

Version
as at 28 October 2021



Financial Markets Conduct (Fees) Regulations 2014 (LI 2014/110)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 24th day of March 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 67 of the Financial Markets Authority Act 2011 and sections 548(1)(o) and 552 of the Financial Markets Conduct Act 2013, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce made in accordance with section 549 of the Financial Markets Conduct Act 2013.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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

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Regulations

1 Title

These regulations are the Financial Markets Conduct (Fees) Regulations 2014.

2 Commencement

These regulations come into force on 1 April 2014.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Financial Markets Conduct Act 2013

crowd funding service has the same meaning as in regulation 185 of the Financial Markets Conduct Regulations 2014

peer-to-peer lending service has the same meaning as in regulation 185 of the Financial Markets Conduct Regulations 2014

vary, in relation to the conditions of a licence, means to vary, revoke, add to, or substitute any of those conditions.

- (2) For the purposes of these regulations, individuals working for the FMA as contractors or secondees must be treated as if they are employees of the FMA.

Regulation 3: replaced, on 1 December 2014, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Regulation 3(2): inserted, on 17 December 2015, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations 2015 (LI 2015/279).

4 Application fees and costs

- (1) The fees and costs set out in Schedule 1 are payable to the FMA by an applicant in respect of the matters set out in that schedule.
- (2) If Part 1 of Schedule 1 specifies that a fee is to be charged on an hourly basis, the fee—

- (a) must be determined in accordance with the table of hourly rates set out in Part 2 of Schedule 1; and
 - (b) is payable for every hour and, on a pro rata basis, for every part-hour of work that is carried out.
- (3) If Part 1 of Schedule 1 specifies that a fee is to be charged on an hourly basis for hours exceeding a specified number, the hourly fee—
- (a) must be determined in accordance with the table of hourly rates set out in Part 2 of Schedule 1; and
 - (b) is payable for every hour and, on a pro rata basis, for every part-hour of work that is carried out in excess of the specified number; but
 - (c) is payable only if the FMA has—
 - (i) notified the applicant, in writing, that the hourly fee will or may be payable; and
 - (ii) given the reasons why the number of hours spent on the application has exceeded, or is likely to exceed, the specified number.

Regulation 4: replaced, on 1 December 2014, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

5 Payment of application fees and costs

- (1) The fees in Part 1 of Schedule 1, other than those payable on an hourly basis, must accompany the relevant application.
- (2) All other fees and costs in Schedule 1 are payable—
 - (a) on the issue of an invoice by or on behalf of the FMA; and
 - (b) within the time frame specified in the invoice.

Regulation 5: replaced, on 1 December 2014, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

6 Multiple application discount

- (1) The purpose of this regulation is to ensure that a reduced fee applies to applications where there are lower costs for the FMA because the information in the application is being, or has recently been, assessed as part of another licence application.
- (2) This regulation applies if a person applies to be licensed for a market service at the same time as, or within 6 months after the date of, applying to be licensed for another market service (whether under the same or a different market services licence and whether under section 395 or, by way of an application to vary the conditions of a licence, under section 404 of the Act).
- (3) The FMA must apply a multiple application discount to the fee payable in respect of each additional market service to which the application or applications relate.

- (4) The amount of the multiple application discount may differ according to the type of market service or combination of market services to which the application or applications relate.
- (5) For the purpose of applying the multiple application discount, the FMA is authorised to waive or refund, in respect of any person or class of persons, part of a fee that would otherwise be payable under these regulations.
- (6) This regulation does not apply if either or both of the applications are—
 - (a) an application for a transitional licence to be issued under clause 71 of Schedule 4 of the Act; or
 - (b) an application to be licensed for the market service of acting as a provider of a financial advice service.
- (7) An instrument granting a waiver or refund to a class of persons is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this regulation

Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the secondary legislation.

Regulation 6(6): inserted, on 25 November 2019, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019 (LI 2019/253).

Regulation 6(7): inserted, on 28 October 2021, by regulation 91 of the Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248).

7 Fees payable to FMA to be collected by Registrar

[Revoked]

Regulation 7: revoked, on 1 July 2017, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations 2017 (LI 2017/139).

8 Other fees payable to FMA

- (1) The fees set out in Schedule 2 are payable to the FMA for the work carried out, by FMA members and employees in performing functions and providing services, in relation to the matters set out in that schedule.
- (2) If Schedule 2 specifies that a fee is to be charged on an hourly basis, the fee is payable for every hour and, on a pro rata basis, for every part-hour of work that is carried out.
- (3) The fees in Schedule 2 that are charged on an hourly basis are payable—
 - (a) on the issue of an invoice by or on behalf of the FMA; and
 - (b) within the time frame specified in the invoice.

- (4) All other fees in Schedule 2 must accompany the relevant documents or request.

Regulation 8: inserted, on 1 December 2014, by regulation 5 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

9 Fees and charges payable to Registrar

- (1) The fees and charges in Schedule 3 are payable in respect of the matters set out in that schedule.
- (2) The fees and charges are payable—
- (a) to the Registrar:
 - (b) at the times prescribed in Schedule 3:
 - (c) by the persons who lodge the relevant documents.

Regulation 9: inserted, on 1 December 2014, by regulation 5 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

10 Fees and charges inclusive of GST

The fees and charges prescribed by these regulations are inclusive of goods and services tax.

Regulation 10: inserted, on 1 December 2014, by regulation 5 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Schedule 1

Application fees and costs payable to FMA

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Schedule 1 heading: replaced, on 1 December 2014, by regulation 6(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Part 1

Schedule of fees

Application in respect of which fee payable	Fee (exclusive of any costs payable under Part 3)**
1 Application under section 395 of the Act for a market services licence to cover*—	
• acting as a manager of a registered scheme	\$3,565 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 25
• acting as a provider of a discretionary investment management service	\$2,139 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 15
• acting as an independent trustee of a restricted scheme	\$2,139 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 15
• acting as a derivatives issuer in respect of a regulated offer of derivatives that is made by the derivatives issuer	\$10,695 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 70
• acting as a provider of a crowd funding service	\$6,238.75 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 40
• acting as a provider of a peer-to-peer lending service	\$6,238.75 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 40
• acting as a provider of a financial advice service within category 1†	\$703.80 plus— <ul style="list-style-type: none"> • fee charged on the hourly basis specified in Part 2 for hours exceeding 2; and • fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act
• acting as a provider of a financial advice service within category 2‡	\$882.05 plus— <ul style="list-style-type: none"> • fee charged on the hourly basis specified in Part 2 for hours exceeding 3; and • fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act
• acting as a provider of a financial advice service in any other circumstances	\$1,060.30 plus— <ul style="list-style-type: none"> • fee charged on the hourly basis specified in Part 2 for hours exceeding 4; and

Application in respect of which fee payable	Fee (exclusive of any costs payable under Part 3)**
<ul style="list-style-type: none"> acting as an administrator of a financial benchmark 	<ul style="list-style-type: none"> fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act
2 Application under section 404 of the Act to vary 1 or more conditions of a market services licence (except if the application is to vary 1 or more conditions of a market services licence so that the licence covers 1 or more types of market service in addition to the 1 or more types of market service already covered)	\$115 plus fee charged on the hourly basis specified in Part 2
3 Application under section 404 of the Act to vary 1 or more conditions of a market services licence so that the licence covers 1 or more types of market service in addition to the 1 or more types of market service that it already covers	\$115 plus fee charged on the hourly basis specified in Part 2
4 Application for an exemption under section 556 of the Act	In respect of each additional type of market service, the same fee (including the fee charged on an hourly basis) as is payable under this Part for an application under section 395 of the Act for a market services licence to cover that type of market service
4A Application for a declaration under section 562 of the Act	\$115 plus fee charged on the hourly basis specified in Part 2
5 Application under section 315 of the Act for a licence to operate a financial product market	\$115 plus fee charged on the hourly basis specified in Part 2
6 Application under section 322 of the Act to vary the conditions of a licence to operate a financial product market	On the hourly basis specified in Part 2
7 Application under section 330 of the Act for approval of a market rule or market rule change	On the hourly basis specified in Part 2
7A Application under section 395(1) of the Act for a transitional licence to be issued under clause 71 of Schedule 4 of the Act	On the hourly basis specified in Part 2
8 Application for entry of a foreign passport fund under regulation 12(1)(a) of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019	\$465.75 plus a fee of \$44.56 for each entity that is proposed in the application to be an authorised body under clause 74 of Schedule 4 of the Act

*Each fee specified for an application for a licence to cover a type of market service applies regardless of whether the application is for 1 market services licence for each type of market service or 1 or more market services licences that cover more than 1 type of market service.

**The specified number of hours, in each case where this appears, refers to total hours of work carried out by members and employees of the FMA.

†In item 1, a financial advice service is within **category 1** if—

- (a) the provider will be an individual (**A**) and the application contains, or is accompanied by, a statement of A's intention for the term of the licence to the effect that A will be the only person who will give regulated financial advice under the licence; or
- (b) the provider will be an entity (**B**) and the application for the licence contains, or is accompanied by, a statement of B's intention for the term of the licence to the effect that—
 - (i) the only person or persons who will give regulated financial advice under the licence will be any 1 or more of B, 1 financial adviser, and any authorised bodies; and

Application in respect of which fee payable	Fee (exclusive of any costs payable under Part 3)**
(ii) the financial adviser referred to in subparagraph (i) is and will remain either the sole director of B or one of 2 directors of B; and	
(iii) if an authorised body will give regulated financial advice under the licence, the authorised body will engage no other person to give that advice on its behalf (or will engage only the financial adviser referred to in subparagraph (i)).	

‡In item 1, a financial advice service is within **category 2** if the service is not within category 1 and the application for the licence contains, or is accompanied by, a statement of the applicant's intention for the term of the licence to the effect that—

- (a) the licensee and any authorised bodies will be authorised to engage 1 or more financial advisers to provide regulated financial advice under the licence; but
- (b) no individual will be nominated by the licensee or an authorised body as a nominated representative of the licensee or body under section 431T of the Act.

Schedule 1 Part 1: amended, on 15 March 2021, by regulation 4(2) of the Financial Markets Conduct (Fees) Amendment Regulations 2020 (LI 2020/320).

Schedule 1 Part 1: amended, on 15 March 2021, by regulation 4(3) of the Financial Markets Conduct (Fees) Amendment Regulations 2020 (LI 2020/320).

Schedule 1 Part 1: amended, on 29 June 2020, by regulation 5(3) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019 (LI 2019/253).

Schedule 1 Part 1 item 1: replaced, on 29 June 2020, by regulation 5(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019 (LI 2019/253).

Schedule 1 Part 1 item 1: amended, on 15 March 2021, by regulation 4(1) of the Financial Markets Conduct (Fees) Amendment Regulations 2020 (LI 2020/320).

Schedule 1 Part 1 item 4A: inserted, on 17 December 2015, by regulation 5 of the Financial Markets Conduct (Fees) Amendment Regulations 2015 (LI 2015/279).

Schedule 1 Part 1 item 5: inserted, on 1 December 2014, by regulation 6(2) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Schedule 1 Part 1 item 6: inserted, on 1 December 2014, by regulation 6(2) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Schedule 1 Part 1 item 7: inserted, on 1 December 2014, by regulation 6(2) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Schedule 1 Part 1 item 7A: inserted, on 25 November 2019, by regulation 5(2) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019 (LI 2019/253).

Schedule 1 Part 1 item 8: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Fees) Amendment Regulations 2019 (LI 2019/103).

Part 2

Fees charged on an hourly basis

Schedule 1 Part 2: replaced, on 1 December 2014, by regulation 6(3) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Category	Fee
For each hour of work carried out by a member of the FMA	\$230.00
For each hour of work carried out by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law	\$178.25
For each hour of work carried out by an employee of the FMA who the FMA is satisfied has a professional level of skills, training, or experience in financial markets matters of the kind to which the application relates	\$178.25

Part 3

Costs incurred by the FMA

The FMA is authorised to require payment of costs incurred by the FMA in relation to an application referred to in Part 1 in—

- (a) obtaining expert advice or assistance:
- (b) printing and publishing in connection with the application, including in publishing notices in the *Gazette*.

Schedule 2

Other fees payable to FMA

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Schedule 2: inserted, on 1 December 2014, by regulation 7 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Part 1

Schedule of fees

Section of the Act	Description	Fees
109	Request for consent to amend or replace trust deed	On the hourly basis specified in Part 2
122(2)(b)	Request for consent to remove supervisor	On the hourly basis specified in Part 2
126(2)(e)(iii)	Request for certificate of compliance	On the hourly basis specified in Part 2
131(1)(c)	Request for consent to change the conditions of entry or the way in which conditions of entry are applied	On the hourly basis specified in Part 2
134(1)(b)	Request to direct the removal of the registration of a registered scheme as a particular type of scheme	On the hourly basis specified in Part 2
134(3)	Request to direct the registration of a scheme as a particular type of scheme	On the hourly basis specified in Part 2
139(1)(a)	Request for consent to amend or replace governing document	On the hourly basis specified in Part 2
140(1)(a)	Request for consent to amend or replace governing document	On the hourly basis specified in Part 2
171(1)	Request for consent to allow scheme property to revert to contributor who is not a participant	On the hourly basis specified in Part 2
179(3)	Request for permission to transfer scheme participant without participant's consent	On the hourly basis specified in Part 2
181(1)	Request for consent to transfer scheme participants to another scheme	On the hourly basis specified in Part 2
186(4)(c)	Request to appoint temporary manager	On the hourly basis specified in Part 2
190(2)(a)	Request for consent to withhold information or retain copy of information	On the hourly basis specified in Part 2
193(2)(b)	Request for consent to remove supervisor	On the hourly basis specified in Part 2
195(1)(c)	Request to direct that registration of a registered scheme be cancelled	On the hourly basis specified in Part 2
213(1)(b)	Review of financial statements on winding up	\$255.55
213(2)	Request to extend period for compliance	On the hourly basis specified in Part 2
224(2)(b)	Request to authorise non-compliance	On the hourly basis specified in Part 2
596	Request to approve a scheme as a Schedule 3 scheme	\$178.25

Section of the Act	Description	Fees
Sch 4, cl 26(2)	Request for consent to amend or replace governing document	On the hourly basis specified in Part 2
Sch 4, cl 27(3)(a)	Request for consent to rescind existing and execute new governing document	On the hourly basis specified in Part 2
Sch 4, cl 28(3)(a)	Request for consent to rescind existing and execute new governing document	On the hourly basis specified in Part 2

Part 2

Fees charged on an hourly basis

Category	Fee
For each hour of work carried out by a member of the FMA	\$230.00
For each hour of work carried out by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law	\$178.25
For each hour of work carried out by an employee of the FMA who the FMA is satisfied has a professional level of skills, training, or experience in financial markets matters of the kind to which the request relates	\$178.25

Schedule 3

Registry fees

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Schedule 3: inserted, on 1 December 2014, by regulation 7 of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327).

Interpretation

Heading: inserted, on 8 September 2017, by regulation 4(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210).

1 Interpretation

In this schedule,—

- (a) **FMC Regulations** means the Financial Markets Conduct Regulations 2014; and
- (b) the following terms have the same meanings as in regulation 5(1) of the FMC Regulations:
 - (i) **closed to new investors status**;
 - (ii) **fund**;
 - (iii) **life cycle investment option**;
 - (iv) **life cycle stage**;
 - (v) **managed fund**;
 - (vi) **multi-fund investment option**;
 - (vii) **open for applications status**;
 - (viii) **open status**;
 - (ix) **specified fund**.

Clause 1: inserted, on 8 September 2017, by regulation 4(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210).

2 What is covered by confirmation notice

- (1) A confirmation notice under regulation 52A of the FMC Regulations covers the following:
- (a) a PDS that has an open status for applications status;
 - (b) a fund in a managed fund that has an open status or a closed to new investors status;
 - (c) a multi-fund investment option or life cycle investment option that has an open status or a closed to new investors status;
 - (d) a life cycle stage of a life cycle investment option that is covered by the confirmation notice under paragraph (c).
- (2) A confirmation notice under regulation 52B of the FMC Regulations covers the following:
- (a) a PDS, specified fund, multi-fund investment option, or life cycle investment option referred to in that regulation;
 - (b) a life cycle stage of a life cycle investment option that is covered by the confirmation notice under paragraph (a).
- Clause 2: inserted, on 8 September 2017, by regulation 4(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210).

Fees

Heading: inserted, on 8 September 2017, by regulation 4(1) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210).

Description of fee	Time when payable	Provision of Act	Provision of Regulations	Amount of fees
Offer document registration fee	Payable on the lodgement of a product disclosure statement (PDS) for a managed fund	s 48(1)(b)		\$600 per fund, multi-fund investment option, or life cycle stage covered by the PDS
	Payable on the lodgement of a PDS for a financial product (other than a managed investment product in a managed fund)	s 48(1)(b)		\$2,700
	Payable on the lodgement of a limited disclosure document for a managed fund	Schedule 1, cl 26(3)	Schedule 8	\$600 per fund, multi-fund investment option, or life cycle stage covered by the limited disclosure document
	Payable on the lodgement of a limited disclosure document for a financial product (other than a managed investment product in a managed fund)	Schedule 1, cl 26(3)	Schedule 8	\$2,700

Description of fee	Time when payable	Provision of Act	Provision of Regulations	Amount of fees
Confirmation fee	Payable on the lodgement of a confirmation notice for managed investment products in a managed fund	s 97	rr 52 to 52B	\$600 per fund, multi-fund investment option, or life cycle stage covered by the confirmation notice
Managed investment scheme annual report fee	Payable on the lodgement of a confirmation notice for financial products (other than managed investment products in a managed fund)	s 97	rr 52 to 52B	\$2,700 per PDS covered by the confirmation notice
Managed investment scheme registration fee	Payable on the lodgement of an annual report	s 97	r 62	\$275
	Payable on an application for registration of a managed investment scheme	s 126		\$775
	Payable on the lodgement of a governing document for a managed investment scheme	Schedule 4, cl 22(1)(b)		\$775
Financial statements fee	Payable on the lodgement of financial statements (or group financial statements) and an auditor's report	s 461H		\$201.25

Schedule 3 table: replaced, on 1 July 2017, by regulation 5 of the Financial Markets Conduct (Fees) Amendment Regulations 2017 (LI 2017/139).

Schedule 3 table: amended, on 8 September 2017, by regulation 4(2) of the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 27 March 2014.

Notes

1 *General*

This is a consolidation of the Financial Markets Conduct (Fees) Regulations 2014 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Legislation Act (Sub-delegated Secondary Legislation) Regulations 2021 (LI 2021/248): regulation 91

Financial Markets Conduct (Fees) Amendment Regulations 2020 (LI 2020/320)

Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019 (LI 2019/253)

Financial Markets Conduct (Fees) Amendment Regulations 2019 (LI 2019/103)

Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2017 (LI 2017/210)

Financial Markets Conduct (Fees) Amendment Regulations 2017 (LI 2017/139)

Financial Markets Conduct (Fees) Amendment Regulations 2015 (LI 2015/279)

Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2014 (LI 2014/327)