



## **New Zealand regulation team’s framework for handling of complaints, adverse practice review results, enquiries and investigations for Certificate of Public Practice holders in respect of New Zealand resident members of Chartered Accountants Australia and New Zealand.**

*Effective - April 2015*

The New Zealand regulation team (“the NZ regulation team”) of the New Zealand Institute of Chartered Accountants (“NZICA”) manages the day to day operation of NZICA’s regulatory work under the supervision of the New Zealand Regulatory Board, in respect of New Zealand resident members of Chartered Accountants Australia and New Zealand (“Chartered Accountants ANZ”).

It is important that the public can place trust in the quality of accounting services provided by members that hold a Certificate of Public Practice (“CPP”) and in the way they conduct themselves in providing accounting services.

In the course of its work, the NZ regulation team considers the quality of CPP holders’ work and their conduct in the following ways:

- The NZ regulation team undertakes cyclical practice reviews of audit, assurance and insolvency practitioners and assesses their quality control procedures and the performance of a sample of engagements.
- The NZ regulation team undertakes targeted practice review work on practitioners where it has been assessed that the practitioner and/or firm is at elevated risk.
- The NZ regulation team undertakes some practice reviews (full and limited scope) of accounting practices on a random basis to assess the presence of systemic quality issues.
- As an Accredited Body under the Auditor Regulation Act 2011 (“ARA”), NZICA monitors those CPP holders who have been issued with an audit licence to act as an auditor in respect of an FMC audit (as defined in s6(1) ARA<sup>1</sup>) to ensure they meet their obligations under the ARA.
- Members of the public and Chartered Accountants ANZ’s own members contact the NZ regulation team outside the formal complaints process concerning the performance of accounting services by a CPP holder or their conduct and the NZ regulation team may make enquiries to determine whether further action is warranted.
- Government authorities acting as regulators of various statutory requirements refer matters to the NZ regulation team in the ordinary course of their work. In the case of FMC audits, the Financial Markets Authority (FMA) refers matters to the NZ regulation team for investigation arising from Quality Reviews performed under the ARA and/or as a result of its market surveillance work. In other cases, Government authorities may refer matters uncovered as a result of general investigations to the NZ regulation team for further inquiries to be made.

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<sup>1</sup> FMC audit —

(a) means the audit of —

(i) the financial statements or group financial statements of an FMC reporting entity that are prepared under the [Financial Markets Conduct Act 2013](#); or  
(ii) the financial statements of a scheme or a fund prepared under [section 461A](#) of the [Financial Markets Conduct Act 2013](#); or  
(iii) the financial statements referred to in [section 461B](#) of the [Financial Markets Conduct Act 2013](#); and

(b) includes any audit or review required to be carried out under the regulations made, or exemptions granted, under the [Financial Markets Conduct Act 2013](#) or the [Securities Act 1978](#) by a qualified auditor (within the meaning of either of those Acts); and  
(c) includes any audit of the financial statements or group financial statements prepared under the [Financial Reporting Act 1993](#) in accordance with [section 55](#) of the [Financial Reporting Act 2013](#); and

(d) includes any issuer audit (as defined in this Act before the commencement of this paragraph); but

(e) does not include any audit carried out under the [Public Audit Act 2001](#) (whether the Auditor-General or any other person is acting as the auditor).

Outside of the NZ regulation team's standard practice review programme, where matters are referred to the NZ regulation team by members of the public, other Chartered Accountants ANZ members or Government bodies, including FMA, and the party making the referral does not wish to make a formal complaint, the NZ regulation team may, following its initial inquiries, determine that further investigation is required. This will include cases where FMA, another regulatory agency or a NZICA disciplinary body requests an investigation. It is noted that in some instances the Professional Conduct Committee or Disciplinary Tribunal may request that the NZ regulation team performs a general or specific review of the member or firm. These investigations are performed under Rule 12 of the NZICA Rules ("the Rules") which provides the necessary powers to conduct the investigation. As such, the investigation is considered to be a practice review although it is distinct from the routine practice review programme.

The NZ regulation team does not undertake investigations into formal complaints as these are handled by the Professional Conduct Committee.

Where matters arise that require further action the NZ regulation team, in broad terms, can pursue one or both of the following categories of action:

- Seek to improve competency of CPP holders (or in the case of FMC auditors; competency of FMC Audit licence holders).
- Refer matters to the Professional Conduct team.

#### *Seek to improve competency*

The NZ regulation team is unable to cancel a CPP once issued. If a matter has arisen that may require consideration of whether a CPP should be removed from a member (and/or other disciplinary action) the NZ regulation team lodges a formal complaint against a member with the Professional Conduct Committee.

However, the NZ regulation team does not automatically lodge complaints against members where matters have arisen following a practice review, FMA quality review, an investigation or an enquiry. The decision whether to lodge a complaint requires professional judgement. The NZ regulation team is required to consult with the Practice Review Advisory Group ("PRAG") or the Auditor Regulation Advisory Group ("ARAG") before referring a complaint to the Professional Conduct Committee.

Where a matter arising does not represent a significant breach of the Code of Ethics or the Rules and the CPP holder is willing and able to remediate, the NZ regulation team will usually seek to improve the competency of the CPP holder. However in deciding whether remediation is appropriate, the NZ regulation team will consider whether there is a risk to the public if the member is permitted to continue providing the relevant services, and whether any such risk may be appropriately mitigated.

The NZ regulation team can seek to improve the competency of CPP holders in respect to matters arising from practice reviews, FMA quality reviews, investigations or enquiries through the following means:

- Require the CPP holder to undertake a period of training prior to undertaking specified engagements.
- Require the CPP holder be supervised by another approved member when undertaking specified engagements.
- Undertake further practice review work (i.e. to assess the CPP holder's remediation of matters arising).

Following a FMA quality review, the NZ regulation team may propose recommendations to FMA to request that firms address any areas for improvement identified during the review. The NZ regulation team may also note areas for further monitoring on its part. The NZ regulation team will request that ARAG advise on these recommendations and monitoring actions as part of its consideration of the quality review reports prior to submitting the quality review reports to FMA. FMA considers the quality review report when preparing its Quality Review Assessment Report for the firm.

Remediation of matters arising from a FMA quality review is normally through the firm's completion of its action plan provided to FMA and the NZ regulation team in response to FMA's Quality Review Assessment Report. The NZ regulation team monitors firms' progress with action plans and these are also reviewed at the next quality review.

In addition to the items above, the NZ regulation team, through delegations from the New Zealand Regulatory Board, may also undertake the following in respect of FMC audit licence holders and registered firms:

- Add a condition to the licence or firm registration (e.g. limiting the types of FMC audits the licence holder or firm can perform for a period of time).
- Suspend the licence.
- Cancel the licence or firm registration.

The NZ regulation team will cancel licences at the voluntary request of the licence holder and audit firm registrations where the eligibility criteria are no longer satisfied. Any decision to cancel a licence or audit firm registration that relates to a matter of a disciplinary nature will be handled as part of the disciplinary process.

The NZ regulation team may exercise its power to suspend an FMC audit licence where a matter arising has been referred on to the Professional Conduct Committee and it is considered to be in the interest of the public to suspend the licence while the outcome of the disciplinary process is determined.

#### *Referring matters to the Professional Conduct team.*

Where the NZ regulation team is unable to, or considers it is inappropriate to, address the matter arising by working to raise the competency of the CPP or FMC audit licence holder the matter is referred to the Professional Conduct Committee by lodging a formal complaint. As previously noted, under the Rules such a complaint may only proceed following consultation with the appropriate advisory group as set out below.

#### *Consultations with Advisory Groups*

The NZ regulation team consults with the following advisory groups in respect to matters arising from practice reviews, FMA quality reviews, enquiries and investigations:

- PRAG and
- ARAG.

The NZ regulation team will consult with the appropriate advisory group before making a complaint to the Professional Conduct Committee and before taking certain licensing action as set out in the previous section.

Subject to the following paragraphs, the appropriate advisory group is ARAG where the matter concerns FMC audits and PRAG in every other case. Where a matter referred to PRAG relates to a licensed auditor or registered audit firm, the NZ regulation team may also refer or report the

matter to ARAG where it considers this is appropriate, for example where the matter may impact the firm's or licence holder's fit and proper status.

Where a referral has been made to the NZ regulation team by FMA in respect of FMC audits and an investigation has been conducted by the NZ regulation team the result of the investigation and the recommendation to address matters arising from it (if any) are presented to ARAG for consultation. A similar approach is taken where there are matters arising from the NZ regulation team's monitoring of FMC audit licence holders' compliance with requirements.

For completeness, where a referral has been made to the NZ regulation team by FMA on matters unrelated to FMC audits (for example; as part of FMA's market surveillance of Authorised Financial Advisers) and an investigation has been conducted by the NZ regulation team the result of the investigation and the recommendation to address matters arising from it (if any) are presented to PRAG for consultation.

If the NZ regulation team is lodging a complaint with the Professional Conduct Committee in relation to a CPP holder that has an FMC audit licence, ARAG would have also been consulted in respect to a recommendation to suspend or not suspend the FMC audit licence while the complaint goes through the disciplinary process.