

SEPTEMBER 2022

Consultation paper: Regulatory returns for licensed Class 3 financial advice providers

About this consultation

Financial advice companies who hold a full financial advice providers (**FAP**) licence are required to comply with certain conditions. Conditions are imposed by the Financial Markets Authority (**FMA**) under [section 403](#) of the Financial Markets Conduct Act 2013 (**FMC Act**), which includes the [standard conditions for full financial advice provider licences](#). The requirements relating to regulatory returns fall under Standard Condition 3 and apply in respect of any regulated financial advice provided to retail clients.

Regulatory returns must be provided on a periodic basis to the FMA so we can use the information provided to monitor licensees' ongoing capability to effectively perform licensed financial advice services.

The FMA treats all information obtained from the regulatory returns as commercially sensitive. However, we may report on statistical information on an aggregated, non-identifiable basis from time to time.

This consultation:

- outlines the questions we propose to ask in the regulatory returns for Class 3 FAP licensees
- invites your feedback on the appropriateness and format of the information we collect.

Submissions for the Class 3 FAP regulatory return consultation close 28 October 2022, at 5pm.

This consultation is primarily aimed at Class 3 licensed financial advice providers. This consultation may also be appropriate for financial advisers, nominated representatives and authorised bodies. The FMA welcomes feedback from other interested parties such as industry associations, financial service law firms, training providers and compliance consultants.

This consultation asks for feedback on our proposals for regulatory returns for Class 3 financial advice providers.

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Background

Why we request regulatory returns

Regulatory returns ensure the FMA has up-to-date information about FAPs, as it may have changed since their full FAP licence was granted. The information provided helps us:

- consider whether licence holders continue to meet the eligibility criteria and market service licence obligations.
- understand the people and businesses we regulate in greater detail
- determine the focus and priority of our supervision and monitoring activities.
- identify issues or themes across the market that may require further exploration.

Standard Condition 3 for FAP regulatory returns:

“You must provide us with the information we need to monitor your ongoing capability to effectively perform the financial advice service in accordance with the applicable eligibility criteria and other requirements in the FMC Act. This will include updated information on the nature, size and complexity of your financial advice provider service. Information must be provided in accordance with any Regulatory Return Framework and Methodology we issue under subpart 4, part 9 of the FMC Act.”

Framework and methodology

Frameworks and methodologies are subordinate legislation that detail any applicable technical requirements. We are not legally required to introduce either. Our view at this time is that they are not necessary given the particular type of information we need from this group of market service licensees. We may decide to introduce a framework and/or methodology related to regulatory returns for FAPs at a later stage, which must be consulted on before being issued.

Consultation

As at 1 August 2022, there were 32 approved licensed Class 3 FAPs, and a further 17 undergoing their assessment, with 642 licensed FAPs in total.

For this consultation, we are interested in the views of licensed Class 3 FAPs and any other interested parties. We have provided the proposed questions to be included in the regulatory returns for licensed FAPs and invite their feedback on the questions we are proposing to ask.

We will also conduct a separate public consultation for licensed Class 1 and 2 FAPs, as well as those individuals who provide regulated financial advice, and any other interested parties. We will ask their views on the proposed questions at a later date, to avoid conflicting with the Class 1 and 2 target licence application date. The consultation for Class 1 and 2 licence holders is expected to open in late-October 2022.

Our proposal

Content of the regulatory returns

The purpose of a regulatory return is to provide:

- information about a financial advice provider's business
- an indication of the business's size and nature, compliance performance and potential risks.

This paper has one accompanying document, outlining the information we propose to ask for the Class 3 licence holders.

Each question includes brief guidance on how to answer, along with the rationale for requiring the information. The questions have been designed to:

- provide insight into the operations of licensees to enable us to evaluate the risk of material issues
- allow a better understanding of key stakeholders in the business and where there may be risk concentrations within the industry
- encapsulate the methods used to consider client needs in the operation of the business.

This information will allow the FMA to be better informed about entity-specific issues and broad industry themes, so we can properly prioritise and focus our supervision and monitoring efforts.

We want 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.

We also want to know if there are any implications for your business associated with providing the requested information. We need an accurate understanding of both the feasibility of obtaining the information and the cost in time and money. Please consider both initial and ongoing costs.

We welcome all comments, ideas and concerns, particularly, if alternative questions would achieve the same objectives, or if certain information will not be readily available.

Reporting period

Regulatory returns will need to be filed annually, for the year 1 July to 30 June. We propose that regulatory returns be completed by 30 September, i.e. within a three-month window.

This means the first regulatory returns would be due by 30 September 2024, for the year 1 July 2023 to 30 June 2024.

To answer all questions, please use the feedback form provided at the end of this document, and the accompanying document titled "Questions for Class 3 FAPs".

Questions

Specific questions for consideration

Question number	Question
1	Do you agree with the proposed reporting period for the regulatory returns? If not, what is your preferred reporting period, and why?
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.
3	Is there any other information we should ask for? If so, please state what, and how it would improve the returns ?
4	Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.
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)?
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?
7	Do you have any concerns about the proposed timeframe for gathering and submitting regulatory returns (i.e. a three-month window)? If so, please specify.
8	Do you have any other comments on the proposed regulatory returns?

Feedback form

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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.

Submissions for the Class 3 FAP Regulatory Return consultation close 28 October 2022, at 5pm.

Date: _____ Number of pages: _____

Name of submitter: _____

Company or entity: _____

Organisation type: _____

Contact name (if different): _____

Contact email and phone: _____

Question number	Response

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.