



Financial Markets Authority (Levies) Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 25th day of May 2020

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.

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Regulations

1 Title

These regulations are the Financial Markets Authority (Levies) Amendment Regulations 2020.

2 Commencement

- (1) Regulation 13 comes into force on 26 June 2020.
- (2) The rest of these regulations come into force on 1 July 2020.

3 Principal regulations

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

4 Regulation 3 amended (Interpretation)

- (1) In regulation 3, revoke the definitions of **FMC offer** and **scheme**.
- (2) In regulation 3, replace the definition of **leviable event** with:
leviable event, in relation to a person included in a class, means the event specified for the class in column 3 of the levies table
- (3) In regulation 3, insert in their appropriate alphabetical order:
conventional market means a financial product market if—
 - (a) the operator has a licence to operate the market issued under section 316 of the FMC Act; and
 - (b) the market is not a growth market**financial product market** has the same meaning as in section 6(1) of the FMC Act
FMC Act means the Financial Markets Conduct Act 2013
growth market means a financial product market if—
 - (a) the operator has a licence to operate the market issued under section 316 of the FMC Act; and

- (b) either or both of the following apply:
 - (i) the licence is subject to a condition that limits the size of issuers that are eligible to become, or to remain, listed issuers on the financial product market (for example, a limit based on the issuer's market capitalisation):
 - (ii) the market is otherwise designed for, and clearly targeted at, small and medium-sized entities

market capitalisation, in relation to—

- (a) a listed issuer of quoted equity securities, means the value of all of the issuer's equity securities, as implied by the market price or fair value of those equity securities:
- (b) a listed issuer to which paragraph (a) does not apply and that has issued quoted debt securities, means the net assets of the issuer and its subsidiaries (if any) as reported in the most recent financial statements or group financial statements prepared in accordance with GAAP for the issuer and those subsidiaries (if any):
- (c) a listed issuer to which neither paragraph (a) nor paragraph (b) applies and that has issued quoted managed investment products, means the total managed assets of the issuer

quoted has the same meaning as in section 6(1) of the FMC Act

- (4) In regulation 3, replace “Financial Markets Conduct Act 2013” with “FMC Act” in each place.
- (5) In regulation 3, insert as subclause (2):
- (2) For the purposes of paragraph (c) of the definition of market capitalisation in subclause (1), the total managed assets of the issuer must be determined in accordance with regulation 7, but applied—
 - (a) as if the references to a scheme also included a managed investment scheme in which interests are offered to wholesale investors only (where wholesale investor has the same meaning as in section 6(1) of the FMC Act); and
 - (b) with all other necessary modifications.

5 Regulation 6 amended (Meaning of total supervised interests (class 4))

In regulation 6(1)(a), delete “or, in the case of a person deemed to be included in class 4 under regulation 9, at the time of the leviable event”.

6 Regulation 7 amended (Meaning of total managed assets (class 5))

After regulation 7(2), insert:

- (3) In this regulation, **scheme** means—

- (a) a registered scheme in which managed investment products have been issued under an FMC offer (within the meaning of section 5(3) of the FSP Act); or
- (b) a scheme that is treated as being a registered scheme under clause 22(1)(a) of Schedule 4 of the FMC Act.

7 Regulation 7A amended (Meaning of funds under management (class 6A))

In regulation 7A(4), definition of **investor**, paragraph (a), replace “section (6)(1) of the Financial Markets Conduct Act 2013” with “section 6(1) of the FMC Act”.

8 Regulation 8 amended (Persons included in prescribed classes of specified persons must pay levy)

In regulation 8(4), replace “regulations 9 to” with “regulations 11 and”.

9 Regulation 9 revoked (Persons deemed to be included in classes 4 and 5)

Revoke regulation 9.

10 Regulation 13 replaced (Requirements relating to FMA invoicing for levies)

Replace regulation 13 with:

13 Requirements relating to FMA invoicing for levies

- (1) This regulation applies to a levy, or any part of a levy, payable by a person in class 8, 8A, 10, 10A, or 13 on being issued with an invoice under this regulation.
- (2) The FMA must issue an annual invoice to a person in class 8 or 8A for the levy (other than any debt collection costs) as soon as practicable after the end of a financial year of the licensed market operator with which the person has a listing agreement.
- (3) The FMA must issue an annual invoice to a person in class 13 for the levy (other than any debt collection costs), and the invoice may be issued before or after the FMA makes the annual confirmation required by section 43 of the Auditor Regulation Act 2011.
- (4) The FMA may issue 1 or more invoices to a person in class 8, 8A, 10, 10A, or 13 for any debt collection costs included in the levy at any time after the costs to which the invoice relates have been incurred.

11 Schedule 1 amended

- (1) In Schedule 1, clause 3(1)(a), replace “28 September 2020” with “the relevant date”.
- (2) In Schedule 1, replace clause 3(3) with:
- (3) In this clause,—

application means an application under section 15 of the FSP Act to be registered as a provider of a financial advice service

relevant date means the date that is 3 months after the date on which section 16 of the Financial Services Legislation Amendment Act 2019 comes into force.

12 Schedule 2 replaced

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

13 Financial Markets Authority (Levies) Amendment Regulations 2019 revoked

The Financial Markets Authority (Levies) Amendment Regulations 2019 (LI 2019/254) are revoked.

Schedule
Schedule 2 replaced

r 12

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 apply under section 15 of the FSP Act to be a registered FSP	Making the application	Registrar of Financial Service Providers	\$552
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, \$1,035,000; or or (b) exceed \$10 billion but do not exceed \$50 billion, \$276,000; or (c) exceed \$2 billion but do not exceed \$10 billion, \$83,490; or (d) exceed \$1 billion but do not exceed \$2 billion, \$42,550; or (e) exceed \$500 million but do not exceed \$1 billion, \$15,295; or (f) exceed \$40 million but do not exceed \$500 million, \$9,660; or (g) do not exceed \$40 million, \$2,875

Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
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, \$345,000; or</p> <p>(b) exceeds \$100 million but does not exceed \$500 million, \$80,500; or</p> <p>(c) exceeds \$50 million but does not exceed \$100 million, \$47,150; or</p> <p>(d) exceeds \$10 million but does not exceed \$50 million, \$18,400; or</p> <p>(e) does not exceed \$10 million, \$4,830</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	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, \$230,000; or</p> <p>(b) exceed \$1 billion but do not exceed \$5 billion, \$103,500; or</p> <p>(c) exceed \$100 million but do not exceed \$1 billion, \$40,250; or</p> <p>(d) do not exceed \$100 million, \$10,580</p>
5	Registered FSPs that are managers (as defined in section 6(1) of the FMC Act)	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, \$529,000; or</p> <p>(b) exceed \$5 billion but do not exceed \$10 billion, \$368,000; or</p> <p>(c) exceed \$2 billion but do not exceed \$5 billion, \$184,000; or</p>

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Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
6	Registered FSPs that are— (a) entities (as defined in section 6(1) of the FMC Act) that 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— (i) persons included in class 6A, 6B, 6C, or 6D; and (ii) DIMS wholesale providers; 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, \$115,000; or</p> <p>(e) exceed \$500 million but do not exceed \$1 billion, \$66,700; or</p> <p>(f) exceed \$100 million but do not exceed \$500 million, \$30,475; or</p> <p>(g) exceed \$20 million but do not exceed \$100 million, \$8,280; or</p> <p>(h) exceed \$1 but do not exceed \$20 million, \$1,955</p> <p>One of the following amounts (being whichever applicable amount is the greatest):</p> <p>(a) if the person is an entity authorised to undertake trading activities on licensed markets, \$7,590;</p> <p>(b) if the person is a contributory mortgage broker, \$3,105;</p> <p>(c) if the person is registered for the financial service described in section 5(1)(k) of the FSP Act, \$9,200 (but this paragraph does not apply to entities authorised to undertake trading activities on licensed markets);</p> <p>(d) if the person is licensed to provide the licensed market service of acting as a derivatives issuer, \$15,525;</p>

Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
6A	<p>(d) persons licensed to provide the licensed market service of acting as a derivatives issuer (as defined in section 6(1) of the FMC Act); or</p> <p>(e) authorised financial advisers (as defined in section 5 of the Financial Advisers Act 2008)</p> <p>Registered FSPs that are DIMS retail providers</p>	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	<p>(e) if the person is an authorised financial adviser, \$437</p> <p>If the provider's funds under management—</p> <p>(a) exceed \$2 billion, \$65,550; or</p> <p>(b) exceed \$500 million but do not exceed \$2 billion, \$27,600; or</p> <p>(c) exceed \$100 million but do not exceed \$500 million, \$9,315; or</p> <p>(d) exceed \$50 million but do not exceed \$100 million, \$4,485; or</p> <p>(e) do not exceed \$50 million, \$1,840</p>
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	\$3,220
6C	Registered FSPs that are custodians	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$10,465

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Column 1	Column 2	Column 3	Column 4	Column 5
Class	Description	Leviable event	Collector	Amount of levy
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	\$3,335
6E	Registered FSPs that are licensed to provide the licensed market service of acting as an administrator of a financial benchmark	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$20,125
7	Registered FSPs that are not included in any of classes 2 to 6E	Supplying an annual confirmation to the Registrar of Financial Service Providers under section 28 of the FSP Act	Registrar of Financial Service Providers	\$621
8	Listed issuers (other than persons included in class 8A)	Being issued with an invoice under regulation 13	FMA	\$4,140 plus any debt collection costs incurred in relation to the person
8A	Listed issuers with a market capitalisation less than— (a) \$60 million (unless paragraph (b) applies to the issuer); or (b) \$100 million in the case of a listed issuer to which paragraph (c) of the definition of market capitalisation in regulation 3(1) applies	Being issued with an invoice under regulation 13	FMA	\$1,035 plus any debt collection costs incurred in relation to the person
9	Persons that lodge a product disclosure statement (PDS) under section 48 of the FMC Act	Lodging a PDS	Registrar of Financial Service Providers	\$4,025 (except for a PDS for a managed fund)

Column 1 Class	Column 2 Description	Column 3 Leviable event	Column 4 Collector	Column 5 Amount of levy
10	Licensed market operators that operate 1 or more conventional markets	For the levy other than debt collection costs, giving a report on compliance to the FMA under section 337 of the FMC Act For debt collection costs, being issued with an invoice under regulation 13	FMA	\$805 per fund, multi-fund investment option, or life cycle stage covered by the PDS, in the case of a managed fund \$55,200 plus any debt collection costs incurred in relation to the person
10A	Licensed market operators that operate 1 or more growth markets (other than persons included in class 10)	For the levy other than debt collection costs, giving a report on compliance to the FMA under section 337 of the FMC Act For debt collection costs, being issued with an invoice under regulation 13	FMA	\$8,050 plus any debt collection costs incurred in relation to the person
11	FMC reporting entity (as defined in section 6(1) of the FMC Act)	Lodging of financial statements (or group financial statements) and auditor's reports under section 461H of the FMC Act	Registrar of Financial Service Providers	\$69
12	Accredited bodies (as defined in section 6(1) of the Auditor Regulation Act 2011)	Making an annual confirmation under section 43 of the Auditor Regulation Act 2011	Registrar of Companies	\$4,600 for each specified licence (as defined in regulation 3(1))

Column 1	Column 2	Column 3	Column 4	Column 5
Class	Description	Leviable event	Collector	Amount of levy
13	Overseas auditors holding a specified licence (as defined in regulation 3(1))	Being issued with an invoice under regulation 13	FMA	\$5,060 plus any debt collection costs incurred in relation to the person
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	\$20
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 (c) the Friendly Societies and Credit Unions Act 1982; or (d) the Limited Partnerships Act 2008	Making the annual return	The person to whom the annual return is made	\$20

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 mostly come into force on 1 July 2020, amend the Financial Markets Authority (Levies) Regulations 2012.

Those regulations provide for levies under section 68 of the Financial Markets Authority Act 2011. The levies are payable by specified classes of financial market participants. The purpose of the levies is to fund—

- a portion of the costs of the Financial Markets Authority in performing or exercising its functions, duties, and powers under the Financial Markets Authority Act 2011 and any other enactment; and
- the costs of collecting the levy money.

The amendments—

- increase the levies payable by all classes of specified person; and
- introduce 3 new levy classes.

The new levy classes are as follows:

- levy class 6E for administrators of financial benchmarks that hold a market services licence. The new regime for these administrators was introduced by the Financial Markets (Derivatives Margin and Benchmarking) Reform Amendment Act 2019;
- levy class 8A for smaller listed issuers. This class has been split from the class that applies to other listed issuers (class 8). Smaller listed issuers will pay a lower levy reflecting the smaller size of their businesses and to encourage more small and medium-sized businesses to list on financial product markets;
- levy class 10A for licensed market operators that operate a growth market. This class has been split from the class that applies to other licensed market operators (class 10). The levy payable by operators of a growth market is lower to reflect their smaller size.

These regulations also revoke the Financial Markets Authority (Levies) Amendment Regulations 2019 (which have mostly not yet come into force) on 26 June 2020. Those regulations were to make changes in connection with a new regime for financial advice services under the Financial Markets Conduct Act 2013. This regime is being introduced by the Financial Services Legislation Amendment Act 2019. However, the commencement of that regime has been deferred as a consequence of the outbreak of COVID-19.

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment in April 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

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

- <https://www.mbie.govt.nz/business-and-employment/business/financial-markets-regulation/crown-entities-we-monitor/financial-markets-authority-funding/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 28 May 2020.

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