behalf. Mary’s entry on the FSPR shows she is a financial adviser engaged by DEF, in addition to her engagement by IPL.</p> <p>This information sheet provides details on the FMA's approach to licensing FAPs involving interposed persons or engaged entities.</p>	No comment.

8.	<p>How does [FAP NAME] meet the competence, knowledge and skill requirements for the regulated financial advice that it provides?</p> <p>Select all that apply.</p>	<p>This question relates to standards 6 to 8 of Part 2 of the Code of Professional Conduct for Financial Advice Services.</p> <p>Note 1: This includes the relevant strand(s) for product specific advice and/or the investment strand for investment planning.</p> <p>Note 2: An AFA was a person who was (immediately before the commencement of the Code) permitted to provide financial adviser services and/or investment planning services in relation to the financial advice product the advice relates to.</p> <p>A person must not give financial advice unless the person meets the standard of general competence, knowledge, and skill.</p> <p>These standards are set out in Part 2 of the Code of Professional Conduct for Financial Advice Services (the Code).</p>	<p>This question needs to be clarified to address the following:</p> <ul style="list-style-type: none"> • Does the first part of the question relate to Nominated Representatives (NRs)? • Does the second part of the question relate to Financial Advisers (FAs), NRs, and Engaged Entities? • If competency is achieved through an alignment process, this question needs to be clearer as to whether this has been independently verified. <p>If the first part does refer to NRs, it is unnecessary if the FAP has already indicated that it provides financial advice via Nominated Representatives.</p> <p>Further, it does not appear that any of the options in the list provided address the scenario of a FAP giving advice via individuals where those individuals meet the competence, knowledge, and skill requirements via the FAPs own procedures, systems, and expertise.</p> <p>The same issue arises for the second part of question 8. We recommend that the option “<i>Gives financial advice only through an individual who satisfies any of the ways stated above</i>” should appear as the last category in the list (so that the “ways stated above” include, for example, competence, knowledge, and skill being demonstrated “<i>by other means</i>”).</p>														
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	<p>Please note, the following question is only displayed to those FAPs who have indicated advice is provided directly in question #1.</p>																
<p>How do those engaged by [FAP NAME] to provide financial advice on behalf of the [FAP NAME] meet the competence, knowledge and skill requirements for the advice that it provides?</p> <p>Select all that apply.</p>																	
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Part	#	Questions we will ask you	Guidance	Feedback on the question										
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	9.	<p>Select the option that best reflects the processes that [FAP NAME] has in place to ensure all individuals engaged by [FAP NAME] carried out learning activities to maintain competence, knowledge and skill for the financial advice given.</p> <table border="1"> <tr> <td>Processes and controls are established, and reviewed at least annually</td> <td></td> </tr> <tr> <td>Processes and controls are established, and reviewed when required</td> <td></td> </tr> <tr> <td>Processes and controls are established, but are not reviewed</td> <td></td> </tr> <tr> <td>Processes and controls are not established</td> <td></td> </tr> </table>	Processes and controls are established, and reviewed at least annually		Processes and controls are established, and reviewed when required		Processes and controls are established, but are not reviewed		Processes and controls are not established		<p>This question asks for the FAP's self-assessment on the maturity of arrangements in place to maintain competence, knowledge and skill. Refer to Code Standard 9 of Part 2 of the Code of Professional Conduct for Financial Advice Services.</p> <p>By 'established', we mean approved, documented and operating in practice.</p> <p>A person must not give regulated financial advice unless the person meets the standard of general competence, knowledge and skill.</p> <p>These standards are set out in Part 2 of the Code of Professional Conduct for Financial Advice Services (the Code).</p>	See comments above on Question 4b.		
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	10.	<p>Staff levels</p> <p>Please provide answers to the following questions about staff that are connected to [FAP NAME]'s licensed advice business.</p>												

Part	#	Questions we will ask you	Guidance	Feedback on the question
	a.	<p>Does [FAP NAME] believe it is fully resourced to manage its compliance with its market service licensee obligations?</p> <ul style="list-style-type: none"> • Yes • No 	<p>This question asks for the FAP's self-assessment of the resourcing (including people, skills and systems) allocated to managing its compliance obligations.</p>	<p>Again, this question requires a subjective self-assessment. It is questionable whether the FMA is likely to obtain useful information in response to this question. Given the lack of objective criteria in the question and guidance, the FMA will likely receive variable responses, and it will be difficult for a licensed FAP to demonstrate that it is fully resourced.</p> <p>If this question is to be included, it would be of assistance if the FMA were able to include a free text field for FAPs to provide further context where possible. That would enable a FAP to explain their answer.</p>

b.	<p>How many roles does [FAP NAME] have dedicated to compliance and oversight activities, as at the end of the return period?</p>	<p>Tell us how many staff you have, represented as FTEs (full-time equivalent), who are dedicated to the FAP's compliance arrangements. For any staff who are partially dedicated (e.g. part-time staff, contractors, or staff who split their time between your licensed market service obligations and other (non-FAP) compliance matters, please total their hours and include the number of FTEs in your head count.</p> <p>Where 'staff' is asked, this number should not include Financial Advisers or Nominated Representatives. This question does not refer to staff who are part of an outsourced service provider (including those outsourced compliance and oversight services).</p>	<p>The FMA should provide further guidance as to which staff-members are "dedicated" to compliance and oversight activities. Larger licensed FAPs will have multiple staff involved (directly or indirectly) in compliance and oversight activities. For instance, direct managers of Nominated Representatives, while not members of compliance or quality assurance teams, will have compliance responsibilities as part of their roles.</p> <p>As such, this will be a difficult question to answer in practice. It is also unclear what the specific value of providing the information would be.</p> <p>Insurers are unlikely to have many (or potentially any) people <u>dedicated</u> solely to FAP compliance arrangements. Rather, those staff will deal with many different regulatory obligations applying to insurers. That said, there are therefore potentially many people whose roles would involve an aspect of FAP compliance.</p> <p>The guidance suggests that for staff 'partially dedicated' to FAP compliance arrangements, their hours should be totalled to determine an aggregate FTE figure. This is not a straightforward matter as it would rely on time recording that is not necessarily being undertaken at this time. It could involve a significant number of people recording a small proportion of their time and so answering this question would require investment in time or systems that could be a disproportionate outcome (given, as noted above, it is unclear what value the answer provides).</p> <p>Perhaps a more appropriate question could be 'is there a compliance and oversight function', with a follow up question about whether this sits internally or externally (outsourced).</p> <p>As noted in other questions, a free form text field could allow expansion on the response by the FAP.</p>
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Part	#	Questions we will ask you	Guidance	Feedback on the question
Part 2 – LICENSED ACTIVITIES	11.	<p>Client numbers</p> <p>This section asks about [FAP NAME]'s client numbers related to its financial advice service.</p>	<p>Please answer these question as at the end of the return period.</p> <p>These questions relate only to those clients who are domiciled in New Zealand.</p> <p>'Retail' clients are defined in Clause 3, Part 1, Schedule 5 of the FMC Act, and 'wholesale' clients are defined in Clause 4, Part 1, Schedule 5 of FMC Act.</p>	
	a.	<p>How many NZ <u>retail</u> financial advice clients has the [FAP NAME] provided regulated financial advice to during the past 12 months?</p> <p>Retail clients = <input type="text"/></p> <p>An estimate is sufficient (+/- 5%)</p>	<p>If you do not currently have any New Zealand retail clients, enter zero.</p> <p>Calculate the number of retail clients to which the FAP has provided regulated financial advice during the past 12 months. Count each client. For example, if you provide services to a couple, their jointly-held portfolio, and a trust of which they are trustees, that will equate to four clients, in total. If you provide financial advice in respect of group insurance, please also count the number of individuals insured under the group insurance policy.</p>	<p>Many licensed FAPs will not hold this data, particularly where the financial advice service provided does not vary depending on the nature of the client. Many licensed FAPs will intentionally choose to regard <i>all</i> clients as retail clients to reduce complexity in policies, procedures, and controls.</p> <p>As well, some FAPs are product manufacturers that sell policies that include benefits for more than one customer. If the product manufacturer operates a call centre, it may only interact and have a record of one customer, even though the policy provides benefits for several people.</p> <p>Accordingly, it is possible to provide an estimate of the number of policies sold, but the number of retail clients is not easily identifiable. The proposed +/- 5% margin of error may not be sufficient.</p> <p>Given the above context, there will be a significant compliance burden associated with providing this data for many licensed FAPs.</p> <p>If this question is to be included, it would be of assistance if the FMA were able to include a free text field for FAPs to provide further context where possible.</p>

Part	#	Questions we will ask you	Guidance	Feedback on the question				
	i.	<p>From the number of NZ <u>retail</u> financial advice clients that has been stated, above, indicate the proportion of each client type in the table below.</p> <table border="1"> <tr> <td>Individuals</td> <td>%</td> </tr> <tr> <td>Trusts, companies, and associations</td> <td>%</td> </tr> </table> <p>An estimate is sufficient (+/- 5%)</p>	Individuals	%	Trusts, companies, and associations	%	<p>Calculate the number of retail clients to which the FAP has provided regulated financial advice during the past 12 months. Count each client.</p> <p>For example, if you provide services for couple, then this is two retail clients.</p> <p>Any clients who are not individuals should be counted under trusts, companies and associations. These include all partnership firms, limited liability companies, clubs and associations. Sole traders should be counted as a company.</p>	<p>Many licensed FAPs will not hold this data, particularly where the financial advice service provided does not vary depending on the nature of the client. Many licensed FAPs will intentionally choose to regard <i>all</i> clients as retail clients to reduce complexity in policies, procedures and controls.</p> <p>Given that, for many insurers there will be a significant compliance burden associated with providing this data.</p> <p>Members advise that they would be making imperfect assumptions to calculate this based on product type as this is not data that is specifically collected now (individuals vs Trusts, companies, and associations).</p>
Individuals	%							
Trusts, companies, and associations	%							
	b.	<p>How many NZ <u>wholesale</u> financial advice clients does [FAP NAME] have?</p> <table border="1"> <tr> <td>Wholesale clients =</td> </tr> </table> <p>An estimate is sufficient (+/- 5%)</p>	Wholesale clients =	<p>If you do not currently have (or classify) any New Zealand wholesale clients, enter zero.</p> <p>Count the number of policy owners rather than the number of policies, e.g. if a policy has two policy owners named on it, count them as two clients.</p>	<p>Many licensed FAPs will not hold this data, particularly where the financial advice service provided does not vary depending on the nature of the client. Many licensed FAPs will intentionally choose to regard <i>all</i> clients as retail clients to reduce complexity in policies, procedures, and controls.</p> <p>Given that, there will be a significant compliance burden associated with providing this data for many insurers.</p> <p>Perhaps there could be a “Not Applicable – N/A” option for licensees that don’t differentiate between “retail clients” and “wholesale clients”. In the alternative, clarity, and guidance that a “0%” answer would be acceptable for those that treat all ‘regulated financial advice’ as being provided to retail clients.</p>			
Wholesale clients =								

Part	#	Questions we will ask you	Guidance	Feedback on the question								
	i.	<p>Of the NZ <u>wholesale</u> financial advice clients stated above, indicate the proportion of each client type in the table below.</p> <table border="1"> <tr> <td>Individuals</td> <td>%</td> </tr> <tr> <td>Trusts, companies, and associations</td> <td>%</td> </tr> </table> <p>An estimate is sufficient (+/- 5%)</p>	Individuals	%	Trusts, companies, and associations	%	<p>Any clients who are not individuals should be counted under trusts, companies and associations. These include all partnership firms, limited liability companies, clubs and associations. Sole traders should be counted as a company.</p>	<p>As outlined above in relation to Question 11b, if some organisations do not differentiate then the answer is zero.</p>				
Individuals	%											
Trusts, companies, and associations	%											
	12.	<p>Types of financial advice</p> <p>Which types of financial advice does [FAP NAME] or any person engaged by [FAP NAME] provide to its retail clients. Select all that apply.</p> <table border="1"> <tr> <td>Financial advice on financial advice products (Note 1)</td> <td></td> </tr> <tr> <td>Switching funds within a managed investment scheme (including KiwiSaver) (Note 2)</td> <td></td> </tr> <tr> <td>Investment planning services (Note 3)</td> <td></td> </tr> <tr> <td>Provides financial planning (Note 4)</td> <td></td> </tr> </table>	Financial advice on financial advice products (Note 1)		Switching funds within a managed investment scheme (including KiwiSaver) (Note 2)		Investment planning services (Note 3)		Provides financial planning (Note 4)		<p>Note 1: A person gives financial advice if the person makes a recommendation or gives an opinion about acquiring or disposing of (or not acquiring or disposing of) a financial advice product.</p> <p>Note 2: A person gives financial advice if the person makes a recommendation or gives an opinion about switching funds within a managed investment scheme (including KiwiSaver).</p> <p>Note 3: A person gives financial advice if the person designs an investment plan that is based on an analysis of their client's current and future financial situation (and the person's investment goals), and provides a recommendation or opinion on how to realise one or more of those goals.</p> <p>Note 4: A person gives financial advice if the person provides financial planning of a kind prescribed by the regulations (if any).</p> <p>The meaning of financial advice is set out in section 431C of the Financial Markets Conduct Act.</p>	<p>Is this something that could be ascertained from the licence application and only require updating if there is a change?</p>
Financial advice on financial advice products (Note 1)												
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	13.	<p>Financial advice products</p> <p>This section asks about the financial products that [FAP NAME] provide regulated financial advice on.</p>		<p>Specific responses are provided to sub-questions below but note that some information requested here may be covered in the licence application, already supplied to the FMA, and therefore only changes to the data should be highlighted.</p>								

a.	<p>What types of financial advice products have [FAP NAME] (or any person engaged by [FAP NAME]) provided regulated financial advice about to its retail clients during the return period? Select all that apply.</p>																																																														
	<table border="1"> <tr><td colspan="2">Debt securities (unlisted):</td></tr> <tr><td>• Term deposits</td><td></td></tr> <tr><td>• Savings accounts</td><td></td></tr> <tr><td>• Transactional accounts</td><td></td></tr> <tr><td>• Foreign currency transactional accounts</td><td></td></tr> <tr><td>• Foreign currency term deposits</td><td></td></tr> <tr><td>• Other debt securities</td><td></td></tr> <tr><td colspan="2">Debt securities (listed)</td></tr> <tr><td colspan="2">Equity securities (unlisted)</td></tr> <tr><td colspan="2">Equity securities (listed)</td></tr> <tr><td colspan="2">Managed investment products:</td></tr> <tr><td>• KiwiSaver</td><td></td></tr> <tr><td>• Managed investment schemes</td><td></td></tr> <tr><td>• Other investment products</td><td></td></tr> <tr><td colspan="2">Derivatives</td></tr> <tr><td colspan="2">Discretionary Investment Management Services (DIMS) facilities</td></tr> <tr><td colspan="2">Life insurance contracts:</td></tr> <tr><td>• Whole of life/endowment insurance</td><td></td></tr> <tr><td>• Term life insurance</td><td></td></tr> <tr><td>• Trauma insurance</td><td></td></tr> <tr><td>• Total and permanent disablement insurance</td><td></td></tr> <tr><td>• Accidental death insurance</td><td></td></tr> <tr><td>• Income protection insurance</td><td></td></tr> <tr><td>• Funeral insurance</td><td></td></tr> <tr><td>• Other life insurance contracts</td><td></td></tr> <tr><td colspan="2">Health insurance contracts</td></tr> <tr><td colspan="2">Fire and general insurance contracts:</td></tr> <tr><td>• House insurance</td><td></td></tr> <tr><td>• Contents insurance</td><td></td></tr> <tr><td>• Vehicle insurance</td><td></td></tr> </table>	Debt securities (unlisted):		• Term deposits		• Savings accounts		• Transactional accounts		• Foreign currency transactional accounts		• Foreign currency term deposits		• Other debt securities		Debt securities (listed)		Equity securities (unlisted)		Equity securities (listed)		Managed investment products:		• KiwiSaver		• Managed investment schemes		• Other investment products		Derivatives		Discretionary Investment Management Services (DIMS) facilities		Life insurance contracts:		• Whole of life/endowment insurance		• Term life insurance		• Trauma insurance		• Total and permanent disablement insurance		• Accidental death insurance		• Income protection insurance		• Funeral insurance		• Other life insurance contracts		Health insurance contracts		Fire and general insurance contracts:		• House insurance		• Contents insurance		• Vehicle insurance		<p>Select only the options that currently apply (i.e. products the FAP advised on during the reporting period). Do not select options simply because the FAP may expand its product offering in future.</p>	<p>We seek clarification about this question.</p> <p>On the face of it, the list of insurance products suggests that the FMA is not concerned with whether the FAP in question provides regulated financial advice to a retail client about a commercial product (which will happen often, given the narrowness of the definition of “wholesale” client).</p> <p>We ask that the FMA provide clarity as to whether that is the case, or whether the FMA expects that FAPs will refer to commercial insurance contracts in the “<i>other financial advice products</i>” field.</p> <p>‘Other Fire and General insurance products’ should be added as an additional box to cover, for example, small to medium business insurance products.</p>
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• Other consumer credit contracts																																		
Other financial advice products (please specify):																																		
None of the above. This FAP (including any persons engaged by it) does not provide advice to its own clients.																																		
	b.	<p>Do you provide financial advice on virtual assets, such as cryptocurrencies, digital coins or tokens?</p> <ul style="list-style-type: none"> • Yes • No 	Please tell us whether you provide financial advice on virtual assets, even though that asset class is not a financial advice product.	No comment.																														

Part	#	Questions we will ask you	Guidance	Feedback on the question										
	c.	<p data-bbox="208 260 640 360">This question will only appear if you provided regulated financial advice on managed investment products, derivatives, DIMS facilities, or debt and equity securities.</p> <p data-bbox="194 389 649 437">Which of the following statements best describes the Funds Under Advice (FUA) at your FAP?</p> <table border="1" data-bbox="194 464 631 679"> <tr> <td data-bbox="208 467 551 491">FUA less than or equal to \$100,000</td> <td data-bbox="555 467 622 491"></td> </tr> <tr> <td data-bbox="208 496 551 544">FUA greater than \$100,000 to \$1,000,000</td> <td data-bbox="555 496 622 544"></td> </tr> <tr> <td data-bbox="208 549 551 596">FUA greater than \$1,000,000 to \$10,000,000</td> <td data-bbox="555 549 622 596"></td> </tr> <tr> <td data-bbox="208 601 551 649">FUA greater than \$10,000,000 to \$50,000,000</td> <td data-bbox="555 601 622 649"></td> </tr> <tr> <td data-bbox="208 654 551 678">FUA greater than \$50,000,000</td> <td data-bbox="555 654 622 678"></td> </tr> </table>	FUA less than or equal to \$100,000		FUA greater than \$100,000 to \$1,000,000		FUA greater than \$1,000,000 to \$10,000,000		FUA greater than \$10,000,000 to \$50,000,000		FUA greater than \$50,000,000		<p data-bbox="685 445 1272 520">This question is only relevant to those who selected debt securities, equity securities, derivatives, and managed investment products as financial advice products it advised on during the return period.</p> <p data-bbox="853 525 1106 549">Exclude any FUA under DIMs.</p> <p data-bbox="882 553 1077 577">All values are in \$NZD.</p>	<p data-bbox="1576 512 1722 536">No comment.</p>
FUA less than or equal to \$100,000														
FUA greater than \$100,000 to \$1,000,000														
FUA greater than \$1,000,000 to \$10,000,000														
FUA greater than \$10,000,000 to \$50,000,000														
FUA greater than \$50,000,000														

d.	<p>This list will be shorter and you will only be asked to enter percentages for those products selected in question 13a above.</p>			
	<p>What proportion of [FAP NAME]'s retail clients who received regulated financial advice resulted in replacement business (Note 1) as a result of the advice given during the return period?</p>			
	Life insurance contracts:			
	• Whole of life/endowment insurance			%
	• Term life insurance			%
	• Accidental death insurance			%
	• Trauma insurance			%
	• Total and permanent disablement insurance			%
	• Income protection insurance			%
	• Funeral insurance			%
	• Other life insurance contracts			%
	Health insurance contracts			%
	Consumer insurance contracts:			
	• House insurance			%
	• Contents insurance			%
	• Vehicle insurance			%
	• Marine insurance			%
	• Travel insurance			%
	• Pet insurance			%
	• Mortgage payment insurance			%
	• Consumer debt repayment insurance			%
	• Other consumer insurance contracts			%
	Consumer credit contracts:			
	• Residential mortgage lending			%
	• Reverse equity home loan			%
	• Personal loans			%
	• Overdrafts			%
	• Credit cards			%

This question will only appear if you provided regulated financial advice on contracts of insurance during the reporting period.

Note 1: Replacement business is where a client has changed their policy or providers. Count where the client has changed their policy within the same provider, and also where the client has changed to a different insurance provider. Only count instances of replacement business resulting from advice the FAP provided to the client during the return period.

The time period within which the replacement business is counted should be when the recommended policy commences.

This question appears to be directed to FAPs that are intermediaries rather than product manufacturers. The availability of data will also be linked to the nature of the product (that is, short term, annual, or longer term).

For example, travel insurance is a short-term product, and the insurer will not have access to data on whether a policy is “replacement business”, nor does it seem appropriate to request this information from clients. Requiring this information would place an unnecessary burden on both the insurer and the customer and raises costs implications.

However, for annually-renewable products – i.e. general insurance products – replacement business is not a direct concern. Customers purchase a “new” product each year. Accordingly, licensed FAPs are less likely to hold replacement business data with respect to those products.

Clarity is needed around whether this includes annually renewable general insurance contracts, where contracts just renew without any advice-giving conversations. (i.e., general insurance contracts are typically set for 12-month periods).

Submissions from FAPs in the Life/Health segment of the industry should be able to confirm if they hold replacement business data with respect to life insurance policies. Given the long-term nature of those products and the inherent risk of changing providers that data may be tracked more specifically than in the General Insurance space.

A definition or explanatory note should cater for instances where the scope and nature of financial advice is limited to the FAP’s own products only (i.e., no advice is given on the suitability of our own products compared to those of other insurance providers, and as such decisions to “replace business” aren’t directly due to any financial advice given).

Part	#	Questions we will ask you	Guidance	Feedback on the question		
		<ul style="list-style-type: none"> Other consumer credit contracts <input type="text"/> % 				
	e.	<p>This question will only appear if you provided regulated financial advice on KiwiSaver during the return period (based on your answer to question 13a).</p> <p>How many of [FAP NAME]'s retail clients received advice which resulted in them transferring to a different KiwiSaver provider during the return period.</p> <table border="1"> <tr> <td>Retail clients</td> <td><input type="text"/></td> </tr> </table>	Retail clients	<input type="text"/>	<p>This question relates to where a client has transferred their KiwiSaver to a different provider as a result of advice the FAP has provided.</p> <p>The time in which a KiwiSaver transfer is counted should be when the provider confirms the transfer is complete.</p> <p>This question is not related to switches between funds within the same KiwiSaver provider.</p>	No comment.
Retail clients	<input type="text"/>					
	14.	<p>Does [FAP NAME] provide advice on overseas pension transfers, including New Zealand Qualifying Recognised Overseas Pension Schemes (QROPS)?</p> <ul style="list-style-type: none"> Yes No 		No comment.		
	15.	<p>Does [FAP NAME] provide any advice on alternative assets?</p> <ul style="list-style-type: none"> Yes No 	<p>This includes (but is not limited to) private equity, private credit, private real estate, hedge funds, leverage/margin lending, collectables.</p> <p>This excludes the options contained in question 13.</p>	No comment.		
	16.	<p>Client money and client property services</p> <p>Please give answers to the following questions that relate to client money and/or client property services that [FAP NAME] provides.</p>		No comment.		

Part	#	Questions we will ask you	Guidance	Feedback on the question								
	a.	<p>Within the return period, has [FAP NAME] provided client money or property services as part of its licensed service?</p> <ul style="list-style-type: none"> • Yes • No 	<p>Providing client money or property services means that the FAP receives, holds or transfers money or property on behalf of a client.</p> <p>'Client money' means money received from (or on account of) a client in connection with acquiring, holding or disposing of a financial advice product (or otherwise in connection with a financial advice product).</p> <p>'Client property' means property that is a financial advice product, is a beneficial interest in a financial advice product, or is received in connection with a financial advice product, and is received from, or on account of, the client by a person.</p> <p>'Client money or property services' includes custodial services. A 'custodial service' is provided if, under an agreement, the FAP holds client money or client property in trust for, or on behalf of, a client (or another person nominated by the client).</p> <p>A FAP may also have client money and property obligations if it uses a wrap platform (regardless of the wrap provider's own obligations and FSPR registration).</p>	No comment.								
	i.	<p>Which of the following statements applies to [FAP NAME] relating to its licensed advice business. Select all that apply.</p> <table border="1"> <tbody> <tr> <td>Provides a client money service as part of its licensed advice business</td> <td></td> </tr> <tr> <td>Provides a client property service as part of its licensed advice business</td> <td></td> </tr> <tr> <td>Uses portfolio administration services for client investments and reporting</td> <td></td> </tr> <tr> <td>Uses a wrap platform</td> <td></td> </tr> </tbody> </table>	Provides a client money service as part of its licensed advice business		Provides a client property service as part of its licensed advice business		Uses portfolio administration services for client investments and reporting		Uses a wrap platform		<p>The definition of 'client money' and 'property services' is set out in section 431W of the FMC Act. Obligations relating to client money and property services are set out in Subpart 5B of Part 6 of the FMC Act.</p>	No comment.
Provides a client money service as part of its licensed advice business												
Provides a client property service as part of its licensed advice business												
Uses portfolio administration services for client investments and reporting												
Uses a wrap platform												
	b.	<p>Within the return period, has [FAP NAME] arranged for a person to provide client money or property services on its behalf?</p> <ul style="list-style-type: none"> • Yes • No 	<p>FAPs may use third parties to provide client money or property services on its behalf. If you arrange for this, please select 'yes' to this question.</p>	No comment.								

Part	#	Questions we will ask you	Guidance	Feedback on the question
	c.	<p>This question will only be asked if you selected 'yes' to question 14b above.</p> <p>What is the name of the provider you use for client money and property services?</p> <input type="text"/>	List the business name of the provider who receives, holds or transfers money or property on behalf of your clients. This includes any custodial services you use.	No comment.
	17.	<p>These questions relating to digital advice will only be asked if digital advice is selected in question 1.</p> <p>Digital advice facility</p> <p>[FAP NAME] has indicated that it provides advice through a digital advice facility. Please provide answers to the following questions about [FAP NAME]'s digital advice facility.</p>		No comment.
	a.	<p>How many NZ <u>retail</u> financial advice clients do you estimate have received regulated financial advice over the return period as part of [FAP NAME]'s digital advice facility?</p> <p>Retail clients = <input type="text"/></p>	We expect that you will be able to make reasonable endeavours to understand the number of clients who have interacted and received advice from your digital advice facility. For example, your chosen IT systems can maintain records to identify the number of clients.	No comment.

Part	#	Questions we will ask you	Guidance	Feedback on the question								
	b.	<p>Using the scale below, select which option best reflects the processes that [FAP NAME] has in place to monitor and maintain its digital advice service.</p> <table border="1"> <tr> <td>Processes and controls are established, and reviewed at least annually</td> <td></td> </tr> <tr> <td>Processes and controls are established, and reviewed when required</td> <td></td> </tr> <tr> <td>Processes and controls are established, but are not reviewed</td> <td></td> </tr> <tr> <td>Processes and controls are not established</td> <td></td> </tr> </table>	Processes and controls are established, and reviewed at least annually		Processes and controls are established, and reviewed when required		Processes and controls are established, but are not reviewed		Processes and controls are not established		<p>This question asks for the FAP's self-assessment on the maturity of arrangements in place to monitor and maintain its digital advice services.</p> <p>By 'established', we mean approved, documented and operating in practice.</p>	See earlier comments in relation to question 4b.
Processes and controls are established, and reviewed at least annually												
Processes and controls are established, and reviewed when required												
Processes and controls are established, but are not reviewed												
Processes and controls are not established												
	18.	<p>Eligible investor certificates</p> <p>Please provide answers to the following questions that relate to eligible investor certificates.</p>		No comment.								
	a.	<p>How many financial advisers engaged by [FAP NAME] have signed off the confirmation of an eligible investor certificate for clients of [FAP NAME] during the return period?</p> <p>FA = <input type="text"/></p>	<p>Please enter the number of financial advisers engaged by the FAP who have signed off the confirmation and not the total number of clients.</p> <p>Eligible investors are defined in Clause 41, Schedule 1 of FMC Act.</p> <p>Details of who can sign an eligible investor certificate and the conditions for this can be found in Clause 43, Schedule 1 of the FMC Act.</p>	No comment.								
	b.	<p>What is the total number of eligible investor certificates that have been signed for customers of [FAP NAME] and by financial advisers engaged under [FAP NAME]?</p> <p><input type="text"/></p>	<p>Please enter the total number of clients who have eligible investor certificates signed by the financial advisers indicated in the above question.</p>	No comment.								

Part	#	Questions we will ask you	Guidance	Feedback on the question																
	19.	<p>Does [FAP NAME] provide financial advice on any products that they, or any other entity that operates under [FAP NAME]'s FAP licence, manufacture?</p> <ul style="list-style-type: none"> • Yes • No 	<p>This question asks if any person or entity related to the FAP provides financial advice on financial advice products designed or manufactured by the FAP or by other entities listed on the application.</p> <p>If the FAP has only had input into the terms (e.g. policy wording) of products designed and manufactured by the product providers, you can answer 'no' to this question.</p>	No comment.																
	20.	<p>Select which option best reflects the maturity of [FAP NAME]'s processes and controls for addressing the needs of clients in vulnerable circumstances.</p> <table border="1"> <tr> <td>Processes and controls are established, and reviewed at least annually</td> <td></td> </tr> <tr> <td>Processes and controls are established, and reviewed when required</td> <td></td> </tr> <tr> <td>Processes and controls are established, but are not reviewed</td> <td></td> </tr> <tr> <td>Processes and controls are not established</td> <td></td> </tr> </table>	Processes and controls are established, and reviewed at least annually		Processes and controls are established, and reviewed when required		Processes and controls are established, but are not reviewed		Processes and controls are not established		<p>This question asks for the FAP's self-assessment on the maturity of arrangements in place to manage vulnerable clients. This information sheet explains the FMA's expectations of financial services firms when it comes to prioritising their client vulnerability practices.</p> <p>By 'established', we mean approved, documented and operating in practice.</p>	<p>This question requires a subjective assessment and is likely to provide limited value or insight to the FMA, given the likelihood that different FAPs will take a different approach to the self-assessment. An objective metric would be of assistance here.</p> <p>It will also increase the compliance burden on FAPs given the need for internal approval of the assessment at each reporting year, which may not be justified considering the limited utility of the question.</p> <p>If this question is to be included, it would be of assistance if the FMA were able to include a free text field for FAPs to provide further context where possible. That would enable a FAP to explain their answer.</p>								
Processes and controls are established, and reviewed at least annually																				
Processes and controls are established, and reviewed when required																				
Processes and controls are established, but are not reviewed																				
Processes and controls are not established																				
	21.	<p>Select the types of marketing and advertising used by [FAP NAME] to attract new retail investors during the reporting period</p> <table border="1"> <tr> <td>Third party agencies</td> <td></td> </tr> <tr> <td>Lead generators</td> <td></td> </tr> <tr> <td>Word of mouth</td> <td></td> </tr> <tr> <td>Internet (e.g. website, social media, email)</td> <td></td> </tr> <tr> <td>Audio/visual (e.g. TV, radio, billboards, podcasting)</td> <td></td> </tr> <tr> <td>Presentations/seminars</td> <td></td> </tr> <tr> <td>Cold-calling</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> </table>	Third party agencies		Lead generators		Word of mouth		Internet (e.g. website, social media, email)		Audio/visual (e.g. TV, radio, billboards, podcasting)		Presentations/seminars		Cold-calling		Other		<p>Please select the different ways you promoted your licensed FAP services to attract new retail customers during the reporting period.</p>	<p>It is not clear whether this question is applicable to General Insurance businesses. Insurers have customers, not investors.</p> <p>We suggest that the wording in the question should be aligned to talk about "Investors" or "Customers", or the question should be reframed to apply only to FAPs involved in investment products.</p> <p>Aside from that, while this question is reasonably straightforward to answer, the purposes of collecting this within the context of conduct, the FAP advice regime, and general insurance is not apparent.</p>
Third party agencies																				
Lead generators																				
Word of mouth																				
Internet (e.g. website, social media, email)																				
Audio/visual (e.g. TV, radio, billboards, podcasting)																				
Presentations/seminars																				
Cold-calling																				
Other																				

Part	#	Questions we will ask you	Guidance	Feedback on the question
	22.	<p>Did you have referral arrangements with third parties, such as other FAPs, advisers, businesses, or affiliates?</p> <ul style="list-style-type: none"> • Yes • No 	<p>Even if your referral arrangements are informal (e.g. not written or non-monetary) we still expect you to select 'yes' to this question.</p>	<p>Clarity is required as to whether this question is asking about:</p> <ol style="list-style-type: none"> 1. Arrangements where the FAP refers clients to other third parties for those third parties to provide advice. 2. Arrangements where third parties refer clients to the FAP to provide advice. 3. Arrangements where third parties refer clients to the FAP to purchase products manufactured by the FAP (rather than to obtain financial advice).
	23.	<p>Did you provide inducements to attract and/or retain retail client, for example (but not limited to) gifts, bonus credits, rebates or discounts?</p> <ul style="list-style-type: none"> • Yes • No 	<p>Promotional inducements can include both monetary and non-monetary benefits, temporary (i.e. limited time offers), and customer loyalty programmes.</p>	<p>Again, it is unclear how the answer to this question is relevant to the advice-giving services of FAP licence holders. We encourage the FMA to clarify the compliance value of this question and avoid what might be perceived as "over-reach" in gathering information about the industry.</p> <p>Further, inducements can cover several areas of an organisation's operations and will span both non-advice and advice-giving products. Clarity is required as to whether this question is asking about inducements in relation to the product or inducements in relation to the financial advice.</p>

24.

During the return period, what (approximate) percentage of your revenue was derived from financial adviser services relating to the following products?

Debt securities	%
Equity securities	%
Managed investment products	%
Derivatives	%
Discretionary investment management services	%
Life insurance contracts	%
Health insurance contracts	%
Fire and general insurance contracts	%
Consumer credit contracts	%
Other	%
Total	100%

Figures provided must add up to 100%. This includes a renewal or change to the terms of an existing product.

It is not clear what this question is trying to ask. Is this about proportions of total revenue or advice related revenue? And what is the intended purpose for collecting this data?

This question is also open to a range of interpretations and should be further clarified. It may also require entities to collect and calculate new data to enable a response to its current framing. They may, for instance, have data on how many products distributed involved financial advice, but this may not be split based on how much revenue was received from these products. Perhaps a scaled response would be more useful (e.g. <5%, 5-10%, etc)?

This question appears to be directed to FAPs that are intermediaries rather than product manufacturers. Product manufacturers who do not charge for financial advice would derive 0% of their revenue from financial adviser services.

As such, attribution of revenue to the financial advice provided will not be possible. Where a FAP distributes its own products and does not charge for the provision of financial advice, is the FMA's expectation that *all* revenue generated by the sale of those products is "attributable" to financial adviser services? Clarity should be provided here.

For instance, take the case of an insurer that distributes its products through nominated representatives and does not separately charge for that advice. That insurer will not be able to determine what proportion of its revenues – i.e., the premiums it receives - are attributable to the financial advice given to its clients by nominated representatives.

We recommend that FAPs who are product manufacturers be allowed to provide an explanation or have a field for "Not Applicable (N/A)" if the question doesn't apply to them. Alternatively, there could be a separate series of questions for

Part	#	Questions we will ask you	Guidance	Feedback on the question												
				<p>FAPs that are intermediaries. Clarity around whether this needs to include non-advice sales.</p> <p>Also, is the scope of the term ‘financial adviser services’ fully interchangeable with ‘regulated financial advice’ or is it intended to mean something different?</p>												
	25.	<p>During the return period, identify which of the following categories [FAP NAME] derived its revenue from:</p> <table border="1"> <tr> <td>Flat fee per annum, or similar</td> <td></td> </tr> <tr> <td>Flat fee per transaction/provision of financial advice</td> <td></td> </tr> <tr> <td>Percentage value of products (investment balance)</td> <td></td> </tr> <tr> <td>Initial commissions (from product manufacturer)</td> <td></td> </tr> <tr> <td>Ongoing commissions (from product manufacturer)</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> </table>	Flat fee per annum, or similar		Flat fee per transaction/provision of financial advice		Percentage value of products (investment balance)		Initial commissions (from product manufacturer)		Ongoing commissions (from product manufacturer)		Other			<p>This question does not appear to be relevant for the purposes of the FMA’s need to monitor the ongoing capability of General Insurers to effectively deliver financial advice service in accordance with the various requirements in the FMC Act.</p> <p>Further, this question appears to be directed to FAPs that are intermediaries rather than product manufacturers. This question is not relevant to product manufacturers who do not charge for financial advice.</p> <p>At best, insurers (product manufacturers) would simply tick ‘Other’ because their revenue is derived from distributing insurance products rather than from providing financial advice.</p> <p>The FMA should allow FAPs who are product manufacturers to provide an explanation or have a field for “Not Applicable (N/A)” if the question doesn’t apply to them. Alternatively, there could be a separate series of questions for FAPs that are intermediaries.</p> <p>This question should also make it clear whether, as it appears, the FMA is only interested in revenue relating to the FAP’s financial advice service.</p>
Flat fee per annum, or similar																
Flat fee per transaction/provision of financial advice																
Percentage value of products (investment balance)																
Initial commissions (from product manufacturer)																
Ongoing commissions (from product manufacturer)																
Other																

Part	#	Questions we will ask you	Guidance	Feedback on the question
	26.	<p>Has your business been profitable over the return period?</p> <ul style="list-style-type: none"> • Yes • No 	<p>By 'profitable', we mean generating a net profit before tax for the fiscal year that most closely aligns with this reporting period, as reported in your financial statements.</p>	<p>The purpose of this question is not clear, at least in relation to "Financial Institutions" such as banks and insurers. We request the FMA clarify the need for and relevance of this information.</p> <p>Financial statements for these entities are generally public information – being found either on stock exchange disclosures or companies office filings – and this (or similar) information will have been submitted to the Reserve Bank of New Zealand (RBNZ), in its "twin peaks" role as the regulator with oversight of insurer solvency and profitability.</p> <p>Without a clearer understanding of why this information is required to confirm compliance with the licence conditions, this question appears to be a duplication of RBNZ 's role in overseeing solvency.</p> <p>As previously noted above, if the reporting period does not align with a FAP's financial year, that entity would need to run a dedicated financial calculation to answer this question specifically.</p> <p>Further, to run that calculation, the FMA will need to clarify whether this question relates to the profitability of the licensed FAP's entire business operations, or only the profitability of the FAP's financial advice service? If the latter, many FAPs will not hold this information.</p>