

NOVEMBER 2022

Information sheet: Monitoring of licensed Financial Advice Providers

This information sheet explains how we carry out monitoring activities, what we expect of you, and what you can expect from us.

Why the FMA monitors FAP licensees

The FMA's overarching statutory purpose is to promote and facilitate the development of fair, efficient, and transparent financial markets. Monitoring financial markets participants for compliance with their regulatory obligations, including licensed financial advice providers (FAPs), is integral to achieving this outcome, and one of our functions as set out in section 9(1)(d) of the Financial Markets Authority Act 2011. Monitoring also helps to encourage high standards of professionalism in the financial services industry and build trust and confidence in New Zealand's financial markets.

As a licensed FAP, you may be monitored by the FMA to check that you are complying with your obligations, including those in the [Financial Markets Conduct Act 2013](#), the [Financial Markets Conduct Regulations 2014](#), the [Code of Professional Conduct for Financial Advice Services](#), and the [Standard Conditions for full FAP licences](#), as well as any specific conditions of your FAP licence.

As part of our oversight of the industry, you may be selected for monitoring in response to information received about your business, or because we are carrying out work in connection with a particular theme across the industry.

What monitoring involves

If you are selected for monitoring, we will contact you at least four weeks in advance of any monitoring activity to discuss the scope and proposed timing, and to answer any questions you may have. This will be followed by a formal monitoring notice that confirms the details.

Our monitoring will include an assessment of your business records and documentation related to your financial advice service. This may include your client files, disclosure documents, marketing material, complaints, competency (training and development) records, any compliance assurance undertaken, product information and/or commission information. Our monitoring will also look at your processes and documentation to check for compliance.

Our monitoring is typically conducted either from our office or at your business premises (or a mix of both). Visiting your place of business often provides us with more context to the information that we are reviewing. In some circumstances, a formal interview with relevant staff members will be conducted either virtually or at an on-site visit. This may include interview questions and system and/or process demonstrations. The amount of time we may need for monitoring will be dependent on the size of your operations and whether we conduct the monitoring at your premises, however you can expect the typical duration to be between one and four days, and this may involve two to four people from the FMA. The number of FMA staff conducting an on-site review depends on the number needed to conduct interviews, and the number of systems or processes we are assessing.

A debrief may be provided to you towards the end of the monitoring. We are unlikely to provide our conclusions at this point. We will give you the opportunity to clarify any remaining questions, and to provide additional information before we conclude the monitoring.

What the FMA expects from you

Ways you can constructively assist with our monitoring reviews include:

- a constructive, open, and honest approach
- the availability of relevant staff during the monitoring or on-site visit, to answer our questions about your business, financial advice service and files
- your cooperation to provide us with any information requested
- timely access to client files and other documents relevant to your financial advice services
- a proactive approach to communicating any issues you think we should be aware of.

We are monitoring your understanding of the business, processes, and obligations you work to in practice. It is therefore our preference that interviews are only attended by relevant internal staff who can speak to these details.

What you can expect from the FMA

We strive to ensure our monitoring reviews are undertaken professionally by assigning staff who:

- are courteous and approachable
- take into account the nature and size of your business (proportionate)
- aim to minimise any disruption their visit may cause
- have an understanding of your business based on the documents provided in advance.

Our staff members are self-sufficient but will require a private room with access to WiFi and power points. We appreciate your hospitality but cannot accept any meals or gifts.

Monitoring does not incur any fees and you will not be asked to pay for any direct expenses.

What you can do to prepare for monitoring

We will provide information in our initial contact and monitoring notice, including instructions about what you need to do next. This will generally consist of providing us with electronic copies of key documents within 10 working days. If you are unable to meet our expectations, please let us know as soon as practical.

We will need to retain copies of all documents relevant to our monitoring of your compliance. This may include client “fact finds” and written explanations of the advice or service provided. Please be prepared to provide electronic copies of documents that we identify. If you think this will be difficult, please discuss this with us in advance. Any personal information obtained by the FMA will be held and dealt with by the FMA in accordance with the Privacy Act 2020.

Outcome of the engagement

At the end of an engagement, we will take time to collate our findings. These will be subject to internal FMA peer review and moderation before they are finalised. We will let you know the outcome of our monitoring activity, generally in the form of a feedback letter, and aim to do this within four weeks. Some possible outcomes include:

- no further information being required, though we may provide some feedback on areas of improvement
- additional information being required, either in writing, a virtual interview, or through further visits.

Where a feedback letter is provided, it will include the identified findings, remedial actions required, the timeline for remediation, and the seriousness of the findings. We expect you to rectify any issues identified in the stipulated timeframes and, where applicable, provide us with evidence or a report that show you have carried out the actions.

Where our monitoring or enquiries identify non-compliance, we have a range of tools available to deliver a timely, effective and proportionate response. Our initial approach will generally be to work with you to achieve compliance through education and guidance. However, if we encountered misconduct and serious breaches, or you are unwilling to comply, we will consider whether it is appropriate to take regulatory action that is proportionate to the misconduct, to achieve an appropriate outcome as outlined in our [regulatory approach](#).

Further information

Our website has more information about your obligations as a [Financial Advice Provider](#) and our [regulatory approach](#). Alternatively, you can email questions@fma.govt.nz.