



AUGUST 2021

# Application Guide

## Licensing of overseas auditors (including Australian auditors) and the registration of overseas audit firms

This document provides guidance on how, under the Auditor Regulation Act 2011, an overseas auditor can apply for a licence to audit FMC reporting entities, and how an overseas audit firm can apply for authorisation of its registration. It also provides guidance on how an individual who is a registered company auditor under the Corporations Act 2001 (AU) can seek registration for an equivalent occupation under s 19 of the Trans-Tasman Mutual Recognition Act 1997, as a licensed auditor under the Auditor Regulation Act 2011.

### Disclaimer

The information in this guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Auditor Regulation Act 2011, the Trans-Tasman Mutual Recognition Act 1997, and other applicable laws apply to you, as it is your responsibility to determine your obligations. The illustrations in this guide are not exhaustive and are not intended to impose or imply particular rules or requirements.

## About this guidance

### Our guidance:

The Financial Market Authority (**FMA**) oversees the regulation of auditors and audit firms in respect of FMC audits under the Auditor Regulation Act 2011 (the **Act**).

Under [s 12](#) and [s 26](#) of the Act, the FMA is responsible for issuing licences to overseas auditors and authorising the registration of overseas audit firms. The FMA is also the local registration authority under the Trans-Tasman Mutual Recognition Act 1997 (**TTMRA**) in respect of Australian auditors seeking registration for an equivalent occupation under the TTMRA.

This guide provides guidance on how:

- an overseas auditor can apply for a licence;
- an overseas audit firm can apply for authorisation of its registration; and
- an individual who is a registered company auditor under the Corporations Act 2001 (AU) (an **Australian Auditor**), can seek registration for an equivalent occupation under s 19 of the TTMRA, as a licensed auditor under the Act.

**Guidance notes:** This guide may be of interest to overseas auditors, prospective overseas auditors, or Australian Auditors, who wish to conduct FMC audits under the Act. For further information about the licensing of overseas auditors, registration of overseas audit firms, or registration of Australian Auditors as licensed auditors in New Zealand, contact the FMA Licensing Team at [auditorregulation@fma.govt.nz](mailto:auditorregulation@fma.govt.nz).

### Document history

This version was issued in August 2021 and is based on legislation and regulations as at the date of issue. It updates and replaces the previous version of the guide that was issued in June 2012.

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# 1. Overview

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## 1.1 Licensing for auditor and registration for audit firm

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### Purpose of this guide

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The purpose of this guide is to provide an overview of:

- the licensing process for an 'overseas auditor' (as defined in s 6(1) of the Act) applying to the FMA for a licence under [s 12](#) of the Act;
- the registration process for an 'overseas audit firm' (as defined in s 6(1) of the Act) applying to the FMA for registration under [s 26](#) of the Act; and
- the registration process for an Australian Auditor seeking registration as a licensed auditor under s 19 of the TTMRA.

This guide does not cover the licensing of an auditor or the authorisation of registration of an audit firm, by an accredited body, under ss [11](#) and [25](#) of the Act. CPA Australia Limited (**CPA AU**) and the New Zealand Institute of Chartered Accountants (**NZICA**<sup>1</sup>) have been granted accreditation by the FMA under the Act. For information on licensing and registration under ss [11](#) and [25](#) of the Act, please visit the respective websites of these accredited bodies.

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<sup>1</sup> NZICA and the Institute of Chartered Accountants of Australia (ICAA) formally amalgamated on 1 January 2015 to form Chartered Accountants Australia and New Zealand (Chartered Accountants ANZ). NZICA continues to regulate the accountancy profession for Chartered Accountants ANZ (CA ANZ) members who remain resident in New Zealand (and by virtue of their residence continue to be NZICA members) according to the NZICA Act 1996, and the terms of the amalgamation agreement. For the purpose of the audit oversight regime, NZICA continues to be the accredited body.

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## Who must be licensed?

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Every natural person who acts as the auditor in respect of an FMC audit (as defined in [s 6\(1\)](#) of the Act) must hold a licence that authorises the person to act as the auditor in respect of that kind of FMC audit ([s 8](#) of the Act). A licence may be issued, on application by a natural person, under:

- [s 12](#) of the Act, by the FMA, if the FMA is satisfied the person is an overseas auditor that meets the other requirements in that section; or
- [s 11](#) of the Act, by an accredited body, if that accredited body is satisfied the person meets the requirements in that section.

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## Who must be registered?

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An audit firm must not accept an engagement or appointment to act as the auditor in respect of an FMC audit unless it is a registered audit firm ([s 9\(1\)](#) of the Act). A registration may be authorised under:

- [s 26](#) of the Act, if on application by an overseas audit firm, the FMA is satisfied that the overseas audit firm meets the requirements in that section; or
- [s 25](#) of the Act, if on application by an audit firm, an accredited body is satisfied that the audit firm meets the requirements in that section.

If an audit firm is engaged or appointed to act as the auditor in respect of an FMC audit, the audit firm must ensure that each engagement partner or director is a licensed auditor whose licence authorises him or her to act as the auditor in respect of that kind of FMC audit ([s 9\(2\)](#) of the Act).

## Meaning of an FMC audit

An FMC audit (see [s 6\(1\)](#) of the Act) –

- means the audit of –
  - the financial statements or group financial statements of an FMC reporting entity that are prepared under the Financial Market Conduct Act 2013 (the **FMCA**); or
  - the financial statements of a scheme or a fund prepared under [s 461A](#) of the FMCA; or
  - the financial statements referred to in [s 461B](#) of the FMCA; and
- includes –
  - any audit or review required to be carried out under the regulations made, or exemptions granted, under the FMCA or Securities Act 1978 by a qualified auditor (within the meaning of either of those Acts); and
  - any audit of the financial statements or group financial statements prepared under the Financial Reporting Act 1993 in accordance with [s 55](#) of the Financial Reporting Act 2013; and
  - any issuer audit (as defined in the Act before 1 April 2014); and
- 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).

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## Australian auditors

An individual who is a registered company auditor under the Corporations Act 2001 (AU) (i.e. Australian Auditor), may (instead of applying for a licence under the Act) seek registration as a licensed auditor, in accordance with [s 19](#) of the TTMRA.

The TTMRA provides mutual recognition between New Zealand and Australia of equivalent occupations. FMA is the local registration authority for an Australian Auditor seeking to be registered as a licensed auditor.

Section 19 of the TTMRA requires the Australian Auditor seeking registration to give a written notice to the FMA. The notice must refer to the information prescribed in [s 19\(2\)](#) of the TTMRA, and must include either –

- (a) a document that is either the original or a copy of the instrument evidencing the Australian Auditor's existing registration (this document must be certified as either the original or a copy); or
- (b) if no such instrument exists, sufficient information to identify the Australian Auditor and the Australian Auditor's existing registration.

Information on the notification requirements for registration under [s 19](#) of the TTMRA are addressed in Part 4 of this guide.

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## Exemptions

Licensing and registration requirements for auditors and audit firms will not apply, if (see [s 10A](#) of the Act) –

- the FMA has granted an exemption under the FMCA that applies in relation to the FMC audit;
- the effect of the exemption is that, for the purposes of the Act, the FMC audit is not required to be carried out by a qualified auditor; and
- the terms and conditions of the exemption are complied with.

For a list of current exemptions under the FMCA, please visit [this link](#).

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## 1.2 Meaning of an overseas auditor and an overseas audit firm

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### Overseas auditor

An 'overseas auditor' is a person who is entitled to act as an auditor in a country, state, or territory outside New Zealand that is prescribed for the purposes of this definition ([s 6\(1\)](#) of the Act).

[Regulation 4](#) of the Auditor Regulations 2012 prescribed the following countries, states, and territories for the purposes of the definition of an 'overseas auditor':

- Australia:
- any country, state, or territory in the European Union:
- Hong Kong Special Administrative Region of the People's Republic of China:
- Singapore:
- the United States of America,

(together, the **Prescribed Jurisdictions**).

Auditors outside New Zealand or not entitled to act as an auditor in a Prescribed Jurisdiction may contact FMA to discuss their licensing process under the Act. As of 31 December 2020, the transition period following the United Kingdom's departure from the European Union ends. This means the United Kingdom will no longer be considered a Prescribed Jurisdiction.

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### Overseas audit firm

An 'overseas audit firm' means an audit firm that is (see [s 6\(1\)](#) of the Act) –

- a partnership where a majority of the partners are ordinarily resident in a country, state, or territory outside New Zealand (**Overseas Audit Partnership**); or
- a body corporate that is incorporated outside New Zealand (**Overseas Audit Company**).

A limited partnership (as defined in [s 6\(1\)](#) of the Act) may not apply and cannot be a registered audit firm ([s 26\(2\)](#) of the Act). However, a partner or director of such an entity can undertake an FMC audit personally if that partner or director is a licensed auditor.

## 1.3 Application process

This guide sets out the application process as follows:

- Part 2 of this guide covers the application process (including the relevant application forms) for an 'overseas auditor' applying for a licence under [s 12](#) of the Act;
- Part 3 of this guide covers the application process (including the relevant application forms) for an 'overseas audit firm' applying for registration under [s 26](#) of the Act; and
- Part 4 of this guide covers the application process (including the relevant notice) for an Australian Auditor applying for registration under s 19 of the TTMRA.

Evidence supporting an application must demonstrate (amongst other things) how the applicant meets the applicable licensing or registration requirements, and how these requirements (as applicable) will be met on an ongoing basis.

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### Assessment of application

Information about how the FMA interprets the requirements in the relevant legislation is discussed in each of the application forms. The FMA must be satisfied that an applicant meets the relevant requirements for licensing or registration (as applicable). Each application will be assessed on its own merits, considering the applicant's particular circumstances.

The FMA may request further information from or interview an applicant as part of the application process. FMA may also make its own enquiries regarding an auditor, audit firm, or partners or directors of an audit firm (including undertaking criminal record checks in New Zealand or other relevant jurisdictions, or contacting an overseas

regulator or professional body for information regarding an application).

If the FMA considers an application should be declined, the FMA will inform the applicant in writing before making a final decision. The FMA will set out why it is considering declining the application and give the applicant the opportunity to make written submissions or to be heard on the matter.

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### False or misleading statements

False or misleading statements in an application, may constitute an offence under [s 96](#) of the Act, if for the purposes of obtaining any licence, registration, or accreditation under the Act (or for any other purposes relating to the Act), a person (either on the person's own behalf or on behalf of any other person), –

- either orally or in writing, makes any declaration or representation to a specified body (including the FMA) that, to the person's knowledge, is false or misleading in any material particular; or
- provides to a specified body (including the FMA) any document knowing that the document contains any declaration or representation that is false or misleading in any material particular, or is not genuine; or
- makes use of any document knowing that the document contains any declaration or representation that is false or misleading in any material particular or is not genuine.

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### Confidential information

Information provided or obtained for an application and held by the FMA is subject to the Official Information Act 1982 (**OIA**). The Financial Markets Authority Act 2011 (**FMA Act**) imports an obligation of confidence on all information supplied or disclosed to the FMA under the FMA Act or any financial markets legislation. These legislations may apply to information provided to the FMA in an application.

## 1.4 Conditions and duration for an auditor licence and the registration of audit firm

### How the conditions and duration apply

The conditions and duration for an auditor licence are applicable to an auditor licence issued to an overseas auditor under the Act or an Australian Auditor pursuant to registration under the TTMRA.

The conditions for registration of an audit firm are applicable to the authorisation of an overseas audit firm's registration.

### Conditions for auditor licence

Conditions for an auditor licence are prescribed under [s 15](#) of the Act, and [cll 5 and 6](#) of the Auditor Regulation Act (Prescribed Minimum Standards and Conditions for Licensed Auditors and Registered Audit Firms) Notice 2020 (the **Standards**).

Every auditor licence must be subject to conditions of the following kind:

- conditions requiring the licensed auditor to comply with any relevant rules and codes ([cl 5\(1\)\(a\) of the Standards](#));
- conditions which ensure the licensed auditor does not accept FMC audit engagements (other than through a registered audit firm of which they are a partner or employee) unless the licensed auditor has under [cl 5\(1\)\(b\) of the Standards](#):
  - systems, policies and procedures that are equivalent to those required of a registered audit firm as prescribed under [cl 8\(1\)\(d\) of the Standards](#); and
  - professional indemnity insurance that is adequate and appropriate for the nature and scale of the licensed auditor's business activities; and
- conditions requiring licensed auditors to provide specified reports and notifications to the FMA ([cl 5\(1\)\(c\) of the Standards](#)); and
- a condition relating to the kinds of FMC audits in respect of which the person is authorised to act under the licence ([s 15\(1\)\(c\) of the Act](#)).

Every auditor licence may also be subject to the conditions of the following kind ([cl 6 of the Standards](#)):

- conditions restricting, or providing a mechanism for restricting or supervising the FMC audits a licensed auditor can undertake;
- conditions regulating the workload taken on by a licensed auditor;
- conditions allowing the relevant accredited body (if applicable) to monitor a licensed auditor's workload and/or monitor a licensed auditor's compliance with any conditions regulating the licensed auditor's workload.

In considering the conditions to impose in respect of an auditor licence, the FMA will have regard to any limitations on the auditor's ability to act in respect of an audit that are imposed by or in relation to any certification, registration, licence, or other authorisation that entitles the auditor to act as an auditor in a country, state, or territory outside New Zealand ([s 16](#) of the Act).

An example of the standard conditions attaching to a licence for an auditor is available in [this link](#).

Section 20(3) of the TTMRA allows the FMA to impose conditions on a licence to achieve equivalence of occupation, provided that no condition imposed may be more onerous than a condition that would be imposed on New Zealand licensees in similar circumstances.

### Conditions for registration of an audit firm

Conditions for registration of an audit firm are authorised under [s 28](#) of the Act.

The registration of an audit firm is subject to any conditions that the FMA thinks fit ([s 28\(1\)](#) of the Act). In considering the conditions to impose in respect of the registration of an audit firm, the FMA will have regard to the individual circumstances of the audit firm. An example of the standard conditions attaching to the registration of an audit firm is available in [this link](#).



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## Duration of auditor licence and registration of audit firm

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An auditor licence must specify the date of its expiry (s [17\(1\)](#) of the Act). The expiry date must not be later than 5 years after the date of the issue of the auditor licence (s [17\(2\)](#) of the Act). The FMA will consider the duration of an auditor licence on a case-by-case basis and inform an applicant before issuing an auditor licence.

The registration of an audit firm does not specify an expiry date.

## 1.5 Register of licensed auditors and registered audit firms

A public online register of licensed auditors and registered audit firms (the **Register**) is maintained by the Registrar of Companies and is available in [this link](#). The operation, access, and contents of the Register are prescribed in Part 2 subpart 4 of the Act. The contents of the Register include details of licensed auditors and registered audit firm. These details on the Register are provided by the FMA, after the FMA issues an auditor licence (including registration under the TTMRA), or authorises the registration of an audit firm (ss [14](#) and [27](#) of the Act).

## 1.6 Ongoing obligations for licensed auditors and registered audit firms

Licensed auditors and registered audit firms must continue to meet their ongoing obligations.

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### Ongoing obligations for licensed auditors

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Ongoing obligations for licensed auditors include:

- continue satisfying the applicable Standards (see s [20\(1\)\(b\)\(iii\)](#) of the Act);
- carrying out FMC audits (see [20\(1\)\(c\)\(ii\)](#) and [21\(1\)\(b\)\(ii\)](#) of the Act):
  - in accordance with the Act or any other enactment that relates to the conduct of an FMC audit;
  - in accordance with auditing and assurance standards; and

- otherwise with reasonable care, diligence and skill;
- maintaining ongoing competence requirements (see ss [12\(1\)\(c\)](#) and [18](#) of the Act, and cl 7 of the Standards); and
- complying with the conditions of the licence (see s [20\(1\)\(b\)\(iv\)](#) of the Act).

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### Ongoing obligations for registered audit firms

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Ongoing obligations for registered audit firms include:

- continue meeting the applicable Standards (see s [29\(1\)\(c\)](#) of the Act), including:
  - maintaining systems, policies, and procedures that comply with the (see cl 8(1)(d) and (e) of the Standards):
    - professional and ethical standards; and
    - auditing and assurance standards relating to FMC audits;
  - ensuring that professional indemnity is adequate and appropriate for the nature and scale of the registered audit firm's business activities (see cl 8(1)(g) of the Standards);
  - ensuring key decisions and judgements in an FMC audit is subject to engagement quality control review by another licensed auditor (see cl 8(1)(f) of the Standards); and
- complying with the conditions of the registration (see s [29\(1\)\(d\)](#) of the Act).

## 1.7 Regulation of licensed auditors and registered audit firms

The regulation of licensed auditors and registered audit firms is governed by the Act.

The licence of an auditor issued under the Act may be cancelled or suspended, on the one of the respective grounds set out in ss [20\(1\)](#) and [21\(1\)](#) of the Act. These grounds include where a licensed auditor:

- obtained the licence by making a false or misleading representation or declaration;
- does not satisfy, or no longer satisfies, the Standards;
- failed to comply with a condition of the licence;
- is not a fit and proper person to hold a licence;
- carried out 1 or more FMC audits that are not or have not been carried out –
  - in accordance with the Act or any other enactment that relates to the conduct of an FMC audit;
  - in accordance with auditing and assurance standards; or

- otherwise with reasonable care, diligence, and skill.

The registration of an audit firm authorised under the Act may be cancelled or suspended, on one of the grounds set out in [s 29\(1\)](#) of the Act.

These grounds include where a registered audit firm:

- no longer has at least 1 partner or director who is a licensed auditor;
- obtained the registration by making a false or misleading representation or declaration;
- no longer meets the prescribed minimum standards; or
- has failed to comply with a condition of its registration.

Further information about the regulation of licensed auditors and registered audit firm is available on [the FMA's website](#). You can also contact FMA's licensing team by email at [auditorregulation@fma.govt.nz](mailto:auditorregulation@fma.govt.nz) with 'Licensing Query' as the subject, or by phone +64 4 472 9830.

## 2. Application process for overseas auditor applying for a licence

### 2.1 Requirements for the FMA to issue a licence to an overseas auditor

The FMA may, on an application made by a natural person, issue a licence to the person if the FMA is satisfied that the person is an overseas auditor that meets the requirements under [s 12](#) of the Act.

### 2.2 How to apply

The general processing time for this application is 60 days.

#### 1. Download and complete the application pack for an overseas auditor:

[Overseas Auditor Application Pack](#)

An overseas auditor must submit the application pack with all the necessary supporting

#### 2. Gather the evidence

Please refer to [Overseas Auditor Application Pack](#) for information relating to the evidence necessary to complete the application.

#### 3. Submit your application to

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

#### 4. Pay your fee

### Other ways to apply for a licence

#### Australian Auditor application under TTMRA

Refer to Part 4 of this guide.

#### Application through accredited bodies

You may choose to apply for a licence through an accredited body, if the accredited body is satisfied that you meet the requirements under [s 11](#) of the Act. For information please visit the respective websites of the accredited bodies, CPA AU and NZICA.

Under [s 24](#) of the Act, a person may appeal to the District Court against a decision of an accredited body or the FMA, as specified in that section. This includes a decision by an accredited body or the FMA to decline issuing a licence to the person, or to include conditions on the person's licence or proposed licence.

## 3. Application process for registration of an overseas audit firm

### 3.1 Requirements for FMA to authorise registration an overseas audit firm

The FMA may, on an application made by an overseas audit firm, authorise the registration of the audit firm, if the FMA is satisfied that the overseas audit firm meets the requirements under [s 26](#) of the Act.

### 3.2 How to apply

The general processing time for this application is 60 days.

#### 1. Download and complete the relevant application pack for:

- (a) **an Overseas Audit Company:**  
[Overseas Audit Firm \(Company\) Application Pack](#); or
- (b) **an Overseas Audit Partnership:**  
[Overseas Audit Firm \(Partnership\) Application Pack](#)

#### 2. Gather the evidence

Please refer to the relevant application pack for further information relating to the evidence necessary to complete the application.

#### 3. Submit your application to [auditorregulation@fma.govt.nz](mailto:auditorregulation@fma.govt.nz)

Alternatively, physical copies of all your application materials should be posted, delivered, or courier to Licensing Team, Financial Markets Authority at –

- **by post:** PO Box 1179, Wellington 6140, New Zealand
- **by delivery or courier:** Level 5 Ernst & Young Building, Loading Bay 59 Tyler Street, Britomart, New Zealand

#### 4. Pay your fee

#### Other ways to apply for a licence

##### Application through accredited bodies

You may choose to apply for a registration through an accredited body, if the accredited body is satisfied that you meet their requirements in [s 25](#) of the Act. For information please visit the respective websites of the accredited bodies, CPA AU and NZICA.

Under [s 31](#) of the Act, an audit firm may appeal to the District Court against a decision of an accredited body or the FMA, as specified in that section. This includes a decision by an accredited body or the FMA to decline authorising the registration of the firm, or to include conditions on the firm's registration.

## 4. Application process for an Australian Auditor applying for registration as a licensed auditor under the TTMRA

### 4.1 Requirements for the FMA to grant registration to an Australian Auditor under the TTMRA

The FMA may, on receiving a notice under s 19 of the TTMRA (the **Notice**), grant an Australian Auditor the registration as a licensed auditor, if the FMA is satisfied that the Notice meets the requirements in that section. Within the period of 1 month after the Notice, the FMA will notify the Australian Auditor whether the registration (as a licensed auditor) is:

- (a) granted on the ground referred to in s 17(1) of the TTMRA;
- (b) postponed, under s 21 of the TTMRA; or
- (c) refused, under s 22 of the TTMRA.

### 4.2 How to apply

The general processing time for this application is 60 days.

#### 1. Download and complete the application pack for an Australian Auditor:

[Australian Auditor Application Pack](#)

#### 2. Gather the evidence

Please refer to [Australian Auditor Application Pack](#) for information relating to the evidence necessary to complete the application.

#### 3. Submit your application to [auditorregulation@fma.govt.nz](mailto:auditorregulation@fma.govt.nz)

Alternatively, physical copies of all your application materials should be posted, delivered, or courier to Licensing Team, Financial Markets Authority at –

- **by post:** PO Box 1179, Wellington 6140, New Zealand
- **by delivery or courier:** Level 5 Ernst & Young Building, Loading Bay 59 Tyler Street, Britomart, New Zealand

#### 4. Pay your fee

Under s 42 of the TTMRA, an applicant may apply to the Trans-Tasman Occupations Tribunal for the review of a decision of the FMA, to refuse to grant registration, postpone the grant of registration, or impose conditions on registration.

## 5. Important reminders

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### 5.1 Important reminders

Please check that you have provided the evidence in accordance with the relevant application pack(s). Incomplete forms, or answers which do not take account of the guidance or information provided, are likely to result in queries and delays in processing your application and additional costs.

An applicant should discuss with the FMA any difficulties in completing the relevant application pack(s), particularly where this arises as a result of the volume of materials provided or to be provided, or because of a particular requirement in the application's jurisdiction.

If it is necessary for an applicant to provide a substitute for specific information, this should be highlighted, and an explanation should also be provided. FMA will consider whether the substitute information provides adequate evidence to assess the relevant requirement.