



MARCH 2025

# Summary of key themes

**Summary of feedback received as part of the FMA's consultation on the proposed regulatory return for licensed financial institutions**

This document is for licensed financial institutions and other interested parties. Please note all sections of legislation referencing the CoFI regime throughout this document are as of 31 March 2025.

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# Executive summary

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The Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) would like to thank all submitters for their feedback on the [consultation for the proposed regulatory return for financial institutions](#) (FIs). We received 11 written submissions from a range of stakeholders including industry bodies, banks, insurers and non-bank deposit takers. We appreciate the points raised and the effort put into each submission.

This document contains a summary of key themes raised in those submissions and how we have responded to that feedback, along with a collation of the written submissions. This may withhold some information in accordance with the Official Information Act 1982 and the Privacy Act 2020.

For a discussion of the costs and benefits associated with the regulatory return see the [Regulatory Impact Statement: Regulatory reporting requirements for licensed financial institutions](#).

# Key themes

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The purpose of this document is to outline the key themes raised in submissions, i.e. points raised by multiple submitters or in relation to multiple sections of the proposed question set. We outline how we have responded to that feedback, but we have not commented on all aspects of feedback received.

## Reporting period

In our consultation, we proposed an annual reporting period for FI regulatory returns, but we also sought feedback on an initial reporting period of nine months (1 October 2025 to 30 June 2026) to allow FIs more time to prepare for the first return.

Most submitters commented that they would prefer the first reporting period to be nine months. Feedback was provided that nine months would allow more time to prepare systems and processes for data collection.

Some feedback was provided that a nine-month return could result in some FIs not being able to positively attest to meeting their obligations within the reporting period (for example, if a requirement had been completed in the last year, but the date of completion fell outside the nine-month period). Submitters also highlighted that the FMA may face challenges in future when comparing data from the initial nine-month period with future twelve-month periods, particularly where the data relates to the volume of an activity completed in the period.

## FMA response

Our ability to effectively monitor the licensed population and emerging risks in the sector relies on the quality and depth of information available to us, including the information obtained through regulatory returns. The information supplied in regulatory returns supports our risk-based approach to monitoring FIs' adherence to the requirements of their licence.

We considered the feedback on the effort required by FIs to prepare their systems and processes for regulatory returns, including the burden in terms of both cost and time. We acknowledge the comments on potentially receiving misleading answers if we proceed with a nine-month initial return.

We have decided to proceed with a twelve-month return period from the outset. This will align with the regulatory return periods for other licence types, and enable us to more easily compare data year-on-year. The first FI regulatory return will be for the period from 1 July 2025 to 30 June 2026. We have narrowed the question set so it is shorter and more focused on the nature, size and complexity of FIs' businesses and their core obligations, which will help to balance the shorter timeframe to prepare for the first reporting period.

## Deferring commencement of regulatory returns for FIs

Many submitters proposed that the FMA consider delaying the first return entirely until the legislative changes proposed as part of the 'Fit for purpose' financial services reforms<sup>1</sup> are implemented, as these could result in changes to the regulatory return questions within a short period.

Submitters suggested the FMA consider focusing on the proposed single conduct licence (which is part of the financial service reforms). Specifically, their feedback was that focusing on a single regulatory return as part of the single conduct licence would reduce duplication of questions proposed that are already provided as part of other regulatory returns. Compliance costs were raised as a concern if the proposed question set was only going to be in place for a few years until a single regulatory return is implemented as part of the move to a single conduct licence.

### FMA response

The FMA is intelligence-led and uses data to inform our regulatory decision-making, including identifying where our resources are most needed. As mentioned above, our ability to effectively monitor the licensed population and emerging risks in the sector relies on the quality and depth of information available to us. We collect data from a variety of sources to build our sector- and entity-specific risk assessments. However, without a regulatory return to provide a consistent and regular picture of FIs, we will need to supervise the population more closely. Information collected on the profile and business activities of licensed FIs will allow us to understand the risks to our statutory objectives and improve our ability to focus our resources where they are most needed.

Therefore, we will not be delaying commencement of regulatory returns for FIs or postponing them entirely in anticipation of a single conduct licence. That work is at an early stage, and it will take some time to implement the single licence and a new regulatory return to accompany it.

However, we have reviewed the proposed question set and either removed or adjusted the wording of those questions that may no longer be applicable as a result of the proposed changes to the CoFI regime. For example, we have amended the questions relating to the FI's fair conduct programme (**FCP**) to focus on maintenance, rather than review, of the FCP, given that the legislative requirement for review of the FCP (in section 446J(1)(k) of the FMC Act) is proposed to be repealed under the financial service reforms.

## Duplication

Several concerns were raised by submitters that the proposed question set results in duplication of information collected by the FMA and therefore will require additional effort by FIs to complete the return. This includes:

- requesting information that the FMA collected from FIs at licensing
- requesting information that the FMA collects in other regulatory returns, such as those completed by Financial Advice Providers (**FAPs**)
- requesting information that could be collected directly from the Financial Service Providers Register (**FSPR**)

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<sup>1</sup> [Fit for purpose financial services conduct regulation](#)

- requirement to report material changes both in the regulatory return and separately at the time they occur in order to comply with Standard Condition 2 (notification of material changes).

To address these concerns, submitters made the following suggestions in relation to various parts of the proposed question set:

- The regulatory return form could be pre-populated with information that the FI supplied at licensing or in the last regulatory return, with the FI asked to confirm any changes to the information.
- Information from the FSPR could be displayed in the return for confirmation, to avoid needing to manually enter the data.

### FMA response

The purpose of the regulatory return is to obtain a regular and up-to-date profile of each FI's business, to support our supervision of the sector. It will not be sufficient to rely on information supplied at licensing, which may have been provided up to eighteen months prior to the commencement of the CoFI regime, to inform our ongoing supervision decisions. This is one of the reasons we require regulatory returns to be completed annually.

We acknowledge that some of the questions asked in the FI regulatory return will be the same as, or similar to, questions asked in other regulatory returns, such as those completed by FAPs. Entities that currently hold two or more licences need to complete a return for each licence. While there may be some similarity, the questions in each return are specific to the type of licence. The FI service has a much wider scope than just the provision of financial advice, therefore we are unable to rely on the information in FAP regulatory returns to form a view about an FI's business. Additionally, many FIs are not FAPs and therefore do not complete FAP regulatory returns. In future when a single conduct licence is introduced as part of the financial service reforms (as outlined above), we anticipate streamlining the regulatory returns to achieve greater consistency and reduce burden.

We explored extracting information, such as the relevant services that the FI is registered to provide, from the FSPR to display in the regulatory return. Information extracted from the FSPR would be as at the date the FI is completing the regulatory return. This would not work well for questions that ask about actions that occurred during or as at the end of the reporting period. For example, if an FI ceased providing a relevant service during the period, this information would not show in the return based on the current registered services in the FSPR.

We also explored amending the regulatory return form to display answers provided at licensing or in previous regulatory returns, in order to reduce the amount of information that needs to be entered. FIs would still need to collect and validate the data in this situation, but the effort involved in data entry may be reduced. At the current time, limitations in the structure and privacy settings of the form and the FMA's online portal mean this is not a feasible option. Therefore, FIs will need to enter their answers in each year's return.

We will continue to evaluate the functionality available to utilise information from the FSPR and the FMA's systems, and where possible, we will make updates to the regulatory returns form to make it easier to complete.

We proposed asking questions about material changes to FIs' FCPs. We cannot rely on changes notified to the FMA throughout the year under Standard Condition 2 (notification of material changes) because that condition relates to the notification of material changes to the nature of the FI service, such as changing the form of business from a licensed non-bank deposit taker to a registered bank, or an insurer moving its

entire business into run-off. However, there may be other material changes to the FCP that are not related to changes in the nature of the FI service, such as a material change in how the FI is approaching its CoFI obligations. Therefore, we have retained the questions that ask about material changes to the FCP.

## Improved clarity and guidance

Most submitters asked for further guidance around the intention of some questions, and clarity on what the data would be used for, to assist them with answering questions accurately.

Definitions and materiality thresholds were requested for several questions, with submitters remarking that without these, FIs' different interpretations of the questions could result in significant differences. This could lead to the data not being consistent and/or meaningful, which could result in misinterpretation and flawed conclusions informing regulatory decision-making. Feedback also suggested that materiality thresholds would help to reduce compliance costs for FIs.

Some felt that questions were either too broad, too prescriptive or implied new requirements. Overall, the feedback was to keep guidance and questions clear and aligned with legislative and licensing requirements.

## FMA response

We acknowledge this feedback and have provided further guidance in the question set to clarify what we are asking of FIs when completing the return. In some cases, we have also amended the wording of the question so it is easier to answer. For example:

- We amended the question about how many consumers are provided with each of the FI's associated products, so that it asks about the number of consumers at the end of the return period rather than the number during the return period. We recognise that it may be challenging to determine the number of consumers who held a product for a short time within the return period or cancelled a product during the period. We have also included additional guidance to assist FIs with consistently calculating the number of consumers.
- We amended questions that asked about reviews (for example, of distribution methods and business continuity plans) to acknowledge that these can be complex, and all instances of a method or plan may not be reviewed at the same time.
- We amended guidance in the complaints section of the question set to clarify that complaints should be recorded that relate to both the FI's relevant services and associated products, and about the service customers received from a FI.

Feedback suggested that the FMA needs to consider the diverse size, nature and complexity of FIs when analysing the returns data. Specifically, proportionality needs to be considered when drawing conclusions from the data and using these to inform our risk-based, intelligence-led approach. This is something that we will bear in mind when analysing return data and using it to support decisions about supervision.

## Scope and relevance

Submitters raised concerns about the scope of the questions proposed and the relevance of some of the information that will be collected by the FMA. For example:



- Some submitters felt that questions about consumer care and handling of conflicts would not provide the full context of the situation, such as whether policies, processes, systems and controls were being reviewed.
- Questions about conduct risk management were considered by some to be too detailed, requiring new systems to be established to report on the requested data.
- Some submitters felt the information requested about complaints was complex, particularly noting the categorisation of complaints would be onerous.
- Questions about employees and agents were perceived to be ambiguous, subjective and redundant by some submitters. For the question relating to training of employees, it could be overly complex to calculate answers for the percentage ranges provided.
- One submitter suggested that the question about activation of their business continuity plan was inappropriate, as this would be reported to FMA under other obligations.
- Most submitters provided feedback that the purpose of the record keeping question about updating consumers' contact information was unclear.

## FMA response

We have provided additional guidance in some instances and have amended or removed some questions. For example, we have removed some or all of the questions relating to the following areas:

- Deficiencies in how distribution methods have been operating
- Consumer care and handling conflicts
- Categorisation of complaints
- Remediation of issues relating to the FI service
- Employees and agents
- Activation of business continuity arrangements
- Operational resilience of technology systems
- Record keeping

## Compliance costs and regulatory burden

Some submitters raised concerns about the compliance costs associated with answering the proposed questions, including potential systems changes that may need to be implemented to capture the requested information. Submitters found it difficult to quantify the extent of costs but suggested that should the consulted question set remain the same this would lead to unnecessary costs in resourcing, technology/system uplift, and an overall increase in burden to supply the required information.

Other submitters did not consider major changes to systems would be required and indicated that they did not anticipate incurring major costs.

## FMA response

Some level of compliance costs, both initial and ongoing, is likely unavoidable due to the varying nature of the FI population completing the return. However, we consider the reduced question set and narrower scope will assist with keeping compliance costs to the minimum possible.

Additional guidance to accompany the question set will also help clarify the scope of the information required to support FIs to collect and report the information requested, noting that we also anticipate that a future transition to a single licence may provide opportunities for streamlining the approach to regulatory returns.

Overall, we consider that some compliance costs associated with completing the regulatory return are necessary in light of the risk to FMA's ability to carry out our risk-based regulatory approach, and the knock-on effect this can have to consumer confidence and ensuring good customer outcomes.

## Aggregate reports generated from data collection

Most submitters commented they did not see the benefit of the FMA using the data collected through the annual regulatory return to create aggregate reports to share with industry. Comments mentioned that this was not something to disregard completely, however, at present with the question set consulted on they could not draw conclusions around what insights could come from such reports.

## FMA response

We will not rule out the idea of creating aggregate reporting following analysis of returns data. We will assess the data we receive and whether there are meaningful insights we wish to bring to the attention of industry. Any reports we publish will be in line with our strategic objectives and current priority areas, so may change year to year.

# Submissions

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1. AIA New Zealand Limited
2. ASB
3. Bank of New Zealand
4. Booster Assurance Limited
5. Financial Services Council of New Zealand
6. Financial Services Federation
7. Gold Band Finance Ltd
8. Insurance Council of New Zealand / Te Kāhui Inihua o Aotearoa
9. New Zealand Banking Association – Te Rangapū Pēke
10. Unity Credit Union
11. Wairarapa Building Society



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24 October 2024

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## **CONSULTATION – REGULATORY RETURNS FOR FINANCIAL INSTITUTION LICENSEES**

This submission is made on behalf of AIA New Zealand Limited and its related entities (together, **AIA NZ**). It relates to the Financial Markets Authority – Te Mana Tātai Hokohoko (**FMA**) September 2024 consultation paper (**Consultation**) on the proposed regulatory return questions (**Return**) for financial institution's (**FI's**).

### **About AIA NZ**

AIA NZ is a member of the AIA Group, which comprises the largest independent publicly listed pan-Asian life insurance group. It has a presence in 18 markets in Asia-Pacific and is listed on the Main Board of The Stock Exchange of Hong Kong. It is a market leader in the Asia-Pacific region (excluding Japan) based on life insurance premiums and holds leading positions across the majority of its markets.

Established in New Zealand in 1981, AIA NZ is New Zealand's largest life insurer and has been in business in New Zealand for over 40 years. AIA NZ's vision is to champion New Zealand to be the healthiest and best protected nation in the world.

AIA NZ offers a range of life and health insurance products that meet the needs of over 800,000 New Zealanders. AIA NZ is committed to an operating philosophy of *Doing the Right Thing, in the Right Way, with the Right People*.

AIA NZ is also a prominent member of the Financial Services Council (**FSC**).

### **About this submission**

AIA NZ supports continuous improvement in conduct as well as the aims formalised under the Financial Markets (Conduct of Institutions) Amendment Act 2022 (**CoFI**). AIA NZ has been on a journey to develop our conduct maturity from the formalising of the AIA NZ Conduct Framework in 2019 to our cross functional project to prepare and apply for a financial institutions licence and this will only continue once CoFI commences.



## Key submission points

Our submission on the Consultation is **attached**. Our key points are summarised below:

- We do not support the first Return commencing on either 1 July 2025 or 1 October 2025. We think that a Return period so close to the end of the initial licencing period will provide only limited new information to the FMA. Furthermore, we strongly support the first Return period commencing from 1 July 2026, or later, to allow FI's to fully imbed their Fair Conduct Programme and also make any changes needed as part of the recently announced reform package.
- We believe that asking FIs to establish reporting procedures and processes when the regime is still subject to reform increases the compliance burden without any benefit because whatever processes are established to report on the current requirements may need to be changed once the reforms have been implemented.
- To support efficiencies and streamline the reporting obligations on FIs as well as reducing compliance burden, we think the FMA could do further work to make the Return more dynamic. Many of the return questions are the same or very similar to questions asked as part of the licence application. FI's reporting obligations would be significantly streamlined if their previous answers were prepopulated in the Return with FIs asked to confirm whether there has been any change in their response. This would achieve the same supervision outcome in FIs confirming certain matters and would mean a more efficient and less burdensome process.
- We have a number of concerns with question 6b to 6d and the focus on distribution methods over other obligations FI have. The variety of distribution methods employed by FIs will mean a "review" for organisations who predominantly use intermediated distribution will look very different to those who distribute directly and will also be different for each channel within a distribution method. There is a risk that question 6 creates an expectation that FI's review distribution methods annually when this is not a formal requirement and removes flexibility for FI's to target reviews based on the nature, size and complexity of the distribution method.

AIA NZ also contributed to and supports the submission from the FSC.

We would be pleased to discuss any questions you have on this submission, and we would welcome the opportunity to collaborate or consult further with the FMA as it considers the next steps.

Yours faithfully

[Redacted signature]

[Redacted name]

**AIA New Zealand Limited**



Feedback form

# Consultation: Regulatory returns for licensed financial institution licensees

Please submit this form electronically in both PDF and MS Word formats and email it to [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Regulatory returns for FIs: [your organisation's name]' in the subject line.

**Submissions close at 5pm on 25 October 2024.**

Date:	25 October 2024	Number of pages: 6
Company or entity:	AIA New Zealand Limited	
Organisation type:	Licensed Life Insurer	
Contact name (if different):	[REDACTED]	
Contact email and phone:	[REDACTED]	

Question number	Response
1. 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.	<p>We respond to the specific proposed questions in the Return below.</p> <p>As a general comment we believe that the form of the Return could be more dynamic. Instead of repeating or restating questions from the FI licence application the Return should show the previous response of an FI and ask the FI to confirm that nothing has changed during the period. This would achieve the same objective while reducing the internal compliance burden of having to answer the same questions repeatedly when there has been no change.</p> <p>It is not currently clear to us how each specific question in the Return will allow the FMA to assess the conduct risks of an FI when each FI's Fair Conduct Programme (FCP) is tailored to the nature, size and complexity of the FI. To cover all the differing FIs the questions are either too broad or too narrow to be of significant value. We think there is a risk the industry will feel that the Return is a data collection exercise rather than a process which is directly influencing the FMA's risk-based supervision.</p> <p><i>Questions 1 and 2</i></p> <p>We think that questions 1 and 2 are prime examples of questions that could be prepopulated with an FI's licence application answer as the Return questions are identical to the FI licence application.</p> <p><i>Question 3</i></p> <p>We do not think that question 3b is appropriate for the regulatory return. Given that the FMA has stated on multiple occasions that the Fair Conduct Programme (FCP) should be a living document and expects an FI to regularly review and update their FCP as appropriate for the business we do not see how granular questions about the specific nature of the review is useful to the FMA. Rather the FMA should be focused on the outputs of the review and whether they prompted any material changes as per question 3c.</p> <p>We do, however, note that there is little guidance on what the FMA means by "material" which leaves this up for interpretation by an FI and increases the risk of inconsistent responses between FIs. More guidance on a 'material change' may be required so FIs interpret these questions consistently.</p>



#### *Question 4*

We note that question 4a and 4b are similar to questions asked in the FI licence application. We strongly suggest that these questions be prepopulated with responses from FI licence applications, with FIs asked to confirm if there has been any change.

We do not understand the value of question 4c, or the risk it is attempting to understand. FIs are required to treat all customers fairly when it offers them a product or service, irrespective of when that product was introduced. A question asking if a FI has launched a new product since application or last return would be of more value than a random range of years a product has been in market.

#### *Question 6*

We have concerns around question 6 and the focus on distribution methods in the Return when compared to other aspects of an FI's business.

Question 6a should be prepopulated with an FI's licence application response as this question is identical and asked to confirm if there has been any change during the reporting period.

We have a number of concerns with question 6b to 6d. Firstly, we do not understand why distribution methods have been focused on when other obligations have not (for example, product reviews). The variety of distribution methods employed by FIs will mean a "review" for organisations who predominantly use intermediated distribution will look very different to those who distribute directly using branches or non-face to face methods. Furthermore, within intermediated distribution channels, review for higher risk channels will be different to lower risk channels. We also note that the CoFI obligation is to "regularly" review distribution methods. However, asking specifically what review has been done in an annual report could be interpreted as implying that the FMA expects the review to be annual. Annual reviews are not required by the CoFI Act and will depend on the risk profile of the distribution methods an FI employs; the nature, size and complexity of the organisation and other factors bespoke to each FI.

For question 6c and 6d we think that these should be limited to *material* deficiencies. A thorough and worthwhile review of distribution methods should identify areas for improvement or potential issues which are not material and do not cause customer detriment. We think that including a materiality threshold at a minimum is required but prefer that question 6c and 6d be removed entirely for the reasons discussed above.

Finally, question 6d is unclear as to what is being asked of an FI. We believe that question conflates two separate concepts – identified deficiencies in policies, processes, systems and controls and managing risks. FIs continually manage all the relevant conduct and CoFI risks that apply to its business. This will include the ones set out in the question but also many more. Sometimes despite its risk management efforts, an organisation will suffer issues with its policies, processes, systems and controls. These deficiencies will be identified and put right. We suggest the FMA removes this question or at a minimum redrafts the question.

#### *Question 9g*

We do not think that the information obtained by question 9g will be of value to the FMA. For most FI's we would expect that their most complained about product would be their most common product especially because the question asks about total number of complaints not proportion of complaints to customers which would be a better way to identify systemic issues.



	<p>We also believe there is little value in this complaint categorisation because it can be difficult to identify which product a customer is complaining about when they hold multiple products (which is common) and the complaint is about servicing or some other matters not linked to a product. This could result in overstated complaint numbers.</p> <p>Instead of question 9g we suggest that a question that is similar to question 23 of the financial advice providers (<b>FAP</b>) regulatory return, which asks about the most common nature of complaints.</p> <p><i>Question 10</i></p> <p>We have concerns with the scope of question 10, as the definitions provided suggest that any issue or mistake identified would need to be included in FI's responses. Our concern is that individual complaints / errors impacting single customers (even if they are corrected immediately by front line staff) would be captured within this definition. We suggest that question 10 focus on material / systemic remediation issues which are within a FI's formal remediation programme.</p> <p><i>Question 15e</i></p> <p>We have significant concerns about question 15e. FIs acknowledge that systems are an important part of treating customers fairly and systems have been the root cause of many issues identified as part of the conduct and culture review. However, we are unclear what the FMA is trying to understand and measure with this question which focuses on one type of system issue. If the FMA retains this question, then it should ask only about system migrations that relate to the product or service offered to consumers. As currently drafted question 15e would capture all system migrations including non-core systems or systems which are not critical to providing products and services to customers such as internal finance systems, human resource platforms or migrations needed as part of changes to accounting standards.</p> <p>Another option would be to ask FIs to report any customer issues that result from a system migration on the basis that not all system migrations necessarily cause issues to customers.</p> <p><i>Question 17</i></p> <p>Similar to question 15e we have significant concerns about question 17. There is no way that an FI can "ensure" consumer details are updated. Although reminders can be sent to customers or contact details can be checked when a customer contacts an FI, an FI is reliant on customers to inform them when they have a new telephone number, email address or physical address. This is not publicly available information.</p>
<p>2. Is there any other information we should ask for? If so, please state what, and how it would improve the returns.</p>	<p>Other than the alternative options we have suggested in response to question 1 above we are not able to suggest other information which the FMA should ask for based on the purpose of the return expressed in the Consultation and Return.</p>
<p>3. Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.</p>	<p>We believe that the Return will impose substantial compliance costs on organisations. While we will not be able to determine actual costs until we know the final reporting requirements, there is considerable time and effort (and therefore cost) in establishing processes and procedures for capturing, reviewing, approving, and providing data. Furthermore, if there are any system changes this will increase the costs.</p> <p>In particular, questions with no materiality thresholds, like questions 6c and 10, increase the costs associated with the reporting as minor issues will need</p>





	to be reported, and therefore included in capture, review and sign-off processes established for the Return.
4. 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)?	We do not think than any aggregated report would be materially useful for the industry as the principles based nature of the regime means that compliance is and should be tailored to each individual organisation. Therefore comparisons have limited utility. Furthermore, many of the questions require interpretation by FIs and how different organisations interpret the question will impact on the value to be driven from the data.
5. Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of each return period? If so, please specify.	<p>Given that this period of time aligns with other regulatory returns required by the FMA we have no specific concerns with a three-month timeframe for reporting after the end of the period.</p> <p>We have provided specific comment regarding the regulatory burden of completing multiple regulatory returns simultaneously below.</p>
6. Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify.	<p>We are concerned with the short period of time that will be available to implement policies, processes, systems and controls to ensure we comply with the Return requirements, if the first reporting period commences on 1 July 2025 and if the question set is not published until March 2025. The FMA should consider what useful information they would receive from a return completed 3 months after licencing and we strongly suggest it is more appropriate to delay the first Return period as suggested below.</p> <p>We note that for the first regulatory return for FAPs, 4 months was provided between the release of the final questions and the first return period commencing. Unlike the FAP regime, which had a two-year transition period prior to the regulatory return questions coming into effect, the first reporting period for this Return will begin only three months after the CoFI regime comes into effect.</p> <p>We strongly support delaying the first Return period commencing until at least 1 July 2026, or preferably once the proposed changes in the Financial Services Reform Bill announced by the government have been implemented. This would allow FIs to fully imbed CoFI and their fair conduct programmes and would lead to more useful information being provided.</p>
7. Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual frequency? If not, what is your preferred reporting period, and why?	<p>See our response noted above regarding our preferred reporting period.</p> <p>If the FMA is set on a Return being due by 30 September 2026 then we prefer the alternative approach of the first reporting period being 9 months beginning on 1 October 2025.</p>
8. Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple regulatory returns if you hold more than one licence issued by the FMA)?	<p>There are multiple instances of unnecessary regulatory burden in the proposed Return questions and processes as detailed above.</p> <p>In addition, FIs will have increased burden over other entities who submit regulatory returns to the FMA as almost all FIs have regulatory reporting obligations to both the FMA and RBNZ. As such we are extremely supportive of an approach to the Return which strikes an appropriate balance between the FMA's need for information of genuine value to support its supervision role and minimising regulatory burden.</p>

25 October 2024

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## **ASB response- Consultation on Regulatory Returns for Financial Institution Licencees**

ASB welcomes the opportunity to provide feedback on the Financial Markets Authority (**FMA**) consultation on Regulatory Returns for Financial Institution Licencees (**Consultation**), required pursuant to the Financial Services (Conduct of Financial Institutions) Amendment Act 2021 (**CoFI**).

ASB's feedback is outlined in Appendix A, enclosed with this letter. Please note that we have not responded to every question in the Consultation, as either we did not have sufficient feedback or we did not consider the question relevant to ASB. The key points of our submission are outlined below.

### **Broader regulatory environment**

While we acknowledge the FMA's comments regarding the need to implement Regulatory Returns for Financial Institutions (Regulatory Returns) process ahead of the introduction of legislation to consolidate financial licences, we would encourage the FMA to delay the process entirely until the new legislative regime has been introduced or consider whether a less burdensome transitional arrangement for collating the data could be introduced.

### **Scope of information**

We understand why the FMA may be interested in some of the questions beyond the scope of the specific licence requirements. However, we question whether Regulatory Returns are the appropriate method for requesting this type of information. The proposed questions cover a broad range of areas of a financial institution's (**FI**) business. It is unclear why some of the information is being requested and how this information will be used for supervisory purposes. More transparency on the proposed use of data would provide greater clarity to the industry.

### **Duplicative requirements**

Some of the questions may also result in duplicative reporting where the information is already reported in a different format or covered within discussions ASB already has with our FMA supervision team. We encourage the FMA to:

- consider how reporting requirements could be tailored, having regard to the extensive engagement large banks and insurers already have with the FMA;
- identify where information is already requested; and

- how the Regulatory Returns process could be streamlined, particularly where information has already been provided or referenced.

If you have any questions or wish to discuss any aspect of our submission further, please feel free to contact me at [REDACTED]

Ngā mihi

[REDACTED]

[REDACTED]

[REDACTED]

**APPENDIX A.**

**1. 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.**

The scope of questions in the proposed Regulatory Return is wide ranging. The time and resources required to produce this level of information on an annual basis is extensive. It may be more appropriate to request such data and insights separately, and as part of the FMA's proposed new intelligence-led approach.

There are a number of the questions contained in the Regulatory Return which have terms that will need to be interpreted or defined by FI's e.g., "material", "deficiencies", "remediations" and "systems". ASB has internal definitions for these terms already or has had to define them for the purpose of establishing our Fair Conduct Programme (FCP) and submitting the licence application. FI's completing the Regulatory Return need to be able to rely on these definitions to answer questions and collate data. Otherwise FIs will be faced with having to create bespoke and duplicative processes to obtain information that doesn't align with how entities manage or maintain FCP or licence conditions.

We would encourage the FMA to ensure that information requested in the Regulatory Return does not include information already provided through other channels e.g., ASB declares the services we provide as part of the Financial Service Providers Register (FSPR) annual confirmation. Any change to CoFI services would be captured as part of this process.

We have provided further feedback on specific questions contained in the proposed Regulatory Return at Appendix B.

**2. Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.**

If implemented as proposed, the regulatory returns will impose extensive additional reporting requirements that will likely require additional processes or systems to be implemented to capture the required data in the manner requested.

While it is not currently possible to quantify, we expect that the costs incurred to meet these new requirements will not be insignificant. Crucially, it is not clear how the additional potential cost associated with meeting the proposed reporting requirements compares to the value this information provides to the FMA.

**3. 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)?**

It is not clear what value this information will be to the market without the relevant context or commentary which will likely be crucial from each FI who may record, track, extract and interpret its own data in different ways and therefore could prove difficult to provide meaningful market insights.

**4. Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify.**

Yes, that will only give FIs three months to make necessary changes to processes or systems to meet the new reporting obligations. This is an insufficient implementation period, particularly for an FI the size and complexity of ASB.

**5. Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual frequency? If not, what is your preferred reporting period, and why?**

If introduced, a reporting period of nine months would be preferable. However, if another reporting period is proposed (beyond the first reporting period), consideration should also be given to how this period aligns with the FAP regulatory return and whether there is an overlap between the two returns.

Ultimately, we would prefer the FMA delay the implementation of the Regulatory Return process until the FMA moves to a single licence model. We are concerned that significant resources and time will be spent both setting up and completing this process for obtaining and collating information, which is highly likely to change, as has been signaled by the Minister of Commerce and Consumer Affairs and the FMA. We also note the possibility that credit licensing may be introduced which may create additional similar obligations for reporting.

If the FMA does proceed with Regulatory Return process, we encourage the FMA to consider whether there is a temporary or interim solution that could be introduced to collect a small volume of targeted, relevant information in the intervening period. We would be happy to engage with FMA on this further to develop a pragmatic solution to deliver information to the FMA during this period that has minimal administrative impact but still provides the insights and data the FMA is looking for.

**6. Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple regulatory returns if you hold more than one licence issued by the FMA)?**

As we have noted above, requiring FIs with more than one licence to complete multiple returns creates an unnecessary regulatory burden, particularly given a more streamlined, simplified approach will be implemented in the near future.

**7. Do you have any other comments on the proposed regulatory returns?**

The FMA consulted on proposed outcomes-focussed regulation in late 2023 but has not, as yet, provided further information relating to the proposed outcomes-based monitoring approach. An aligned view of monitoring approach and data collection would help entities understand the purpose behind collecting the data in this Regulatory Return.

CoFI is intended to be a principles-based regime, to provide entities with the flexibility to meet their obligations in a way that works for their specific business model, products, distribution channels and customer base. The specificity of some of the proposed questions risks creating an expectation that obligations are met in a particular way. This would seem to be a departure from CoFI's intent.

Finally, we encourage the FMA to continue to engage with FI's as they deliver their first Regulatory Return. We would like to see the FMA take a collaborative approach to improvement actions where it identifies gaps or deficiencies in reporting.

**Appendix B: Feedback on questions on the Regulatory Returns document**

No.	Draft Question	ASB feedback
1a	Which of the following relevant services has ASB provided to consumers during the return period.	<ul style="list-style-type: none"> <li>ASB already declares annually the relevant services that it currently provides. Although this declaration is not limited to CoFI relevant services, the FSPR lists the CoFI services ASB provides.</li> </ul>
3a	Has ASB's Fair Conduct Programme (FCP) been reviewed during the return period	<ul style="list-style-type: none"> <li>Where an FI has documented an overarching FCP to describe the PPSC in place, clarification is needed on whether this question means the review of the overarching FCP document or <i>all</i> policies, processes systems and controls (PPSC) that make up the FCP. If the latter, does every PPSC (particularly systems and controls) have to have been reviewed in the period for the response to be 'yes'.</li> <li>It is also not clear whether 3a and 3b are linked, and therefore whether the review mentioned in 3a refers to reviewing the effectiveness of the FCP, not of the FCP itself.</li> </ul>
3b	Select all the methods ASB used to review and maintain its FCP during the return period	<ul style="list-style-type: none"> <li>Given the intention to remove this minimum requirement from the CoFI Act, the options provided for this question may need to change.</li> </ul>
4a	Which of the following types of associated products has ASB provided to consumers during the return period.	<ul style="list-style-type: none"> <li>We would encourage the FMA to consider whether there could be efficiencies of similar question types and provision of information across the returns for different FMC licences.</li> </ul>
4c	How long has ASB been providing each associated product to consumers within the New Zealand market?	<ul style="list-style-type: none"> <li>For the purpose of the regulatory return, associated products are grouped into categories. ASB has multiple products within each of these categories, so clarification is needed on what date we would use for each category (e.g., the oldest date).</li> <li>More broadly, we query the purpose of this question, particularly in light of the above point. For example, if this is to identify new products introduced to the market, the regulatory return response will not do this if the time period for the oldest product is used.</li> </ul>
6b - d	<p>During the return period, has ASB reviewed its distribution methods to ensure they have been operating in a manner that is consistent with the fair conduct principle?</p> <p>Has ASB identified any deficiencies in how distribution methods have been operating during the return period?</p> <p>Of the deficiencies identified in relation to the distribution of ASB's associated products or relevant services by intermediaries, select all applicable risks that have been managed during the period?</p>	<ul style="list-style-type: none"> <li>Question 6b creates an expectation that a review is carried out annually, which is inappropriate. Entities should have flexibility to determine how frequently reviews are required. For example, ASB has a wide range of products, which are reviewed based on their risk rating in accordance with our FCP. Therefore, not all distribution methods will be reviewed during the specified return period</li> <li>Entities completing the returns process will need to rely on internal definitions of what deficiencies in our distribution methods are (e.g internal thresholds).</li> <li>We encourage the FMA to consider removing 6(d) which, by linking any deficiency to the FCP, will be difficult to answer. This will also require FIs to consider risk in a prescriptive way, which is not necessarily how FIs view conduct risk in relation to their distribution methods.</li> </ul>

7a	During the return period has ASB reviewed its policies, processes, systems and controls for identifying and handling conflicts of interest?	<ul style="list-style-type: none"> <li>We recommend this question be amended because not all PPSC relating to conflicts will be reviewed during a specific return period. For example, a conflicts policy may be reviewed every two years, conflicts controls and processes may be reviewed annually or two-yearly, and conflicts systems may be reviewed only on an ad-hoc basis (e.g. during upgrades).</li> <li>We recommend providing options as outlined for Question 7(d) in relation to Vulnerable Customers.</li> </ul>
7c	During the return period has ASB reviewed its policies, processes, systems and controls related to incentives?	<ul style="list-style-type: none"> <li>The Consultation document does not provide any response options e.g. "Yes, No".</li> <li>As we have noted in our response to 7a, we may not review our policy related to incentives annually, however we will review scorecards annually.</li> </ul>
9a	Enter the number of complaints open at the start of the return period.	<ul style="list-style-type: none"> <li>Clarification is needed on whether this means all complaints or those related to treating customers fairly / CoFI obligations.</li> </ul>
9b	Enter the number of complaints received during the return period.	<ul style="list-style-type: none"> <li>Clarification is needed on whether this means all complaints or those related to treating customers fairly / CoFI obligations. We currently do not categorise our complaints as they relate to CoFI obligations and doing so would be onerous and not add any material value.</li> <li>FI's will need to have the flexibility to use internal definitions for how we record complaints dates.</li> </ul>
9c	Enter the number of complaints related to consumers resolved internally during the return period	<ul style="list-style-type: none"> <li>Complaints can be closed and re-opened multiple times within the return period which may impact how data is provided. As above, entities need flexibility to rely on internal decisions of complaints dates.</li> </ul>
9d	Of the consumer complaints resolved internally during the return period, how many were resolved within each of the following timeframes?	<ul style="list-style-type: none"> <li>ASB's preference is for timeframes to be displayed using days instead of months to align with how data is recorded (months and days do not always align) e.g., change 0 – 3 months to 0 – 90 days.</li> </ul>
9g	Which three associated products provided by ASB to consumers has had the most complaints related to them during the return period?  Please select the top three associated products that had the most complaints related to.	<ul style="list-style-type: none"> <li>We encourage the FMA to consider what value it will derive from the responses to this question.</li> <li>Clarification is needed on whether this question relates only to products that ASB manufactures or it also includes products that we are involved in distributing (e.g., where we are the intermediary). There may be an impact as to how complaints are recorded if we have to distinguish whether the complaints are about the product or how it was distributed.</li> </ul>
10a-e	Enter the number of issues requiring remediation related to ASB's financial institution service open at the start of the return period. Of the total number of completed remediation(s) during the return period, select how many were	<ul style="list-style-type: none"> <li>The definition provided for remediation is overly broad and does not align with the standard industry definition of remediation.</li> <li>The questions should also more clearly refine the scope to matters involving consumer harm or financial loss to consumers. FIs track a range of incidents and issues that have no bearing on consumer harm (e.g. pure operational risk matters such as credit models, health and safety, financial</li> </ul>

	<p>closed within each of the following timeframes?</p>	<p>reporting, etc).</p> <ul style="list-style-type: none"> <li>• Some customer remediations can be complex and take extended period of time to resolve, which should be factored in when interpreting the data on Questions 10(c) and 10(d).</li> <li>• Further guidance is also required on Question 10(e) to understand the scope of an intermediary remediation. It is unclear if this refers to remediation the FI instructs the intermediary to undertake. Remediation related to an intermediary's compliance with its own regulatory requirements should be excluded.</li> </ul>
11	<p>Is ASB adequately resourced to manage its financial institution licensee obligations.</p>	<ul style="list-style-type: none"> <li>• Clarification is required from the FMA on the purpose of this question. What does the FMA want FIs to consider / evidence to justify a yes response that wouldn't be determined from the other regulatory return questions or FMA monitoring?</li> </ul>
12	<p>During the return period what percentage of ASB's employees have completed initial and/or regular ongoing training?</p>	<ul style="list-style-type: none"> <li>• ASB has multiple training methods to cover all aspects of the FCP. Clarification is needed on whether this question is asking about the percentage of employees that have completed any training vs none at all, or about the percentage of employees that have completed all relevant training (this will differ for each type of employee depending on their role and may cause unnecessary burden).</li> </ul>
14a & b	<p>Have ASB's business continuity arrangements been reviewed during the return period?</p> <p>Have ASB's business continuity arrangements been tested during the return period to ensure they remain relevant for the FI?</p>	<ul style="list-style-type: none"> <li>• Clarification needed on how to respond to these questions when there are multiple BCPs i.e., do all ASB BCPS have to have been reviewed / tested for the response to be yes?</li> <li>• Annual review periods may be done within a calendar year and therefore some reviews would not fall within the return period.</li> </ul>
15e	<p>What statement best describes ASB's work in relation to a system migration during the return period?</p>	<ul style="list-style-type: none"> <li>• More clarity is required on what the FMA is looking to understand with this question. A large FI like ASB has multiple systems in place and at any point may be carrying out options 1 - 3. Would analysis be needed on all of the hundreds of systems we have?</li> </ul>
17	<p>How does ASB ensure the contact information it has on file for consumers is kept up to date?</p>	<ul style="list-style-type: none"> <li>• Clarification is needed on the purpose of this question as this is not a requirement under CoFI.</li> <li>• Reporting on methods for ensuring contact details for customers are kept up to date appears to create a positive obligation on financial institutions which does not currently exist, and it is unclear what the FMA would use this information for.</li> </ul>



Regulatory Affairs  
[Redacted]

Private Bag 39806, Wellington Mail Centre, Lower Hutt, 5045

25 October 2024

Financial Markets Authority  
Level 2, 1 Grey Street  
PO Box 1179  
Wellington 6140  
Email: [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz)

Dear Sir or Madam

**Bank of New Zealand's response to the consultation: regulatory returns for financial institution licensees.**

Bank of New Zealand (BNZ) welcomes the opportunity to provide a response to the Financial Markets Authority (FMA) on the consultation paper: regulatory returns for financial institution licensees.

BNZ acknowledges the status of a financial institution (FI) license holder and the importance of the associated obligations and responsibilities to ensure consumers are treated fairly.

We appreciate that regulatory returns ensure the FMA has up-to-date information about FIs and help the FMA to monitor each FI's ongoing capability to provide for fair customer outcomes in line with the FI's obligations under the Financial Markets (Conduct of Institutions) Amendment Act 2022. We also acknowledge that FIs should have robust record keeping and data collection solutions in place to be able to provide this information.

We also believe there is potential for a more streamlined and efficient approach to providing regulatory return information to support the outcomes above. Our submission sets out observations where we believe the proposed design could be improved. This is particularly the case where there is duplicative reporting provided under other returns or where the purpose of the information requested could be more tightly linked to the FMA's monitoring obligations.

We would be happy to discuss any of our feedback and should the FMA have any questions in relation to this submission, please contact [Redacted]

Yours sincerely

[Redacted Signature]

[Redacted Title]

**1. 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.**

In general, we support most of the requested information, particularly where it aligns with the FI licence questions. However, we do consider that there is an opportunity to reduce duplication and it would be helpful to have greater clarity about the information requested.

#### *Reducing Duplication*

BNZ is aware of the Cabinet paper regarding conduct reform and supports Cabinet's decision to consolidate the market services licensing regime under the Financial Markets Conduct Act 2013 (FMCA) so that the FMA will be required to issue a single licence covering each class of market service provided by a licensee. We submit that the work to streamline the licensing regime should include regulatory returns to provide for a single conduct, CCCFA, and FAP return. This would create significant efficiencies for the FMA in terms of review and for financial institutions.

However, we appreciate that this requires legislative reform to achieve, which may take time. In the interim, we set out below examples of overlap in the proposed return which we submit could be removed now without impacting the intended outcomes:

- 7(b) (Incentives) - this question duplicates an existing CoFI requirement for a Fair Conduct Programme (FCP) to include effective policies, processes, systems and controls for designing and managing incentives to avoid actual or potential adverse effects on the interests of consumers.
- 7(d) (Consumer Care and Handling Conflicts) remove for FIs with a FAP licence - this is the same information provided in the FAP return (Question 19) and should not be provided twice for FIs with a FAP licence.
- 9 (Complaints) - this section duplicates the information provided under the FAP return (Question 22). We also query whether there could be better sharing of complaints data between Financial Dispute Providers and the FMA. Registered Banks for example also provide complaints data to the Banking Ombudsman.
- 14(a) - BCP Arrangements - Questions 14(a) and (b) duplicate information provided under the FAP return (Question 26). Accordingly, they should be removed for FIs with a FAP licence.
- 15(a) (b) Operational resilience - these questions duplicate information provided under the FAP return (Question 26).

#### *Clarity on Information Use*

BNZ considers a clear understanding of the purpose behind data collection will ensure FIs provide relevant and useful data, tailored to the FMA's intended outcomes. We believe that it is not always clear how the information collected through regulatory returns will be used to support its supervisory activities. Some examples of where this is unclear to us are:

- 6(d) asks which risks have been managed following a review of the distribution methods of associated products and relevant services by intermediaries identifying deficiencies. However, this list of risks is overly simplistic and does not enable the FI or intermediary to provide any context. We consider where deficiencies are identified, these are better understood by the FMA via direct engagement between the FI, the intermediary and the FMA.

- 17 Contact information asks how a FI ensures the contact information it has on file for consumers is up to date. BNZ believes the options available are very limited and do not reflect the complexities with maintaining accurate consumer contact information. It is also unclear what this information would be used for or what requirement it relates to. We submit that the information provided under Question 16 on record keeping would be sufficient.

**2 Is there any other information we should ask for? If so, please state what, and how it would improve the returns.**

We consider that the information a FI is required to provide in the regulatory return should be directly linked to what the FMA needs to monitor the FI's ongoing capability to effectively comply with the fair conduct principle.

The information being requested would likely be more helpful to inform the FMA factually about the size and nature of the FI market, rather than assisting the FMA with assessing how the industry is meeting the fair conduct principle. To the extent the return requests that FAP's give qualitative assessments without any evidence or ability to provide contextual support, we query how valuable the responses will be for the FMA.

For example, BNZ notes the current regulatory return question asking whether the FCP summary has been reviewed may not fully capture the depth of compliance. BNZ recommends including additional questions about how customers are engaging with the FCP information and whether FIs are meeting the legislative requirement to provide FCP summaries within five days of request. Furthermore, BNZ submits that the FMA either 1) prescribe more detailed requirements for FCP summaries to help customers compare different FIs or 2) align FCP summary requirements with the regulatory returns framework, with a focus on public reporting of improvements made to customer outcomes (similar to sustainability reporting).

**3 Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.**

We do not envisage any material system changes or major costs from providing the regulatory return data.

**4 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)?**

We agree it would be positive for the market to benefit from this information. One observation is that the questions that require self-assessment into risk maturity may provide some useful insights into the maturity of risk management across the industry. However, we consider there may be some limitation to the usefulness of aggregate reports of pure data without any context or qualification, but we can provide further thoughts on this when the final contents of the return requirements are determined.

**5 Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of each return period? If so, please specify.**

We do not have any concerns with the three-month window for collecting the information.

**6 Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify. 7 Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October**

**2025) for the first regulatory return and subsequent proposed annual frequency? If not, what is your preferred reporting period, and why?**

We support the NZBA's position on this point and encourage the FMA to reconsider its position to require a regulatory return prior to the consolidation of the conduct licences. As noted by the NZBA, FIs provided a significant amount of information to the FMA as part of the licence application process, so allowing a longer period before the first return is due would not leave the FMA uninformed.

If this view is not supported, our preference is for a reporting period starting 1 October 2025 to ensure that we have sufficient time to prepare the required data.

**8 Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple regulatory returns if you hold more than one licence issued by the FMA)?**

We do not have any real concerns about regulatory burden in relation to preparing and completing the FI regulatory return. However, as discussed in relation to question 1 and 6 we don't consider it is an efficient use of the FMA's or the FIs resources to be running multiple processes to collect and review similar data.

**9 Do you have any other comments on the proposed regulatory returns?**

BNZ does not have any further comments on the proposed regulatory returns.

## Feedback form

# Consultation: Regulatory returns for licensed financial institution licensees

Please submit this form electronically in both PDF and MS Word formats and email it to [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Regulatory returns for FIs: [your organisation's name]' in the subject line.

**Submissions close at 5pm on 25 October 2024.**

Date: 25 October 2024 Number of pages: 1

Name of submitter: Booster Compliance

Company or entity: Booster Assurance Limited

Organisation type: Insurance Company

Contact name (if different): ██████████

Contact email and phone: ██████████

Question number	Response
1	Yes. <ul style="list-style-type: none"><li>Is there any threshold for reporting remediations either at the individual customer level or at an event level?</li><li>Additional clarification around the need to report non-financial remediation would be helpful.</li><li>Can additional clarification be provided around the definition of 'comprehensive reporting' to the Board?</li></ul>
2	None identified
3	No changes to systems identified, but additional record keeping and process changes are required to enable provision of information.
4	Yes - complaints (and by product), complaints split between providers and intermediaries, incidents, BCP/OPS events, Distribution Methods used.
5	No
6	Yes. Not a concern to answer the questions, but would not have reviewed FCP or distribution methods as it is too soon after initial implementation. Some reporting is done quarterly - eg incidents and complaints, so may be too short a period for such reporting to be of value.
7	Yes. Will be enough time to review, adjust the programme as is required and get reporting in place. This is our preferred approach.
8	No
9	It would be helpful if the definition of Remediation was more clearly defined. The current guidance is quite broad eg what is the threshold for something being an issue or concern?
	We would note that the requirement for 'Comprehensive reporting to board' may be open to interpretation. Each licenced entity may have differing views on what is appropriate for their board to meet their obligations.

**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.**

Friday 25 October 2024

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### **Regulatory returns for financial institution licensees**

This submission on the Financial Markets Authority (FMA) consultation on regulatory returns for financial institution licensees (the Consultation) is from the Financial Services Council of New Zealand Incorporated (FSC).

As the voice of the sector, the FSC is a non-profit member organisation with a vision to grow the financial confidence and wellbeing of New Zealanders. FSC members commit to delivering strong consumer outcomes from a professional and sustainable financial services sector. Our 111 members manage funds of more than \$100 billion and pay out claims of \$3.2 billion per year (life and health insurance). Members include the major insurers in life, health, disability and income insurance, fund managers, KiwiSaver, and workplace savings schemes (including restricted schemes), professional service providers, and technology providers to the financial services sector.

Our submission has been developed through engagement with FSC members and represents the views of our members and our industry. We acknowledge the time and input of our members in contributing to this submission.

We welcome the opportunity to provide feedback on the Consultation and acknowledge the commitment from the FMA to use data obtained to provide sector level views and therefore more visibility of the industry.

Following high level engagement on this consultation with the NZBA and ICNZ, there are three key points we agree are critical for the proposed regulatory returns. Firstly, we suggest the FMA delays the regulatory return requirement until 2026 when the proposed amendments to the Conduct of Financial Institutions (CoFI) regime will presumably be in force. Secondly, due to the volume of duplication with the Financial Advice Provider (FAP) regulatory return, we encourage more alignment and for the FMA to consider options to reduce repetition. Lastly, we encourage reconsideration of several broad questions and their inclusion, such as methods for ensuring contact details for customers are kept up to date. Further detail on these three points are contained in our individual submissions.

We welcome continued discussions and engagement. Please contact [REDACTED] if you would like to discuss any element of our submission.

Yours sincerely

[Redacted signature block]

Feedback form

## Consultation: Regulatory returns for licensed financial institution licensees

Please submit this form electronically in both PDF and MS Word formats and email it to [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Regulatory returns for FIs: [your organisation's name]' in the subject line.

**Submissions close at 5pm on 25 October 2024.**

**Date:** 25 October 2024

**Number of pages:** 9 including covering letter

**Name of submitter:** Financial Services Council of New Zealand

**Contact name (if different):** [REDACTED]

**Contact email and phone:** [REDACTED]



## **Introductory Comments**

The FSC proposes the FMA delays the regulatory return requirement until 2026, with the first reporting period commencing 1 July 2026. Establishing reporting processes for the first return period (which is likely to be for a nine month period) prior to proposed changes being introduced to the CoFI regime will result in an unreasonable regulatory burden on financial institutions. This is contrary to the Government's stated intentions to reduce regulatory burden. Although the FSC acknowledges that providing regulatory returns is a CoFI licence condition, it is onerous to expect an initial return be provided in the first year when proposed CoFI amendments will likely change the returns in the second reporting period. This will create unnecessary rework of reporting processes that have been established to report for the first period and limit the comparative value of the returns for the FMA in the second year.

We do not consider delaying the introduction of an annual return would impact the regulation and mitigation of conduct risks. This is because it only applies to approximately 80 financial institutions and these entities are closely supervised by the FMA. If the introduction of the annual return is delayed, financial institutions would still be subject to the requirement under Standard Condition 2 of their licences to notify the FMA about any material change to the nature of their financial institution service and the General Reporting Condition under regulation 191 of the Financial Markets Conduct Regulations 2014. This means that the FMA should still have sufficient information to inform its supervision of financial institutions until a new single market services licence return is developed.

Extensive detail is required to respond to some aspects of the return that is not proportionate to the purpose of the return or potential risks. We submit that the regulatory returns process should align more closely to others like the FAP regulatory return which is largely based on the licence conditions. We hope that concern around duplication of effort across different regimes is considered as part of the work on streamlining the licensing process. A return should be created for an entity who holds a FAP and a Financial Institution licence, it should prepopulate with the response previously provided and ask the financial institution to confirm if their response has changed or provide further or differing detail where required. This would achieve the same objective as asking the question again, as changes to responses may indicate a need for supervision, while reducing the internal burden of having to reproduce evidence to support a particular response.

Some of the questions may also result in duplicative reporting where the information is already reported in a different format or discussions are already being had with the FMA key designate, the investigations or enforcement team. We encourage streamlining requests across different FMA teams to minimise duplication and unnecessary compliance costs.

Whilst regulatory returns are an appropriate place to request information that is founded in the scope of the legislation, there are questions proposed that are beyond the scope of legislative and licence requirements. Annual returns should be simple and focus on material changes to information previously provided (with a threshold for materiality). The proposed questions cover a broad range of areas of a financial institution's business and in some instances, it is unclear what the purpose is and what the FMA will use the information for. We understand the FMA wish to use data obtained to provide sector level views, and if this is the case, more transparency would provide greater clarity to the industry. Some questions appear to request data where further information would be required for the information to be meaningful to the FMA and therefore we have concerns that the regulatory return process could prompt a series of additional engagements with the FMA to provide context to some of the responses.

In addition, some of the questions in the return ask for new and very specific detail about certain topics including additional topics not referred to in the CoFI Act, Regulations or FMA guidance. The complaints

and remediation questions are very detailed and are unlikely to offer any real insights to the FMA. Questions on systems migration and keeping customer contact details up to date have not previously been raised by the FMA and appear to be adding new requirements via a regulatory return process which we consider inappropriate. Our members would like to better understand the specific supervisory basis behind why these questions are being asked as for some financial institutions the burden and expense of producing this information feels out of step with the value it might provide the FMA. Some members also consider the return is at risk of being a data collection tool rather than a targeted way of understanding financial institutions and areas for supervision.

1. 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.

### **Question 3: Fair Conduct Programme (FCP)**

"Deficiencies" is not defined and could therefore be interpreted inconsistently by different financial institutions. Guidance should also be provided on the materiality of a deficiency the FMA would expect to be reported.

Given the previously stated position of the FMA that FCPs should be right sized for an organisation, and be a living document, we struggle to understand why the FMA is asking specific questions about FCP reviews in Question 3b. to 3e. We note that there is no definition of "reviewed" or "material" in Question 3 and this leaves the question open to interpretation, decreasing the usefulness of the response. We also note that financial institutions already have a material change reporting notification obligation under the license conditions, and it is unclear whether the FMA is intending Questions such as 3c. to 3e. to capture just those material changes or a lower level of materiality.

The wording of Question 3a., read with the guidance provided, could potentially cause confusion. The question itself appears to focus on the review of the FCP, but the guidance could suggest a focus more on the effectiveness of the FCP, which also seems to be focussed on in Question 3b.

We encourage reconsideration of Question 3b. If it is to be retained, the response options available should be revised so they are more useful and reflect continuous improvement and developing capability.

### **Question 4: Associated products**

Obtaining this breakdown on an annual basis is onerous and the question should be focused on whether these have materially changed since the licence application or previous return.

Question 4a. asks for products 'provided' to consumers 'during the return period'. The guidance refers to getting an understanding of the types of products 'serviced' during the return period 'including any new products'. We would recommend amending the wording to require data as at "the end of the return period" rather than 'during the return period' to allow for simpler and more accurate data, and clarification that the data should relate to all (not just new) in force policies.

We suggest it would be worth clarifying how Question 4b. is to be interpreted. We query whether a consumer is considered an individual entering into a contract of insurance. For example, if someone enters into multiple contracts for travel for multiple trips over the reporting year, does that count as one consumer? How would we treat a member that was a beneficiary under their parents' policy who then obtains their own insurance during the return period? The ranges are so broad it may not make a significant difference, however, avoiding the ambiguity by rewording the question or providing additional

guidance would help with determining how to report on this figure. Alternatively, the FMA could add guidance which confirms that each financial institution should report using the data they have and, as far as possible, report using the same data methodology each return period.

We are confused by the inclusion of Question 4c. when it was not included in the financial institution licence application. We encourage consideration of the usefulness of the responses it will receive from financial institutions on this question. Given the current structure of the New Zealand insurance market we expect most, if not all, insurance financial institutions to respond as “Greater than 10 years” for all associated products they provide. We also suggest the FMA consider the time period ranges in this question, as while they mirror similar periods used in other regulatory returns such as for FAPs, financial institutions are typically much more established and long term participants. We also consider Question 4c. will be redundant after the first regulatory return as this information will not change year to year (other than by increasing in an expected fashion as time goes on). We consider it more efficient to ask whether the financial institution has commenced offering any new products or ceased offering any products since it applied for its licence or the last regulatory return. If this question is to be included in the return, it would be helpful if the FMA could clarify in the guidance their expectation of how accurate the information must be in relation to answering this question, as the number of years may need adjustment depending on when the next returns are completed.

#### **Question 6: Distribution methods**

As noted above, the distribution methods question is similar to the FAP return question. It would be preferable for these questions to be consolidated between product distribution methods and delivery of financial advice.

In many cases, the data requested will offer limited value or insights without additional context and a financial institutions’ interpretation of the request could result in significant differences in approach also impacting the insights available to the FMA. As the intention of a regulatory return is to obtain an up to date understanding of the nature, size and complexity of a financial institution’s business, the data must be able to be compared year on year and consistently across different financial institutions. If Question 6b. to 6d. are retained in the return, then we encourage clarification on what is meant by ‘reviewed’, as a review of distribution methods could vary widely between financial institutions.

As noted for FCPs, deficiencies are not defined, and this could be interpreted inconsistently by different financial institutions. Guidance should be provided on the materiality of a deficiency which the FMA expect to be reported on or alter the questions to ask about material deficiencies identified, rather than any deficiencies. Financial institutions should be encouraged to identify issues or improvement areas when conducting reviews and we think that reporting all issues in Question 6c. and 6d. may have unintended consequences of suppressing the open identification of issues in financial institutions.

We do not consider that the focus on reviewing distribution methods in the return is necessary and implies that financial institutions should be reviewing all their distribution annually, rather than taking a risk based approach suitable for their business.

In certain group schemes, such as medical related insurance, members of the group may have the option to participate. If they choose to proceed, they are often directed to firms, from whom they acquire the product directly, rather than through the intermediaries who introduced the group scheme. However, this arrangement may also fall under the definition of a ‘group scheme’ in the guidance.

There seems to be a potential for a degree of overlap between the definitions of ‘third-party website’ and ‘group scheme’ depending on the circumstances. It would be helpful if these definitions could be further clarified.

Question 6b. seems designed to determine whether distribution methods have been reviewed to ensure that firms are operating in alignment with the fair conduct principle. However, the term ‘review’ in this context is unclear in the context of Question 3a. of the return. In Question 3a. the FMA appears to suggest that a review is monitoring effectiveness whereas traditionally, reviewing a distribution method might refer more to assessing the distribution strategy and documentation. We consider there to potentially be different interpretations attached to ‘review’ within this context and therefore, it would be beneficial if the FMA could clarify which aspect or aspects should be addressed by this question.

Our members are further concerned with Question 6d. as they are unclear as to what this question is asking of financial institutions. It would be beneficial to understand what insights the FMA are seeking from the expected responses to this question and what they intend to do with the information. In addition, the question is unclear as to whether the FMA is asking about the risks identified during a review or risks which were controlled for following actions taken as a result of the review. We submit that Question 6d. should be entirely removed.

#### **Question 7: Consumer Care and Handling Conflicts**

Clarification on the FMA’s expectations on what constitutes a ‘review’ within the context of this question would be helpful. Currently it is unclear whether the expectation is monitoring through reporting or simply asking whether the documents relating to conflicts have been reviewed and updated.

#### **Question 8: Board Reporting**

This question on how often comprehensive reporting to Boards is provided might be more appropriately worded “During the reporting period, *at how many Board meetings* has [financial institutions name]’s Board of Directors been provided with comprehensive reporting...”. The first option of once a month is unlikely to be ever selected by an entity with this license type.

#### **Question 9: Complaints**

It is unclear why the FMA proposes to ask which three products had the most complaints as the responses may not provide valuable insights. The huge variations in book size may mean a straight count may not be relevant and variations of benefits within individual product categories listed make the overall buckets too large to be of use. This is due to it not accounting for where one cover or benefit may be the subject of a high volume of complaints. We recommend asking financial institutions to list one or more, as not all financial institutions may be able to represent up to three categories. Alternatively, providing clearer guidance on how to categorise different product types could be helpful to distinguish between the various categories.

There are a range of factors which impact the time taken to resolve a complaint such as the complexity of a complaint or how quickly customers respond to contact. The questions asked are not considered to provide a clear picture of whether complaints are being managed well by the financial institution.

Whilst this question may be useful for large financial institutions that offer a number of products, such as banks, for insurers it is likely that the categories selected will be for their most common product. We also consider this question will miss the nuance that complaints can identify about systemic issues. For example, a product with relatively few customers may have a high percentage of complaints. However,

due to the small customer base, it may not be reflected in this analysis, as other products with significantly more customers are likely to appear, despite having a much lower complaint percentage.

Question 9e. asks for the number of complaints “escalated” to a Dispute Resolution Scheme (DRS). This should be clarified as it is unclear if it means the number of enquiries the DRS receive (which may not be accepted), the number of complaints the DRS accepts or the number of deadlock letters that the financial institution has issued.

We also note that the complaints information is again very similar to that asked in the FAP return. Consolidation of the questions in these returns would be preferable so duplication of information is avoided.

### **Question 10: Remediations**

We consider the questions in relation to remediations should be focussed on material remediations with material customer financial impact which are considered breaches of the Financial Markets Conduct Act 2013 (FMCA). Small scale customer remediation activity should not be reportable as the compliance cost of reporting (including the internal systems, processes and checks required to identify and verify what is a ‘remediation’ under the existing definition) would be significant and is entirely disproportionate to the potential consumer harm. Quantitative reporting could lead to inferences made positively or negatively about an entity. For example, it could discourage a positive risk culture in identifying minor issues if those issues were then required to be reported on. In addition, “Not working as intended” could be interpreted to include a minor update to customer communications or a process where the change does not address customer detriment but would result in significant cost to the financial institution.

We consider the definition of issue and remediation to be far too broad and they do not appear to be clearly tied to actual harm caused to customers. The definition of remediation will be challenging for financial institutions to align it to current practice so to avoid a review and updating of definitions and remediation policies. The definitions also seem to extend beyond individual customer concerns and by noting in the guidance that an issue can mean a complaint or concern raised by “another party”, it could potentially be interpreted to encompass pure business issues such as contractual disputes between financial institutions and third parties. We encourage a focus on areas where there is actual consumer harm, particularly when the FMA is also requesting timeframes. Some remediations can be extremely complex and take extended periods of time to resolve. They are often historic in nature and rely on robust investigation, data analysis and review which is time and resource consuming. The broad definitions mean the wide variety and scope of issues captured limits any meaningful insights being obtained from the data.

Clarification should also be provided by the FMA in relation to the materiality of issues they expect to be reported, as in the absence of materiality criteria, the result could be a high volume of ‘remediations’ being reported. This reporting requirement could also be interpreted differently by different financial institutions. It could capture a concern raised by a single customer about a perceived delay in managing their claim or complaint through to a large scale remediation impacting thousands of customers where a significant refund will be provided to customers. Capturing such a broad range of issues means any data insights will be limited. One option could be a requirement to report remediations which had a material adverse customer or financial impact for a group of customers.

Compiling this data may present challenges for firms, particularly in the early years of the CoFI regime as aligning practices with this broad definition of ‘remediation’ would require substantial time for planning, implementation and ongoing cost which may be met by consumers.

In Question 10e., clarification would be helpful on what is meant by remediations ‘related to its intermediaries’. Does this mean the issue was caused or contributed to by an intermediary or simply an intermediary was involved in the provision of the relevant service or associated product subject to the remediation?

### **Questions 11 and 12: Employee and Agents**

#### Resourcing

It is unclear why the FMA is asking this question on resourcing as it is subjective, and all financial institutions are likely to respond “yes” to this question. In addition, the term ‘adequate’ is not clearly defined and may be challenging for firms to address as there will always be a mix of full-time employees and vacant positions at any given time. However, this may not necessarily mean a firm is not ‘adequately’ resourced. We do not consider any value or insights will be derived from asking this question.

‘Self-assessment’ is also unclear and may present challenges for firms to answer without the FMA’s expectations being made clear, as the “self-assessment” will vary based on each firm's risk appetite. This section could benefit from either additional guidance or removal, given that the FMA has emphasised an outcome focused approach. If consumer outcomes are deemed adequate, the question of whether a firm is adequately resourced may be less relevant.

#### Training

This question appears to seek confirmation about whether a financial institution is meeting the CoFI training requirements, however, providing a response as a percentage may not be a good indicator of this. There are a lot of variables such as employees being on extended leave which would impact the percentage.

It is also confusing to ask what percentage of employees have completed initial or regular ongoing training. We query how a financial institution would respond if an employee has completed initial training on the FCP but not on the relevant services or associated products.

To improve clarity, the question could be reframed to request financial institutions to confirm that they are providing training to employees in accordance with the CoFI requirements. The Consultation highlights that ‘[T]he CoFI Act requires FIs to check that each employee completes initial and regular ongoing training and has a reasonable understanding of the matters covered that are relevant to their work in providing the FI’s relevant services and associated products.’ However, firms may provide some training to all staff, and then more tailored training only to staff whose roles are directly related to relevant services and related products. Including the term ‘relevant’ in the question would yield a more accurate response from the industry. This approach aligns with the return’s objective of providing the FMA with up to date and precise information.

### **Question 13: Outsourcing**

Whilst we understand this question is based on the requirements of standard condition 4, there is no clear definition of outsourcing in either the financial institution standard licence conditions, licence application guidance or proposed regulatory return request. Guidance should be provided to clarify if the reference to a system or process necessary to the provision of the financial institution service and where a financial institution relies on the outsource provider to meet market services licensee obligations is intended to be a materiality threshold. Without a clear definition of outsourcing including a materiality threshold this question may inadvertently capture a huge range of service providers which have limited if any impact on consumer outcomes.

#### **Question 14: Business Continuity Management**

Cyber, Technology and Infrastructure should be defined to provide more clarity. In addition, given the numerous ways in which reviews can happen, it would be ideal to have a set definition on what 'review' means for the purposes of regulatory returns, and guidance on the FMA's expectation regarding a 'review'.

The variation in test quality and scope across entities could also render the information unreliable. Clear guidance would be helpful regarding the expected test, or alternatively, the question could be removed altogether. If it is to be included, we encourage consolidation with the FAP returns.

#### **Question 15: Operational resilience of technology systems**

##### System Migrations

This question does not seem to align with the FMA's outcome based expectations and we consider it should be removed from the returns. If it is to be included, the definition of 'systems migration' may need further refinement. Considering the complexity of managing IT environments, it is likely that most firms will opt for all three available options. In addition, it would be beneficial to clarify what constitutes a 'significant resource' and whether this refers to platform functions such as CRM, policy management, billing systems, or other critical components.

Without having context on the size, scale, impact of system migrations, the value of this information to the FMA is likely to be limited. It would be beneficial to understand what the FMA intends to use this information for. System migrations are part of digitisation and automation which usually improve customer outcomes and most large financial institutions will likely operate in an agile environment where change is constant. Perhaps further guidance could be added to only require material system migrations to be reported. Clarity is also required on the requirement to disclose whether a financial institution is planning for a system migration, as it is possible that planning could begin for system migrations which do not proceed, and reporting on this seems unnecessarily onerous.

Regarding operational resilience, consideration should be given to whether the questions on change provide any value. Given the nature of technology systems and the cyber risk environment, there is potentially an almost zero chance of the answer to Question 15c. being 'No'.

#### **Question 17: Contact details for customers**

Reporting on methods for 'ensuring' contact details for customers are kept up to date appears to create a positive obligation on financial institutions which does not currently exist and is not possible to meet. A financial institution can remind its customers to keep their details up to date, but this does not 'ensure' that it will be done. It is also unclear what the FMA would use this information for.

In addition, whilst the stated purpose is to understand how a financial institution keeps consumer contact information up to date, the 'additional information' refers to an obligation to communicate with consumers. These are two separate issues. For example, where group schemes are involved, a financial institution will likely not have contact information for all consumers but will have processes in place to communicate with those consumers, such as through the employers of those schemes, or intermediaries. The obligation for consumer communication can be met without needing individual contact details. We recommend this question be removed.

3. Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.

Yes, these are extensive reporting requirements and will require additional resources, processes or systems to be implemented to capture the required data. We anticipate significant resources will be required to collate and respond to such an extensive information request on an annual basis. We urge the FMA to refine and streamline its question set and ensure it more closely aligns with the standard licence conditions and what is required to identify any material changes to the nature, size and complexity of a financial institution's business.

5. Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of each return period? If so, please specify.

Yes, it would be considered beneficial to have additional time to prepare the first return. If a return is required in the first year, which we do not support, we suggest six months given the vast amount of information proposed to be required.

6. Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify.

Yes, it would be preferable to have six months to establish reporting processes to capture the required data. Financial institutions require sufficient time to test their systems and ensure that information required to complete the return can be produced, in particular changes that may be required to align with the categories or in order to respond to the questions. Given the extent of the proposed request, it is highly likely that most financial institutions will have a manual and resource intensive process to collate this information.

7. Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual frequency? If not, what is your preferred reporting period, and why?

FSC members would prefer the proposed nine month period for the first return (if a return is required in the first year) to allow time to establish reporting processes to capture the required data. However, if another reporting period is proposed, consideration should also be given to how this period aligns with the FAP regulatory return and whether there is an overlap of questions. Consideration should also be given to the volume of reporting required to all regulators during that period, for example climate related disclosures and FAP returns.

However, our members think that the FMA should consider delaying the first reporting period a full 12 months until 1 July 2026, or preferably, once the proposed changes to the CoFI Act announced by the government have been implemented. This would allow them to complete their implementation work and be confident in how their FCP is operating before the first reporting period commences. This approach would also align with the FMA's approach to other regulatory returns where licence holders were given a period after commencement of the regime to embed it before returns commenced. Finally, it would allow the FMA to consider the proposed changes to the CoFI Act to minimize unnecessary additional compliance costs to report on requirements that will be removed.



8. Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple regulatory returns if you hold more than one licence issued by the FMA)?

Yes, it is duplicative to expect financial institutions with more than one licence to complete multiple returns especially when consolidated returns have been proposed in the future. Our members are concerned about the overlap in questions between returns and the short time frame proposed before the first regulatory return will be due from financial institutions. Whilst we appreciate that harmonising regulatory returns for licensed firms will take some time, in the interests of avoiding additional regulatory burden (especially when the FMA will already have access to much of the information sought), we suggest that 1 July 2026 is the appropriate timing for financial institutions to begin the reporting period.

In respect of single licencing by the FMA our members raise the issue of how this will apply to organisations who have structures which have meant that a different legal entity holds the licence under different regimes, (namely FAP and financial institution licence held by different entities within a larger group) and how this will flow into regulatory returns. The consolidation of regulatory returns with similar questions is considered to be a useful exercise to reduce regulatory burden and will have a real impact on the sector and should be seriously considered.

The opportunity cost of dedicating time and resources to fulfilling these additional and somewhat overlapping regulatory obligations, detracts from efforts that could otherwise be directed towards the day to day operations of an organisation. A meaningful way to support the operations would be to streamline the regulatory framework by reducing the volume of regulatory changes, easing compliance burdens, simplifying licensing requirements, and minimizing the complexity of existing regulations.

Whilst FSC members understand why the FMA might be interested in some of the questions beyond the scope of the licence requirements, regulatory returns are not the appropriate method for requesting this type of information. The time and resources required to produce this level of detailed information on an annual basis is extensive, so it would be more appropriate to do a thematic review or similar on the additional areas of interest if the FMA requires this information.

9. Do you have any other comments on the proposed regulatory returns?

It is important that the FMA is able to work constructively with entities, particularly in the early years of the new regime. This should include making recommendations on improvement actions where weaknesses are identified, rather than relying on enforcement action to pursue issues where problems have arisen.

It is also important that this return is not overly burdensome. The FAP return has been quite onerous for industry and this proposed financial institution return is more wide reaching. We consider that the rubric should be the legislative and license obligations, and nothing beyond that. The remediation, complaints and customer contact details lines of questioning are examples of clear overreach.

We would appreciate the question set being published in multiple editable formats, namely Microsoft Excel, to streamline efforts preparing responses ahead of submission through the online forms. The process of preparing the return needs to be collaborative and providing accessible, editable, and machine readable versions would promote efficiencies.



FINANCIAL SERVICES FEDERATION

25 October 2024

Financial Markets Authority  
PO Box 1473  
Wellington 6140

[consultation@fma.govt.nz](mailto:consultation@fma.govt.nz)

Dear Madam/Sir,

### **Re: Regulatory Returns for Financial Institution Licensees**

The Financial Services Federation (“FSF”) is grateful to the Financial Markets Authority (“FMA”) for the opportunity to respond on behalf of our members to the consultation on regulatory returns for financial institution licensees (“the Consultation”).

By way of background, the FSF is the industry body representing the responsible and ethical finance, leasing, and credit-related insurance providers of New Zealand. We have over 90 members and affiliates providing these products to more than 1.7 million New Zealand consumers and businesses. Our affiliate members include internationally recognised legal and consulting partners. A list of our members is attached as Appendix A. Data relating to the extent to which FSF members (excluding Affiliate members) contribute to New Zealand consumers, society, and business is attached as Appendix B.

Our non-bank deposit taking (NBDT) and credit related insurance members will both be captured under this consultation and be required to provide returns.

### **Introductory Comments**

We would like to begin by stating that we acknowledge the importance of the regulatory returns in ensuring transparency and accountability within the financial sector. We would also like to stress that the FMA needs to ensure that the final question set of the returns avoids duplication and is as straightforward as possible. However, we have several suggestions to enhance the practicality and efficiency of the proposed requirements.

We would also like to state that we wish to see reporting retirements across regulators harmonised as much as possible. We also understand that this is a particular area of insecurity for non-deposit taking lenders due to the move of credit regulation to the FMA from the Commerce Commission. We submit that the FMA needs to explicitly state whether non-deposit taking lenders will be caught under this requirement when credit is captured under a market services license.

## Specific Points

We believe that certain information that has been asked for in the draft question set is duplicative of information already provided in the CoFI licensing application (all FSF members who will be required to file returns are captured under CoFI licensing). The specific parts of the return which we believe duplicate the information the FMA already holds unnecessarily are listed below:

- section **2(a)** and **(b)**
- Section **4(a)**
- Section **5(a)** and **(b)**

Other instances where the FMA already holds the information, or we have a specific point:

- Section **1(a)**, for example if an institution is an insurer and they decide to become a creditor under a credit contract, then that is a material change which requires notification to the FMA within 10 working days. Changes to the FSP register would also be required.
- Section **4(b)** should specify that it is subject to **4(a)** (such as 2(a) and 2(b))
- Section **4(c)** members have notified us that this could be difficult to quantify especially if they have a lot of legacy products. We are unsure what value this is adding to FMA.
- Section **6(a)** the definitions provided are too detailed and have led to some confusion.
- Section **9(a)** to **9(g)** has a lot of detailed questions. It will involve institutions setting up new processes in order to have this information available at return time.
- Section **10(a)** to **10(e)** this is a lot of information, what does the FMA plan to do with it?
- Section **11** is not a realistic question to include. Regardless of whether an institution is adequately resourced they're going to select yes. It is a very subjective question that could be construed as leading.
- Section **14(b)** likely to be a no for the first return due to the short time frame between when its due and the licensing process. The FMA should proactively acknowledge this.
- Section **17**, why does the FMA want access to this information?

## Consultation Questions

### 1. Appropriateness and Clarity:

- 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?

See above.

### 2. Additional Information:

- Is there any other information we should ask for?

No, we do not believe there is any additional information which the FMA should ask for. As stated elsewhere in this submission we believe that the volume of information already requested will be overly onerous for captured members.

**3. Costs and System Changes:**

- Does providing the suggested information involve any systems changes or major costs for your organisation?

Yes, the fair conduct plan and conduct of financial institutions licensing process has already been the cause of huge system changes and implementation of new processes. In order to mitigate further costs, it is necessary to have this guidance finalised well before March 2025 to avoid implementing new processes that aren't necessary.

**4. Aggregate Reports:**

- We want the market to benefit from this information too.
- 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)?

Potentially complaints could be aggregated but that information is already available from the DRS Scheme providers so it would be a duplication of information. We also submit that we do not believe that the market would be particularly interested in any of this data.

**5. Submission Timeframe:**

- Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of each return period?

We do not have any concerns on this point.

**6. First Reporting Period:**

- Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025?

Some members identify that there is so much happening with CoFI that expecting an institution to capture info from 1 July is unrealistic. April, May, June is a busy time for institutions with annual reporting, financial account auditing, climate related disclosures etc, that adding another compliance burden is unrealistic.

**7. Preferred Reporting Period:**

- Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual frequency?

We have had mixed responses to this question from our members. We believe that institutions should be given the option to choose between the options for the first return period.

**8. Regulatory Burden:**

- Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g., completing multiple regulatory returns if you hold more than one licence issued by the FMA)?

See above answers to questions 6 and 7. In addition to this return there are AML returns, Commerce Commission Annual Reporting and Climate reporting requirements to the FMA as well.

**9. Other Comments:**

- Do you have any other comments on the proposed regulatory returns?

We assume that the return will be implemented as a portal which members can log into and enter their answers. We suggest that allowing the questions to drop down by subsections instead of having all the questions lined up will ensure it is not unnecessarily complicated. This is likely to be quite a comprehensive exercise so we would like to see the ability to save the return and come back to it so that it does not have to be completed in one session.

Please do not hesitate to reach out if you wish for us to speak further on any of the points made in this submission.

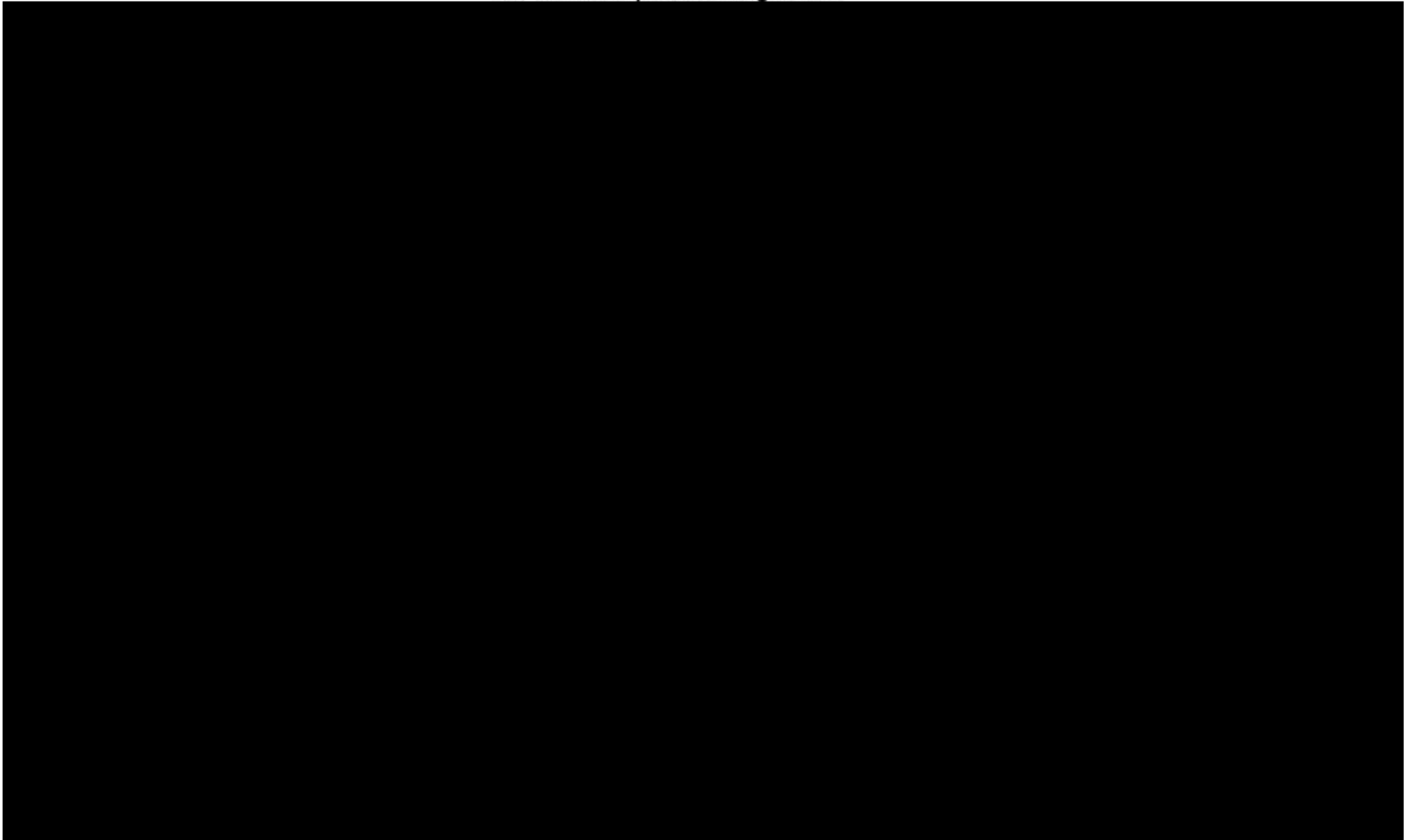
Yours sincerely,

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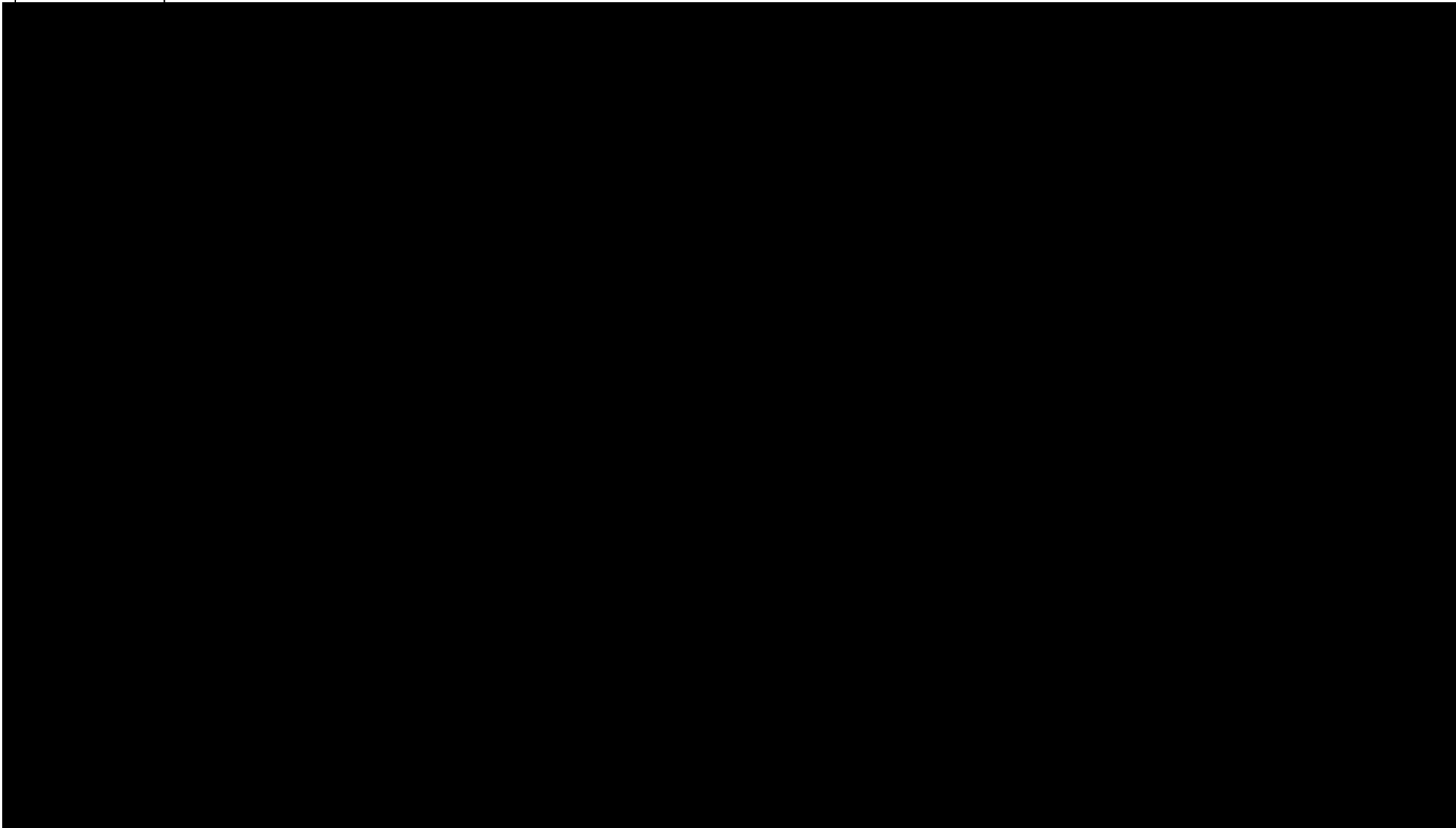
Appendix A

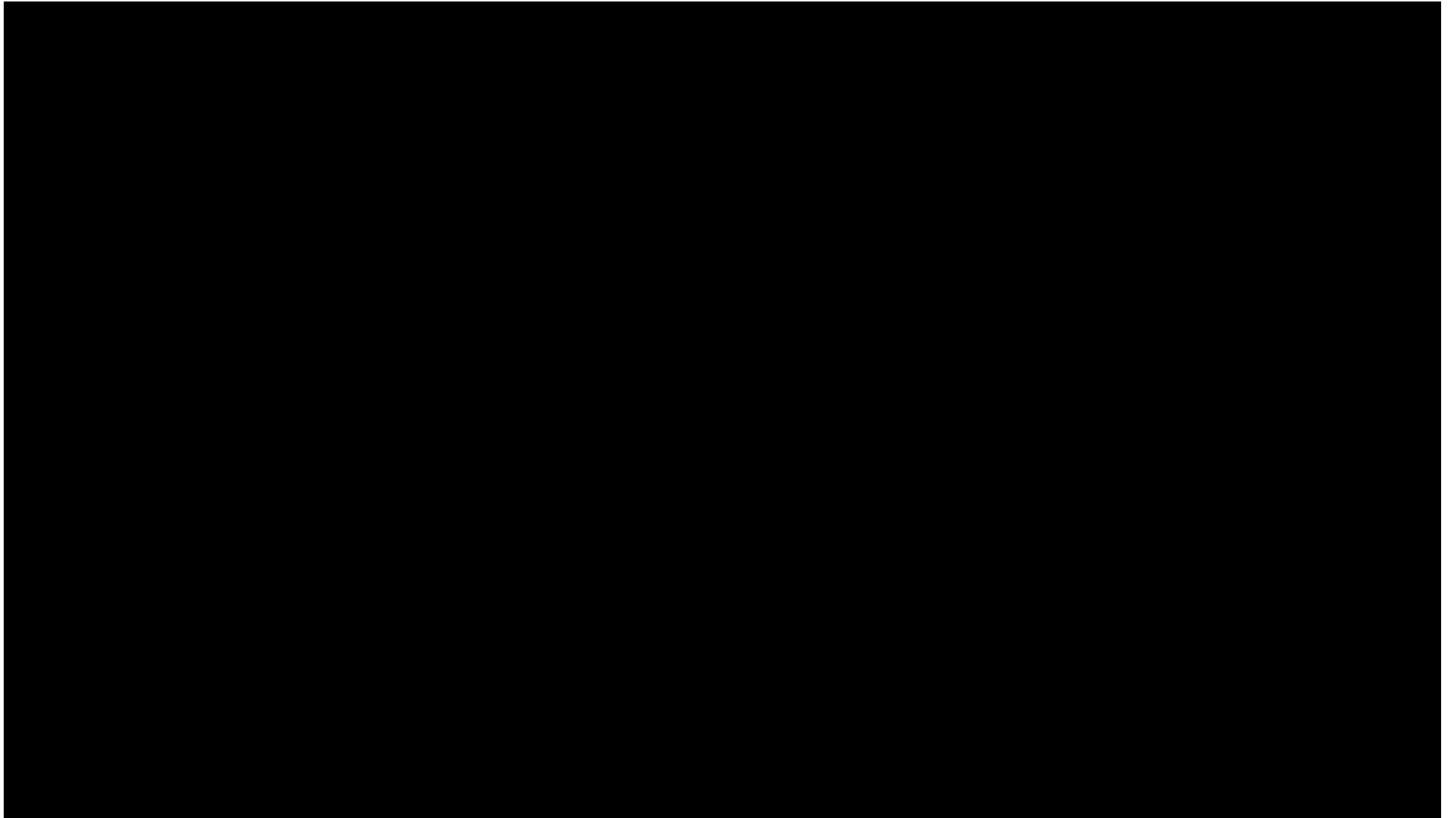


**FSF Membership List as at August 2024**



Appendix B







## Feedback form

# Consultation: Regulatory returns for licensed financial institution licensees

Please submit this form electronically in both PDF and MS Word formats and email it to [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Regulatory returns for FIs: [your organisation's name]' in the subject line.

**Submissions close at 5pm on 25 October 2024.**

Date: 21/10/2024 Number of pages:

Name of submitter: [REDACTED]

Company or entity: Gold Band Finance Ltd (GBFL)

Organisation type: Non-bank Deposit Taker

Contact name (if different):

Contact email and phone: [REDACTED]

Question number	Response
1	<p>(S4b). The requested information is appropriate and sufficiently well defined. There are, however, some matters that would benefit from further clarity.</p> <ol style="list-style-type: none"><li>1) Associated Products include reference to Term Deposits, and Residential Mortgage Lending. Section 446F(2) of the CoFI Act states an associated product to be a 'financial advice product'. GBFL does not provide product financial advice (Investment or Lending) to its customers or prospective customers. Under this scenario where would GBFL report its consumer investment and lending activities?</li><li>2) Occasionally a maturing Term Deposit will be placed on call pending release to the customer. Under which category would these 'on call' deposits be classified? From the list provided it seems they could be classified as 'Savings Account' or 'Other Debt Securities'.</li><li>3) 6.0 covers distribution methods for 'relevant services' and 'associated products'. However, at 6a the scope only requires reporting of 'associated products', 6b is silent on the product type, 6c&amp;d covers both 'relevant services' and 'associated products'. Should this section cover both 'relevant services' and 'associated products'? For the avoidance of doubt, it would be helpful if this could be clarified.</li></ol>
2	No further comment.
3	<ol style="list-style-type: none"><li>1) Extraction of raw data points required for the return will pose additional administrative cost due to customization of manual processes for extraction, and/or an operational or capital cost if system modification or re-building that may be required. This particularly impacts 4b., 4c.</li><li>2) Within the guidance note associated with s9 is it the FMA's expectation that licenced institutions conduct periodic social media scanning to identify customer complaints? If this is the intent this would introduce disproportionate cost/administrative burden to operationalize and maintain.</li></ol>
4	No further comment.
5	No concerns anticipated.
6	The capture of information for reporting is not expected to cause any immediate reporting difficulties. However, extraction of information will require manual intervention. See response to Q3 above.
7	The proposed 9-month reporting period for the first report is acceptable.
8	No further comment.
9	Proportionality principles need to be transparent. The size and scope of Deposit Takers needs to be recognized particularly in the areas that drive a disproportionate level of cost; financial and administrative.

## Feedback summary

**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.**

25 October 2024

Financial Markets Authority  
Emailed to: [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz)

**ICNZ SUBMISSION ON THE FMA CONSULTATION:  
REGULATORY RETURNS FOR FINANCIAL INSTITUTION LICENCEES**

1. Thank you for the opportunity to provide a submission on the Financial Market Authority's (FMA) consultation on regulatory returns for financial institution licensees.
2. Te Kāhui Inihua o Aotearoa / The Insurance Council of New Zealand (ICNZ) represents general insurers. ICNZ members provide a wide range of general insurance products including those usually purchased by consumers (such as home and contents insurance, travel insurance, and motor vehicle insurance). A number of our members will be licensed financial institutions under the new Conduct of Financial Institutions (CoFI) regime.

**Overall comments**

3. Following high-level engagement on this consultation with the New Zealand Banking Association and the Financial Services Council, there are three key points we agree are critical for the proposed regulatory returns. First, we suggest the FMA delays the regulatory return requirement until 2026 when the proposed amendments to the CoFI regime will presumably be in force. Secondly, due to the volume of duplication with the Financial Advice Provider (FAP) regulatory return, we encourage more alignment and for the FMA to consider options to reduce repetition. Lastly, we encourage reconsideration of several broad questions and their inclusion, such as methods for ensuring contact details for customers are kept up to date. Further detail on these three points is contained in our individual submissions.
4. ICNZ strongly recommends that the FMA should delay introducing a requirement for an annual regulatory return.
5. Minister Bayly has outlined his expectation that the FMA should avoid unnecessary compliance costs, take a proportionate and risk-based approach to regulation, that its regulatory expectations should be properly founded in the law and that it should streamline conduct licensing requirements, including this regulatory return, to reduce complexity and duplication.<sup>1</sup> The proposed questions set out in the annual return raise a number of concerns and appear to be inconsistent with the Minister's expectations.
6. Spending the FMA's and financial institutions' time and resources on developing a specific reporting regime under a licence that will apply for at most one year would distract from more productive activities. Instead, the FMA should look to efficiently introduce CoFI-related reporting requirements as part of a single, integrated return following the merger of multiple FMA licences.

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<sup>1</sup> [Annual-letter-of-expectation-from-Hon.-Andrew-Bayly.pdf \(fma.govt.nz\)](#)

7. The Government has undertaken a targeted review of the CoFI legislation<sup>2</sup> and other conduct requirements under the Financial Markets Conduct Act 2013 and proposes to simplify and clarify the requirements for financial institutions' fair conduct programmes and require a single licence covering different classes of market services. The proposals aim to streamline regulation and remove unnecessary compliance burden. Legislation is expected to be introduced to Parliament at the end of the year.<sup>3</sup> Although it is not certain when these changes would come into effect, it appears likely that they would be in force by the time the first annual return is due.
8. Introducing a new annual return prior to these changes being made will impose an unnecessary and unreasonable regulatory burden on financial institutions and it is out of step with the expectation that Minister Bayly set for the FMA for FY24/25. Although ICNZ acknowledges that providing regulatory returns is a CoFI licence condition (if directed by the FMA to do so), expecting financial institutions to set up reporting processes to provide an initial return for the first year of the new CoFI regime when the proposed changes to the CoFI legislation and the planned merger of multiple licenses will result in changes to the returns in the second reporting period introduces unnecessary complexity and limits the comparative value of the returns for the FMA in the second year. This will create additional compliance costs that may be passed on to customers.
9. Delaying the introduction of an annual return would not impact the FMA's strong focus on the regulation and mitigation of conduct risks. This is because the annual return applies only to approximately 80 financial institutions and these entities are already closely supervised by the FMA. The FMA has general information-gathering powers and many of these entities already provide overlapping information through returns under existing licences, reducing the marginal value of requiring this additional annual return. Financial institutions would still be subject to the requirement under Standard Condition 2 of their licences to notify the FMA about any material change to the nature of their financial institution service and the General Reporting Condition under regulation 191 of the Financial Markets Conduct Regulations 2014. This means that the FMA should still have sufficient information to inform its supervision of financial institutions until a new single market services licence return is developed.
10. We also consider that the specific reporting requirements proposed for this annual return require detail in some areas that is not proportionate to the purpose of the return or potential risks. The regulatory return process should more closely align to the other annual returns, such as the annual return for FAPs and should more closely align to the standard licence conditions. Some questions may also duplicate questions asked in other annual regulatory returns, e.g. the FAP return, or through the FMA's regular engagement with financial institutions.
11. While regulatory returns are an appropriate place to request information that is founded in the scope of the legislation, there are questions proposed that are beyond the scope of the legislative and licence requirements. Annual returns should be simple and focus on *material* changes to information previously provided (with a threshold for materiality).
12. The proposed questions cover a broad range of aspects of a financial institution's business, and, in some instances, it is unclear what the purpose behind the question is and how the FMA will use the information. Some questions appear to request data where further information and context would be required for the data to be meaningful to the FMA. We query whether a regulatory return is the appropriate place to seek this type of information,

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<sup>2</sup>Financial Markets (Conduct of Institutions) Amendment Act 2022

<sup>3</sup> [Financial services reforms: policy decisions \(mbie.govt.nz\)](https://www.mbie.govt.nz/financial-services-reforms-policy-decisions), para 11

particularly as we expect that the majority of financial institutions will already have regular engagement with the FMA.

13. Finally, we note annual returns are not the appropriate method for engagement about all topics. For example, if there is a remediation issue at play, regulated entities should and do engage with the FMA on that separately.
14. We answer the consultation questions below.

**Question 1: 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.**

15. Notwithstanding our comments above that the introduction of the annual return should be delayed beyond year one, we have the following comments on the questions in the draft annual return.
16. The annual return should be focused on material changes to the financial institutions business. Each section should ask at the outset whether any material changes have occurred during the year. If yes, then financial institutions should be required to provide further information for that particular section.
17. **Fair Conduct Programme:** Question 3b refers to “the systemic identification of deficiencies in the effectiveness of the programme”. We note that “deficiencies” is not defined in the legislation or the annual return and this could be interpreted inconsistently by different financial institutions in the absence of any materiality threshold. Further, the question refers to “systemic identification of deficiencies”, but the accompanying guidance refers both to that and to “you identified systematic deficiencies”, which are different things. The reference to “systematic deficiencies” implies that the FMA is interested only in deficiencies that meet a certain level of materiality. This should be clarified.
18. **Associated Products:** Obtaining the detailed breakdown of associated products (outlined on page 7 of the proposed return) on an annual basis is unnecessarily onerous. The FMA's interest in this is presumably to determine whether there has been a meaningful change in the financial institution's activities and so question 4a should be focused on whether there has been a material change to the “associated products” provided by the financial institution since the licence application or previous return.
19. Questions 4a and 4b are similar to questions asked in the FAP regulatory return. Going forward, these types of questions should be consolidated into one return.
20. **Distribution Methods:** Question 6a is also similar to a question in the FAP return. When a single market service licence annual return is developed, it would be good for these questions to be consolidated between product distribution methods and delivery of financial advice.
21. Questions 6c and 6d ask about “deficiencies” in the financial institution's distribution methods. As noted above in relation to question 3b, “deficiencies” is not further defined in the annual return, and this could be interpreted inconsistently by different financial institutions. Guidance should be provided on the materiality of a deficiency which the FMA would expect a financial institution to report.
22. **Complaints:** We again note the similarity and potential duplication between questions 9(a)-(f) and the questions about complaints in the FAP return.
23. Question 9d asks about timeframes for resolving complaints. We note that there are a range of factors which impact the time taken to resolve a complaint, such as the complexity of the

complaint or how quickly customers respond to contact. The questions asked may not elicit a clear picture of whether complaints are being managed well by the financial institution. In light of these concerns, it may be more sensible focus on complaints about a financial institution were referred to and accepted by the Disputes Resolution Scheme.

24. Question 9g asks which three associated products provided by the financial institution to consumers has had the most complaints related to them during the return period. It is unclear why the FMA asks this question. We do not consider that the responses will provide particularly valuable insights. For example, the most complaints generally come from the products with the most policyholders which is unlikely to provide any insights.
25. **Remediations:** We do not consider that an annual return is an appropriate method to engage with financial institutions on remediations and this section should be removed. If it is included, then we consider that it would be amended as per our comments below.
26. The questions set out in section 10 of the annual return relate to “issues requiring remediation”. The guidance that accompanies question 10 provides:

*“By ‘remediation’ we mean remedying something that has been found to be defective or not working as intended in relation to your financial institution licence. This may involve the stopping and/or reversal of harm. It may also include refunding affected consumers.*

*The answers provided should represent any remediations relevant to your FI service, including those you may have already notified us of during the return period.*

*By ‘issue’ we mean a complaint or concern, raised by a consumer, another party or you, that you investigate. This could include issues identified by, or within, your own systems, processes, policies and controls”.*
27. We consider the questions in relation to remediations should be focused on material remediations with material customer financial impact which are considered breaches of the Financial Markets Conduct Act 2013. The definitions of “issue” and “remediation” are too broad and should focus on areas where there is actual consumer harm. The broad definitions could capture a very wide range of issues depending on how the financial institution interprets “not working as intended” and therefore the data becomes meaningless. This could be interpreted to include a scenario where a single customer receives a more favourable outcome due to a one-off mistake by an employee. In this scenario, there is no customer harm, and our members have advised they would generally write this off, then look for opportunities for process improvements. Reporting the remedying of “something not working as intended” is excessive if it includes scenarios impacting a low number of customers or if there is no detriment.
28. Small scale customer remediation activity should not be reportable as the compliance cost of reporting (including the internal systems, processes and checks required to identify and verify what is a “remediation” under the existing definition) would be significant and is entirely disproportionate to any potential customer harm. Compiling this data may present challenges for firms, as aligning practices with this broad definition of “remediation” would require substantial time for planning and implementation, and ongoing cost which may ultimately be met by consumers.
29. The FMA should also clarify the materiality of the issues that should be reported. One option could be a requirement to report remediations which had a customer and/or financial impact over a certain defined threshold. It is important that terms are clearly defined to ensure that reporting is consistent across financial institutions.

30. Question 10d also asks about timeframes. Some remediations can be extremely complex and, because of this complexity, take extended periods of time to resolve. This question should be removed.
31. **Employees and agents:** Question 11 asks if the financial institution is adequately resourced. It is unclear why the FMA is asking this question or what information it expects to solicit from doing so. Financial institutions are unlikely to respond 'No' to this question.
32. Question 12 appears to seek confirmation about whether a financial institution is meeting the CoFI training requirements, however providing a response as a percentage of total employees may not be a good indicator of this given the legislative requirements in section 446(1)(e)-(f) are more nuanced than this. This question should be amended to ask financial institutions to confirm they are providing training in accordance with their CoFI requirements. We also note that Cabinet has decided to adjust the requirements relating to training, supervising and monitoring employees when the CoFI legislation is amended.<sup>4</sup>
33. **Outsourcing:** The annual return does not provide a clear definition of "outsourcing". Guidance should be provided to clarify what is material. Without a clear definition of outsourcing, including a materiality threshold, the annual return may inadvertently capture a very wide range of service providers which have limited if any impact on consumer outcomes. The FMA should also consider if this information could be provided on an exceptions basis i.e. financial institutions should only be required to provide information if this has changed since the licence application or the last return.
34. **Business continuity:** Question 14d uses the terms "Cyber incident", "Technology incident" and "Infrastructure". These terms should be defined to provide more clarity. We note the overlap of this reporting requirement with financial institutions' obligations to report "any event that materially impacts the operational resilience of [a financial institution's] critical technology systems" to the FMA under Standard Condition 6 and to provide cyber incident reporting to the Reserve Bank.
35. Again, we note the similarity and potential duplication between the business continuity questions and those contained in the FAP annual return.
36. **Operational resilience of technology systems (systems migration):** Question 15a and 15b are the same as those set out in the FAP annual return.
37. Question 15e asks about system migration. Without further context on the size, scale or impact of the system migration, we question the value of this information for the FMA. We would like to understand how the FMA intends to use this information. We note that system migrations are part of digitisation and automation which usually improves customer outcomes. The FMA should consider adding further guidance so that only material system migrations should be reported. Further clarity is required about the optional response "Started planning for a system migration". It is possible planning could begin for a system migration which then does not proceed. Reporting on this seems unnecessary.
38. **Record keeping (customer contact details):** Question 17 asks how a financial institution ensures the contact information it has on file for consumers is kept up to date. This requirement to report on methods for ensuring contact details for customers are kept up to date appears to create a positive obligation on financial institutions which does not currently exist and is a stretch to the concept of "Record Keeping" provided for in the licence conditions. It is unclear why this is being requested as it is not based on a legislative obligation, and it is unclear how the FMA will use this information. ICNZ members have

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<sup>4</sup> [Financial services reforms: policy decisions \(mbie.govt.nz\)](https://www.mbie.govt.nz), para 56.2.

processes for following up with customers when contact or payment is not received as expected.

**Question 2: Is there any other information we should ask for? If so, please state what, and how it would improve the returns.**

39. No.

**Question 3: Does providing the suggested information involve any system changes or major costs for your organisation? If so, please outline these costs or changes.**

40. Yes. These are extensive reporting requirements, and our members will be required to implement additional processes or systems to capture the required data. The annual returns should focus on the standard licence condition requirements and what is required to identify any material changes to the nature, size and complexity of a financial institution's business.

**Question 4: 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)?**

41. We have not identified topics for any aggregate reports.

**Question 5: Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of the return period? If so, please specify.**

42. Yes. It would be beneficial to have additional time to prepare the first return. If a return is required in the first year (which we do not support), ICNZ recommends that members should have 6 months to prepare the return, i.e. if the first reporting period ends on 30 June 2026, financial institutions should have until 31 December 2026 to prepare the return.

**Question 6: Do you have any concerns about regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify.**

43. Yes. It would be preferable to have 6 months to establish reporting processes to capture the required data, i.e. if a return is required in the first year (which we do not support), the first reporting period should commence on 1 October 2025.

**Question 7: Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual frequency? If not, what is your preferred reporting period, and why?**

44. Yes. Should a return in the first year be progressed, ICNZ members would prefer the proposed 9-month period for the first return (i.e. 1 October 2025 to 30 June 2026) to allow time to establish reporting processes to capture the required data.

**Question 8: Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple returns if you hold more than one licence issued by the FMA)?**

45. Yes. It is duplicative to expect financial institutions with more than one licence to complete multiple returns especially as it is proposed that returns may be consolidated in the future.

46. Regulatory returns are not an appropriate method for requesting information beyond the scope of the legislative and licensing requirements. The time and resources required to produce this level of detailed information on an annual basis is extensive and likely to be a manual and resource-intensive process.



47. A requirement to report on remediations already reported to the FMA would require unnecessary duplication in reporting. This section should be removed. If it is progressed, the definitions of the terms “issue” and “remediation” are too broad. Depending on the FMA’s expectations, this could be particularly onerous, result in an unintended reporting burden and offer limited insights to the FMA. The FMA should provide clarification in relation to the materiality of the issues that should be reported. These terms should be amended to focus on areas where there is actual consumer harm to multiple customers, particularly as the return seeks information regarding timeframes.

**Question 9: Do you have any other comments on the proposed regulatory return?**

48. It is important that the FMA is able to work constructively with entities, particularly in the early years of the CoFI reporting regime. This should include making recommendations on improvement actions where weaknesses are identified through the annual return or other engagement, rather than relying on enforcement action to pursue issues where problems have arisen.

49. Please contact me if you require any further information or have any questions about this submission.

Your sincerely

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# Submission

to the

## Financial Markets Authority

on the

### Consultation: *Regulatory returns for financial institution licensees*

25 October 2024



## About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.
  
2. The following eighteen registered banks in New Zealand are members of NZBA:
  - ANZ Bank New Zealand Limited
  - ASB Bank Limited
  - Bank of China (NZ) Limited
  - Bank of New Zealand
  - China Construction Bank (New Zealand) Limited
  - Citibank N.A.
  - The Co-operative Bank Limited
  - Heartland Bank Limited
  - The Hongkong and Shanghai Banking Corporation Limited
  - Industrial and Commercial Bank of China (New Zealand) Limited
  - JPMorgan Chase Bank N.A.
  - KB Kookmin Bank Auckland Branch
  - Kiwibank Limited
  - MUFG Bank Ltd
  - Rabobank New Zealand Limited
  - SBS Bank
  - TSB Bank Limited
  - Westpac New Zealand Limited

## Contact details

3. If you would like to discuss any aspect of this submission, please contact:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]



## Introduction

4. NZBA welcomes the opportunity to provide feedback to the Financial Markets Authority (**FMA**) on the Consultation: *Regulatory returns for financial institution licensees (Consultation)*. NZBA commends the work that has gone into developing the Consultation.
5. Following high level engagement on this consultation with FSC and ICNZ, there are three key points we agree are critical for the proposed regulatory returns.
  - 5.1. Firstly, we suggest the FMA delays the regulatory return requirement until 2026 when the proposed amendments to the CoFI regime will presumably be in force.
  - 5.2. Secondly, due to the volume of duplication with the Financial Advice Provider (**FAP**) regulatory return, we encourage more alignment and for the FMA to consider options to reduce repetition.
  - 5.3. Lastly, we encourage reconsideration of several broad questions and their inclusion, such as methods for ensuring contact details for customers are kept up to date.
6. Further detail on these three points is contained in our individual submissions.

### *Regulatory returns for FIs should be developed under the single conduct licence*

7. We submit that financial institution (**FI**) regulatory reporting should be incorporated into the development of a single conduct licence, in line with the Government's recently announced financial services reforms.
8. In its September 2024 policy decisions, the Government set clear expectations that the FMA must streamline its licensing processes to reduce compliance costs for the industry. The decision to make legislative changes to enable a single conduct licence provides the FMA with the framework for harmonising regulatory reporting.
9. The Consultation recognises the reforms (based on MBIE's discussion document from May 2024), but concludes that any single conduct licence regulatory return would not be completed before the first FI return is due on 30 September 2026. We strongly urge the FMA to reconsider its position in light of the Government's desire to reduce compliance costs and focus instead on preparing the single conduct licence and its associated reporting. FIs provided a significant amount of information to the FMA as part of the licence application process, so allowing a longer period before the first return is due would not leave the FMA uninformed about FIs.



### *Timing*

10. If the FMA does proceed with the proposals as set out in the Consultation, we would support the FMA's proposal of an alternative period for the first return of 1 October to 30 June 2026. This would allow FIs the time to ensure they are ready to begin recording appropriate data at the beginning of the reporting period.

### *Scope of the draft question set*

11. NZBA submits that, overall, the regulatory return requirements as currently framed are extensive and overly granular. Capturing this additional information will be a complex exercise involving significant time and resource to implement. It is unclear why some of the information is being requested or how it will be used for supervisory purposes in determining whether the FI is treating consumers fairly.
12. CoFI is a principles-based piece of legislation, intended to provide FIs with the flexibility to meet their obligations in a way that works well for their specific context, size, business, customers and products. The granularity and prescriptive nature of some of the proposed questions risks creating an expectation that obligations are met in a particular way. This would work counter to CoFI's intent.
13. We do not consider that collecting generic information on FCPs will generate insight on how each individual FI has operationalised its FCP.
14. Further, the scope of some of the questions is very broad, such that they do not easily lend themselves to a 'Yes' or 'No' response. There are also a number of aspects of the draft question set that require clarification and refinement as to what is required.
15. While yes / no can be an efficient way to gather information, we are concerned that some of the questions might be used as implicit attestations of compliance without this being clearly communicated. The questions are positioned as a way to gather regular information on the FI, however, the way certain guidance is structured suggests they could also be used as accountability mechanisms. We do not think this is appropriate for a regulatory return, but if this is the intention, it should be clearly stated as such.

### *Overlapping reporting requirements*

16. In some cases, the questions in the FI regulatory return duplicate information already required to be provided by entities under other regimes.
17. We understand the FMA needs to collect information to supervise FIs, but they should not be required to provide the same information twice. The duplication of reporting creates additional compliance costs with no additional insight or value.
18. A significant example is proposed section 9, which requests complaints data. Registered banks already report quarterly complaints data to the Banking



Ombudsman. This data is required to be categorised in a number of different ways – for example, by product or service, by issue and by time to resolve. Banks also need to categorise complaints in a way that works for internal purposes and allows them to pursue good outcomes for customers. Accordingly, banks have committed considerable resource to build complaints reporting systems that both meet internal requirements and align with the Banking Ombudsman’s requirements. Complaints reporting can already be complex for frontline staff, given complaints need to be categorised in a number of different ways.

19. The proposed questions in section 9 would require banks to categorise complaints in a different way, including separating those that are relevant to a financial institution service provided to a consumer. Given the size of a bank’s customer base, this would create substantial additional work (including changes to complaints reporting systems). It would also add additional complexity to reporting that is already complex for frontline staff.
20. Accordingly, the FMA should utilise complaints data already provided to the Banking Ombudsman to collect information on complaints to banks. Requiring banks to report the same information to the FMA in a different way would demand significant additional resource and complexity for minimal additional benefit.
21. Other significant examples include:
  - 21.1. There is extensive overlap between questions in the FI regulatory return and existing FAP regulatory return requirements.
  - 21.2. Some FI regulatory return questions are already captured by the CoFI requirements that our members must report ongoing material changes to the nature of their financial institution services and events that materially impact the operational resilience of their critical technology systems, or are otherwise captured by the CoFI legislation.
22. We have set out our more detailed comments on the annual return questions in the Appendix.

## APPENDIX – Comments on draft questions

Question	NZBA Comments	NZBA Proposed Amendments
3(b)–(d) (Fair Conduct Programme)	As noted at paragraph 15 above, we are concerned that some of the questions in this section could be interpreted as attestations of compliance with the minimum requirements of the FCP. We do not think this is appropriate for a regulatory return.	We recommend that questions 3(c) and (d) are removed, and 3(b) amended as set out below.
3(b) (Fair Conduct Programme)	<p>We recommend deleting option 2 from this question, because in practice, regular reviews of the effectiveness of the programme will also be used to pick up deficiencies.</p> <p>We recommend removing option 3 from this question, because “prompt remedy of any deficiencies identified” is not a method used to review and maintain the FCP.</p> <p>We also recommend refining option 4 for clarity</p>	<p>We recommend amending this question to the following:</p> <p><i>Select all the methods [FI NAME] used to review and maintain its FCP during the return period.</i></p> <p><i>Select all that apply</i></p> <ol style="list-style-type: none"> <li>1. Regular review of the effectiveness of the programme</li> <li>2. Ad hoc review prompted by event.</li> <li>3. Other</li> </ol>
4(c) (Associated Products)	<p>Some products may be offered periodically rather than continuously, which would make it difficult to select a timeframe. Additionally, it could be difficult to obtain this information for older products.</p> <p>We recommend this question is replaced with a question asking whether the FI has started offering any new associated products during the return</p>	<p>We recommend amending this question to the following:</p> <p><i>Has the FI started offering any new associated products during the return period?</i></p>



Question	NZBA Comments	NZBA Proposed Amendments
	<p>period. This would enable the FMA to achieve its purpose here, which is to get an update on the FI's business.</p>	<ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
<p>6(b) (Distribution Methods)</p>	<p>A number of the annual return questions ask whether a review has been carried out during the return period. These questions:</p> <p>(a) Create an expectation that a review is carried out annually, which is in our view inappropriate. Entities should have flexibility to determine how frequently reviews are required.</p> <p>(b) Sometimes imply a method of review. For example, this Question 6(b) implies that reviews of distribution methods will be carried out method by method, rather than when a review of an associated product is carried out or similar. Again, entities should have the flexibility to determine how reviews are carried out.</p> <p>We recommend that these questions are replaced with higher level questions to determine whether the FI has processes in place to ensure reviews are carried out.</p> <p>Please also see Questions 7(a), 7(c), 14(a), 14(b) and 15(b) below.</p>	<p>We recommend amending this question to the following:</p> <p><i>Does [FI NAME] have processes to ensure it regularly reviews its distribution methods to ensure they have been operating in a manner that is consistent with the fair conduct principle?</i></p>
<p>6(c) (Distribution Methods)</p>	<p>We recommend that a materiality threshold is applied to this question to ensure that responses provided to the FMA are useful and to reduce the compliance burden on FIs. This should be achieved by clearly linking the question to the fair conduct principle.</p>	<p>We recommend amending this question to the following:</p> <p><i>"Has [FI NAME] identified any material instances during the return period where a distribution method is not operating in a manner consistent with the fair conduct principle?"</i></p> <ul style="list-style-type: none"> <li>• Yes</li> </ul>





Question	NZBA Comments	NZBA Proposed Amendments
		<ul style="list-style-type: none"> <li>• <i>No</i></li> </ul>
6(d) (Distribution Methods)	We recommend that this question is removed. If an entity indicates under question 6(c) that it has identified any instances of a distribution method operating in a manner that is not consistent with the fair conduct principle, the FMA can choose to engage with the FI if appropriate. An annual return is not an appropriate forum for this kind of engagement, as there is limited ability to provide detail and context.	We recommend removing this question.
7(a) (Conflicts of Interest)	We recommend this question be refined because not all conflicts policies, processes, systems and controls will be reviewed at the same time, or during a given return period. For example, a conflicts policy may be reviewed every two years, conflicts controls and processes may be reviewed annually or two-yearly, and conflicts systems may be reviewed only on an ad-hoc basis (e.g. during upgrades). Please also see our comments on Question 6(b) above.	<p>We recommend amending this question to the following:</p> <p><i>Does [FI NAME] have processes in place to ensure it regularly reviews its policies, processes, systems and controls for identifying and handling conflicts of interest?</i></p> <ul style="list-style-type: none"> <li>• <i>Yes</i></li> <li>• <i>No</i></li> </ul>
7(b) (Incentives)	We recommend removal or refinement because this question is entirely duplicative of an existing CoFI requirement for an FCP to include effective policies, processes, systems and controls for designing and managing incentives to avoid actual or potential adverse effects on the interests of consumers.	We recommend removing this question.



Question	NZBA Comments	NZBA Proposed Amendments
7(c) (Incentives)	<p>We recommend this question is refined, because not all policies, processes, systems and controls related to incentives will be reviewed at the same time, or during a given return period.</p> <p>Please also see our comments on question 6(b) above.</p>	<p>We recommend amending this question to the following:</p> <p><i>Does [FI NAME] have processes in place to ensure it regularly reviews its policies, processes, systems and controls related to incentives?</i></p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
7(d) (Consumer Care and Handling Conflicts)	<p>This is the same information provided in the FAP return (Question 19) and should not be provided twice for FIs with a FAP licence.</p>	<p>We recommend removing this question for FIs with a FAP licence.</p>
9 (Complaints)	<p>The FMA should utilise complaints data already provided to the Banking Ombudsman to collect information on complaints to banks. Requiring banks to report the same information to the FMA in a different way would demand significant additional resource and complexity for minimal additional benefit. Please see our comments on this in paragraphs 18 to 20 above.</p> <p>This section also duplicates the information provided under the FAP return (Question 22).</p> <p>The definition of a complaint should align with the industry standard definition used by BOS (ISO Standard 10002) to support consistency and avoid confusion.</p>	<p>We recommend removing this question for registered banks.</p>



Question	NZBA Comments	NZBA Proposed Amendments
10 (Remediation)	<p>We recommend significant refinement to the guidance for Question 10.</p> <p>The definition of “remediation” is overly broad and would capture a wide range issues, including small single customer remediations as well as matters where there is no actual customer harm.</p> <p>The definition of “issue” is also overly broad and could encompass thousands of matters per month for large FIs (complaint volumes alone account for the bulk of this volume). It is unclear why the FMA would need information on non-material issues that may involve little or no customer detriment.</p> <p>As an “issue” includes a complaint, it is unclear how this question relates to (and may also overlap with) Question 9 (Complaints).</p> <p>The guidance for Question 10 should therefore be amended to reflect the industry meaning of the term “remediation” and to add a materiality threshold.</p>	<p>We recommend that the guidance for this question be updated to the following:</p> <p><i>For the purposes of this question 10, an “issue requiring remediation” means a breach of law that has resulted in material consumer loss and/or impacted a material number of consumers.</i></p> <p><i>Remediation means any remediation carried out in relation to such issues.</i></p>
10(c) and 10(d) (Remediations)	<p>We note that some customer remediations can be complex and take extended period of time to resolve, which should be factored in when interpreting the data on Questions 10(c) and 10(d).</p>	<p>No change.</p>
10(e) (Remediations)	<p>Further guidance is also required on Question 10(e) to understand the scope of an intermediary remediation. It is unclear if this refers to remediation the FI instructs the intermediary to undertake. Remediation related to an intermediary’s compliance with its own regulatory requirements should be excluded.</p>	<p>We recommend that the guidance for this question be updated to the following:</p> <p><i>The purpose of this question is to understand whether any remediations during</i></p>



Question	NZBA Comments	NZBA Proposed Amendments
		<p><i>the return period related to your intermediaries.</i></p> <p><i>By 'related to intermediaries' we mean remediation(s) that are directly related to the conduct of an intermediary in that capacity – not:</i></p> <ul style="list-style-type: none"> <li><i>• those that related to an intermediary's compliance with regulatory requirements unrelated to its activities as an intermediary; or</i></li> <li><i>• those reported to you by an intermediary but related to the conduct of the FI.</i></li> </ul>
11 (Resourcing)	<p>We recommend removal because the question was already covered in the FI licence application and any material change to the adequacy of resourcing would require notification to the FMA as a material change to the underlying information provided to the FMA when the FI licence application was submitted.</p>	<p>We recommend removing this question.</p>
12 (Training)	<p>We recommend refinement.</p> <p>The question has an unclear definition of 'initial and/or regular ongoing training'. A percentage figure would also be very difficult for a large FI to supply for a given return period. For example, a large FI with thousands of employees covered by this question may have dozens of training modules and requirements that may need to be completed at different times during a given return period. Training completion timeframes will also be</p>	<p>We recommend amending this question to the following:</p> <p><i>Does [FI NAME] require employees to complete initial and regular ongoing training in relation to the following, where such training is relevant to their work:</i></p>



Question	NZBA Comments	NZBA Proposed Amendments
	<p>sequenced by each individual FI and most of these will not neatly follow the return period.</p> <p>Without a narrower definition of 'initial and/or regular ongoing training' it will be impossible for FIs to provide a 'percentage complete' figure.</p> <p>We recommend the question be confined to a confirmation that the FI requires employees to carry out training on relevant services and associated products, the FI's FCP, and the procedures or processes used to support compliance with the fair conduct principle, in each case where the training is relevant to the employee's work.</p>	<ul style="list-style-type: none"> <li>• <i>relevant services or associated products in respect of which the employee carries out work; and</i></li> <li>• <i>[FI NAME's] FCP; and</i></li> <li>• <i>the procedures or processes used to support [FI NAME's] compliance with the fair conduct principle.</i></li> </ul>
<p>14(a) and (b)(BCP arrangements)</p>	<p>Questions 14(a) and (b) duplicate information provided under the FAP return (Question 26). Accordingly, they should be removed for FIs with a FAP licence.</p> <p>Additionally, an FI's business continuity arrangements may not all be reviewed at the same time, or during a given return period.</p> <p>Accordingly, if these questions are retained, they should be amended to better reflect that different FIs may carry out reviews and testing differently.</p> <p>Please also see our comments on question 6(b) above.</p>	<p>We recommend removing these questions for FIs with a FAP licence.</p> <p>If these questions are not removed, we recommend replacing them with the following:</p> <p><i>Does [FI NAME] have processes to ensure it regularly reviews and tests its business continuity arrangements?</i></p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
<p>14(c) and (d) (BCP arrangements)</p>	<p>An annual return is not an appropriate forum for notifying a regulator that a BCP plan has been activated, because it does not allow for timely notification or for appropriate context to be provided.</p> <p>Where an FI's BCP arrangements are activated in circumstances warranting notification to a regulator, this should be covered by existing</p>	<p>We recommend removing these questions.</p>



Question	NZBA Comments	NZBA Proposed Amendments
	obligations, such as the obligation to report events materially impacting the operational resilience of critical technology systems.	
15(a) (Operational Resilience)	<p>We recommend removal of Question 15(a) because the subject matter overlaps with an existing licensing requirement to report any incidents that materially affect the operational resilience of critical technology systems to the FMA within 72 hours.</p> <p>We also note that Question 15(a) duplicates information provided under the FAP return (Question 26).</p>	We recommend removing this question.
15(b) (Operational Resilience)	<p>Question 15(b) duplicates information provided under the FAP return (Question 26).</p> <p>Additionally, a FI's arrangements to ensure the operational resilience of critical technology systems may not all be reviewed at the same time, or during a given return period. Please also see our comments on Question 6(b) above.</p>	<p>We recommend removing this question for FIs with a FAP licence.</p> <p>If this question is not removed, we recommend replacing it with the following:</p> <p><i>Does [FI NAME] have processes in place to ensure it regularly reviews its arrangements to ensure the operational resilience of critical technology systems?</i></p> <ul style="list-style-type: none"> <li>• Yes</li> <li>• No</li> </ul>
15(e) (Operational Resilience)	We recommend removal of Question 15(e) because the question is unclear and has limited relevance to the licence conditions or legislative requirements. Almost all large FIs have dozens of core systems and will be engaged in one or multiple 'system migrations' during a given return period as part of ordinary BAU technology operations. Not all system migrations result in increased risks of 'unfair treatment of consumers' and	We recommend removing this question.



Question	NZBA Comments	NZBA Proposed Amendments
	<p>many take place without any consumer awareness. It is therefore unclear what this information would be used for.</p> <p>The options provided are also unhelpfully vague: almost all FIs will be engaged in some level of planning or continuation of work on system migrations and would select 'all of the above' if that were a permitted option for every return.</p>	
17 (Contact Information)	<p>Question 17 relates to how a FI ensures the contact information it has on file for consumers is up to date. Consumer contact information is not defined adequately but could include a significant number of contact information types (e.g. address, phone number, email address, unique identifier for active online banking applications, address for service, director contact addresses, etc).</p> <p>The options available for selection are very limited and do not allow for greater explanation of the means and methods of ensuring consumer contact details are kept up-to-date (particularly where consumer communications are delivered through online banking channels linked to unique consumer profiles or through omni-channel communication methods/campaigns).</p> <p>It is unclear what this information would be used for or what requirement it relates to. The information provided under Question 16 on record keeping should be sufficient.</p>	We recommend removing this question.

## Feedback form

# Consultation: Regulatory returns for licensed financial institution licensees

Please submit this form electronically in both PDF and MS Word formats and email it to [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Regulatory returns for FIs: [your organisation's name]' in the subject line.

**Submissions close at 5pm on 25 October 2024.**

Date: 21 October 2024

Number of pages: 4

Name of submitter: [REDACTED]

Company or entity: Unity Credit Union

Organisation type: Credit Union / Non-Bank Deposit Taker

Contact name (if different):

Contact email and phone: risk@unitymoney.co.nz

Question number	Response
<p>1. 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</p>	<p><i>There are a few areas we believe need further clarification, specifically:</i></p> <ol style="list-style-type: none"><li><i>Section 9: This question in the proposed return asks about complaints received by Unity's financial institution service during the return period. This is further defined to mean 'a complaint relating to your financial institution service is an expression of dissatisfaction...relating to your financial institution service...'</i><ul style="list-style-type: none"><li><i>We are seeking clarity on what is included under a 'financial institution service'. If this refers only to the 'relevant services' and/or 'associated products' under the regime, then this would exclude some types of complaints. For example, debit cards, Internet and Mobile Banking are not relevant services or associated products under the regime. If there was a complaint in relation to these channels, would it still be classed as a complaint relating to our 'financial institution service', noting they are not regulated products.</i></li><li><i>If the FMA's intention is to capture all service complaints a financial institution provides, whether this is specifically defined under the Act or not, can this please be clarified? Another example of complaints that may not apply is ones that do not relate to our products or services i.e. 'the branch is too crowded' or 'I don't like your branding.' Clarification of this section would have a flow-on effect to questions 9a-9d in the return.</i></li></ul></li><li><i>Section 9e: This return question refers to complaints escalated to Unity's dispute resolution scheme during the return period.</i><ul style="list-style-type: none"><li><i>The escalation process for dispute resolution schemes vary based on the particular scheme. For Unity we use the Banking Ombudsman. There are several channels in which a complaint could be handled: 1) complaint lodged with Unity, not resolved internally so member escalates to BOS. 2) complaint lodged with BOS, BOS refer it back to Unity to deal with because member had not given Unity the opportunity to resolve internally. Unity resolve, no investigation is completed by BOS. 3) complaint lodged with BOS, it has already been through Unity's complaints process so is now classed as a 'dispute' and BOS undertake an investigation / handle the complaint review.</i></li><li><i>The wording of this return question implies if BOS are involved in the complaint that it has been 'escalated' to BOS, however the majority of complaints that BOS are involved with at Unity is only to</i></li></ul></li></ol>



refer it back to us to deal with because the member hasn't lodged the complaint with us first.

- We are unclear whether it's the FMA's intention to capture this scenario, as it's not an 'escalation' to BOS in our view, given its actually reviewed/handled and closed out by Unity without any assistance from BOS (except in that BOS forwarded us the complaint).
  - Can we please have clarity on what dispute resolution complaints you are wanting to know about? If the FMA are to capture complaints that dispute resolution scheme is involved with but don't actually handle (e.g. where it's referred back to Unity to handle without BOS involvement) this is not an accurate measure of what complaints have been escalated / not handled internally.
  - Subject to the FMA's view on this, question 9f of the return may also need to be reviewed.
3. Section 9g: This return question relates to complaints in relation to associated products provided by Unity.
- Can the FMA please clarify how we should be categorizing complaints that cross several products e.g. complaint about a debit card (not an associated product), and an error results in an unexpected charge on the members transactional account (associated product) which subsequently results in their Personal Loan (associated product) going into arrears.
4. Section 10b: This return question relates to issues raised during the period (complaints or concerns) relating to Unity's financial institution services that required remediation.
- This question is very broad and will likely be interpreted differently by other financial institutions with its current wording.
  - We require clarification on if this is referring to complaints/concerns in relation to Unity's associated products and relevant services? What about complaints/concerns that aren't regulated products such as debit card? The definition of concern in the return is essentially a complaint, so we believe the use of the word 'concern' is not needed. E.g. FMA definition of concern is a concern that requires investigation. FMA's definition of complaint 'an expression of dissatisfaction that requires action.' Therefore we don't believe 'concern' is necessary in this question.
  - Further, the return is requiring Unity to capture all open complaints requiring remediation (already captured), all new complaints during the period (already captured), and all complaints that have been closed during the period - does this mean there would be duplication across these questions as a complaint could be opened and closed in same period?
  - It's important to note that while a complaint is open and going through the investigation stage, we may not know if remediation is needed until the complaint is ready to be closed.
5. Section 10e: This return question asks about any remediations in relation to intermediaries of Unity's.
- This would be a difficult matter to measure. Unless our member raises the complaint directly with us, in which we would refer them to deal directly with the intermediary if the complaint was about the intermediary, then we would not know if there was a complaint and subsequent remediation in relation to an intermediary. This is unlikely to be information intermediaries (such as mortgage brokers) are willing to share with us.
  - It's also important to note that where we are using intermediaries such as Brokers to distribute our product, we do not directly deal with the member, their relationship is with the broker. Therefore, it's even less likely that a member would contact us to complain or request remediation in relation to an intermediary.
  - If the FMA's intention of this question is to understand if Unity have had to remediate a complaint due to the conduct of an intermediary, then this could be more clearly worded.
6. Section 15e: This return question relates to if Unity had a system migration during the period.

	<ul style="list-style-type: none"> <li><i>We don't believe this question is relevant and would likely not apply to most institutions in most return periods. There may also be inconsistent understandings of what a significant system migration is.</i></li> </ul> <p>7. <i>Section 17: This return question relates to how Unity ensures it keeps member contact details up to date.</i></p> <ul style="list-style-type: none"> <li><i>We don't believe this question is necessary, nor does it cover all scenarios of how an organisation may keep contact details up to date. For example, Unity would do this at the point of contact – this could occur weekly, monthly, or 2-yearly, it depends on when we are speaking to the member next. But this doesn't necessarily mean the member has contacted us to update their details, as it may be we have contacted them in relation to something else and our standard practice is to ensure their details with us are still up to date. What about adding an additional option such as: 'we have processes in place to ensure consumers details are updated at point of contact?'</i></li> </ul>
<p>2. Is there any other information we should ask for? If so, please state what, and how it would improve the returns.</p>	<p>No</p>
<p>3. Does providing the suggested information involve any systems changes or major costs for your organisation? If so, please outline these costs or changes.</p>	<p><i>Depending on the FMA's response to our points around complaints, this may require changes to our feedback and complaints processes and subsequent system. We anticipate the system costs to be minor, however resourcing costs are greatly variable and could easily become significant in nature.</i></p>
<p>4. 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)?</p>	<p><i>Once there is consistent and clear understanding of the complaints information, this could be useful to collate and make available for the industry to see e.g. how many complaints an institution has received. Currently this is reported to the institutions dispute resolution scheme (BOS), but there is not a wider capture across the four schemes on volume of complaints. To be clear, this suggested reporting would be based on value and volume only, not delving into categorisations or definitions, as alignment of these across the industry would require significant work for institutions.</i></p>
<p>5. Do you have any concerns about the proposed three-month timeframe for submitting regulatory returns at the end of each return period? If so, please specify.</p>	<p>No</p>
<p>6. Do you have any concerns regarding capturing information for the first reporting period commencing 1 July 2025 if the final question set is published in March 2025. If so, please specify</p>	<p><i>Yes. If there are any changes we need to make with regards to how we capture information (such as complaints), this will give us very limited time to incorporate this into our processes and policies.</i></p>
<p>7. Do you prefer the proposed alternative reporting period of 9 months (which would start 1 October 2025) for the first regulatory return and subsequent proposed annual</p>	<p><i>No, we believe this would not display a clear picture of a financial institution (namely in relation to training and complaint stats) if based on a 9-month period. It also reduces the preparation time FI's have to compile all relevant information for the return.</i></p>

<p>frequency? If not, what is your preferred reporting period, and why?</p>	
<p>8. Do you have any concerns about regulatory burden in relation to preparing and completing the FI regulatory returns (e.g. completing multiple regulatory returns if you hold more than one licence issued by the FMA)?</p>	<p><i>Yes. In recent years, regulators have added several new regulatory return requirements, which all have strict deadlines, and many capture the same information (but potentially for a different reporting period). This is increasing compliance costs and time significantly, with little benefit given the information is already captured by the regulators.</i></p> <p><i>For example, since 2021 we have had the CCCFA annual return, Financial Advice Provider annual return, and now CoFI annual return added. This is in addition to the annual returns we already had such as Companies Act annual return and FSCU Act annual return. While I understand some of these returns go to different regulators, the FAP and COFI returns are very similar in nature, and a levy is charged each time we submit a return (on top of internal costs for preparing the return). This is significantly affecting the compliance costs of financial institutions and diverts resource away from working with consumers to offer fair and competitive products and services. For a not-for-profit member-owned organisation such as ourselves, this is our members (consumers) who are directly paying for these costs of reporting.</i></p>
<p>9. Do you have any other comments on the proposed regulatory returns?</p>	<p><i>While we understand CoFI is a principles-based regime, where the FMA is requesting reporting, we need to ensure the questions are as prescriptive as possible to ensure consistent understanding and reporting across the industry, while also ensuring it is not restricting the activities of the financial institution or placing new requirements on them.</i></p>
<p><b>Feedback summary</b> Use for general comments or if you wish to highlight anything in particular.</p>	
<p><b>Please note:</b> 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.</p>	
<p><b>Thank you for your feedback. We appreciate your time and input.</b></p>	

## Feedback form

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**Submissions close at 5pm on 25 October 2024.**

Date: \_\_\_\_\_ Number of pages: \_\_\_\_\_

Name of submitter: [REDACTED]

Company or entity: Wairarapa Building Society

Organisation type: Non Bank Deposit Taker

Contact name (if different): \_\_\_\_\_

Contact email and phone: [REDACTED]

Question number	Response
1	<p>Our concern is the uncertainty of impact on smaller financial institutions like WBS. We would appreciate a face-to-face discussion on what we should expect. Similar to the RBNZ DTA consultations, we would hope a principle of proportionality is applied so that the FMA can strike a balance that encourages competition in the sector whilst ensuring licensees are well managed and compliant with the CoFI regime.</p> <p>[REDACTED] we are sensitive and very interested in the application of new compliance requirements. Often the most effective way to consider these is through discussion.</p>
2	<p>Nothing obviously comes to mind. Our concern is the potential reporting effort required for us given our small size.</p>
3	<p>We could provide the requested information without a systems change but, as with other regulatory reporting, it may require significant manual effort. There does not appear to be any materiality threshold so this could be significant for us.</p>
4	<p>We would need to look more closely at what might be generated. We do not have the extent of automation that some of the large banks have.</p>
5	<p>The 3 month timeframe should be feasible subject to confirming the level of effort required to produce a regulatory return.</p>
6	<p>Other than the issue noted above around level of effort, no other specific issues identified</p>
7	<p>Yes</p>
8	<p>Yes we do have concerns but and would appreciate further discussion and confirmation of the requirements.</p>
9	<p>No other comments</p>

**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.**

