



Consultation paper

October 2016



Content of regulatory returns for prescribed intermediary service licensees

An annual regulatory return is a standard licence requirement for prescribed intermediary service (crowdfunding and peer-to-peer lending) licensees.

These returns help us to check that licensees continue to perform market services effectively post-licensing, based on the requirements of the relevant eligibility criteria.

This consultation outlines what information we propose to ask for in these regulatory returns, and invites your feedback on the appropriateness and format of that information.

This consultation is for: Licensed crowdfunding and peer-to-peer lending service providers, and other interested parties.

It aims to: Gain feedback on our proposals for regulatory returns for licensed crowdfunding and peer-to-peer lending service providers.



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Background

When a market service licence is issued, section 403 of the Financial Markets Conduct Act 2013 (**Act**) allows us to impose conditions on the license. These conditions may be specific to an individual licensee, or standard for a particular type of market service licence.

Standard regulatory returns condition

The standard conditions for all types of market service licences include the following condition about regulatory returns (the **regulatory returns condition**):

Regulatory returns

Standard condition:

You must provide us with the information we need to monitor your on-going capability to effectively perform the (crowdfunding or peer-to-peer lending) service in accordance with the applicable eligibility criteria in the Act. This will include updated information on the nature, size and complexity of your (crowdfunding or peer-to-peer lending) service. Information must be provided in accordance with any Regulatory Return Framework and Methodology we issue under subpart 4, part 9 of the Act.

Why we request regulatory returns

Regulatory returns give us up-to-date, relevant information about your business, which may have changed since your licence was granted. The information that you provide helps us to consider how you continue to meet our minimum standards and your licence obligations. It helps us to understand the people and businesses we regulate, and to determine the focus and priority of any monitoring activities.

The information we obtain from licensed populations also helps us to understand the different sectors of the financial markets. It enables us to identify issues or themes across the market that require further investigation.

Framework and methodology

When we drafted the standard conditions for crowdfunding and peer-to-peer licensees, a requirement was that regulatory returns had to be submitted using any regulatory return framework and methodology issued by us. However, we do not intend to develop a framework or methodology for regulatory returns for crowdfunding and peer-to-peer lending service providers at this stage.

Frameworks and methodologies are subordinate legislation that detail any applicable technical requirements. We are not required, by law, to introduce either. Our view is that they are not necessary for the type of information we need from this group of market service licensees.

Consultation

As at 6 October 2016, there are seven¹ licensed crowdfunding and five licensed peer-to-peer lending service providers in the market. These two groups of licensees are distinct from other licensed populations as none of the current licensees holds any other licence under the FMC Act.

They also have very similar obligations and standard licence conditions to each other. Our aim is to run a short and targeted consultation before publishing the information requirements for the regulatory returns for these types of licences. At a later date, we will consult on the content of regulatory returns for other licence types.

We are interested in the views of licensees, as well as views of industry advisers and current or potential licence applicants.

Our proposal

Content of the returns

The purpose of a regulatory return is to:

- gain information about a licensee's business
- give an indication of the size and nature of their business, compliance performance and potential risks.

The tables in Appendix 1 and Appendix 2 of this paper set out the information we propose to ask from crowdfunding and peer-to-peer lending service providers respectively.

We want to know your views on whether the information requested is appropriate. Let us know if you think there is any other useful and relevant information we should include.

Let us know if there are any implications for your business associated with providing the requested information. We welcome all of your comments.

Please use the feedback form on page 28 and the forms contained in Appendices 1 and 2 to answer the questions in this consultation paper.

¹ One of the seven crowdfunding service licences is currently suspended.

Demographic information

At this stage, organisations are not asked to provide compulsory demographic information (such as age and gender) for borrowers using peer-to-peer lending services, or those investing through crowdfunding and peer-to-peer lending services.

However, this type of information would be useful to help us understand how these services are being used by the public.

As different licensees collect different demographic data, we propose to ask licensees to share the demographic data they report to their own boards. We do not propose to require all licensees to collect standardised demographic data at this stage.

Reporting period

Regulatory returns will need to be filed annually. They will be referred to as annual returns or regulatory returns. The two terms will be interchangeable. We propose that returns be completed for the year 1 July to 30 June, with a two-month window from 1 July to complete. The first regulatory return would be due by 31 August 2017, for the year 1 July 2016 to 30 June 2017.

Questions

1. Do you think the requested information is appropriate and sufficiently well defined?
Is there any information that we should not ask for, or any clarifications we should make? Please give your reasons for this.
2. Do you think there is any other information we should ask for? If so, what?
3. Where information requested has ranges (for example values of loans), do you agree with the proposed ranges for reporting? If not, which ranges should we use?
4. Does providing the suggested information involve any systems changes or major cost of compliance for your organisation? If so, please outline these costs or changes.
5. Do you have any other comments on the proposed regulatory returns?
6. Does your organisation collect demographic information about investors and borrowers? If yes, what type of information?
7. Do you agree with our proposal to ask licensees to send us the demographic information which is shared with their board(s)?
8. Do you agree with the proposed reporting period for the regulatory returns? If you disagree, what is your preferred reporting period, and why?

Next steps

How do I make a submission?

Please use the feedback form on page 28 to respond to the questions in this consultation document. You can also provide comments or feedback about specific information requested in the forms attached as Appendix 1 and Appendix 2. **Submissions close on Friday 28 October at 5pm.** Please put 'Feedback: Content of regulatory returns for prescribed intermediary service licensees' in the subject line.

Where can I find out more information?

If you have any questions about this consultation, please contact Lola Costello on (04) 474 2076.

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Appendix 1

Annual regulatory return information to be provided by licensed crowdfunding service providers to the FMA

The reporting period for this regulatory return is each 12-month period from 1 July to 30 June.

OFFER INFORMATION

For the purposes of this regulatory return, '**licensed crowdfunding offers**' means offers made through a licensed intermediary under the disclosure exclusion in clause 6 of Schedule 1 of the Financial Markets Conduct Act (*FMC Act*). '**Licensed service investors**' means investors in those offers. '**Other offers**' refers to all other types of offers, for example offers to wholesale investors, and offers of financial products of the same class as existing quoted financial products (under clause 19 of Schedule 1 of the FMC Act). '**Other investors**' means investors in those other offers.

Please answer this section, 'Offer information', for **each** offer that was made through your company during the reporting period. You should include offers that did not meet their minimum funding target, and offers that were made only to 'other investors'. The table gives guidance on how to respond to each question.

	Question	Guidance	Feedback
1.	Name of offering company		
2.	NZBN	New Zealand Business Numbers (NZBNs) are unique identifiers assigned to businesses in New Zealand (see www.nzba.govt.nz)	
3.	Was the offer made by the service provider or any of its associated persons (as defined in the FMC Act)?	Yes / No	
4.	Was the offer made to licensed service investors?	Yes / No	
5.	Was the offer made to other investors?	Yes / No (Answer 'Yes' to both question 4 and 5 if part of the offer relied on the licensed crowdfunding	

	Question	Guidance	Feedback
		service exclusion and part of the offer relied on a different exclusion)	
6.	Offer opening date	The first date any investor could accept the offer through your company's services.	
7.	Offer closing date	The final date the offer could be accepted by any investor through your company's services. If the offer was extended, this is the extended date. If the offer failed, this is the last date the offer was open for acceptance before it failed.	
8.	Minimum acceptable investment	Minimum amount that could be invested by a single investor, even if all investors actually invested more than this minimum amount.	
9.	Minimum funding target	Minimum amount to be raised by the offeror before any shares would be issued (i.e. for the offer to be successful). Put '0' if there is no minimum target.	
10.	Maximum funding target	Maximum amount the company would accept, as described in its offer. If the maximum was increased during the offer period, insert the final maximum amount. Please put 'No maximum' if there was no maximum.	
11.	Total value of capital raised (from all investors)	NZ\$	
12.	Total value of capital raised from licensed service investors	NZ\$	
13.	Total value of capital raised from other investors	NZ\$	

	Question	Guidance	Feedback
14.	Total number of shares issued (all investors)	Number	
15.	Smallest individual investment in the offer by a licensed service investor	NZ\$	
16.	Smallest individual investment in the offer by other investor	NZ\$	
17.	Largest individual investment in the offer by a licensed service investor	NZ\$	
18.	Largest individual investment in the offer by other investor	NZ\$	
19.	For each of the following dollar ranges (in questions 20 to 26), how many individual investments of that size were made?	<p>Please give the total number of individual investments (from both licensed service investors and other investors) within each range, for each of questions 20 to 26.</p> <p><i>Example: if 100 investors invested \$500 each and 50 investors invested \$750 each, your response to question 20 will be 150.</i></p>	
20.	0 - \$999	Number (refer to question 19)	
21.	\$1,000 - \$4,999	Number (refer to question 19)	
22.	\$5,000 - \$9,999	Number (refer to question 19)	
23.	\$10,000 - \$49,999	Number (refer to question 19)	
24.	\$50,000 - \$99,999	Number (refer to question 19)	

	Question	Guidance	Feedback
25.	\$100,000 - \$499,000	Number (refer to question 19)	
26.	\$500,000+	Number (refer to question 19)	
27.	What was the cumulative total investment in each of the following ranges, for all investors whose individual investments were in that range?	<p>The ranges for questions 28 to 34 are the same as for questions 20 to 26. Questions 28 to 34 require you to add up the total value of investments by the investors within each of those ranges.</p> <p><i>Example: if 100 investors invested \$500 each and 50 investors invested \$750 each, your response to question 28 will be \$87,500 [being (100x500) + (50x750)]</i></p>	
28.	0 - \$999	NZ\$ (refer to question 27)	
29.	\$1,000 - \$4,999	NZ\$ (refer to question 27)	
30.	\$5,000 - \$9,999	NZ\$ (refer to question 27)	
31.	\$10,000 - \$49,999	NZ\$ (refer to question 27)	
32.	\$50,000 - \$99,999	NZ\$ (refer to question 27)	
33.	\$100,000 - \$499,000	NZ\$ (refer to question 27)	
34.	\$500,000+	NZ\$ (refer to question 27)	

INFORMATION ABOUT YOUR BUSINESS

Please answer the following questions about the business as a whole.

	Question	Guidance	Feedback
1.	Total number of unique licensed service investors who invested through the service during the period	Number	
2.	Number of licensed service investors who invested through the service for the first time during the period	Number	
3.	For each of the following dollar ranges, how many licensed service investors invested a total amount (i.e. across all offers) within the range during the reporting period?	<p>You should keep a record of how much each licensed service investor has invested through your service within each year and record the number of investors within each range. If an individual has invested in both licensed crowdfunding offers and other offers, please only include the amounts invested in licensed crowdfunding offers in your calculation.</p> <p><i>Example: if one investor invested \$1,000 in each of five licensed crowdfunding offers, they should be counted in category 'c'.</i></p> <p>Record the number of investors in each range (not the total value of their investment).</p>	
	a. 0 - \$999	Number	

	Question	Guidance		Feedback
	b. \$1,000 - \$4,999	Number		
	c. \$5,000 - \$9,999	Number		
	d. \$10,000 - \$49,999	Number		
	e. \$50,000 - \$99,999	Number		
	f. \$100,000 - \$499,000	Number		
	g. \$500,000+	Number		
4.	Total number of complaints received during the period about your licensed service:	A 'complaint' is any expression of dissatisfaction by a client (whether from a borrower or investor).		
	a. That were resolved by the business	Number		
	b. That were referred to your dispute resolution scheme	Number		
5.	Total number of complaints received during the period about offers or offering companies:			
	a. That were resolved by the business	Number		
	b. That were referred to your dispute resolution scheme	Number		
6.	Please provide your monthly NTA figure (dollar amount) for each of the 12 months during the reporting period.	July	NZ\$	
		August	NZ\$	
		September	NZ\$	
		October	NZ\$	

	Question	Guidance		Feedback
		November	NZ\$	
		December	NZ\$	
		January	NZ\$	
		February	NZ\$	
		March	NZ\$	
		April	NZ\$	
		May	NZ\$	
		June	NZ\$	
7.	Please describe any services offered by your business that are not provided as part of your licensed service.			
8.	What percentage of your gross revenue is earned from services provided as part of the licensed crowdfunding service?	% to the nearest 1%		
9.	During the reporting period, did you decline any issuers who wished to use your licensed service following your issuer assessment process? If yes, how many?	Yes/No. If yes, number.		

SECONDARY MARKET

If you operate a market for trading shares that were offered through your licensed crowdfunding service, please also answer the following questions.

	Question	Guidance	Feedback
SM1.	Total number of trades on the market during the reporting period	Number	
SM2.	Total value of trades on the market during the reporting period	NZ\$	
SM3.	Number of individual companies whose shares were traded	Number	

Appendix 2

Annual regulatory return information to be provided by licensed peer-to-peer lending service providers to the FMA

The reporting period for this regulatory return is each 12-month period from 1 July to 30 June. *All information should be provided as at the end of the reporting period* (i.e. as at 30 June) unless the question states otherwise, such as ‘during the reporting period’

	Question	Guidance	Feedback
INFORMATION ABOUT INVESTORS AND THEIR INVESTING			
<i>For the purposes of this regulatory return please only provide details about retail (i.e. non-wholesale) investors.</i>			
1.	Total number of investors registered for the service	Number	
2.	Total number of investors with open investments (i.e. some or all of their funds are lent)	Number	
3.	Number of investors who lent funds through the service for the first time during the reporting period	Number	
In questions 4 - 6, the dollar ranges represent total funds invested with the service by individual investors. ‘Total funds invested with the service’ includes funds currently invested and any other funds held on the investor’s behalf.			
4.	For each range, how many investors have total funds invested with the service in that range?	<i>Example: if 10 investors each have total funds invested with the service of \$1,000, and 10 investors each have total funds invested with the service of \$3,000 each, your response to ‘b’ will be 20.</i>	
	a. 0 - \$999		
	b. \$1,000 - \$4,999		

	Question	Guidance	Feedback
	c. \$5,000 - \$9,999		
	d. \$10,000 - \$49,999		
	e. \$50,000 - \$99,999		
	f. \$100,000 - \$499,000		
	g. \$500,000+		
5.	For investors within each range, what is the cumulative amount of funds invested?	<p><u>Guidance:</u> Add up the total value of investments by the investors that fall within each of these ranges.</p> <p><i>Example: if 10 investors each have total funds invested with the service of \$1,000, and 10 investors each have total funds invested with the service of \$3,000 each, your response to 'b' will be \$40,000.</i></p>	
	a. 0 - \$999		
	b. \$1,000 - \$4,999		
	c. \$5,000 - \$9,999		
	d. \$10,000 - \$49,999		
	e. \$50,000 - \$99,999		
	f. \$100,000 - \$499,000		
	g. \$500,000+		

	Question	Guidance	Feedback
6.	For investors within each range, what is the average number of loans in which individual investors invested during the reporting period?	<i>Example: there are 20 investors with total funds invested with the service in range 'b'. During the reporting period 10 of these investors entered into 5 loans; five entered into 2 loans; and five entered into 3 loans. This is a total of 75 loans invested in, therefore the average for the range 'b' is 3.75.</i>	
	a. 0 - \$999		
	b. \$1,000 - \$4,999		
	c. \$5,000 - \$9,999		
	d. \$10,000 - \$49,999		
	e. \$50,000 - \$99,999		
	f. \$100,000 - \$499,000		
	g. \$500,000+		
INFORMATION ABOUT BORROWERS AND THEIR LOANS			
7.	Total number of borrowers registered for the service	Number	
8.	Total number of new loans to individuals started during the reporting period (<i>excluding refinancing – see questions 36-43</i>)	Number	

	Question	Guidance	Feedback
9.	Total value of new loans to individuals started during the reporting period (<i>excluding refinancing – see questions 36-43</i>)	NZ\$	
10.	Total number of new loans to businesses started during the reporting period (<i>excluding refinancing – see questions 36-43</i>)	Number	
11.	Total value of new loans to businesses started during the reporting period (<i>excluding refinancing – see questions 36-43</i>)	NZ\$	
12.	Number of borrowers (<i>individuals and businesses</i>) who borrowed funds through the service for the first time during the reporting period	Number	
13.	Total number of borrowers with outstanding loans (<i>including borrowers in arrears, but not borrowers whose loans have been written off or sold – see question 34</i>)	Number	
14.	Total number of outstanding loans to individuals (<i>including loans in arrears, but not loans written off or sold</i>)	Number	
15.	Total value of outstanding loans to individuals	NZ\$	
16.	Total number of outstanding loans to businesses	Number	
17.	Total value of outstanding loans to businesses	NZ\$	
18.	Total number of secured loans	Number	

	Question	Guidance	Feedback
19.	Total value of outstanding secured loans	NZ\$	
20.	Number of individuals who reached the maximum \$2 million borrowing limited during the reporting period	Number	
21.	Number of businesses who reached the maximum \$2 million borrowing limited during the reporting period	Number	
<p>In questions 22 and 23, the dollar ranges represent outstanding funds borrowed through the service by borrowers. ‘Outstanding funds borrowed through the service’ means the value of all outstanding loans at 30 June, not the original amount of the loans.</p>			
22.	For each range, how many borrowers have outstanding funds borrowed through the service in that range?	<i>Example: if 10 borrowers each have total outstanding loans of \$1,000, and 10 borrowers each have total outstanding loans of \$3,000 each, your response to ‘b’ will be 20.</i>	
	a. \$0 - \$999	Number	
	b. \$1,000 - \$4,999	Number	
	c. \$5,000 - \$9,999	Number	
	d. \$10,000 - \$49,999	Number	
	e. \$50,000 - \$99,999	Number	
	f. \$100,000 - \$499,000	Number	
	g. \$500,000+	Number	
23.	For borrowers within each of the ranges below, what is the cumulative amount of outstanding funds borrowed through the service?	<i>Example: if 10 borrowers each have outstanding loans of \$1,000, and 10 borrowers each have outstanding</i>	

	Question	Guidance	Feedback
		<i>loans of \$3,000 each, your response to 'b' will be \$40,000.</i>	
	a. 0 - \$999	NZ\$	
	b. \$1,000 - \$4,999	NZ\$	
	c. \$5,000 - \$9,999	NZ\$	
	d. \$10,000 - \$49,999	NZ\$	
	e. \$50,000 - \$99,999	NZ\$	
	f. \$100,000 - \$499,000	NZ\$	
	g. \$500,000+	NZ\$	
24.	Number of outstanding loans in each of the following interest rate ranges:		
	a. 0% - 7.99%	Number	
	b. 8.00% - 14.99%	Number	
	c. 15.00% - 24.99%	Number	
	d. 25.00%+	Number	
25.	Total value of outstanding loans in each of the following interest rate ranges:		
	a. 0% - 7.99%	NZ\$	
	b. 8.00% - 14.99%	NZ\$	
	c. 15.00% - 24.99%	NZ\$	

	Question	Guidance	Feedback
	d. 25.00%+	NZ\$	
Questions 26 – 35 ask about risk categories. As risk categories vary between service providers, please insert your own risk categories when responding to each of these questions.			
26.	Total number of loans in each risk category		
27.	Total value of loans in each risk category		
28.	Total number of loans in arrears ² in each risk category		
29.	Total value of loans in arrears in each risk category		
30.	Total number of loans in arrears for longer than three months in each risk category		
31.	Total value of loans in arrears for longer than three months in each risk category		
32.	Total number of loans in arrears for longer than six months in each risk category		
33.	Total value of loans in arrears for longer than six months in each risk category		
34.	Total number of loans in each risk category that were written off ³ during the period		

² A loan is in arrears when payments are overdue but the loan has not been written off (see question 34) and is still reported to the lender(s) as due to them

³ A loan should be classified as written off when it is (i) no longer reasonably expected to be paid; and/or (ii) no longer reported to the lender(s) as due to them, whether or not funds may still be recovered from the borrower by other means such as debt collection procedures; and/or (iii) sold pursuant to a debt collection procedure

	Question	Guidance	Feedback
35.	Total value of loans in each risk category that were written off during the period		
<p>Questions 36 – 43 ask about refinancing. ‘Refinancing’ means when an existing borrower wishes to increase the amount borrowed, and the existing loan is repaid in order to be replaced by a new, larger loan. This may also be referred to as ‘rewriting’ by some service providers.</p>			
36.	Number of loans re-financed during the period by individuals	Number	
37.	Total value of loans repaid by individuals during the period for the purpose of refinancing	NZ\$	
38.	Total value of new borrowing by individuals after refinancing	NZ\$	
39.	Number of loans re-financed during the period by businesses	Number	
40.	Total value of loans repaid by businesses during the period for the purpose of refinancing	NZ\$	
41.	Total value of new borrowing by businesses after refinancing	NZ\$	
42.	Total number of loans that were in arrears when they were refinanced	Number	
43.	Total value of loans that were in arrears when they were refinanced	NZ\$	
<p>In questions 44 and 45 we ask about repeat borrowers. By ‘repeat borrowers’ we mean borrowers who take out a new loan having repaid a previous loan in full of their own accord (either in the same reporting period or a previous period). It does not include <i>refinanced</i> loans.</p>			
44.	Number of loans taken out by repeat borrowers during the period	Number	

	Question	Guidance	Feedback	
45.	Total value of loans taken out by repeat borrowers during the period	NZ\$		
INFORMATION ABOUT YOUR BUSINESS				
46.	Total number of complaints received during the period about your licensed service:	A 'complaint' is any expression of dissatisfaction by a client (whether from a borrower or investor).		
	a. that were resolved by the business	Number		
	b. that were referred to your dispute resolution scheme	Number		
47.	Total number of complaints received during the period about borrowers or loans:			
	a. that were resolved by the business	Number		
	b. that were referred to your dispute resolution scheme	Number		
48.	Please provide your monthly NTA figure (dollar amount) for each of the 12 months during the reporting period.	July	NZ\$	
		August	NZ\$	
		September	NZ\$	
		October	NZ\$	
		November	NZ\$	
		December	NZ\$	

	Question	Guidance		Feedback
		January	NZ\$	
		February	NZ\$	
		March	NZ\$	
		April	NZ\$	
		May	NZ\$	
		June	NZ\$	
49.	What percentage of your gross revenue is earned from services provided as part of the licensed peer-to-peer lending service?	% to the nearest 1%		
50.	Please describe any services offered by your business that are not provided as part of your licensed service. <i>Example: facilitating lending to wholesale borrowers (as defined in the FMC Act).</i>			

SECONDARY MARKET

If you operate a market for trading loans that were offered through your licensed service, please also answer the following questions.

	Question	Guidance	Feedback
SM1.	Total number of trades on the market during the reporting period	Number	
SM2.	Total value of trades on the market during the reporting period	NZ\$	
SM3.	Number of individual loans that were traded during the reporting period	Number	

Feedback form

Regulatory returns for prescribed intermediary services

Please submit this feedback form electronically in **both PDF and MS Word formats**.

Email to: consultation@fma.govt.nz with 'Feedback: Content of regulatory returns for prescribed intermediary service licensees' in the subject line.

Thank you. **Submissions close Friday 28 October 2016 at 5pm.**

Date:

Number of pages:

Name of submitter:

Company or entity:

Organisation type:

Contact name (if different):

Contact email and phone:

Paragraph or Question Number	Comment	Recommendation
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You don't need to quote from the consultation document if you use question numbers. If you have feedback on specific information requested in the proposed regulatory returns, please use Appendix 1 and Appendix 2.

You may attach extra pages - please label each page with your name and organisation name.

Q1		
Q2		
Q3		
Q4		
Q5		
Q6		
Q7		
Q8		

Feedback summary – if you wish to highlight anything in particular.

Please note: Feedback received 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 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.