



Memorandum of Understanding

between

the Financial Markets Authority

and

New Zealand Police

This memorandum of understanding

Between The Chief Executive of the Financial Markets Authority (the FMA)

And The Commissioner of New Zealand Police (Police)

Introduction

1. The FMA was established by the Financial Markets Authority Act 2011 (the FMA Act). The FMA's main objective is to promote and facilitate the development of fair, efficient, and transparent financial markets. The FMA's functions include:
 - a. to promote the confident and informed participation of businesses, investors, and consumers in the financial markets, including (without limitation) by—
 - collecting and disseminating information or research about any matter relating to those markets;
 - issuing warnings, reports, or guidelines, or making comments, about any matter relating to those markets, financial markets participants, or other persons engaged in conduct relating to those markets;
 - providing information about its functions, powers, and duties (including promoting awareness by investors that all investments involve risks and that it is not the role of the FMA to remove those risks);
 - providing public information and education about any matter relating to those markets;
 - stating whether or not, or in what circumstances, the FMA intends to take or not take action over a particular state of affairs or particular conduct;
 - b. to perform and exercise the functions, powers, and duties conferred or imposed on it by or under the Financial Markets Legislation (the enactments prescribed in Schedule 1 to the FMA Act);
 - c. to monitor compliance with, investigate conduct that constitutes or may constitute a contravention or an involvement in a contravention of, and enforce, Financial Markets Legislation;
 - d. to monitor, and conduct inquiries and investigations into any matter relating to, financial markets or the activities of financial markets participants or of other persons engaged in conduct relating to those markets;
 - e. to keep under review the law and practices relating to financial markets, financial markets participants, and other persons engaged in conduct relating to those markets; and
 - f. to co-operate with any other law enforcement or regulatory agency and overseas regulators.

2. Police operates under the Policing Act 2008. Police functions include:
 - keeping the peace
 - maintaining public safety
 - law enforcement
 - crime prevention
 - community support and reassurance
 - national security
 - participating in policing activities outside New Zealand
 - emergency management.
3. The parties currently work together and offer advice to each other. They wish to formalise this relationship and specify the terms and conditions under which this will occur.

Objectives

4. The objectives of this MOU are to:
 - facilitate the investigation of people suspected of unlawful conduct as it relates to the financial services and capital markets
 - facilitate the effective sharing of information between the parties
 - maximise the safety of both parties' employees, and minimise risk
 - contribute to the Government's Better Public Service Goals.
5. These objectives will be achieved through promoting a collaborative working relationship between the FMA and Police based on a spirit of goodwill and co-operation, and by:
 - consulting on relevant strategic priorities and policy initiatives
 - sharing information
 - co-operating in communication and media strategies
 - co-operating in case management
 - supporting training and secondment opportunities
 - co-operating with search warrants and other investigative activities.

Victim focus

6. The parties recognise the importance of making victims a primary focus of any Police and FMA response to investigations.
7. The party leading an investigation will ensure that appropriate support is provided to victims, including:
 - providing information and access to support services
 - explaining what they can expect to happen during the investigation
 - giving case updates
 - providing any other service required by the Victims' Rights Act 2002.

Review of MOU and schedules

8. The parties agree that from time to time they may develop protocols relating to specific procedures and activities. These will be attached to the MOU as schedules.
9. The parties' representatives will meet every five years, or as required, to review this MOU and schedules.
10. Modification or termination of schedules may be undertaken by the mutual agreement of the parties.
11. Either party may terminate the MOU by giving three months' notice in writing to the other party.

Consultation on media releases/statements

12. Each party will consult with the other before providing information or comment to the media on a matter which falls within the other party's responsibility, or in which the other party has an interest.
13. Each party will raise any operational or policy concerns through appropriate internal channels, rather than through the media.

Training

14. The parties support the development of joint training opportunities involving both Police and FMA staff.
15. The parties will support opportunities to second personnel with the other party, where this would benefit one or both parties.

Issue or dispute resolution

16. All issues, disputes and differences between the parties about the interpretation or performance of this MOU will be resolved at the earliest opportunity by local representatives or managers, wherever possible.
17. Only when matters remain unresolved or require further adjudication should they be referred to the parties' senior management representatives listed in section 24 of this MOU.

Costs

18. Unless the parties mutually determine otherwise, the cost of meeting the commitments of this MOU shall be met by the party incurring the cost. For the avoidance of doubt, the FMA will continue to be charged for Police vetting requests pursuant to the Police (Cost Recovery) Regulations 2017.

Legal

19. Nothing in this MOU shall make either party liable for the actions of the other or constitute any legal relationship between the parties.
20. Nothing in this MOU is intended to limit or affect the independence of either party.

21. The provisions in this MOU are to be read subject to any Chief Executive or Cabinet directives, and any enactment, regulations or rules.
22. Where there are changes to Government policy which affect the purpose and functions of this MOU, each party agrees to inform the other of those changes at the earliest possible time thereafter and agrees to meet to re-negotiate if necessary any aspects of the MOU.
23. Nothing in this MOU is intended to limit or affect the independence of either party.
24. The parties' representatives for the purposes of this MOU are:

Senior Management Representatives

FMA

Director of Regulation
Level 2
1 Grey Street
Wellington
Telephone: (04) 471 7657

New Zealand Police

Assistant Commissioner, Investigations
Police National Headquarters
180 Molesworth Street
Wellington
Telephone: (04) 474 9499

Operational Representatives

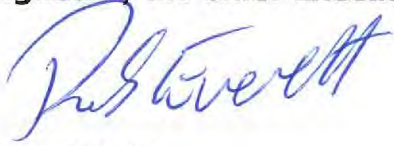
FMA

Head of Evidence and Investigations
Level 5, Ernst and Young Building
2 Takutai Square, Britomart
Auckland
Telephone: (09) 300 0425

New Zealand Police

National Manager, Financial Crime Group
Police National Headquarters
180 Molesworth Street
Wellington
Telephone: (04) 474 9499

Signed by the Chief Executive Financial Markets Authority



Rob Everett

Date: 28-9-17

Signed by the Commissioner of Police



Mike Bush MNZM

Date: 12-12-17

Schedule 1 to the MOU between the Chief Executive of the FMA and the Commissioner of the Police

Information Sharing

Purpose

1. The purpose of this Schedule is to facilitate the sharing of information, where appropriate, to enable the parties to achieve the objectives of the MOU.

Principles

2. The Privacy Act 1993 allows agencies to share personal information without informing the affected person, even where the person has expressly instructed not to do so.
3. The parties agree to share information in line with its original purpose, or where it is necessary to:
 - uphold or enforce the law, including the prevention, detection, investigation, prosecution, and punishment of offences; or
 - lessen a serious threat to public health or safety; or
 - lessen a serious threat to the life or health of any person.
4. The FMA may share information and documents with law enforcement and regulatory agencies pursuant to section 30 of the FMA Act.

Designated positions

5. Each party will designate positions that will be authorised to make requests for information from the other party.
6. For Police, designated positions are:
 - Constabulary members holding the rank of Detective Senior Sergeant or above
 - Manager: Financial Intelligence Unit, PNHQ
 - Police members acting in one of the positions above
 - Any other position that may be advised from time to time.
7. For the FMA, designated positions are:
 - Director of Regulation, or equivalent position
 - Head of Evidence and Investigations, or equivalent position
 - Head of Enforcement, or equivalent position
 - Senior Investigator, having received authority from one of the positions above
 - Any other position that may be advised from time to time.