

Statutory Declaration Fit and Proper, Firm

STATUTORY DECLARATION UNDER THE OATHS AND DECLARATIONS ACT 1957

This declaration is made for the purposes of an application on behalf of ('the Firm') to become a registered audit firm for the purposes of the Auditor Regulation Act 2011 ('the Act').

To comply with section 26(1)(d) of the Act the Firm must meet the minimum standards for audit firms set out in Auditor Regulation Act (Prescribed Minimum Standards and Conditions for Licensed Auditors and Registered Audit Firms) Notice 2012 ('the prescribed minimum standards') prescribed by FMA pursuant to section 32 (1) (g) of the Act. Clause 8(1)(c) of the prescribed minimum standards requires that all of the Firm's partners must be fit and proper persons as assessed by FMA.

This declaration provides evidence of the steps taken by the firm and the partner who signs this declaration to identify any relevant information and confirms the correctness and completeness of information provided.

I, _____ of _____,

_____ do solemnly and sincerely declare that:

1. I am a partner of _____ ('the Firm'), which has submitted an application to FMA for registration as an overseas audit firm under section 26 of the Auditor Regulation Act 2011 ('the Act').
2. I have taken the following steps to ascertain whether the partners of the Firm are fit and proper persons:
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3. After due enquiry, I am satisfied that all partners of the Firm are fit and proper persons to be partners of a registered audit firm.
4. The names of all partners (if any) of the Firm who have potentially adverse matters to disclose to FMA have been listed in Annexure A to this declaration.

5. Except as set out in Annexure A and the appendices to this declaration, after due enquiry, to the best of my knowledge none of the matters referred to in paragraph 12 of Appendix A of FMA’s Application Guide: Licensing and registration of overseas auditors and audit firms dated 11 May 2012 apply to any of the partners of the Firm.

6. Except as set out in Annexure A and the appendices to this declaration, after due enquiry, to the best of my knowledge there are no other matters which adversely affect the fitness and propriety of any of the partners of the Firm.

7. I am satisfied that the matters set out in Annexure A and the appendices to this declaration are true, correct and complete.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Signature of declarant

Declared at this day of 201

Before me:

.....

..... *(Signature of Witness)*

..... *(Name of Witness in block letters)*

..... *(Title/Occupation of Witness)*

..... *(Address of Witness)*

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Instructions and guidance for completing the statutory declaration

Background considerations

1. Before completing this statutory declaration you should read and consider the information in FMA's Application Guide: Licensing and registration of overseas auditors and audit firms, particularly the information on how a person is assessed by FMA as being a fit and proper person in Appendix A to that document.
2. You additionally must make all enquiries necessary to ensure that:
 - (a) all matters which should be disclosed (including matters of the types described in Appendix A of FMA's Application Guide: Licensing and registration of overseas auditors and audit firms) have been disclosed; and
 - (b) the matters set out in the appendices to the declaration are true, correct and complete in respect of all partners of your firm.
2. This may include (for example) receiving written confirmations from each of the partners, undertaking checks with regulatory or law enforcement agencies, and relying on previously conducted checks (in which case you should summarise the nature of those checks and when they were done).
3. In making this declaration, you must be satisfied that each partner is fit and proper at the time the declaration is made. This means that you will need to take into account current information about fitness and propriety, as well as any considering any assessments previously made or information previously collected.

Completing the appendices

4. Where you identify matters which should be disclosed, you will need to fill out an appendix form for each matter. Please use the Adverse Matter Template (AMT1.1). Appendix forms should be numbered sequentially, starting at '1' and continuing for as many appendices as are required to detail all relevant matters. This appendix number will be the reference used in Annexure A.
5. Applicants should complete all fields on the AMT1.1 appendix form. In the 'full description of the matter' section, you must set out all relevant facts and circumstances, the findings of any court or tribunal that has considered the matter, and details of any orders made or penalty imposed.
6. If a matter relates to more than one partner, it is acceptable to refer in the 'full description of the matter' section to information provided in another appendix. However, at least one appendix needs to provide a full explanation of the matter, and all relevant information must be provided for all partners involved.
7. If you require additional pages for an appendix, you should complete one or more additional pages. On the additional page template, fill in the appendix number (which should be the same as the first page of the appendix) and sequentially number the pages.

Completing the declaration form

8. To make the declaration you must complete, in the spaces in the lead-in paragraph, your full name (including any middle names), your place of residence (city and country), and your occupation. In the spaces in the introductory paragraph and paragraph 1, you should the name of your firm (which must be the same as the audit firm name on the application form).
9. In paragraph 2 of the declaration you will need to insert a summary of the key steps you have taken to satisfy yourself that all matters relating to fitness and propriety which should be disclosed have been detailed in Annexure A and the appendices, and that the information about those matters is correct and complete. Where reliance is placed on any previous fit and proper checks, information will need to be provided about the purpose of those checks, what the checks involved, and when the checks were last undertaken.
10. You will need to complete in the Annexure A the names of each partner to whom one or more appendices relates and the relevant appendix numbers for each. If you require more than one page for Annexure A, continue on one or more 'Annexure A – continued' pages (as required) and record on each additional page the page number and the total number of pages.

Executing the declaration

3. You will need to sign in the indicated space and initial each other page (including Annexure A and the appendices). The witness will need to see you sign the declaration – do not sign or initial the declaration in advance. Once you have signed the declaration, your witness will need to sign the declaration and complete their details in the relevant spaces.
4. Your witness will need to be one of the people named in sections 9 or 13 of the Oaths and Declarations Act 1957, depending on which jurisdiction you sign the declaration in. Broadly, these people are:
 - (a) Where the declaration is made in New Zealand, a barrister or solicitor of the High Court of New Zealand, a Justice of the Peace, a notary public, a Registrar or Deputy Registrar of the Supreme Court, the Court of Appeal, the High Court or a District Court, or another person referred to in section 9 of the Oaths and Declarations Act 1957.
 - (b) Where the declaration is made in a country other than New Zealand which is part of the British Commonwealth of Nations, a Judge, a Commissioner of Oaths, a notary public, a Justice of the Peace, a person authorised by the law of that country to administer an oath for the purpose of a judicial proceeding in that country, an Ambassador, High Commissioner, or Consular Officer of a Commonwealth country, or a solicitor of the High Court of New Zealand.
 - (c) Where the declaration is made in any other country, the declaration should be made before an Ambassador, High Commissioner, or Consular Officer of a Commonwealth country, a Judge, a notary public, or a solicitor of the High Court of New Zealand.

Offences

5. It is an offence to knowingly make or use a false declaration, and any person convicted of knowingly making a false declaration may be subject to a fine or imprisonment. In addition, making a false or misleading declaration in order to obtain registration of an audit firm is likely to result in that registration being declined or cancelled, and the audit firm may be declined any further registration.