

27 November 2025

██████████
By email: ██████████

Dear ██████

Official Information Act 1982 Request – FMA Guidance on Financial Advice

I refer to your request made pursuant to the Official Information Act 1982 (OIA), received 7 October 2025:

Separate to my earlier request for guidance, can you please provide under the OIA,

- 1. Any guidance, circulars, or internal policy documents since 1 January 2020 addressing when communications by brokers/financial advice providers amount to “financial advice” versus “information” or “execution-only,” including the effect (if any) of “no-advice” disclaimers in renewal communications.*
- 2. Any supervision findings, thematic reviews, or issue papers since 1 January 2020 that discuss the use of template disclaimers to limit or avoid advice/client-understanding responsibilities in retail relationships.*
- 3. Any external correspondence (letters/emails) sent to industry bodies or firms since 1 January 2020 that (i) raise concerns, or (ii) provide guidance about the use of “Financial advice has not been provided” statements in the context of long-running brokered relationships*

For items that engage s9 withholding grounds, please consider partial release with redactions. I’m happy to refine scope if needed.

We notified you on 5 November 2025 that we had decided to extend the time to make a decision on your request for 20 working days and that we would respond to your request as quickly as possible, with a time limit of 3 December 2025.

I note that you also sought specific guidance from the FMA on 7 October 2025 regarding insurance brokers and their financial advice relationships with retail clients. The FMA responded to this request for guidance on 13 November 2025.

Context

As an overarching approach to regulation the FMA is principles-based, and outcomes-focused. This means we focus on the end results that regulation is aiming to achieve for consumers and financial markets. It gives financial service providers flexibility to determine how best to meet regulatory obligations. In other

words, we do not always prescribe how a financial service provider should meet their obligations. You can read more about this in our publication on ‘Outcomes-focused regulation’:

<https://www.fma.govt.nz/assets/Corporate-Publications/FMA-Outcome-focused-regulation.pdf>

OIA Response

Request One

The FMA has published limited guidance regarding financial advice over the request period. This information is publicly available and can be accessed from the: <https://www.fma.govt.nz/library/guidance-library/>

Examples of this guidance include:

<https://www.fma.govt.nz/assets/Information-sheets/Financial-advice-lender-exclusion.pdf>

<https://www.fma.govt.nz/library/articles/a-guide-to-talking-about-money-online/>

<https://www.fma.govt.nz/assets/Reports/Financial-Advice-Provider-Monitoring-Insights.pdf>

However, the FMA has not published guidance information that specifically addresses the distinction between financial advice, information and “execution-only” communications.

The FMA has not have any internal policy documents that are within the scope of this request.

The FMA has undertaken periodic assessments of the extent of advice disclaimers are a feature of the industry. However, the FMA has not identified concerns necessitating the requirement for the development of internal policy, or external guidance at this time. Our review into Financial Advice Accessibility is underway, which covers a broader view of what consumers may consider advice, and looking information-only models used to make financial decisions.

An example of communication is the attached email response to an external enquiry (**Appendix A**). Some information has been withheld in this appendix pursuant to OIA section 9(2)(a) to:

protect the privacy of natural persons, including that of deceased natural persons

Request two

We have considered your second request pursuant to the OIA and based on the review of the records and information available in our system we have been unable to identify any supervision findings, thematic reviews, or issue papers that address the use of “template disclaimers”, or other generic waivers related to financial advice. We have interpreted your request as widely as feasible and searched information related to FMAs supervision and monitoring role over the request period.

Appendix A provided above may also offer useful information and additional context relevant to this request.

Consequentially, we have refused your request under Section 18(d) of the OIA:

that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found:

Request three

We have interpreted your third request to be constrained to concerns or guidance related to “Financial advice has not been provided” statements”. This has been necessary to focus our response given the large number of complaints triggered by more generic searches where the issue has been related to the nature of advice given, rather than advice waivers.

Once this constraint is included, the remaining information found has been related to queries of statements made in licencing applications. We assessed that this sort of information was also not in scope of your request. With the exception of this information, we have not been able to identify information relevant to your request.

Consequentially, we have refused your request under Section 18(d) of the OIA:

that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found:

Questions

Please let me know if you have any questions about our decision under the Official Information Act. I also note that you have the right to complain to the Ombudsman regarding our assessment of your OIA request, in accordance with section 28 of the Official Information Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or phone 0800 802 602.

Yours sincerely,



Ian Stewart
Internal Governance Contractor
(enclosed: Appendix A)

Appendix A

Email from Romil Ghelani to an external address regarding warnings about giving financial advice being captured by AI searches:

From: Romil Ghelani

Sent: Tuesday, 26 August 2025 1:42 pm

To: [REDACTED]

Subject: RE: ChatGPT and Financial Advice

Hi [REDACTED]

Thanks for reaching out on this!

This isn't the first time we've been asked this, and it won't be the last.

Our first area of focus is on providing guidance and information to regulated firms who are considering adopting and using AI in their businesses. This includes providers using general purpose AI technology as part of their regulated service.

However, I think your question is broader than that...

For financial advice, we are exploring this more broadly, via our Access to Advice Review. Part of that review includes asking the question 'where do New Zealanders go to get information or advice to make financial decisions?' This helps better understand the risk of consumers *directly* using unlicensed and general purpose AI chatbots, such as ChatGPT. We also routinely scan our regulatory perimeter for unlicensed advice; however, there is a vast sea of potential operators providing unlicensed advice. Therefore, we are careful with which cases we pursue, aligned with our risk and harms-based approach. This means our current thinking is consumers cannot absolve their personal accountability and awareness, when making financial decisions from using publicly available and general purpose AI chatbots. However, where we see specific instances of harm (or high risk), we can consider whether our fair dealing laws apply under the FMC Act. Further, we have conversations about the combination of regulation, guidance and building investor capability/awareness.

My last thought on this matter is that we don't prescribe the requirement to provide a disclaimer (e.g., 'this is not financial advice' etc.), as that cannot remove responsibility when an unlicensed operator is substantively giving advice! There is one minor requirement to disclose this under Regulation 229L of the FMC Regulations, but this is limited to reliance on the responsible lending exclusions in relation to advice on consumer credit contracts. I welcome your thoughts on whether you think disclaimers should be required.

Kind Regards,

Romil