

5 May 2025

By email: [REDACTED]

Dear [REDACTED]

Your request for information under the Official Information Act 1982 (OIA) [CAS-147203]

We refer to your letter dated 3 April 2025, in which you requested the following information:

- (a) Please provide any guidelines or materials relied upon by FMA AML / CFT officers who conduct monitoring reviews of reporting entities which guide them as to how to categorise the priority level of the monitoring review findings.*
- (b) It is common in your monitoring review reports that you attach an Appendix 1 with a priority key. Please provide any internal documents that support your selection of a priority categorisation for a particular required action or deficiency in the AML / CFT programme of a reporting entity.*
- (c) If no guidance or internal policies regarding this categorisation apply, please advise how you ensure consistency between the priority given to required remedial actions in monitoring review reports.*

We have decided to grant your OIA request. The FMA uses the High / Medium / Low matrix, which sets out factors to consider for rating monitoring findings. A copy is enclosed. Please note the following points about the matrix:

- It was developed in 2019 and was rolled out in training from January 2020.
- It is a tool for internal use, as guidance only.
- The matrix was designed for all FMA supervisory monitoring, not just AML / CFT.

You have the right to seek an investigation and review of this decision by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact me in the first instance.

Yours sincerely



Ariarna Hakaraia
Manager, Internal Governance

H / M / L – Factors to consider for rating monitoring findings.

Objectives. To ensure:

- a consistent approach to rating the findings we present back to participants in feedback letters
- the ratings for our findings are appropriate and reasonable
- our approach is in line with our overarching risk-based strategy

Soft factors to consider

- What is the compliance history of the entity? Are they a willing complier, or a minimalist/opportunist or a reckless/deliberate non-complier/serial offender?
- What was the experience of the monitoring visit? Were they receptive to feedback and willing to remediate, or argumentative and hostile?
- Is there evidence of a genuine attempt to comply?
- What interventions or action have been undertaken to date by the entity? Has the entity taken remedial action (preventative measures, reparation, etc.)?
- What is the culture, attitude and 'tone at the top' of a market participant?
- Is the entity new, or been operating for years and should have known better?
- Does the misconduct/breach reflect reckless disregard for investor / market interests?
- Did the entity self-report the matter? Is the entity proactively addressing the contravention or has come to us with a proposal for how to mitigate the harm?

What is expected from persons preparing the feedback letter.

1. Findings and ratings should be agreed by persons on the monitoring visit (look for consensus by the monitoring team). Teams and leads are expected to use their own judgement in determining the right response
2. Examine this matrix to assist
3. Share draft feedback letter/findings with the monitoring sector lead (All AML/CFT findings must be moderated by the AML/CFT principal)
4. Consult with Response Team on all draft high findings. **If it is a serious matter, the response team should be consulted early (don't wait until you've a feedback letter about ready to send).** Our referrals to Supervision Response must be timely
5. Finally submitting feedback letter to manager for approval to release

What this means in practice. Once you've submitted the feedback letter to the participant you are expected to:

1. Diarise the expected response. Typically 10 working days. They are only expected to confirm the issues and provide you with their proposed remedial actions
2. Examine the response. Does it clearly and adequately explain how they plan to address all findings? Will all high rated findings be addressed in 3 months, medium in 6 months and low in 1 year?
3. Diarise the dates you expect actions to be complete (use the dates they commit to). For H/M findings they are required to confirm findings are remediated. For H, - if noted in the feedback letter, they may be required to provide evidence of remediation. For low they do not need to engage with us any further.
4. If you have not heard from them on the date they commit to, then reach out to them for an explanation.

5. When they provide evidence of the remediated high finding (e.g. new policy), examine it to confirm they have appropriately addressed our required actions.
6. Provide response to participant and ensure all correspondence and evidence is attached to the case.

Released under the Official Information Act 1982

High (definition key per feedback letter)

This issue represents one or more significant weakness(es) that have a material impact on your entity's ability to achieve the activity's objectives and/or legislative compliance. Addressing these issues must be an immediate priority. We have identified required remedial actions for this area. An action plan to address these issues must be developed and provided to the FMA with your response to this letter. Unless specified otherwise, we expect all remedial actions to be complete within three months of this letter.

Factors that support this rating	Description
It is a clear breach	Breach (by act or omission) of relevant law, regulation, obligation, conditions of a licence, Code of Conduct, FMA guidance note or report (such as those from thematic reviews).
It is a repeated infringement	• They have completely failed to adequately address agreed and documented actions (FMA instructions) from previous monitoring or correspondence or licensing. • There are previous related incidents (it has been repeated, it is increasing and/or ongoing) • This an escalation of non-compliant behaviour
The finding is identified as a strategic priority or FMA area of focus	The finding relates to: • Failing to fully serve the needs of customers. • Inappropriate governance, incentive structures, sales and advice processes, and systems to manage conduct risk • Failure to meet AML/CFT requirements • Provision of poor information to customers. (Investors and customers are not provided with clear, concise and effective information) • Poor disclosure and financial reporting
This finding has or could result in significant potential harm to the confidence or integrity of the market	The findings could be considered: • deliberate, intentional or reckless • an example of disregard for market interests • a serious departure from expected lawful commercial behaviour • representative of gross negligence
This finding has or could result in significant potential harm to customers and/or investors.	It is a failure to take reasonable care in discharging a duty of care to investors, or the customers and/or investors It affects are: • wide ranging • large in number • more vulnerable
It clearly needs urgent action.	We need the issue to be addressed as a matter of urgency: • Is it an area of media interest? • Are there public interest factors?
If it's not high, they won't fix it	It is necessary to rate the finding as high to achieve the intended outcome (i.e. address the finding). Without the rating being noted as high, our confidence in the participant to address the finding is limited.

We're being consistent	Refer to examples. This rating would be consistent with other relevant recent (or historic) similar findings with other market participants
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Medium (definition key per feedback letter)

This issue represents one or more weakness(es) that is or may have an impact on your entity's ability to achieve the activity's objectives and/or legislative compliance. Addressing these issues must be a priority. We have identified required remedial actions for this area. An action plan to address these issues must be developed and provided to the FMA with your response to this letter. Unless specified otherwise, we expect all remedial actions to be completed within six months of this letter.

Factors that support this rating	Description
It is a possible breach	Partial or ineffective compliance with (by act or omission) of relevant law, regulation, obligation, conditions of a licence, Code of Conduct, FMA guidance note or report (such as those from thematic reviews).
It is related to a previous infringements	While it may be related to a prior FMA instruction, they have taken some action to address the issue. The actions taken may not be complete or fully evidenced.
The finding may be in a strategic priority or FMA area of focus	For example, they have considered conduct risk, but their thinking is at an infancy.
This finding has or could result in minimal potential harm to the confidence or integrity of the market	The issue could be considered: • a simple error of judgement or genuine mistake • a technical breach • a one-off incident for an otherwise willing complier
This finding has or could result in minimal potential harm to customers and/or investors.	investor confidence is unlikely to be affected There is no likelihood of investor losses
It does not need urgent action.	The issue does not need to be addressed as a matter of urgency.
It does not need to be high for them to fix it.	We are confident in the participant to address the finding.
We're being consistent	Refer to examples. This rating would be consistent with other relevant recent (or historic) similar findings with other market participants

Low (definition key per feedback letter)

This issue represents a weakness that may impact compliance with legislative requirements or represents an opportunity to improve the effectiveness of the control environment. These issues must be addressed. We have identified required remedial actions for this area. An action plan to address these issues must be developed and provided to the FMA with your response to this letter. Unless specified otherwise, we expect that remedial actions are completed within 12 months of this letter.

Factors that support this rating	Description
It is not a breach	FMA considers it good practice. These are usually procedural type updates, enhancements or amendments to documentation.
It is unrelated to prior infringements	This is the first time we are engaging with them on this matter
The finding is not a clear strategic priority or area of focus for the FMA	The finding is not in an area considered a strategic priority of the FMA
This finding will not result in potential harm to the confidence or integrity of the market or customers and/or investors.	Their customers and the market will not be affected.
It does not need urgent action.	The issue does not need to be addressed as a matter of urgency.
It does not need to be high for them to fix it.	We are confident in the participant to address the finding.
We're being consistent	Refer to examples. This rating would be consistent with other relevant recent (or historic) similar findings with other market participants