



Consultation paper: Proposed guidance on advertising offers of financial products under the Financial Markets Conduct Act 2013

About this consultation

The Financial Markets Authority's (FMA) most recent Annual Corporate Plan set out that our preferred approach to addressing sector risks and harms, including "inadequate, incorrect, or misleading disclosure", is to proactively outline our expectations to the market.

We engage with issuers and other market participants on the disclosure requirements that apply to regulated offers. Advertising is a topic that is frequently brought to our attention, and is an area of concern due to the influence it may have on investor knowledge and behaviour. Accordingly, we are seeking views on this proposed guidance, which is intended to inform the market of the FMA's expectations in this area.

We have drafted the guidance to complement existing information and guidance published by the FMA, including the crowdfunding and peer-to-peer lending guidance, regulatory response guidelines and website content on our approach to the fair dealing and stop order provisions.

[Read the proposed guidance.](#)

Next steps

We welcome feedback on the proposed guidance – its intent, content and how it is presented. Please use the feedback form at the back for any comments. **Submissions close on 16 February 2021.** We will finalise the guidance after consideration of the submissions.

About this guidance note

This consultation is for those involved in advertising and promoting offers of financial products, investor groups and consumer advocates.

We are seeking feedback about the scope and content of the proposed guidance.



Consultation questions

Questions

Question 1: General scope

The proposed guidance is applicable to all advertising and promotion of offers of financial products, including advertising relating to offers subject to an exclusion in Schedule 1 of the Financial Markets Conduct Act 2013 (the FMC Act), and including all financial product types.

- Do you agree with the scope of the guidance?
- Do you think the guidelines need to differ for advertising of different types of financial product offers?
- Do you think the guidance adequately captures all relevant parties involved in advertising and promoting offers?

Question 2: Short form advertising

We are aware of current market practice where a user may “click through” a short-form advertisement (e.g. from a Google search, LinkedIn, Facebook, Instagram, Stuff.co.nz, etc.) to a second webpage (often maintained by the issuer) where information required by sections 90-92 of the FMC Act is located.

Our position is that sections 89-92 of the FMC Act apply to all advertising regardless of any length or content restrictions. If the provisions cannot be complied with, then a short-form advertisement must not be made.

Do you agree with this position? If not, can you please explain why?

Question 3: Potential gaps

Are you aware of examples of poor conduct or need for guidance in the advertising of financial products that have not been addressed, or adequately addressed, in the proposed guidance, including specifically the advertising guidelines?

Question 4: Offers restricted to wholesale investors

Do you agree that consumers of advertising for wholesale offers should be made aware immediately in the relevant advertisement that an offer is not available to retail investors? Do you agree with the suggested wording for inclusion?

Question 5: Miscellaneous

Are there any other aspects you wish to submit on?

For example, are there any unintended consequences that may arise from the proposed guidance that we should be aware of?



Feedback form

Feedback: Proposed guidance on advertising offers of financial products under the Financial Markets Conduct Act 2013

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at consultation@fma.govt.nz with 'Feedback: proposed guidance on advertising offers of financial products under the Financial Markets Conduct Act 2013' in the subject line. Thank you. **Submissions close on 16 February 2021.**

Date: _____ Number of pages: _____

Name of submitter: _____

Company or entity: _____

Organisation type: _____

Contact name (if different): _____

Contact email and Phone: _____

| Question Number | Comment | Recommendation |
|--|---------|----------------|
| <i>You don't need to quote from the consultation document if you use part & paragraph numbers.</i> | | |
| <i>You may attach extra pages - please label each page with your name & organisation.</i> | | |
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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.

AUCKLAND OFFICE
Level 5, Ernst & Young Building
2 Takutai Square, Britomart
PO Box 106 672
Auckland 1143

WELLINGTON OFFICE
Level 2
1 Grey Street
PO Box 1179
Wellington 6140

www.fma.govt.nz
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