



## Financial Markets Authority (Levies) Amendment Regulations 2017

Patsy Reddy, Governor-General

### Order in Council

At Wellington this 26th day of June 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 68 of the Financial Markets Authority Act 2011—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs.

### Contents

	Page
1 Title	2
2 Commencement	2
3 Principal regulations	2
4 Regulation 3 amended (Interpretation)	2
5 New regulation 7A inserted (Meaning of funds under management (class 6A))	2
7A Meaning of funds under management (class 6A)	3
6 Schedule 2 replaced	3
<b>Schedule</b>	<b>4</b>
<b>Schedule 2 replaced</b>	

## Regulations

### 1 Title

These regulations are the Financial Markets Authority (Levies) Amendment Regulations 2017.

### 2 Commencement

These regulations come into force on 1 July 2017.

### 3 Principal regulations

These regulations amend the Financial Markets Authority (Levies) Regulations 2012 (the **principal regulations**).

### 4 Regulation 3 amended (Interpretation)

In regulation 3, insert in their appropriate alphabetical order:

**DIMS** means—

- (a) a discretionary investment management service (as set out in section 392 of the Financial Markets Conduct Act 2013); and
- (b) a discretionary investment management service (as set out in section 12 of the Financial Advisers Act 2008)

**DIMS retail provider** means either of the following if they provide a DIMS retail service:

- (a) a DIMS licensee (as set out in section 392 of the Financial Markets Conduct Act 2013);
- (b) a person authorised by the FMA under the Financial Advisers Act 2008 to provide a DIMS

**DIMS retail service** means—

- (a) a DIMS that is a retail service (as defined in clause 35(2) of Schedule 1 of the Financial Markets Conduct Act 2013); and
- (b) a DIMS provided to a retail client (as defined in section 5B of the Financial Advisers Act 2008)

**funds under management** has the meaning given in regulation 7A

**managed fund** has the same meaning as in regulation 5(1) of the Financial Markets Conduct Regulations 2014

### 5 New regulation 7A inserted (Meaning of funds under management (class 6A))

After regulation 7, insert:

**7A Meaning of funds under management (class 6A)**

- (1) In these regulations, **funds under management**, in relation to a DIMS retail provider, means the sum of the following:
- (a) the total value of the investors' portfolios of all of the investors that use the DIMS retail service as at the end of the relevant accounting period (based on the values referred to in subclause (2));
  - (b) the cash held under the DIMS retail service as at the end of the relevant accounting period.
- (2) The values of investors' portfolios must be based on—
- (a) the current value of the financial products in the investors' portfolios (as at the time referred to in subclause (1)(a)); or
  - (b) the most recent valuation of those financial products that was available at the time.
- (3) If the date of a valuation is earlier than 3 months before the end of the relevant accounting period, the valuation may be used for the purposes of subclause (2)(b) only if the DIMS retail provider is satisfied, on reasonable grounds, that the valuation is likely to be reasonably consistent with the actual current value of the financial products (as at the time referred to in subclause (1)(a)).
- (4) In this regulation,—
- due date** means the due date for supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act
- investor** means—
- (a) an investor (as defined in section (6)(1) of the Financial Markets Conduct Act 2013); and
  - (b) a client (as defined in section 5A(1) of the Financial Advisers Act 2008)
- relevant accounting period** means the accounting period (as defined in section 5(1) of the Financial Reporting Act 2013) that ended most recently before the due date.

**6 Schedule 2 replaced**

Replace Schedule 2 with the Schedule 2 set out in the Schedule of these regulations.

Schedule  
Schedule 2 replaced

r 6

Schedule 2  
Levies

r 8

Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
1	Persons that, on or after 1 August 2012, apply under section 15 of the FSP Act to be a registered FSP	Making the application	Registrar of Financial Service Providers	\$529
2	Registered FSPs that are registered banks or licensed NBDTs	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	If the person's total assets— (a) exceed \$50 billion, \$615,250; or (b) exceed \$10 billion but do not exceed \$50 billion, \$149,500; or (c) exceed \$2 billion but do not exceed \$10 billion, \$43,700; or (d) exceed \$1 billion but do not exceed \$2 billion, \$25,300; or (e) exceed \$500 million but do not exceed \$1 billion, \$12,075; or (f) exceed \$40 million but do not exceed \$500 million, \$8,855; or (g) do not exceed \$40 million, \$2,760

**Financial Markets Authority (Levies) Amendment  
Regulations 2017**

2017/143

Schedule

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Class</b>	<b>Description</b>	<b>Leviable event</b>	<b>Collector</b>	<b>Amount of levy</b>
3	Registered FSPs that are licensed insurers (as defined in the Insurance (Prudential Supervision) Act 2010)	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	<p>If the person's annual gross premium revenue—</p> <p>(a) exceeds \$500 million, \$172,500; or</p> <p>(b) exceeds \$100 million but does not exceed \$500 million, \$43,700; or</p> <p>(c) exceeds \$50 million but does not exceed \$100 million, \$27,600; or</p> <p>(d) exceeds \$10 million but does not exceed \$50 million, \$12,650; or</p> <p>(e) does not exceed \$10 million, \$2,530</p>
4	Registered FSPs that are supervisors licensed under the FMS Act in respect of the supervision of debt securities and managed investment products in registered schemes (but see regulation 9)	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	<p>If the person's total supervised interests—</p> <p>(a) exceed \$5 billion, \$158,700; or</p> <p>(b) exceed \$1 billion but do not exceed \$5 billion, \$87,400; or</p> <p>(c) exceed \$100 million but do not exceed \$1 billion, \$29,900; or</p> <p>(d) do not exceed \$100 million, \$7,360</p>
5	Registered FSPs that are managers (as defined in section 6(1) of the Financial Markets Conduct Act 2013) (but see regulation 9)	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	<p>If the person's total managed assets—</p> <p>(a) exceed \$10 billion, \$437,000; or</p> <p>(b) exceed \$5 billion but do not exceed \$10 billion, \$310,500; or</p> <p>(c) exceed \$2 billion but do not exceed \$5 billion, \$138,000; or</p>

**Financial Markets Authority (Levies) Amendment  
Regulations 2017**

Schedule

2017/143

<b>Column 1 Class</b>	<b>Column 2 Description</b>	<b>Column 3 Leviable event</b>	<b>Column 4 Collector</b>	<b>Column 5 Amount of levy</b>
6	Registered FSPs that are— (a) persons (other than natural persons) who undertook trading activities on licensed markets in the year ending on the date of the leviable event; or (b) contributory mortgage brokers (as defined in section 2(1) of the Securities Act 1978); or (c) persons registered for the financial service described in section 5(1)(k) of the FSP Act (other than persons included in class 6A, 6B, 6C, or 6D); or (d) persons licensed to provide the licensed market service of acting as a derivatives issuer (as defined in section 6(1) of the Financial Markets Conduct Act 2013); or	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	<p>(d) exceed \$1 billion but do not exceed \$2 billion, \$92,000; or</p> <p>(e) exceed \$500 million but do not exceed \$1 billion, \$51,750; or</p> <p>(f) exceed \$100 million but do not exceed \$500 million, \$28,750; or</p> <p>(g) exceed \$20 million but do not exceed \$100 million, \$7,360; or</p> <p>(h) exceed \$1 but do not exceed \$20 million, \$1,610</p> <p>One of the following amounts (being whichever applicable amount is the greatest):</p> <p>(a) if the person is authorised to undertake trading activities on licensed markets, \$5,175;</p> <p>(b) if the person is a contributory mortgage broker, \$2,070;</p> <p>(c) if the person is registered for the financial service described in section 5(1)(k) of the FSP Act, \$6,095;</p> <p>(d) if the person is licensed to provide the licensed market service of acting as a derivatives issuer, \$11,040;</p> <p>(e) if the person is an authorised financial adviser, \$379,500</p>

<b>Column 1</b> <b>Class</b>	<b>Column 2</b> <b>Description</b>	<b>Column 3</b> <b>Leviable event</b>	<b>Column 4</b> <b>Collector</b>	<b>Column 5</b> <b>Amount of levy</b>
6A	(e) authorised financial advisers (as defined in section 5 of the Financial Advisers Act 2008)  Registered FSPs that are DIMS retail providers	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	If the provider's funds under management— (a) exceed \$2 billion, \$41,400; or (b) exceed \$500 million but do not exceed \$2 billion, \$16,100; or (c) exceed \$100 million but do not exceed \$500 million, \$5,520; or (d) exceed \$50 million but do not exceed \$100 million, \$2,760; or (e) do not exceed \$50 million, \$1,092
6B	Registered FSPs that are brokers (as defined in section 77A(1) of the Financial Advisers Act 2008) other than persons included in class 6(a) or 6C	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$2,070
6C	Registered FSPs that are custodians (as defined in section 6(1) of the Financial Markets Conduct Act 2013) and persons providing custodial services (as defined in section 77B of the Financial Advisers Act 2008)	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$7,245

**Financial Markets Authority (Levies) Amendment  
Regulations 2017**

Schedule

2017/143

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Class</b>	<b>Description</b>	<b>Leviable event</b>	<b>Collector</b>	<b>Amount of levy</b>
6D	Registered FSPs that provide a crowd funding service or a peer-to-peer lending service (as those services are defined in regulation 185(1) of the Financial Markets Conduct Regulations 2014)	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$2,990
7	Registered FSPs that are not included in any of classes 2 to 6D	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$529
8	Listed issuers (as defined in section 6(1) of the Financial Markets Conduct Act 2013)	Being issued with an annual invoice by or on behalf of the FMA in accordance with regulation 13	FMA	\$2,990
9	Persons that lodge a product disclosure statement (PDS) under section 48 of the Financial Markets Conduct Act 2013	Lodging a PDS	Registrar of Financial Service Providers	\$2,990 (except for a PDS for a managed fund) \$609.50 (per fund (as defined in regulation 5(1) of the Financial Markets Conduct Regulations 2014) covered by the PDS, in the case of a managed fund)
10	Licensed market operators (other than those licensed under section 317 of the Financial Markets Conduct Act 2013)	Giving a report on compliance to the FMA under section 337 of the Financial Markets Conduct Act 2013	FMA	\$33,350
11	FMC reporting entity (as defined in section 6(1) of the Financial Markets Conduct Act 2013)	Lodging of financial statements (or group financial statements) and	Registrar of Financial Service Providers	\$55.20



Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
12	Accredited bodies (as defined in section 6(1) of the Auditor Regulation Act 2011)	auditor's reports under section 461H of the Financial Markets Conduct Act 2013	Registrar of Companies	\$2,990 for each specified licence (as defined in regulation 3)
13	Overseas auditors holding a specified licence (as defined in regulation 3)	Making an annual confirmation under section 43 of the Auditor Regulation Act 2011 Being issued with an annual invoice by or on behalf of the FMA in accordance with regulation 13	FMA	\$2,990
14	Persons that make an application for registration or incorporation under— (a) the Building Societies Act 1965; or (b) the Companies Act 1993; or (c) the Friendly Societies and Credit Unions Act 1982; or (d) the Limited Partnerships Act 2008	Making the application	The person to whom the application is made	\$10.35
15	Persons that are registered or incorporated, and required to make an annual return, under— (a) the Building Societies Act 1965; or (b) the Companies Act 1993; or	Making the annual return	The person to whom the annual return is made	\$10.35

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>	<b>Column 5</b>
<b>Class</b>	<b>Description</b>	<b>Leviable event</b>	<b>Collector</b>	<b>Amount of levy</b>
(c)	the Friendly Societies and Credit Unions Act 1982; or			
(d)	the Limited Partnerships Act 2008			

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 July 2017, amend the Financial Markets Authority (Levies) Regulations 2012 (the **principal regulations**).

The regulations increase the amounts of some of the levies payable under the principal regulations, including—

- the levy for a person applying to be a registered financial service provider (which is increased from \$350 to \$529);
- the levy for a person lodging a product disclosure statement (which is increased from \$2,000 to \$2,990 (and from \$425 per fund to \$609.50 per fund, in the case of a managed fund)).

The regulations also adjust the levies for registered financial service providers supplying an annual confirmation under section 28 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (the **FSP Act**) by—

- changing the amounts of the levies payable by different classes of person;
- changing the descriptions of the classes of person required to pay the levies;
- changing the thresholds that set different levy amounts based on the person's revenue or the assets under their supervision or management.

As an example of the changes to the levies, a person acting as a custodian in respect of a registered scheme or a discretionary investment management service (DIMS) previously paid a levy of \$2,000 on supplying an annual confirmation under section 28 of the FSP Act. From 1 July 2017, the person will belong to a broader class of custodians and will pay a levy of \$7,245 on supplying an annual confirmation.

## Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 6 October 2016 to help inform the decisions taken by the Government relating to the contents of this instrument.

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

- <http://www.mbie.govt.nz/publications-research/publications/business-law/ris-fma-funding-fma-xrb-and-companies-office-fees-and-levies.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

**Financial Markets Authority (Levies) Amendment  
Regulations 2017**

2017/143

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Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Business, Innovation, and Employment.

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