

Formal Warning – Summary

ROGER DAVID GANNON (FSP58861)

1. Following an investigation, the Financial Markets Authority (FMA) is satisfied that Mr Gannon, an Authorised Financial Adviser (AFA) and Director of Gannon Insurance Brokers Limited based in Palmerston North, contravened sections 22 and 33 of the Financial Advisers Act 2008 (FA Act) when providing financial adviser service to retail clients.
2. In particular, the FMA is satisfied that Mr Gannon contravened section 22 of the FA Act by failing to meet disclosure requirements and section 33 of the FA Act by failing to exercise care, diligence, and skill that a reasonable financial adviser would exercise in similar circumstances.
3. The FMA considers the fact advice was given in relation to KiwiSaver around the Covid-19 pandemic lockdowns to be reason for Mr Gannon to have exercised particular care, diligence and skill when advising clients. In addition, Mr Gannon's AFA status supports an expectation of a high level of care, diligence and skill, particularly in circumstances where clients are more vulnerable than usual.
4. Instead, the FMA believes that Mr Gannon tried to 'time the market' by advising clients to switch investment funds multiple times within a short period without adequately explaining the risks of doing so. When providing this advice, Mr Gannon failed to have proper regard to each client's risk profile and personal circumstances.
5. In this case, the FMA is satisfied there is a low risk of similar misconduct by Mr Gannon in the future. Mr Gannon was co-operative with the FMA, he accepted the FMA's findings and proactively took meaningful steps to address the concerns. In particular, Mr Gannon engaged specialist independent consultants to assist with a professional development plan, compliance training and remediation. The remediation plan includes corrective disclosure to clients, a review of past client advice, ongoing monitoring and oversight of services provided and regular reporting to the FMA by the independent consultants.
6. The FMA has concluded that Mr Gannon should receive a formal warning concerning this conduct. The FMA has also concluded it is in the interests of fair, efficient and transparent financial markets that this warning be made public. The decision not to take additional enforcement action reflects Mr Gannon's level of co-operation with the FMA, his willingness to take meaningful corrective action and the imminent repeal of the FA Act and new financial adviser regime from 15 March 2021.
7. The FMA has previously issued Mr Gannon with a formal warning in May 2020 for breach of section 33 of the FA Act¹ when providing class service to retail clients, while we continued to make further enquiries about the adequacy of personalised service provided to retail clients. While details of the prior formal warning were made public at the time, Mr Gannon was not publicly named due to the ongoing nature of our enquiries. Now that our enquiries have concluded and a further formal warning issued, we consider it is appropriate to link Mr Gannon to the prior formal warning.

¹ Mr Gannon had sent a bulk email in March 2020 to his clients urgently recommending they move their savings in KiwiSaver plans and similar investment funds to 'low risk' funds, following uncertainty caused by COVID-19.