

# Have your say on Financial Markets Conduct Amendment Bill

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» Have your say on Financial Markets Conduct Amendment Bill

**Originally published:** 21 May 2025

**Last updated:** 21 May 2025

## Media Release

**Organisation:** Finance and Expenditure Committee

**For release:** 21 May 2025

## Have your say on Financial Markets Conduct Amendment Bill

The Finance and Expenditure Committee is calling for submissions on the Financial Markets Conduct Amendment Bill. The closing date for submissions is 11.59pm on Monday, 23 June 2025.

This bill is one of three that the Finance and Expenditure Committee is considering related to financial services. The other two bills are the **Financial Service Providers (Registration and Dispute Resolution)** ([https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN\\_SCF\\_A4D89CB0-CE82-4D28-0D59-08DD6FF875CC/financial-service-providers-registration-and-dispute-resolution](https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN_SCF_A4D89CB0-CE82-4D28-0D59-08DD6FF875CC/financial-service-providers-registration-and-dispute-resolution)), Amendment Bill and the **Credit Contracts and Consumer Finance Amendment Bill** ([https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN\\_SCF\\_6193A33C-40D6-4354-0D5A-08DD6FF875CC/credit-contracts-and-consumer-finance-amendment-bill](https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN_SCF_6193A33C-40D6-4354-0D5A-08DD6FF875CC/credit-contracts-and-consumer-finance-amendment-bill)).

### Please take care to upload your submission on the relevant bill.

The bill would:

- change minimum requirements for fair conduct programmes to allow for more flexibility and to reduce unnecessary prescription and compliance costs
- require the Financial Markets Authority (FMA) to issue a single licence covering different classes of market services
- change provisions that require firms holding a licence under the Financial Markets Conduct Act, or authorised bodies, to obtain regulatory approval from the FMA before certain changes in firms take effect
- introduce on-site inspection powers for the FMA to, without notice, enter and remain at a place of business of a financial markets participant for compliance monitoring purpose
- make a number of other technical amendments.

### Tell the Finance and Expenditure Committee what you think:

**Make a submission** ([https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN\\_SCF\\_8C9FE069-724A-4200-0D58-08DD6FF875CC/financial-markets-conduct-amendment-bill](https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCFIN_SCF_8C9FE069-724A-4200-0D58-08DD6FF875CC/financial-markets-conduct-amendment-bill)) on the bill by 11.59pm on Monday, 23 June 2025.

### For more details about the bill:

- **Read the full content of the bill** (<https://www.legislation.govt.nz/bill/government/2025/0135/latest/whole.html>)
- **Get more details about the bill** (<https://www.mbie.govt.nz/business-and-employment/business/financial-markets-conduct-regulation/2024-financial-services-reforms>)
- **Read what's been said in Parliament about the bill** ([https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb\\_20250520\\_20250520\\_64](https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/HansDeb_20250520_20250520_64))

**ENDS**

**For media enquiries contact:**

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New Zealand Legislation

# Financial Markets Conduct Amendment Bill

## Financial Markets Conduct Amendment Bill

Government Bill

135—1

### Explanatory note

#### General policy statement

This is an omnibus Bill introduced in accordance with Standing Order 267(1)(a). That Standing Order provides that an omnibus Bill to amend more than 1 Act may be introduced if the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. The single broad policy is to strengthen financial markets conduct by making it easier for participants to comply with the requirements of, and for the Financial Markets Authority (the **FMA**) to administer, the financial markets regulatory system.

This Bill amends the Financial Markets Conduct Act 2013 (the **FMCA**) and the Financial Markets Authority Act 2011. The Bill is part of a financial services reform package of 3 Bills that seek to streamline and ensure the effectiveness of financial services regulation. The objectives of this reform are to—

- simplify and streamline regulation of financial services (including reducing duplication); and
- remove undue compliance costs for financial markets participants; and
- improve outcomes for consumers.

The other 2 Bills are the Financial Service Providers (Registration and Dispute Resolution) Amendment Bill and the Credit Contracts and Consumer Finance Amendment Bill.

#### Conduct reforms progressed by this Bill

##### *Fair conduct programme minimum requirements*

The Bill simplifies and clarifies minimum requirements for fair conduct programmes to allow for more flexibility and to reduce unnecessary prescription and compliance costs. This includes—

- clarifying the requirement to communicate with consumers in a timely, clear, concise, and effective manner to expressly include communicating about the price of services or products; and
- adding a requirement about resolving consumers' complaints in a timely and effective manner; and
- adjusting the requirements relating to training, supervising, and monitoring employees to reduce the level of prescription; and
- removing requirements relating to existing legal obligations and regularly reviewing effectiveness of fair conduct programmes.

##### *Single licence and consolidation*

The Bill requires the FMA to issue a single licence covering different classes of market services. Facilitating the move to a single licence through legislation will improve clarity and certainty for firms and the FMA regarding the licensing model. This approach also means that existing licenses held by a firm can be automatically consolidated by the Bill into a single licence.

##### *New powers for change in control approval and on-site inspection*

The Bill introduces change in control approval provisions that require firms holding a licence under the FMCA, or authorised bodies, to obtain regulatory approval from the FMA before certain changes in firms take effect. This covers changes where another person obtains significant influence, defined as obtaining 25% of voting rights or the ability to appoint 50% of directors. It also covers significant transactions (asset sales) of a material part of the business and amalgamations. The purpose of this power is to ensure that a proposed restructure does not negatively impact on the interests of consumers from a conduct perspective and aligns with the prudential approach to changes in control.

The Bill introduces on-site inspection powers for the FMA to, without notice, enter and remain at a place of business of a financial markets participant for compliance monitoring purposes. This allows the FMA to conduct routine monitoring inspections of financial markets participants that have a general purpose of proactively and independently verifying regulatory compliance and enables the FMA to act quickly and reduce potential harm to consumers.

### Technical amendments

The Bill also makes a number of technical amendments to the FMCA, the Financial Markets Authority Act 2011, and the Financial Markets Conduct Regulations 2014 to cut red tape, improve the operation of the legislation, and reduce costs on business and government.

The Bill makes a number of exemptions already made under the FMA's exemption powers permanent. Most of these exemptions have already been made for 2 5-year periods by the FMA and it is clear they are needed in the long term.

### Departmental disclosure statement

The Ministry of Business, Innovation, and Employment is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2025&no=135>

### Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 13 August 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <https://www.mbie.govt.nz/dmsdocument/29101-regulatory-impact-statement-fit-for-purpose-financial-markets-conduct-regulation>
- <https://treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* provides for most of the Bill to come into force on the day after Royal assent. However,—

- the amendments relating to the conduct of financial institutions (for example, changes to the minimum requirements for fair conduct programmes) come into force 6 months after Royal assent. *See*, in particular, *clause 19*;
- the amendments that provide that a person may hold only 1 market services licence (rather than multiple licences) come into force by Order in Council within 1 year of Royal assent. *See*, in particular, *clause 17*. Commencing the amendments by Order in Council will provide flexibility to align commencement with other changes that require creditors and mobile traders to hold, or be authorised under, a market services licence (rather than being certified under the Credit Contracts and Consumer Finance Act 2003). These changes are being made by the Credit Contracts and Consumer Finance Amendment Bill;
- the amendments to require the FMA's approval of certain changes to licensees and authorised bodies come into force by Order in Council within 3 years of Royal assent. *See*, in particular, *clause 18*. Commencing the amendments by Order in Council will provide flexibility for an approval process to be consulted on and implemented. It will also leave open the potential to align the commencement of the changes with the commencement of similar requirements under subpart 5 of Part 2 of the Deposit Takers Act 2023.

## Part 1

## Amendments to Financial Markets Conduct Act 2013

*Part 1* amends the Financial Markets Conduct Act 2013 (the **FMCA**).

*Clause 4* amends section 6, which relates to interpretation. The clause replaces the definition of financial advice product with a definition of FMC product. This reflects the fact that the definition is used in some contexts other than in relation to financial advice.

The Bill contains related amendments to replace references to financial advice product with references to FMC product throughout the FMCA and other financial markets legislation. *See*, in particular, *Schedules 2 and 3*.

*Clause 6* inserts *new section 131A*. The new section moves into the FMCA the substance of the Financial Markets Conduct (Licensed Independent Trustees of Restricted Schemes) Exemption Notice 2021. The provision relates to an independence requirement for the licensed independent trustee of a restricted scheme. The provision disappplies, in limited situations, a restriction on a licensed independent trustee being a director of certain related bodies corporate.

*Clauses 7 to 10* amend sections 216 and 220 to 222, which relate to an issuer's duties to keep a register of regulated products and to make the register available for inspection. The main changes are to—

- modify the requirement for the register to be kept only in New Zealand. Instead, the Bill allows the register to be kept in a place in New Zealand, Australia, or any other country prescribed by the regulations:
- modify the requirement for the register to be made available for inspection at the place in New Zealand at which the register is kept to allow inspection at some other place in New Zealand:
- allow the register to be made available for inspection on an internet site (as an alternative to a place in New Zealand):
- consequentially modify the duty for the issuer to give notice to the Registrar of where the register is available for inspection.

*Clause 11* amends section 238, which sets out situations in which a person is not treated as having a relevant interest in a financial product. The amendment provides that a regulatory agency is not treated as having a relevant interest if it is merely performing or exercising a statutory function, power, or duty.

*Clauses 12 to 15* amend sections 304 to 307, which relate to a listed issuer's duties to keep an interests register and to make the register available to the public for inspection. The main changes are to—

- clarify that an interests register may be an electronic register:
- modify the requirement for the interests register to be kept only in New Zealand. Instead, the Bill allows the register to be kept in a place in New Zealand, Australia, or any other country prescribed by the regulations:
- modify the requirement for the interest register to be made available for inspection at the place in New Zealand at which the register is kept to allow inspection at some other place in New Zealand:
- allow the interest register to be made available for inspection on an Internet site (as an alternative to a place in New Zealand):
- consequentially modify the duty for the listed issuer to give notice to the FMA of where its interests register is available for inspection.

*Clause 17* amends section 399, which provides for a market services licence to specify the particular market services to which it relates. The amendment provides that a person may now hold only 1 market services licence (rather than multiple licences). However, the same licence may cover more than 1 type of market service. *New clause 101* of Schedule 4 (in *Schedule 1* of this Bill) contains a transitional provision to provide for situations where a person currently holds 2 or more market services licences. The transitional provides for the licences to be consolidated into a single licence.

*Clause 18* inserts *new subpart 3A of Part 6*. The new subpart requires the FMA's approval for certain changes relating to market service licence holders or authorised bodies. The provisions are similar to subpart 5 of Part 2 of the Deposit Takers Act 2023, which will require the Reserve Bank's approval for certain changes to banks or other deposit takers that are licensed under that Act. In summary,—

- a person who obtains significant influence over a licensee or an authorised body must obtain the FMA's approval. A person obtains significant influence if they obtain (either alone or together with related persons) the power to exercise, or control the exercise of, 25% or more of the voting rights in the licensee or authorised body or to appoint 50% or more of its directors. The requirement does not apply in relation to an overseas licensee or authorised body, which must instead notify the FMA if a person obtains significant influence:
- a licensee or an authorised body must obtain the FMA's approval before entering into a significant transaction. This includes transferring all or a material part of its business (or its New Zealand business) or acquiring all or part of a business that will be a material part of its business (or its New Zealand business). What is material must be determined under the regulations:

- a licensee or an authorised body must obtain the FMA’s approval before amalgamating with 1 or more other entities. The requirement does not apply in relation to an overseas licensee or authorised body, which must instead notify the FMA if it amalgamates with another entity:
- the subpart provides for the process for obtaining approval. In considering a request for approval, the FMA must consider whether the licensing requirements of the FMCA will still be met if the change occurs. The FMA must consult the Reserve Bank if the licensee or authorised body is an entity regulated by the Reserve Bank:
- the FMA’s approval may be subject to terms and conditions.

For related amendments, *see*—

- *clause 22*, which amends section 449 to provide for civil liability consequences for a contravention of the duties in *new subpart 3A of Part 6*. For example, the High Court may order a person in contravention to pay a pecuniary penalty; and
- *clause 30*, which amends section 546 to allow regulations to exempt licensees or authorised bodies from the requirements in *new subpart 3A of Part 6*. Regulations that grant an exemption are subject to procedural requirements under section 550 (as amended by *clause 31*).

*Clause 19* amends section 446J, which sets the minimum requirements for a fair conduct programme of a bank, an insurer, or another financial institution. A fair conduct programme is designed to ensure that a financial institution complies with the principle that a financial institution must treat its consumers fairly (the **fair conduct principle**). In summary, the changes—

- omit a requirement about enabling the financial institution to meet its legal obligations to consumers. *Clauses 20 and 29* make consequential amendments:
- omit a requirement about regularly reviewing the effectiveness of the programme (but a requirement for deficiencies to be promptly remedied is retained):
- disapply requirements about distribution methods for providing services or products to consumers if the financial institution no longer uses such methods. Similarly, requirements about incentives apply only if relevant:
- clarify or simplify requirements about the financial institution’s employees and agents. For example, the requirements for managing or supervising, and providing training to, employees are clarified and simplified to focus on ensuring that employees are supporting the financial institution’s compliance with the fair conduct principle:
- add a requirement about resolving consumers’ complaints in a timely and effective manner. *Clause 21* adds a definition of complaint to section 446P:
- clarify the requirement about communicating with consumers in a timely, clear, concise, and effective manner to expressly include communicating about the price of services or products.

*Clause 21* adjusts the definition of insurer in section 446P, which applies for the purposes of the fair conduct obligations in *subpart 6A of Part 6*. The change ensures that the definition is more consistent with concepts in the Insurance (Prudential Supervision) Act 2010 (for example, section 8 of that Act refers to being liable as an insurer under a contract of insurance rather than entering into a contract of insurance).

*Clause 23* amends section 456. This section currently allows an FMC reporting entity’s accounting records to be kept outside New Zealand only if there are sent to New Zealand documents that will enable the preparation of the entity’s financial statements. The amendment extends this to allow the documents to be sent to Australia or another country prescribed by the regulations.

*Clause 24* amends section 459, which relates to the inspection of accounting records. The amendment provides that the accounting records and documents referred to in section 456 must be available for inspection electronically.

*Clause 25* amends a requirement in section 461 for the balance date of a FMC reporting entity to be the same as the balance date of its subsidiaries. The amendment disapplies the requirement if a subsidiary is incorporated overseas and the balance date can not be changed at the absolute discretion of the subsidiary or FMC reporting entity. The change moves into the FMCA the substance of the Financial Markets Conduct (Overseas Subsidiary Balance Date Alignment) Exemption Notice 2021.

*Clauses 26 and 28* move into the FMCA the substance of the Financial Markets Conduct (Financial Statements for Schemes Consisting Only of Separate Funds) Exemption Notice 2022. Where a registered scheme consists only of separate funds, the amendment ensures that financial statements are required to be prepared only for each fund and not for the scheme as a whole.

*Clause 35* inserts *new section 558A*, which provides for the Financial Markets Conduct (Multiple-participant Schemes—Participation Agreements) Exemption Notice 2022 to continue in force for more than 5 years despite section 558.

*Clause 40* inserts *new section 561B*. *Section 561A* already provides for when exemptions granted by the FMA from financial reporting and climate-related disclosure requirements may apply to accounting periods that have commenced before the

exemption is granted. That section ensures that the temporal application of the FMA's exemption power is clear. *New section 561B* applies in a similar way to FMA exemptions from other duties imposed under the FMCA or the regulations that apply in connection with a period of time (for example, a duty to prepare an annual report for a 12-month period).

*Clause 48* repeals subpart 5 of Part 9. This subpart contains general provisions relating to various instruments issued or made by the FMA. This includes, in particular, exemptions granted under subpart 2 of Part 9 and declarations made under subpart 3 of Part 9. The subpart—

- provides for the various instruments to be secondary legislation; and
- requires the FMA to publish its reasons for issuing or making an instrument.

Instead of having these provisions located in subpart 5 of Part 9, the Bill moves them to each of the provisions that give the FMA the power to issue or make the instruments. The Bill consequentially updates various cross-references. *See clauses 5, 27, 32 to 34, 37 to 39, 41 to 47.*

*Clause 49* amends clause 19 of Schedule 1, which relates to a disclosure exclusion for offers of financial products of the same class as quoted financial products. The amendment clarifies how the exclusion applies to offers of options by way of sale.

*Clause 50* and *Schedule 1* amend Schedule 4 to provide for transitional and savings provisions.

## Part 2

### Amendments to Financial Markets Authority Act 2011

*Part 2* amends the Financial Markets Authority Act 2011.

*Clause 55* amends the section 4, which relates to interpretation. The main amendment relates to the definition of financial markets participant. The Act provides for the FMA to perform or exercise functions, powers, and duties in connection with financial market participants.

The definition already provides that if a company or another body corporate is a financial market participant, related companies or bodies corporate will also be financial markets participants. The amendment extends this to ensure that if an individual is a financial market participant, related companies or bodies corporate of that individual will also be financial markets participants.

*Clause 56* inserts *new sections 28A to 28D*. The new sections give the FMA an on-site inspection power similar to the power that the Reserve Bank has under subpart 2 of Part 4 of the Deposit Takers Act 2023. In summary,—

- the purpose of the power is to facilitate the FMA's ability to monitor compliance with financial markets legislation by, for example, assessing the adequacy of a financial markets participant's policies, processes, controls, or other arrangements or verifying the reliability of information supplied to the FMA;
- the power allows the FMA to enter a participant's place of business to carry out an on-site inspection for the purposes of doing any of the things referred to in *new section 28A*. The FMA may exercise the power only at a reasonable time and in a reasonable manner, but is not required to give notice of the exercise of the power;
- an employee, director, or agent of the financial markets participant may be required to answer questions relating to its records and documents and to supply other information;
- if the FMA finds evidence of a contravention, it is not required to obtain a search warrant to continue exercising its on-site inspection powers.

*Clause 57* amends section 55, which gives a person who is exercising a power under the Act protection from liability (unless the person acts in bad faith). The amendment extends this provision to cover the new on-site inspection power.

*Clause 58* amends section 61, which imposes criminal liability for obstructing the exercise of powers under the Act. The amendment extends this provision to cover the new on-site inspection power.

*Hon Scott Simpson*

## Financial Markets Conduct Amendment Bill

Government Bill

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**Schedule 3**  
**Consequential amendments**

The Parliament of New Zealand enacts as follows:

## 1 Title

This Act is the Financial Markets Conduct Amendment Act **2025**.

## 2 Commencement

- (1) This Act comes into force on the day after Royal assent.
- (2) However,—
  - (a) **sections 4(4), 19 to 21, 29, and 30(2)** come into force 6 months after Royal assent; and
  - (b) **sections 4(3), 16 to 18, 22, 30(1) and (3), and 31** come into force on a date or dates set by Order in Council.
- (3) If **section 17** has not come into force by the first anniversary of Royal assent, it comes into force then.
- (4) Any provision of **sections 4(3), 16, 18, 22, 30(1) and (3), and 31** that has not come into force by the third anniversary of Royal assent comes into force then.
- (5) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

# Part 1

## Amendments to Financial Markets Conduct Act 2013

## 3 Principal Act

This Part amends the Financial Markets Conduct Act 2013.

## 4 Section 6 amended (Interpretation)

- (1) In section 6(1), repeal the definition of **financial advice product**.
- (2) In section 6(1), insert in its appropriate alphabetical order:

**FMC product** means—

- (a) a financial product (as defined in section 7); or
- (b) a DIMS facility; or
- (c) a contract of insurance; or
- (d) a consumer credit contract; or
- (e) any other product declared by the regulations to be an FMC product; or
- (f) a renewal or variation of the terms or conditions of an existing FMC product

- (3) In section 6(1), insert in their appropriate alphabetical order:

**overseas authorised body** means an overseas person that is an authorised body

**overseas licensee** means an overseas person that holds a market services licence

**overseas person** means—

- (a) a body corporate incorporated outside New Zealand; or
- (b) an unincorporated body that has its head office or principal place of business outside New Zealand

- (4) In section 6(1), insert in its appropriate alphabetical order:

**price**, in relation to a financial service, a relevant service (as defined in section 446F), or an FMC product, includes valuable consideration in any form, whether direct or indirect; and includes any consideration that in effect relates to the supply of the service or the acquisition of the product, although ostensibly relating to any other matter or thing

## 5 Section 69 amended (Waiting period does not usually apply to continuous issue PDSs)

Replace section 69(4) with:

- (4) The FMA's reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.
- (5) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## 6 New section 131A inserted (Independence requirement in section 131(1)(d) partly disapplied for certain restricted schemes)

After section 131, insert:

### 131A Independence requirement in section 131(1)(d) partly disapplied for certain restricted schemes

- (1) This section applies to a restricted scheme if—
  - (a) either—
    - (i) the scheme's trustees consist only of a sole corporate trustee; or
    - (ii) both of the following apply:
      - (A) the scheme's trustees include a licensed independent trustee who also acts as a director of a sole corporate trustee for 1 or more other restricted schemes;
      - (B) the sole corporate trustee is a related body corporate of a relevant person; and
  - (b) the licensed independent trustee in respect of the scheme is not a director of any related body corporate of a relevant person (other than a related body corporate that is a sole corporate trustee referred to in **paragraph (a)**); and
  - (c) the constitution of a sole corporate trustee referred to in **paragraph (a)** does not authorise any of its directors to act in a manner that the director believes is in the best interests of a holding company of the sole corporate trustee even though it may not be in the best interests of the sole corporate trustee.
- (2) Section 131(1)(d) does not apply to the extent that it requires the licensed independent trustee to be a person who is not a director of a related body corporate of a relevant person (*see* paragraph (c) of the definition of independent in section 131(3)).
- (3) In this section, **relevant person**, in relation to a restricted scheme, means—
  - (a) an employer that provides access to the scheme for its employees; or
  - (b) an administration manager or an investment manager of the scheme.

## 7 Section 216 amended (Manner of keeping registers)

- (1) In section 216(1), after “New Zealand”, insert “, Australia, or any other country, state, or territory prescribed by the regulations”.
- (2) In section 216(2), replace “may” with “must”.

## 8 Section 220 amended (Issuer must notify Registrar of registers)

Replace section 220(1) to (3) with:

- (1) If, under section 221, a register of regulated products (or a part of a register) must be available for inspection under **section 222**, the issuer must send a notice to the Registrar of—
  - (a) either or both of the following:
    - (i) the place in New Zealand where the register (or part) is available for inspection under **section 222(1)(a)(i)**;
    - (ii) a link to or URL for the page or section of the Internet site on which the register (or part) is available for inspection under **section 222(1)(a)(ii)**; and
  - (b) any change in the information referred to in **paragraph (a)** (including a change in whether the issuer complies with **section 222(1)(a)(i) or (ii)** or both).
- (2) The issuer must give the notice within 10 working days after—

- (a) the register is established; or
  - (b) a change referred to in **subsection (1)(b)** occurs.
- (3) If a relevant person (within the meaning of **section 222**) requests that an issuer provide information about how a register of regulated products (or a part of a register) may be inspected, the issuer must, as soon as practicable, give the person information about how they may inspect the register or part—
- (a) at a place in New Zealand (unless the issuer does not comply with **section 222(1)(a)(i)**); and
  - (b) on an Internet site, including giving the person the link or URL referred to in **subsection (1)(a)(ii)** (unless the issuer does not comply with **section 222(1)(a)(ii)**).
- (3A) This section does not apply to an issuer in relation to a register if—
- (a) the issuer is a company within the meaning of section 2(1) of the Companies Act 1993; and
  - (b) the register is available for inspection at its registered office.

## 9 Section 221 amended (Public inspection of register)

- (1) In section 221(3)(a), delete “if the supervisor serves written notice on the issuer of intention to inspect”.
- (2) In section 221(3)(b), delete “if the scheme participant serves written notice on the issuer of intention to inspect”.
- (3) In section 221(3)(c), delete “if the person serves written notice on the issuer of intention to inspect”.
- (4) After section 221(3), insert:

(3A) If regulations are made for the purposes of subsection (2)(c), the regulations must provide for the manner in which the register (or parts of the register) must be made available for inspection.

## 10 Section 222 replaced (Manner of inspection)

Replace section 222 with:

### 222 Manner of inspection

- (1) For the purposes of section 221, a register of regulated products (or the part of a register referred to in section 221(3)(b) or (c)) must—
  - (a) be available for inspection in either or both of the following ways:
    - (i) by a relevant person who serves on the issuer a written notice of an intention to inspect, at the relevant place between the hours of 9 am and 5 pm on each working day during the inspection period;
    - (ii) by a relevant person on a relevant Internet site at all reasonable times; and
  - (b) otherwise be available for inspection in the manner prescribed by the regulations (if any).
- (2) If the issuer complies with **subsection (1)(a)(ii)**, the issuer must ensure that—
  - (a) the relevant Internet site is maintained by or on behalf of the issuer; or
  - (b) an Internet site maintained by or on behalf of the issuer contains a prominent link to the relevant Internet site.
- (3) In this section,—
 

**relevant Internet site** means the Internet site notified under **section 220(1)**

**relevant person** means,—

  - (a) in the case of a register of managed investment products in respect of a superannuation scheme, workplace savings scheme, or KiwiSaver scheme or a register of derivatives, a person to whom the register or part of the register is available for inspection under section 221(3)(a) to (c);
  - (b) in any other case, any person

**relevant place** means—

  - (a) the place in New Zealand notified under **section 220(1)**; or
  - (b) the issuer’s registered office (in the case of an issuer referred to in **section 220(3A)**).

## 11 Section 238 amended (Situations not giving rise to relevant interests)

After section 238(1)(h), insert:

- (i)

A is a law enforcement or regulatory agency (as defined in section 4 of the Financial Markets Authority Act 2011) and is performing or exercising a function, power, or duty under any legislation.

## 12 Section 304 amended (Listed issuer must keep interests register)

(1) After section 304(1), insert:

(1A) An interests register must—

- (a) be an electronic register; or
- (b) be kept in any other reasonable manner that the listed issuer thinks fit.

(2) Replace section 304(2)(b) with:

(b) any other place in New Zealand, Australia, or any other country, state, or territory prescribed by the regulations.

(3) Repeal section 304(3).

(4) In section 304(5), replace “305 and” with “**305 to**”.

## 13 Section 305 replaced (Public inspection of interests register)

Replace section 305 with:

### 305 Public inspection of interests register

(1) An interests register must—

- (a) be available for inspection in either or both of the following ways:
  - (i) by a person who serves on the listed issuer a written notice of an intention to inspect, at the relevant place between the hours of 9 am and 5 pm on each working day during the inspection period;
  - (ii) on a relevant Internet site at all reasonable times; and
- (b) otherwise be available for inspection in the manner prescribed by the regulations (if any).

(2) The listed issuer must ensure that—

- (a) the relevant Internet site is maintained by or on behalf of the issuer; or
- (b) an Internet site maintained by or on behalf of the issuer contains a prominent link to the relevant Internet site.

(3) In this section,—

**relevant Internet site** means the Internet site notified under **section 305A(1)**

**relevant place** means—

- (a) the place in New Zealand notified under **section 305A(1)**; or
- (b) the listed issuer’s registered office (in the case of a listed issuer referred to in **section 305A(4)**).

### 305A Listed issuer must give notice of where interests register is available for inspection

(1) Every listed issuer must send a notice to the FMA of—

- (a) either or both of the following:
  - (i) the place in New Zealand where its interests register is available for inspection under **section 305(1)(a)(i)**;
  - (ii) a link to or URL for the page or section of the Internet site on which its interests register is available for inspection under **section 305(1)(a)(ii)**; and
- (b) any change in the information referred to in **paragraph (a)** (including a change in whether the listed issuer complies with **section 305(1)(a)(i) or (ii)** or both).

(2) The listed issuer must give the notice within 10 working days after—

- (a) the interest register is established; or
- (b) a change referred to in **subsection (1)(b)** occurs.

(3) If a person requests that a listed issuer provide information about how its interests register may be inspected, the listed issuer must, as soon as practicable, give the person information about how they may inspect the register—

- (a) at a place in New Zealand (unless the issuer does not comply with **section 305(1)(a)(i)**); and
- (b) on an Internet site, including giving the person the link or URL referred to in **subsection (1)(a)(ii)** (unless the issuer does not comply with **section 305(1)(a)(ii)**).

- (4) This section does not apply to a listed issuer if—
- (a) it is a company within the meaning of section 2(1) of the Companies Act 1993; and
  - (b) the interests register is available for inspection at its registered office.

#### 14 Section 306 amended (Copies of documents)

In section 306(b), after “fee”, insert “(if any)”.

#### 15 Section 307 amended (Offences relating to interests register)

In section 307(1), replace “section 304(1) to (3) or 305” with “section 304(1) to (2), **305, or 305A**”.

#### 16 Section 386 amended (Overview)

After section 386(1)(c), insert:

(ca) **subpart 3A** provides for the FMA to approve certain changes involving licensees and authorised bodies:

#### 17 Section 399 amended (Licence must be issued for particular market services)

- (1) In the heading to section 399, replace “**be issued for particular market services**” with “**specify particular market services covered**”.
- (2) Replace section 399(2) with:
  - (2) A person may hold only 1 market services licence, but the same licence may cover more than 1 type of market service.
- (3) In section 399(3), replace “In that case” with “If a licence covers more than 1 type of market service”.

#### 18 New subpart 3A of Part 6 inserted

After section 421, insert:

### Subpart 3A—FMA’s approval required for certain changes

#### *Obtaining significant influence*

#### 421A Person who obtains significant influence over licensee or authorised body must obtain FMA’s approval

- (1) A person (A) must obtain the approval of the FMA before giving effect to a transaction if the transaction would result in A obtaining significant influence over a licensee or an authorised body.
- (2) In this section and **section 421B**, a person (A) **obtains significant influence** over a licensee or an authorised body if—
  - (a) A obtains the power (whether directly or indirectly) to—
    - (i) exercise, or control the exercise of, 25% or more of the voting rights in the licensee or authorised body; or
    - (ii) appoint 50% or more of the directors of the licensee or authorised body; or
  - (b) A obtains, together with 1 or more specified persons, the power (whether directly or indirectly) to—
    - (i) exercise, or control the exercise of, 25% or more of the voting rights in the licensee or authorised body; or
    - (ii) appoint 50% or more of the directors of the licensee or authorised body.
- (3) In this section and **section 421B**, **specified person**, in relation to A, means—
  - (a) a person who is acting or will act jointly or in concert with A in respect of exercising, or controlling the exercise of, a power referred to in **subsection (2)(b)(i) or (ii)**; or
  - (b) a person who acts, or is accustomed to acting, in accordance with the wishes of A.
- (4) **Subsection (1)** does not apply in relation to an overseas licensee or overseas authorised body (*see instead section 421B*).

#### 421B Overseas licensee or authorised body must notify FMA if person obtains significant influence

- (1) If a person (A) gives effect to a transaction that results in A obtaining significant influence over an overseas licensee or overseas authorised body (B), B must give the FMA written notice of that matter within 20 working days after B becomes aware that A has obtained that influence.

- (2) The notice must specify the following information (to the extent that B is aware of the information):
- (a) A's name and the names of any specified persons; and
  - (b) the nature and extent of the power referred to in **section 421A** that A (or A together with 1 or more specified persons) may exercise or control; and
  - (c) the date on which A obtained the significant influence.

### *Significant transactions*

#### **421C Licensee or authorised body must obtain FMA's approval before entering into significant transaction**

- (1) A licensee or an authorised body must obtain the approval of the FMA before entering into a significant transaction.
- (2) In this subpart, **significant transaction** means a transaction that involves,—
  - (a) in the case of an overseas licensee or overseas authorised body,—
    - (i) the transfer of all or a material part of the licensee's or body's New Zealand business to—
      - (A) another person; or
      - (B) 2 or more persons who are associated with each other; or
    - (ii) the acquisition of all or part of a New Zealand business that, immediately after the acquisition, will be a material part of the licensee's or body's New Zealand business:
  - (b) in the case of any other licensee or authorised body,—
    - (i) the transfer of all or a material part of the licensee's or body's business to—
      - (A) another person; or
      - (B) 2 or more persons who are associated with each other; or
    - (ii) the acquisition of all or part of a business that, immediately after the acquisition, will be a material part of the licensee's or body's business.
- (3) Whether a part of a business is **material** must be determined in the manner prescribed by the regulations.

### *Amalgamation*

#### **421D Licensee or authorised body must obtain FMA's approval before amalgamation**

- (1) A licensee or an authorised body must obtain the approval of the FMA before the licensee or body amalgamates with another person (whether it occurs under Part 13 of the Companies Act 1993 or any other law of similar effect that results in 2 or more entities amalgamating and continuing as 1 entity).
- (2) In this subpart, **amalgamated entity** means the single entity that is proposed to result from and continue after a proposed amalgamation.
- (3) **Subsection (1)** does not apply in relation to an overseas licensee or overseas authorised body (*see instead section 421E*).

#### **421E Overseas licensee or authorised body must notify FMA if it amalgamates with another person**

- (1) If an overseas licensee or overseas authorised body (A) amalgamates with another person (under a law that results in 2 or more entities amalgamating and continuing as 1 entity), A must give the FMA written notice of the amalgamation within 20 working days after it takes effect.
- (2) The notice must specify—
  - (a) the names of each amalgamating entity and the amalgamated entity; and
  - (b) the date of the amalgamation.

### *Failure does not invalidate proposed change*

#### **421F Failure to get approval does not invalidate proposed change**

- (1) Nothing in this subpart invalidates any change in significant influence over a licensee or an authorised body, significant transaction, or amalgamation made without the approval of the FMA.

- (2) However, *see* subpart 3 of Part 8, which provides for civil liability for a contravention of the duties under this subpart.

### *Process for approval*

#### **421G Meaning of proposed change**

In this subpart, **proposed change** means any of the following in respect of which approval is required under this subpart:

- (a) the obtaining of significant influence over a licensee or an authorised body:
- (b) the entering into of a significant transaction:
- (c) the amalgamation of a licensee or authorised body with 1 or more other persons.

#### **421H Request for approval**

- (1) A request for the FMA to give its approval under this subpart must be made in the manner (if any) prescribed by the regulations.
- (2) A joint request may be made by 2 or more persons that are parties to the proposed change.

#### **421I Report on proposal**

- (1) The FMA may arrange for a suitably qualified person (**B**) to prepare a report on a proposed change to assist the FMA with performing or exercising its functions, powers, or duties under this subpart.
- (2) A person that makes a request for approval under this subpart and every other party to the proposed change must provide to B the information that B requires to assist them in preparing the report.

#### **421J FMA's consideration of request**

The FMA must, in considering a request for approval under this subpart,—

- (a) consider whether, if the proposed change occurs, the FMA would still be satisfied that the licensee or authorised body meets the requirements referred to in section 396(a) to (g) or 400(1)(a) to (e) or (1A)(a) to (e) (where those provisions are applied with all necessary modifications as if references to the applicant or body corporate (or entity) were references to the licensee or authorised body respectively); and
- (b) consult the Reserve Bank if the licensee or authorised body is a regulated entity (within the meaning of section 5 of the Reserve Bank of New Zealand Act 2021).

#### **421K FMA's decision on approval**

- (1) The FMA may, after considering a request for approval under this subpart,—
  - (a) give its approval unconditionally or subject to any conditions that the FMA may impose under **subsection (3)**;
  - or
  - (b) refuse to give its approval.
- (2) The FMA must give notice of its decision to the licensee or authorised body and any other person who made the request within 20 working days after receiving both of the following:
  - (a) all of the information that the FMA reasonably requires to assist it in determining whether to give its approval;
  - (b) all reports that the FMA has arranged to receive under this subpart in respect of the matter.
- (3) The approval may be subject to any conditions prescribed by the regulations or conditions that relate to matters prescribed in the regulations.
- (4) If the FMA refuses to give its approval, the notice under **subsection (2)** must contain a statement of its reasons for doing so.

#### **421L Duty to comply with condition of approval**

If an approval imposes conditions that apply to a person, the person must comply with the conditions.

#### **421M Requirement for approval is in addition to other requirements**

This subpart does not limit any other legislation that must be complied with in order to give effect to a proposed change that requires approval under this subpart (for example, in the case of amalgamating companies, the requirements of Part 13 of the Companies Act 1993).

**19 Section 446J amended (Minimum requirements for fair conduct programme)**

- (1) Repeal section 446J(1)(a) and (k).
- (2) In section 446J(1)(b)(i), after “providing for the methods”, insert “(if any)”.
- (3) In section 446J(1)(b)(ii), after “methods”, insert “(if any)”.
- (4) In section 446J(1)(b)(v), after “enhancements or improvements”, insert “(if any)”.
- (5) Replace section 446J(1)(e) to (h) with:

- (e) managing or supervising, and providing training to, each of the financial institution’s employees to ensure that they are supporting the financial institution’s compliance with the fair conduct principle, and monitoring whether those persons have carried out that training and are giving that support; and
- (f) requiring the financial institution’s agents to follow the procedures or processes that are necessary or desirable to support the financial institution’s compliance with the fair conduct principle; and
- (g) resolving complaints made by consumers in a timely and effective manner; and

- (6) In section 446J(1)(i), after “managing incentives”, insert “(if any)”.
- (7) In section 446J(1)(j), after “manner”, insert “(including with respect to the price of the services or products)”.
- (8) Replace section 446J(1)(l) with:

- (l) ensuring that any identified deficiencies in the effectiveness of the programme are promptly remedied; and

- (9) In section 446J(3), replace “(1)(a)” with “(1)(b)” in each place.
- (10) After section 446J(3), insert:

(3A) **Subsection (1)(f)** does not apply to the financial institution’s employees (*but see instead subsection (1)(e)*).

**20 Section 446O repealed (Pecuniary penalty order may not be made if failure relates only to certain legal obligations)**

Repeal section 446O.

**21 Section 446P amended (Other definitions used in subpart)**

- (1) In section 446P(1), insert in its appropriate alphabetical order:

**complaint** means an expression of dissatisfaction relating to a financial institution’s relevant services or associated products to which a response or a resolution is explicitly or implicitly expected

- (2) In section 446P(1), definition of **insurer**, paragraph (b), replace “enters into any 1 or more of the following with 1 or more New Zealand policyholders” with “is liable as an insurer under 1 or more of the following to a New Zealand policyholder”.

**22 Section 449 amended (Part 6 services provisions)**

- (1) After section 449(3)(b), insert:

- (ba) **section 421A** (person who obtains significant influence over licensee or authorised body must obtain FMA’s approval):
- (bb) **section 421C** (licensee or authorised body must obtain FMA’s approval before entering into significant transaction):
- (bc) **section 421D** (licensee or authorised body must obtain FMA’s approval before amalgamation):

- (2) After section 449(4)(e), insert:

- (ea) **section 421B** (overseas licensee or authorised body must notify FMA if person obtains significant influence):
- (eb) **section 421E** (overseas licensee or authorised body must notify FMA if it amalgamates with another person):
- (ec) **section 421I(2)** (requestor and other parties to proposed change must provide information to assist):
- (ed) **section 421L** (duty to comply with condition of approval):

**23 Section 456 amended (Place where accounting records to be kept)**

Replace section 456(2) with:

- (2)

The accounting records may be kept at a place outside New Zealand only if the documents referred to in **subsection (2A)** are sent to, and kept at a place in, New Zealand, Australia, or any other country, state, or territory prescribed by the regulations.

- (2A) The documents are those in respect of the business dealt with in the accounting records that will enable the preparation, in accordance with this Act, of—
- (a) the financial statements of the FMC reporting entity and any registered scheme referred to in section 455; and
  - (b) any other document annexed to any of those statements that gives information that is required by any enactment.

## 24 Section 459 amended (Inspection of accounting records)

After section 459(1), insert:

- (1A) The accounting records and the documents referred to in **section 456(2)** must be available for inspection under subsection (1) in either or both of the following ways:
- (a) on an Internet site maintained by or on behalf of the FMC reporting entity;
  - (b) by the FMC reporting entity sending the records or documents by an electronic communication to a person referred to in subsection (1) as soon as practicable after receiving a request from that person.

## 25 Section 461 amended (Group financial statements must be prepared)

After section 461(3), insert:

- (3A) However, subsection (3) does not apply in respect of a subsidiary (A) of an FMC reporting entity if—
- (a) A is incorporated in an overseas jurisdiction; and
  - (b) under the law or regulatory requirements of that jurisdiction, A's balance date cannot be changed at the absolute discretion of A or the FMC reporting entity.
- (3B) For the purpose of **subsection (3A)(b)**, if A's balance date can be changed through a regulatory approval process, the change is not at the absolute discretion of A or the FMC reporting entity.

## 26 Section 461A amended (Financial statements for registered schemes and funds)

After section 461A(4), insert:

- (5) Subsection (3)(a) is subject to **section 461LA**, which provides that financial statements for certain schemes may not be required if they consist only of separate funds.

## 27 Section 461L amended (FMA may issue notice relating to level of public accountability)

Replace section 461L(3) with:

- (3) The FMA's reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.
- (4) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## 28 New subpart 3A of Part 7 inserted

After section 461L, insert:

### Subpart 3A—Requirements do not apply in certain circumstances

*Financial statements for registered schemes consisting only of separate funds*

#### 461LA When financial statements for registered scheme not required

- (1) Section 461A(3)(a) does not apply to a registered scheme if—
- (a) the scheme is not a KiwiSaver scheme; and
  - (b) the scheme consists of 1 or more separate funds; and
  - (c) all of the scheme assets are attributable to a separate fund; and
  - (d) the governing document of the scheme provides that, for each separate fund, except in relation to the payment of tax,—

- (i) the assets of the fund must be held solely for the benefit of investors in that fund; and
- (ii) the liabilities of the manager or scheme in respect of that fund must be met from the assets of that fund only (and not from the assets of any other separate fund or other scheme assets); and
- (e) in relation to the payment of tax,—
  - (i) the scheme is a portfolio investment entity for which tax is calculated and paid in accordance with the PIE rules; or
  - (ii) the governing document of the scheme provides that—
    - (A) tax must be calculated and paid separately for each separate fund; or
    - (B) if that is not the case, adjustments must be made between the separate funds to put each of them into the position it would have been in if tax were calculated and paid separately for each separate fund.

(2) In this section,—

**PIE rules** has the same meaning as in section YA 1 of the Income Tax Act 2007

**portfolio investment entity** has the same meaning as in section YA 1 of the Income Tax Act 2007

**separate fund** has the same meaning as in section 461A(2)

**tax** has the same meaning as in section 3(1) of the Tax Administration Act 1994.

## 29 Section 489 amended (When court may make pecuniary penalty orders)

Repeal section 489(3)(ab).

## 30 Section 546 amended (Regulations for purposes of Part 6 (market services))

(1) After section 546(1)(f), insert:

*Exemption from requirements for FMA's approval for changes*

- (fa) exempting (on terms and conditions, if any) any class of licensees or authorised bodies from any provision of **subpart 3A** of Part 6:

(2) In section 546(1)(oa), replace “446J(1)(a)” with “446J(1)(b)”.

(3) In section 546(2), before “(me),”, insert “(fa),”.

## 31 Section 550 amended (Procedural requirements for regulations relating to exemptions, exclusions, and definitions)

(1) In section 550(1)(c), after “(d),”, insert “(daa),”.

(2) After section 550(2)(d), insert:

(daa) **section 546(1)(fa)** (regulations may prescribe exemptions relating to requirements for the FMA's approval for changes relating to licensees or authorised bodies):

## 32 Section 556 amended (FMA may grant exemptions)

Replace section 556(4) with:

- (4) The FMA's reasons for granting the exemption (including why the exemption is appropriate) must be published together with the exemption.
- (5) An exemption granted under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

## 33 Section 557 amended (Restriction on FMA's exemption power)

In section 557(1), replace “this subpart” with “section 556”.

## 34 Section 558 amended (Exemption in force for not more than 5 years)

In section 558, replace “this subpart” with “section 556”.

## 35 New section 558A inserted (Certain exemptions may continue in force for more than 5 years)

After section 558, insert:

**558A Certain exemptions may continue in force for more than 5 years**

- (1) Section 558 does not apply to the Financial Markets Conduct (Multiple-participant Schemes—Participation Agreements) Exemption Notice 2022.
- (2) This section does not prevent the FMA from exercising a power to amend or revoke a notice to which this section applies.

**36 Section 559 amended (Breach of exemption conditions)**

In section 559, replace “this subpart” with “section 556”.

**37 Section 560 amended (Exemptions in respect of specified overseas jurisdictions)**

In section 560(1), replace “this subpart” with “section 556”.

**38 Section 561 amended (Effect of exemptions on regulated offers)**

In section 561(1) and (2), replace “this subpart” with “section 556”.

**39 Section 561A amended (Financial reporting and climate-related disclosure exemptions)**

In section 561A(1) to (2), replace “this subpart” with “section 556”.

**40 New section 561B inserted (Other exemptions relating to periods)**

After section 561A, insert:

**561B Other exemptions relating to periods**

- (1) This section applies to a provision of this Act or the regulations (**provision A**) if—
  - (a) the provision imposes a duty in connection with a period (the **main period**); and
  - (b) the duty must be performed within a certain period after the end of the main period (the **compliance period**).
- (2) An exemption granted under section 556 in relation to provision A may, if the FMA thinks fit, apply to a main period that commenced before the exemption is granted (including a main period that ended before the exemption is granted) if the exemption is granted before the end of the compliance period.

**Example**

A provision of the regulations requires a person to obtain an annual report about the person's business during a 12-month period ending on a particular date. This period is the main period.

The person must ensure the report is provided to the FMA within 4 months after the end of the main period. The 4-month period is the compliance period for the duty.

The FMA may grant an exemption from the provision for a main period that has ended as long as the exemption is granted before the end of the 4-month compliance period.

**41 Section 562 amended (FMA's designation power)**

- (1) In section 562(3), replace “subpart 2” with “section 556”.
- (2) In section 562(4), replace “this subpart” with “this section”.
- (3) Replace section 562(5) with:
  - (5) The FMA's reasons for making the declaration (including why the declaration is appropriate) must be published together with the declaration.
  - (6) A declaration made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**42 Section 563 amended (Procedural requirements)**

In section 563(1), replace “this subpart” with “section 562”.

**43 Section 564 amended (Transitional matters)**

In section 564, replace “this subpart” with “section 562”.

#### 44 Section 565 amended (FMA may make interim orders pending exercise of powers)

In section 565(1)(a), replace “this subpart” with “section 562”.

#### 45 Section 567 amended (Purpose)

In section 567(2), replace “this subpart” with “section 568”.

#### 46 Section 568 amended (FMA may specify frameworks or methodologies)

(1) In section 568(1)(e), replace “this subpart” with “this section”.

(2) Replace section 568(4) with:

- (4) The FMA’s reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.
- (5) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### 47 Section 569 amended (Consultation)

In section 569(1), replace “this subpart” with “section 568”.

#### 48 Subpart 5 of Part 9 repealed

Repeal subpart 5 of Part 9.

#### 49 Schedule 1 amended

In Schedule 1, replace clause 19(1A) and (1B) with:

- (1A) An offer of options (and the offer of the option underlyings) does not require disclosure under Part 3 of this Act if—
- (a) the options and option underlyings are equity securities, debt securities, or managed investment products; and
  - (b) the option underlyings are of the same class as quoted financial products that have been quoted on a licensed market at all times during the 3-month period before the time of the offer; and
  - (c) trading in those quoted financial products on the licensed market on which they are quoted was not suspended for more than a total of 5 trading days during the 3-month period referred to in **paragraph (b)**; and
  - (d) in the case of an offer of options by way of issue, it is a term of the offer that the issuer will take any necessary steps to ensure that, immediately after the option underlyings are issued, the option underlyings are quoted; and
  - (e) in the case of an offer of options by way of sale, the offeror has reasonable grounds to believe that, immediately after the option underlyings are issued, the option underlyings will be quoted; and
  - (f) the market rules of the licensed market on which the option underlyings are quoted contain continuous disclosure provisions.
- (1B) In this clause,—
- options** means options to acquire, by way of issue, financial products
- option underlyings**, in relation to an offer of options, means the underlying financial products to which the options relate.

#### 50 Schedule 4 amended

(1) In Schedule 4, clause 1(1), insert as the last paragraph:

- (j) **Part 10** provides for transitional provisions relating to the Financial Markets Conduct Amendment Act 2025.

(2) In Schedule 4, clause 1(1), in the last paragraph (as inserted by **subsection (1)**), make any necessary consequential amendment.

(3) In Schedule 4,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

#### 51 Amendments to various references to financial advice products

- (1) In the provisions specified in **Part 1 of Schedule 2**, replace “financial advice product” with “FMC product” in each place.
- (2) In the provisions specified in **Part 2 of Schedule 2**, replace “a financial advice product” with “an FMC product” in each place.
- (3) In the provisions specified in **Part 3 of Schedule 2**, replace “financial advice products” with “FMC products” in each place.

## 52 Consequential amendments

- (1) Amend the Acts specified in **Part 1 of Schedule 3** as set out in that Part.
- (2) Amend the secondary legislation specified in **Part 2 of Schedule 3** as set out in that Part.

## 53 Notices revoked

The following notices are revoked:

- (a) Financial Markets Conduct (Financial Statements for Schemes Consisting Only of Separate Funds) Exemption Notice 2022 (SL 2022/261):
- (b) Financial Markets Conduct (Licensed Independent Trustees of Restricted Schemes) Exemption Notice 2021 (LI 2021/199):
- (c) Financial Markets Conduct (Overseas Subsidiary Balance Date Alignment) Exemption Notice 2021 (LI 2021/205).

# Part 2 Amendments to Financial Markets Authority Act 2011

## 54 Principal Act

This Part amends the Financial Markets Authority Act 2011.

## 55 Section 4 amended (Interpretation)

- (1) In section 4(1), definition of **financial markets participant**, replace paragraph (c)(i) with:

- (i) a body corporate that is related to a person referred to in paragraph (a) or (b) that is also a body corporate (where **related** has the same meaning as in section 12(2) of the Financial Markets Conduct Act 2013); or
- (ia) a body corporate that is related to a person referred to in paragraph (a) or (b) who is an individual (where **related** is defined in **subsection (1A)**); or

- (2) In section 4(1), definition of **financial markets participant**, paragraph (c)(iii), replace “(c)(i)” with “**(c)(i), (ia)**”.
- (3) In section 4(1), insert in its appropriate alphabetical order:

**voting product** has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

- (4) After section 4(1), insert:

- (1A) For the purposes of **paragraph (c)(ia)** of the definition of financial markets participant, a body corporate (**A**) is **related** to an individual (**B**) if—
  - (a) more than half of A’s voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) are held by—
    - (i) B; or
    - (ii) 1 or more bodies corporate that are related to B under this subsection; or
    - (iii) B and 1 or more bodies corporate that are related to B under this subsection; or
  - (b) more than half of the voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) of a body corporate that is related to B under this subsection are held by A (whether directly or indirectly, but other than in a fiduciary capacity); or
  - (c) the businesses of A and B have been so carried on that the separate business of each of A and B, or a substantial part of that business, is not readily identifiable; or
  - (d) there is another body corporate to which—

- (i) A is related (within the meaning of section 12(2) of the Financial Markets Conduct Act 2013); and
- (ii) B is related under this subsection.

## 56 New sections 28A to 28D and cross-heading inserted

After section 28, insert:

### *On-site inspection*

#### 28A Purpose of on-site inspection power

The purpose of **section 28B** is to facilitate the FMA's ability to monitor compliance with financial markets legislation by doing 1 or more of the following:

- (a) assessing the adequacy of a financial markets participant's policies, processes, controls, or other arrangements for complying with its obligations under financial markets legislation:
- (b) verifying a financial markets participant's compliance with its obligations under financial markets legislation:
- (c) verifying the reliability of information or a document supplied to the FMA by a financial markets participant under financial markets legislation:
- (d) examining any matter relating to the business, operation, or management of a financial markets participant in order to understand and identify risks in connection with those matters:
- (e) examining the financial position, financial performance, or cash flows of a financial markets participant:
- (f) carrying out a review of all, or 1 or more classes of, financial markets participants in connection with conduct under financial markets legislation:
- (g) doing any other thing that is incidental and related to, or consequential on, any thing that the FMA does under **paragraphs (a) to (f)**.

#### 28B FMA may conduct on-site inspection

- (1) The FMA may enter and remain at any relevant place to carry out an on-site inspection of a financial markets participant if the FMA considers it necessary or desirable for the purposes of doing 1 or more of the things referred to in **section 28A**.
- (2) The FMA—
  - (a) may exercise the power only at a reasonable time and in a reasonable manner; but
  - (b) is not required to give notice of the exercise of the power.
- (3) In this section, **relevant place**, in relation to a financial markets participant,—
  - (a) means any place of business of the participant; but
  - (b) does not include a dwellinghouse or marae.

#### 28C Person may be required to answer questions or give information

During an on-site inspection, the FMA may require any employee, director, or agent of the financial markets participant to—

- (a) answer questions relating to its records and documents; and
- (b) supply all other information or documents that the FMA may reasonably require for the purpose of the inspection.

#### 28D Continuation of on-site inspection without search warrant

If the FMA, in the course of exercising a power under **section 28B or 28C**, finds evidence of conduct that constitutes or may constitute a contravention or an involvement in a contravention of any provision of financial markets legislation, it is not required to obtain a search warrant under section 29 to continue exercising its powers under **section 28B or 28C**.

## 57 Section 55 amended (Protection from liability for persons exercising powers)

In section 55, after “25”, insert “, **28B, 28C**,”.

## 58 Section 61 amended (Criminal liability for obstructing exercise of powers)

- (1) In section 61(1)(a), after “25”, insert “or a requirement under **section 28C** to answer any questions or supply other information or documents”.
- (2) In section 61(1)(b), after “25”, insert “or a requirement under **section 28C** to answer any questions or supply other information or documents”.
- (3) After section 61(1)(b), insert:
 

(ba) wilfully resists, obstructs, or delays the FMA in carrying out an on-site inspection under **section 28B**; or

## Schedule 1

### New Part 10 inserted into Schedule 4 of Financial Markets Conduct Act 2013

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## Part 10

### Provisions relating to Financial Markets Conduct Amendment Act 2025

#### 101 Multiple licences consolidated into single licence

- (1) This clause applies if, immediately before commencement, a person holds 2 or more market services licences that, in total, cover 2 or more market services (or classes of market service).
- (2) The person must be treated as holding a single market services licence that covers those market services (instead of 2 or more licences).
- (3) The conditions of a licence referred to in **subclause (1)** that apply to a market service continue to apply to the market service as conditions of the licence under **subclause (2)**.
- (4) A person that is authorised to provide a market service under a licence referred to in **subclause (1)** continues to be authorised to provide the service under the licence under **subclause (2)**.
- (5) If, immediately before commencement, a market services licence is suspended,—
  - (a) section 409(2) does not apply for the purposes of this Part (with the effect that the person to whom the suspension relates may still be taken to hold the licence); and
  - (b) the suspension continues to apply to the licence under **subclause (2)** (but only in respect of the market services to which it originally applied).
- (6) In this clause and **clauses 102 and 103**, **commencement** means the commencement of **section 17** of the Financial Markets Conduct Amendment Act 2025.

#### 102 FMA may exercise powers in respect of consolidated licence

Nothing in **clause 101** prevents the FMA from exercising any powers under this Act in respect of a licence referred to in that clause (for example, to vary, revoke, add to, or substitute any conditions or to suspend or cancel the licence).

#### 103 Pending applications or appeals

- (1) If, immediately before commencement, a person has 2 or more pending applications, the FMA must treat the applications as a single application for a single market services licence.
- (2) **Subclause (3)** applies if, immediately before commencement,—
  - (a) a person (A) already holds 1 or more market services licences; and
  - (b) A has 1 or more pending applications.
- (3) The FMA must treat each pending application as an application under section 404 to vary the conditions of the market services licence held by A after commencement so that the licence covers the market service to which the pending application relates.
- (4) An application made under section 395 before commencement is a **pending application** if, immediately before commencement, the FMA has not made a decision under section 396.
- (5) If, after commencement and as a result of an appeal under section 531 or for any other reason, a person would otherwise hold 2 or more market services licences that cover 2 or more market services (or classes of market service),

the person must be treated as holding a single market services licence that covers those market services (instead of 2 or more licences) and **clauses 101(3) to (5) and 102** apply with all necessary modifications.

#### **104 Notifying Registrar of register of regulated products**

- (1) This clause applies to a register of regulated products kept under subpart 4 of Part 4 of this Act if the register was established before commencement.
- (2) The issuer must be treated as having sent a notice to the Registrar under **section 220(1)(a)** that specifies the existing place as the place in New Zealand where the register (or part of the register) is available for inspection under **section 222(1)(a)(i)**.
- (3) **Subclause (2)** does not prevent the issuer from giving a notice under **section 220(1)** to change the information referred to in **section 220(1)(a)**.
- (4) In this clause,—
  - (a) **commencement** means the commencement of **section 8** of the Financial Markets Conduct Amendment Act **2025**; and
  - (b) **existing place** means the place where, immediately before commencement, the register is available for inspection under former section 222; and
  - (c) a reference to a provision (for example, **section 220(1)**) is a reference to that provision as in force on and after commencement; and
  - (d) a reference to a former provision (for example, former section 220(1)) is a reference to that provision as in force immediately before commencement.

#### **105 Notifying FMA of interests register**

- (1) This clause applies to an interests register kept under subpart 6 of Part 5 of this Act if the register was established before commencement.
- (2) The listed issuer must be treated as having sent a notice to the FMA under **section 305A(1)(a)** that specifies the existing place as the place in New Zealand where the interests register is available for inspection under **section 305(1)(a)(i)**.
- (3) **Subclause (2)** does not prevent the issuer from giving a notice under **section 305A(1)** to change the information referred to in **section 305A(1)(a)**.
- (4) In this clause,—
  - (a) **commencement** means the commencement of **section 13** of the Financial Markets Conduct Amendment Act **2025**; and
  - (b) **existing place** means the place where, immediately before commencement, the interests register is available for inspection under former section 305; and
  - (c) a reference to a provision (for example, **section 305A(1)**) is a reference to that provision as in force on and after commencement; and
  - (d) a reference to a former provision (for example, former section 305) is a reference to that provision as in force immediately before commencement.

#### **106 Overseas subsidiary balance date alignment**

- (1) **Section 461(3A) and (3B)** (as inserted by **section 25** of the Financial Markets Conduct Amendment Act **2025**) apply to the following accounting periods of an FMC reporting entity:
  - (a) an accounting period of the entity that started before commencement (including an accounting period that ended before commencement) if the financial statements for that period would be required to be delivered to the Registrar for lodgement under section 461H after commencement; and
  - (b) subsequent accounting periods.
- (2) In this clause, **commencement** means the commencement of **section 25** of the Financial Markets Conduct Amendment Act **2025**.

#### **107 When financial statements for registered scheme not required**

- (1)

**Section 461LA** (as inserted by **section 28** of the Financial Markets Conduct Amendment Act 2025) applies to the following accounting periods of a registered scheme referred to in **section 461LA**:

- (a) an accounting period of the scheme that started before commencement (including an accounting period that ended before commencement) if the financial statements for that period would be required to be delivered to the Registrar for lodgement under section 461H after commencement; and
  - (b) subsequent accounting periods.
- (2) In this clause, **commencement** means the commencement of **section 28** of the Financial Markets Conduct Amendment Act 2025.

## Schedule 2

# Amendments to Financial Markets Conduct Act 2013 relating to references to financial advice products

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### Part 1

#### Replacing references to “financial advice product” with “FMC product”

Section 6(1), definition of **acquire**, paragraph (d)

Section 6(1), definition of **dispose of**, paragraphs (b) and (ba)

Section 6(1), definition of **product provider**, paragraph (e)

Section 18, definition of **financial product**, paragraph (b)(i)

Section 431G(b)(v)

Section 446F(2)

Schedule 5, clause 7(c)

Schedule 5, clause 15(b)

### Part 2

#### Replacing references to “a financial advice product” with “an FMC product”

Section 6(1), definition of **product provider**

Section 431C(1)(a)

Section 431W(5), definition of **client money**, paragraph (a)

Section 431W(5), definition of **client property**, paragraph (a)

Schedule 5, clause 7(a) and (b)

Schedule 5, clause 13(2)(b)

Schedule 5, clause 14(c)

Schedule 5, clause 15(a)

### Part 3

#### Replacing references to “financial advice products” with “FMC products”

Section 403(3)(a)

Section 498(c) and (e)

Section 546(4)(c)(i)

Section 548(1)(a) and (d)(ia)

Schedule 1, clause 41(2A)

Schedule 5, clause 32(1)(b) and (3)(a) and (b)

## Schedule 3

### Consequential amendments

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#### Part 1

#### Amendments to Acts

##### **Fair Trading Act 1986 (1986 No 121)**

In section 48P(6), definition of **financial product**, paragraph (b)(i), replace “financial advice product” with “FMC product”.

##### **Trusts Act 2019 (2019 No 38)**

In Schedule 3, clause 1(3), definition of **services**, paragraph (b)(iii), replace “a financial advice product” with “an FMC product”.

#### Part 2

#### Amendments to secondary legislation

##### **Financial Markets Conduct Regulations 2014 (LI 2014/326)**

In regulation 111(b)(i), delete “if A serves written notice on the issuer of intention to inspect”.

In Schedule 21A, clause 2(3)(a), replace “a financial advice product” with “an FMC product”.

In Schedule 21A, clause 4(1)(c) and (d), replace “financial advice products” with “FMC products”.

In Schedule 21A, clause 5(1)(a) and (b), replace “financial advice products” with “FMC products”.

In Schedule 21B clause 1(1)(c), replace “a financial advice product” with “an FMC product”.

##### **Financial Markets Conduct (Multiple-participant Schemes—Participation Agreements) Exemption Notice 2022 (SL 2022/268)**

Revoke clause 3.

##### **Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 (SL 2024/31)**

In Schedule 2, clause 2(2)(a), replace “a financial advice product” with “an FMC product”.

In Schedule 2, clause 2(4), replace the definition of **financial advice product** with:

**FMC product** has the meaning given in section 6(1) of the Financial Markets Conduct Act 2013