

25 July 2025

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ICNZ SUBMISSION ON THE FMA'S CONSULTATION SEEKING FEEDBACK ON CURRENT STANDARD CONDITIONS

Thank you for the opportunity to provide feedback on the FMA's current standard conditions for licensees.

Te Kāhui Inihua o Aotearoa | The Insurance Council of New Zealand (ICNZ) represents general insurers. Our members accept the risks of over NZ\$2 trillion of New Zealand's assets and liabilities. ICNZ's members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, commercial property insurance, and directors and officers insurance).

As requested, we have provided our comments through the FMA's on-line portal but we also provide our comments here in one document so that there is a formal record of our submission in one place.

1. Is there any overlap or duplication in the standard conditions applying to different market services licences that should be addressed? If so, please provide details.

We note that the FMA's Financial Conduct Report June 2025 provides that *"We will make progress towards a single conduct licence by streamlining Financial Markets Conduct Act Part 6 licensing application processes, standard conditions and supervision activities. This will be followed by further streamlining of regulatory returns."* and we support and welcome this.

Following high level engagement on this consultation with the Financial Services Council and the New Zealand Banking Association, we agree that streamlining standard conditions of a single licence is a positive step toward reducing duplication and simplifying compliance. However, to achieve the full benefit, it must be supported by a single, streamlined regulatory return. Without this, financial institutions may still face unnecessary administrative burdens, limiting the impact of the proposed reform. Further detail on these points is contained in our individual submissions.

There is a high degree of overlap between the standard conditions for Financial Advice Provider and Financial Institution licences. There are six standard conditions that are essentially duplicated between the Financial Institution and Financial Advice Provider licences. These should be streamlined and consolidated.

In particular, we note that inconsistencies between the Record-keeping standard conditions should be addressed. Currently, the Financial Advice Provider licence standard conditions

require records to be kept for 7 years but this is not specified in the Financial Institution licence standard conditions.

2. **Are there any aspects of standard conditions that could be clarified, either in the condition itself or in the accompanying explanatory notes? If so, please note what these are, and explain what clarification is needed.**

Outsourcing

The Standard Condition regarding Outsourcing in the Financial Institution and Financial Advice Provider licences should be clarified. Outsourcing is not defined, and it is unclear from the licence condition, explanatory note and the licence application guidance whether the intention of the words "necessary to the provision" of your financial advice/institution service is intended to introduce a materiality concept. Material outsource providers are those that have the potential, if disrupted, to have a significant impact on an entity's business operation or its ability to effectively manage risks, including risks to its customers. Licensed entities may outsource certain parts of the services they provide to third party providers, but they are not all material or *necessary* to the provision of the financial advice/institution service i.e. there would not be a significant impact on the entity's business or its customers if disrupted. We propose the Standard Condition is clarified so that only material outsource providers are captured.

Consideration should be given to alignment with APRA Prudential Standard CPS 230 Operational Risk Management which imposes standards regarding management of "material service providers" being "those on which the entity relies to undertake a critical operation or that expose it to material operational risk". This is a move away from the more difficult to apply concept of "outsourcing" in the previous APRA Prudential Standard CPS 231.

We note that in the FMA's Financial Advice Providers Regulatory Returns FAQs¹ it states that:

Are intragroup arrangements considered to be outsourcing arrangements?

The FMA does not consider intragroup arrangements (i.e. companies within the same group structure) to be outsourcing for the purpose of Standard Condition 4.

It would be helpful to include this clarification in the licence condition itself for the Financial Institution and Financial Advice Provider licences, i.e., that the condition does not apply to outsourcing to companies within the same group structure.

The Standard Condition for Outsourcing contains a list of important matters that an entity *should* consider when conducting due diligence on a proposed outsource provider and 'other important information' an entity *should* consider in respect of its outsource arrangements. The use of the word 'should' (as opposed to, for example, 'must') implies these considerations are not mandatory. We support this interpretation as the level and scope of due diligence may vary significantly depending on the nature of the outsourcing arrangement and the potential risks associated with it. Financial Institutions and Financial Advice Providers should have the flexibility

¹ <https://www.fma.govt.nz/business/services/financial-advice-provider/fap-regulatory-returns/>

to undertake appropriate due diligence proportionate to the risks associated with the proposed outsource provider.

Record-keeping

As noted above, the Standard Condition for Financial Institutions for record keeping should clarify what constitutes a sufficient record retention period for Financial Institutions and we consider aligning this with the current Financial Advice Provider requirement of at least seven years is appropriate.

- 3. Are there any standard conditions that are no longer relevant? If so, please note what these are and explain why they are no longer relevant.**

No comment.

- 4. Are there any standard conditions that shouldn't be changed? If so, please note what these are and explain why they should not be changed.**

No comment.

- 5. Is there anything else that should be taken into account when streamlining the standard conditions? If so, please provide details.**

Where the standard conditions for multiple licences are merged, which we support, it will be necessary to ensure that the obligations are applied specifically in relation to the licence class (e.g. Financial Advice Provider, Financial Institution) and not converted into general obligations.

Care will need to be taken to ensure that a consolidated set of licence conditions remain appropriate across all services, while avoiding transferring unique conditions from one type of licence to others where these conditions do not apply.

It is important that any potential issues that may arise in relation to a particular market service should be ring-fenced to the particular issue and not conflated to be an entity-level issue just by virtue of the entity having a single licence.

Once the FMA has drafted the revised and merged standard conditions, there should be engagement on an exposure draft before they are finalised. Given the time taken to develop the associated policy and legislation to support consolidated licences, there would be little value in rushing the completion of the work on consolidated standard conditions.

While streamlining standard conditions is beneficial (as is amending the Financial Markets Conduct Act 2013 to require the FMA to issue a single conduct licence), full efficiency benefits will be gained by implementing a single regulatory return. The FMA's Financial Condition Report indicates that the FMA will also undertake a programme of work to streamline the standard conditions, licence application process and regulatory returns to better align these across the various market services. We urge that the FMA introduce a single regulatory return (rather than merely aligning the content across separate returns).

We suggest that when streamlining the standard conditions consideration be given to aligning them with the APRA Prudential Standards given there have been significant changes recently particularly with respect to Operational Risk and the fact that there are a number of New Zealand licensed entities that are also impacted by those standards.

It would be useful for have all guidance on interpreting standard conditions updated in one document or one area on the FMA website. For example, currently there is relevant guidance contained in the notes to the standard conditions themselves, in notes on the regulatory return and in regulatory return FAQ documents.

Please let us know if you require any additional information or have any questions about our submission.

Ngā mihi,

A handwritten signature in dark ink, appearing to read 'Susan Ivory'. The signature is fluid and cursive, with a large 'S' and 'I' being prominent.

Susan Ivory
Regulation Affairs Manager
Insurance Council of New Zealand