

A person is seen from behind, running across a suspension bridge. The bridge has a wooden deck and metal railings. The background is a dense forest. The entire image is overlaid with a semi-transparent green filter. In the center, there is a white silhouette of a tooth. The text "GET in SHAPE" is written in white, bold, sans-serif font, with the tooth silhouette acting as the letter "i".

# GET SHAPE

WEBINAR SERIES



# Compliance framework and compliance assurance programme

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# Operating in a Regulated Environment

- Licensing
- Sources of obligations
- FMA powers
- Ongoing licensing obligations
- How your compliance processes help you meet those obligations

# FMA Guidance and Licensing Requirements

## Compliance assurance programmes

This information sheet explains the Financial Markets Authority's expectations for a compliance assurance programme (CAP). It will be useful for entities holding or applying for a licence under the Financial Markets Conduct Act 2013, and anyone involved in the creation, implementation and ongoing operation of a CAP.

### Overview

Entities licensed under the Financial Markets Conduct Act 2013 (FMC entities) are required to have adequate and effective arrangements for challenging and testing their own compliance functions, framework and controls. To meet this obligation, FMC entities are required to have a CAP in place.

This information sheet provides guidance about CAPs, including the minimum standards, our expectations, and what we look for when assessing a licence application and during monitoring of an FMC entity. It also includes elements of what we believe good practice looks like for a CAP.

We discuss the application of the minimum standards in the following section.

### What is a compliance assurance programme?

A CAP is the programme of independent checks to test whether an entity's processes and controls are effective in ensuring the compliance of the business.

We appreciate the term 'compliance assurance programme' is easily confused with a Compliance Programme, but the two are very different.

A CAP provides the entity's oversight body (for example, the board of directors) with assurance that the compliance systems operate effectively and ensure the ongoing compliance of the business. It should challenge and test the design and operation of the entity's processes and controls, the adequacy of governance and management information.

The document that describes the CAP may be part of the entity's wider risk, compliance and governance framework and policies, or it may be a stand-alone document – but the CAP itself is a programme of checks, not a policy, compliance plan or risk register. If the CAP is documented within a policy or framework, its attributes need to be clearly distinguished from other parts of the document.

Effective compliance assurance is an important part of governance arrangements for a licensed firm, but it does not need to be elaborate or complicated. As with core compliance processes, the CAP should be fit for purpose for the entity.

The overriding principle for a CAP is that the programme must be performed independently of those responsible for undertaking and directly managing the functions that are tested.

# Compliance terms

- Compliance
- Compliance Framework
- Compliance Assurance Programme



# Elements of Your Compliance Framework



- These are the key elements that make up your method of complying with your obligations.
  - For small businesses the element may be informal.
  - For larger entities, each element may be supported by its own framework.
- For all regulated entities, you should be able to describe what is in place for each element.

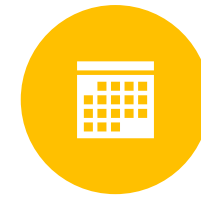
# Elements of your Compliance Assurance Programme



Policy framework



Compliance obligations register



Compliance calendar : business and product/service



Compliance reports



Audit reports



Audit, risk and compliance committee

# Why do you have an Obligations Register?

- Single source of truth
- Links the obligation to the response and the method of assurance.

For example

- **The obligation:** Standard condition of your licence: Record Keeping
- **You create:** A Record Keeping Policy, Procedures and Controls
- **Your test:** Your records, using an appropriate sample size
- **You plan your next test:** by creating a calendar or workplan
- **You report:** your findings to your oversight body
- **You record:** all of the above on your register







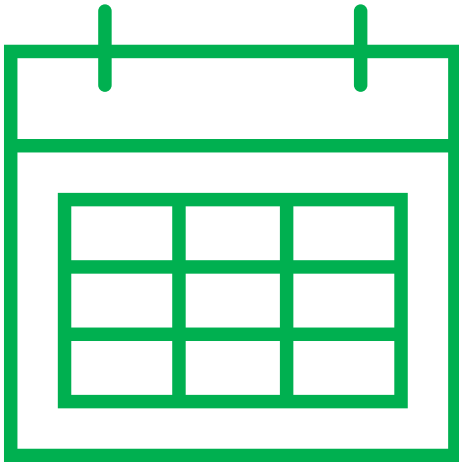
# Key Controls

- Your built in safeguards so you know you comply.
- Automated controls (built into your systems)
- Manual controls (a person does a task)
- Preventative controls (the control stops something happening)
- Detective controls (the control identifies if something has happened)
- Directive controls (the control states the action or policy to be followed)

## Examples:

- Registers (Complaints, Breaches, Conflicts of Interest, Risks)
- Training
- Reconciliation
- Segregation of duties

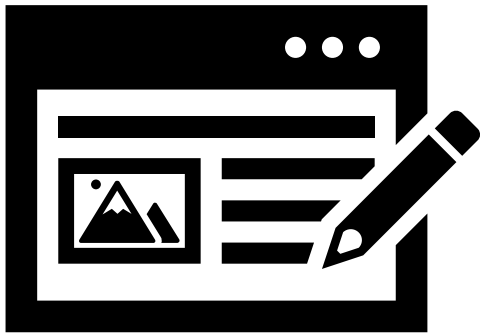
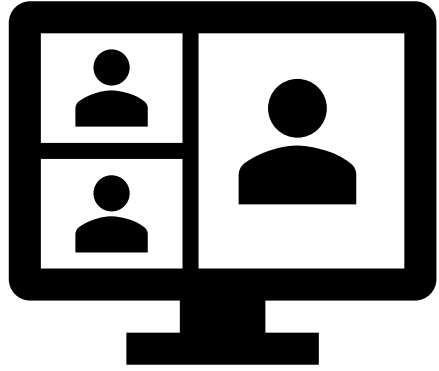
# Compliance Calendar



- Schedule of key compliance activities

For example:

- Annual FSP update
- File a regulatory return
- Review and update your Policy Manual
- Independent audits
- Run a BCP or cyber security test

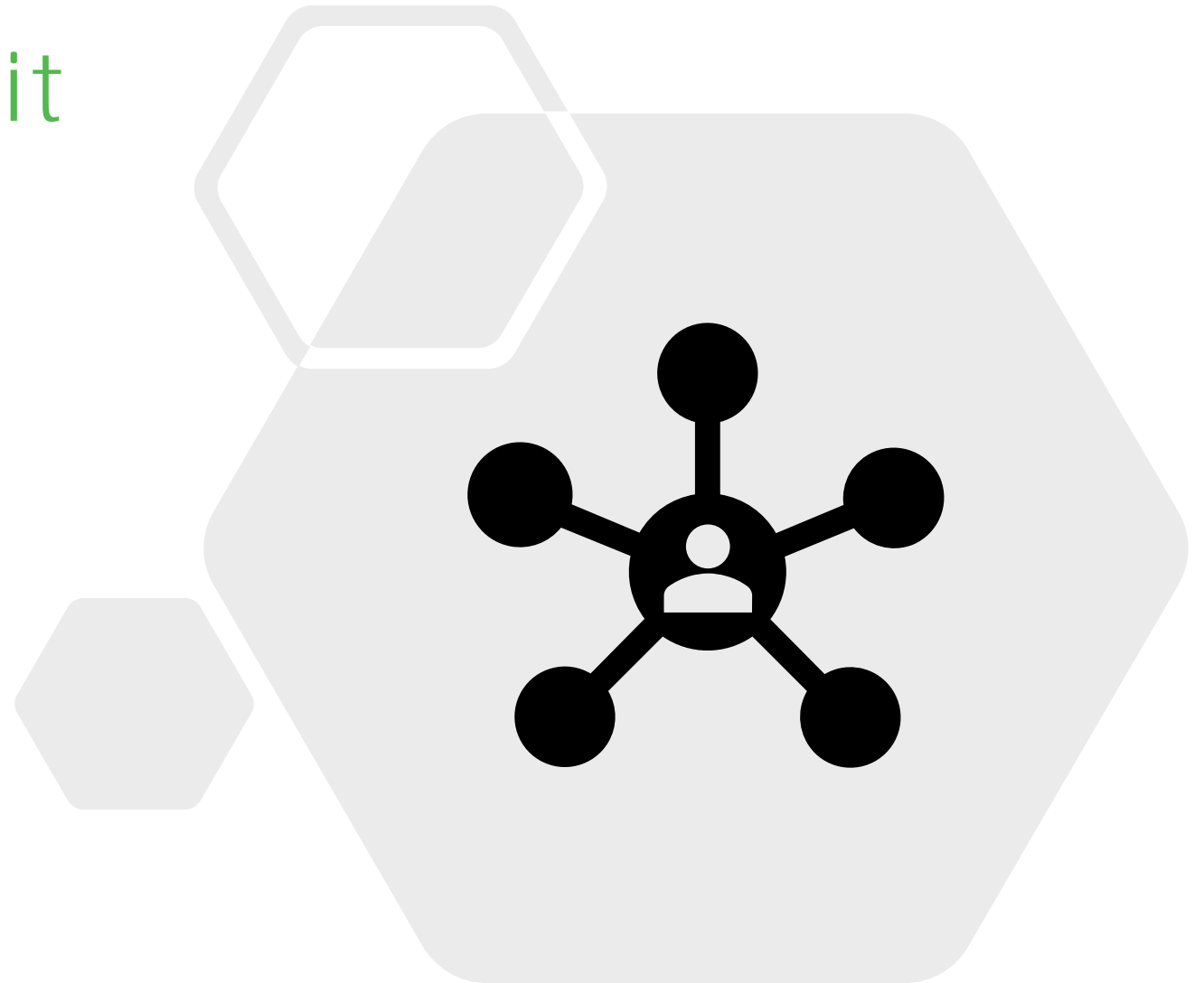


# Compliance Reporting

- Purpose:
  - To provide evidence to your oversight body that you are meeting your regulatory obligations.; and
  - Provide information for key decision making.
- What to report?
  - How do you know
  - What was reviewed
  - What was found
  - What did you do
- Examples of important issues to report on
  - Status of CAP
  - Complaints and issue monitoring
  - Key business risks
  - What's on the horizon (opportunities, regulatory change etc)

# Make your CAP Fit for Purpose

- Target toward licence type
- Consider the nature, size, scale or complexity of your business
- Review the FMA's commentary
- Obtain an independent review from time to time
- Focus on key business risks e.g.
  - Advice and conduct risk
  - Cyber security risk
  - Financial stability



# Use your Compliance Budget wisely

- Self manage compliance
- Identify complex or higher risk areas
- Benefits of periodic external views
- Need for internal day to day compliance
- Keep compliance sustainable
- Ask your FAP what your compliance fee covers
- Buy an Obligations Register!



# Regulatory Reporting Requirements

- Material changes to your business (full licence conditions)
- Material change in circumstances / material contravention
- Other ongoing reporting requirements (e.g. changes in director / senior manager; proceedings commenced against licensee)
- FMA approach to self reporting





# Summary

- Now that you are regulated, you need processes so you know you comply and can demonstrate those to the FMA
- That process needs to be fit for purpose for your business size and scale
- You will need to set a budget and allocate time and resources
- Many compliance tasks can be automated
- Remember to build with your client at the centre



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