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Information redacted	NO

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In Confidence

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Economic Development Committee

Financial Markets Authority levies for 2021/22 onwards and the new financial advice regime

Proposal

1 This paper seeks approval to make changes to the Financial Markets Authority's (FMA) levy to implement further funding increases for the FMA from 2021/22 onwards and the new financial advice regime.

Relation to government priorities

2 The Government's economic plan identifies key shifts and policy actions. One of these is that 'deeper pools of capital are available'. Having a well-resourced financial markets regulator is a key part of the infrastructure needed to support New Zealanders to have confidence to invest in financial markets and to facilitate greater access to capital for innovative New Zealand firms.

Executive Summary

3 The FMA is New Zealand's main conduct regulator of financial markets. In recent years the FMA has faced an expansion of its regulatory remit and broader cost pressures. Accordingly, on 6 April 2020, Cabinet agreed to increase the FMA's appropriation over three years to $60.805 million by 2022/23 and outyears. Cabinet agreed that the majority of this increase – $23.501 million per annum by 2022/23 – will be funded via an increase in the existing levy on financial service providers.

4 On 8 April 2020, Cabinet agreed to the first year of phased levies for 2020/21 and noted that approvals for the remaining years and structural levy changes for the commencement of the financial advice regime would be sought later in 2020 [CBC-20-MIN-0029].

5 This paper now seeks Cabinet's agreement to adjust the levy model and amounts paid by financial markets participants to give effect to outstanding policy decisions. Specifically, these changes will:

a. increase the levy amounts for 2021/22 and 2022/23 and outyears to recover the industry's contribution to the recently agreed increase in the FMA's funding;

b. introduce (with updated levy amounts) the levy classes and associated changes previously agreed by Cabinet [DEV-19-MIN-0154] for the upcoming financial advice regime that had to be revoked due to the delay to the regime;

c. amend some levy tiers to make the levy model more equitable and ensure the model accurately reflects the size and nature of market participants; and

d. update estimated population forecasts and figures for each levy class's portion of the total amount of FMA levy recovered.

6 The proposals in this paper and the phasing of the associated baseline funding increase were prepared taking into account the impact, and the Government's response to, COVID-19. The main change was that the FMA's funding increase is being phased in over three years instead of two so as to reduce the impact a levy increase will have on the financial services sector at the current time.

7 The full amended FMA levy model structure is set out in Appendix One. The adjustments to the levy model will require amendments to, or replacement of, the Financial Markets Authority (Levies) Regulations 2012.

Background

Recent review of the FMA's funding and levy

8 The FMA was established in 2011 and is New Zealand's principal conduct regulator of financial markets. Its overarching statutory purpose is to promote and facilitate the development of fair, efficient and transparent financial markets. Well-regulated financial markets are vitally important to New Zealand's economy and the financial wellbeing of every New Zealander.

9 In 2019, the Ministry of Business, Innovation and Employment (MBIE) and the FMA initiated a review of the FMA's funding requirements and the FMA levy. The reason for the review was that the FMA's operational funding had been under significant pressure in recent years with a growing regulatory remit and responsibilities.

10 In response to this, on 6 April 2020 Cabinet agreed to increase the FMA's appropriation by $24.805 million over three years to 2022/23, taking the FMA's operational funding to $60.805 million per annum in 2022/23 and outyears.

11 This will enable the FMA to meet its existing operational pressures, be better prepared to respond to unexpected market developments or events, and be able to undertake effective and swift implementation of the new financial advice regime. It will also enable more cross-agency collaboration to improve coordination and efficiencies in the financial system.

12 This funding increase is being phased in over three years with an additional $12.500 million in 2020/21, $17.500 million in 2021/22, and the full $24.805 million in 2022/23 and outyears.

13 As at 2019/20, the Crown contributed approximately 25 per cent of the FMA's funding, with the remaining 75 per cent recovered via a levy on financial markets participants. On 6 April 2020, Cabinet confirmed through Budget 2020 that $1.304 million per annum of the $24.805 million increase would be funded by the Crown on an ongoing basis and the remaining $23.501 million would be met by industry through increases in the FMA levy.

14 With the fully phased-in increase in the FMA's funding and the Crown's contribution, the new split of the FMA's operational funding will be approximately 17 per cent Crown and 83 per cent levy from 2022/23 onwards.

Changes were made to FMA's funding proposals to reflect COVID-19

15 The funding proposals were adjusted to take into account the potential economic impact of COVID-19 on the financial services sector. These FMA funding increases do not cover any costs involved in the FMA's increased role and responsibilities under a climate-related financial disclosures regime or the conduct of financial institutions regime.

16 The funding and levy increases are now being phased in over three years instead of two. This is to lessen the impact of increased levies on financial services businesses at a time when revenues may be lower because of the economic impact of COVID-19. This adjustment complements the other lines of support the Government has been providing businesses to cushion the impact of COVID-19.

17 The revised proposals also take into account the fact that the Government decided to slow the pace of regulatory change for the financial services sector in response to COVID-19. This will relieve the FMA of some immediate resourcing pressure, but work on upcoming regulatory reforms and implementation will still need to continue, albeit at a slower pace.

The FMA levy model

18 The FMA oversees a wide range of financial markets participants. Financial markets participants make a contribution towards the costs of the FMA's operations through the FMA levy paid for each financial service they provide. For example, a registered bank that is also an insurer and has a managed investment scheme (such as KiwiSaver) will pay a levy for all three activities.

19 Where appropriate, levy amounts are also tiered within a levy class to recognise variations in participant size and nature. This means that the amount of levy charged is typically proportionate to the size of the business. For example, a large KiwiSaver scheme manager pays more than a smaller boutique KiwiSaver manager and a large bank pays more than a smaller bank or credit union.

20 When setting and reviewing the FMA levy model the following objectives are taken into account:

a. The cost of the levy for market participants is consistent with the benefits they receive from well-regulated financial markets;

b. The levy does not discourage entry into the market for, and the supply of, financial products or services; and

c. The levy is practical in respect of its implementation and collection, and also avoids large over or under-collections.

Proposed changes to the FMA levy Model

New levy amounts for 2021/22 and onwards

21 In order to implement the remaining years of increased FMA funding, the FMA levy amounts need to be updated and increased for 2021/22 and 2022/23 and outyears. The forecast populations for each levy class have also been updated with more accurate figures based on collections data (though the impact of COVID-19 may cause the number of firms operating in the industry to fluctuate in the short-term).

22 The updated levy amounts also take into account the upcoming conclusion of the return of a historic over-recovery of FMA levies that occurred between 2012 and 2015. This return reduced the amount to be collected from the industry by approximately $1.2 million per year for the five years from 2017/18 to 2021/22. From 2022/23 onwards this reduction in the amount recovered will cease.

Re-introduction of levies and associated changes for the financial advice regime

23 Following the impact of COVID-19, the commencement of the new regime to regulate financial advice was delayed. This meant that FMA levy changes previously agreed [DEV-19-MIN-0154] and drafted [LEG-19-MIN-0157] for the regime had to be revoked before they came into force prior to commencement of the regime.

24 The levy classes and associated amendments in the Financial Markets Authority (Levies) Amendment Regulations 2019 now need to be re-introduced with updated levy amounts for the FMA's new funding so that they are in place for when the new regime commences on 15 March 2021.

Structural changes to some tiers in the levy model

25 Feedback from consultation also identified that some levy tiers have become out-of-step with the size and make-up of participants in the market. Accordingly, adjustments to some tiers are necessary so that the levies accurately reflect the participants in the market and do not discourage entry into, or growth of, financial services. A change is also needed to preserve the application of levy waivers previously given by the FMA. System limitations meant that it was not possible to implement these changes in time for 2020/21 financial year.

26 Specifically, the following changes are proposed:

a. Splitting the top two tiers in the licensed insurer class into four new tiers with a higher maximum, smoothing the increase in levies between tiers;

b. Splitting the top tier and one lower tier in the scheme manager class into four new tiers with a higher maximum, smoothing the increase in levies between tiers;

c. Splitting a number of tiers in the discretionary investment management service class into six new tiers, smoothing the increase in levies between tiers; and

d. Preserving the effect of levy waivers given by the FMA so that self-select managed investment schemes[1] lodging a product disclosure statement (PDS) pay the same levy as when a PDS is lodged for a non-managed fund.

27 The full updated FMA levy model is attached to this paper as Appendix One.

Consultation

28 Consultation on the changes to the FMA levy was undertaken with levy payers through a discussion document between January and February 2020. MBIE and the FMA also held targeted stakeholder workshops with key financial services sector associations and online webinars to ensure stakeholders had the opportunity to provide feedback.

29 49 written submissions were received on the discussion document. Feedback on the levy model mainly related to why individual participants or sectors were paying more in levies than others. There was support from a number of submitters for adjustments to some of the levy tiers to improve fairness and ensure that the levy model accurately reflects the make-up of financial markets participants.

30 The FMA, the Reserve Bank of New Zealand, and the Treasury were consulted on this paper. The Department of the Prime Minister and Cabinet (Policy Advisory Group) was also advised.

Financial Implications

31 The financial implications for these FMA levy changes were considered by Cabinet as part of the Budget Significant Initiatives Paper on 6 April 2020.

Legislative Implications

32 The proposals will require amendment to, or the replacement of, the Financial Markets Authority (Levies) Regulations 2012.

Regulatory Impact Analysis

33 A Regulatory Impact Assessment (RIA) was prepared in March 2020 and was considered by Cabinet in April 2020 [CBC-20-MIN-0029].

Population Implications

34 No significant impacts for specific population groups have been identified during the course of the analysis of the FMA's levy model.

Communications

35 This paper will be proactively released on MBIE's website and communicated to industry so that levy payers can plan and prepare for the new levies.

[1] Self-select schemes are a form of managed fund that allow investors to design their own investment portfolios by choosing from a list (typically hundreds) of investment options. This differs from other managed funds where investors only chose from a pre-selected list of funds.

Proactive Release

36 This paper will be published on MBIE's website, subject to withholdings as appropriate and consistent with the Official Information Act 1982.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1 **note** that on 6 April 2020 Cabinet agreed to increase the FMA's operational funding by $24.805 million by 2022/23 and outyears to a total of $60.805 million per annum and that $23.501 million of the new funding be recovered from financial markets participants through phased increases in the FMA levy [CAB-20-MIN-0155.05];

2 **note** that the proposals in this paper give effect to the remaining years of phased FMA funding increases, to levy changes required for the upcoming financial advice regime, and to make improvements to the levy model structure;

3 **agree** to amend the FMA levy model structure, as set out in Appendix One of this paper, to:

   a. increase the FMA levy amounts for 2021/22 and 2022/23 and outyears to recover the industry's contribution to the recently agreed increase in the FMA's funding;

   b. re-introduce (with updated levy amounts) the levy classes and associated changes previously agreed by Cabinet and in the Financial Markets Authority (Levies) Amendment Regulations 2019 [DEV-19-MIN-0154] for the upcoming financial advice regime that had to be revoked due to the regime's delay;

   c. amend some levy tiers to make the levy model more equitable, ensure the model accurately reflects the size and nature of market participants, and preserve the effect of FMA levy waivers; and

   d. update the estimated population forecasts and figures for each levy class's portion of the total amount of FMA levy recovered.

4 **note** that the financial implications for the proposals in this paper were considered by Cabinet as part of the Budget 2020 Significant Initiatives Paper on 6 April 2020;

5 **authorise** the Minister of Commerce and Consumer Affairs to issue drafting instructions to the Parliamentary Counsel Office to draft regulations to give effect to decisions in this paper;

6 **authorise** the Minister of Commerce and Consumer Affairs to make minor or technical changes to the FMA levy model consistent with the policy decisions in this paper.

Authorised for lodgement

Hon Kris Faafoi
Minister of Commerce and Consumer Affairs

Appendix One: The FMA levy model (excluding GST)

Levy class	Type of levy (fixed levy or tiers)	Approx. % of total levy fully phased	Current 2020/21 levy (1st year of phasing)	New 2021/22 levy (2nd year of phasing)	New 2022/23 and outyears levy (fully phased)
Class 1 New financial service provider (FSP) registrations	Fixed levy	2.50%	$480	$500	$600
Class 2 Registered FSPs that are registered banks or licensed non-bank deposit takers	Total assets exceed $50 billion	12.66%	$900,000	$950,000	$1,130,000
	Total assets exceed $10 billion but not $50 billion		$240,000	$290,000	$350,000
	Total assets exceed $2 billion but not $10 billion		$72,600	$80,000	$95,000
	Total assets exceed $1 billion but not $2 billion		$37,000	$39,000	$46,000
	Total assets exceed $500 million but not $1 billion		$13,300	$14,400	$17,000
	Total assets exceed $40 million but not $500 million		$8,400	$8,800	$10,500
	Total assets do not exceed $40 million		$2,500	$2,600	$3,000
Class 3 Registered FSPs that are licensed insurers	New tier: Annual gross premium revenue exceeds $1 billion	10.33%	n/a new tier	$400,000	$480,000
	New tier: Annual gross premium revenue exceeds $500 million but not $1 billion			$310,000	$370,000
	New tier: Annual gross premium revenue exceeds $250 million but not $500 million			$106,000	$136,000
	New tier: Annual gross premium revenue exceeds $100 million but not $250 million			$79,000	$94,000
	Annual gross premium revenue exceeds $50 million but not $100 million		$41,000	$43,000	$50,000
	Annual gross premium revenue exceeds $10 million but not $50 million		$16,000	$17,000	$20,000
	Annual gross premium revenue does not exceed $10 million		$4,200	$4,300	$5,200

Class 4 Registered FSPs that are supervisors licensed in respect of the supervision of debt securities and managed investment products in registered schemes	Total supervised interests exceed $5 billion	2.12%	$200,000	$220,000	$265,000
	Total supervised interests exceed $1 billion but not $5 billion		$90,000	$100,000	$122,000
	Total supervised interests exceed $100 million but not $1 billion		$35,000	$36,000	$39,000
	Total supervised interests do not exceed $100 million		$9,200	$10,300	$12,000
Class 5 Registered FSPs that are managers of a scheme	New tier: Total managed assets exceed $15 billion	19.92%	n/a new tier	$550,000	$670,000
	New tier: Total managed assets exceed $10 billion but not $15 billion			$470,000	$565,000
	Total managed assets exceed $5 billion but not $10 billion		$320,000	$333,000	$400,000
	Total managed assets exceed $2 billion but not $5 billion		$160,000	$170,000	$205,000
	Total managed assets exceed $1 billion but not $2 billion		$100,000	$108,000	$130,000
	Total managed assets exceed $500 million but not $1 billion		$58,000	$62,000	$75,000
	New tier: Total managed assets exceed $250 million but not $500 million		n/a new tier	$37,000	$44,000
	New tier: Total managed assets exceed $100 million but not $250 million			$27,000	$32,000
	Total managed assets exceed $20 million but not $100 million		$7,200	$7,400	$9,000
	Total managed assets do not exceed $20 million		$1,700	$1,800	$2,100

Class 6 Registered FSPs where One of the following amounts (being whichever applicable amount is the greatest):	(a) the person is an entity authorised to undertake trading activities on licensed markets	0.16%	$6,600	$6,900	$8,300
	(b) the person is a contributory mortgage broker	0.15%	$2,700	$2,900	$3,500
	(c) the person is registered for the financial service described in section 5(1)(k) of the FSP Act, other than persons in class 6A, 6B, 6C, or 6D and DIMS wholesale providers	0.86%	$8,000	$8,600	$10,400
	(d) the person holds a market services licence that covers the service of acting as a derivatives issuer	0.90%	$13,500	$15,000	$18,200
Class 6A Registered FSPs that are DIMS retail providers	Funds under management exceed $2 billion	2.50%	$57,000	$75,000	$90,000
	New tier: Funds under management exceed $1 billion but not $2 billion		n/a new tier	$35,000	$45,000
	New tier: Funds under management exceed $500 million but not $1 billion			$26,000	$30,000
	New tier: Funds under management exceed $250 million but not $500 million			$14,100	$17,100
	New tier: Funds under management exceed $100 million but not $250 million			$9,800	$11,800
	Funds under management exceed $50 million but not $100 million		$3,900	$5,400	$6,500
	New tier: Funds under management exceed $20 million but not $50 million		n/a new tier	$3,300	$4,000
	New tier: Funds under management do not exceed $20 million			$1,900	$2,200
Class 6B Registered FSPs that are brokers (other than persons in class 6(a) or 6C)	Fixed levy	0.75%	$2,800	$3,000	$3,600
Class 6C Registered FSPs that are custodians	Fixed levy	1.06%	$9,100	$9,900	$11,900

Class 6D Registered FSPs that provide a crowd funding service or a peer-to-peer lending service	Fixed levy	0.12%	$2,900	$3,020	$3,560
Class 6E Registered FSPs that are licensed to provide the market service of acting as a benchmark administrator	Fixed levy	0.04%	$17,500	$18,500	$22,000
Class 7 Registered FSPs that are not included in any of classes 2 to 6E	Fixed levy	3.09%	$540	$560	$660
Class 8 Listed issuers (other than persons in Class 8A)	Fixed levy plus any debt collection costs incurred in relation to the persons	1.20%	$3,600	$4,000	$4,800
Class 8A Listed issuers with a market capitalisation less than – a) $60 million; or b) $100 million in the case of issuers in (c) of the definition of market capitalisation	Fixed levy plus any debt collection costs incurred in relation to the persons	0.12%	$900	$1,000	$1,220
Class 9 Persons that lodge a PDS under the FMC Act	All (including self-select schemes) except for a PDS of a managed fund	0.45%	$3,500	$3,900	$4,700
	Per fund, multi-fund investment option, or life-cycle stage covered by the PDS, in the case of a managed fund	0.12%	$700	$740	$860
Class 10 Licensed market operators operating a conventional market	Fixed levy plus any debt collection costs incurred in relation to the persons	0.13%	$48,000	$54,000	$65,000
Class 10A Licensed market operators operating a growth market	Fixed levy	0.02%	$7,000	$7,900	$9,500

Class 11 FMC reporting entity	Fixed levy	0.12%	$60	$65.22	$80
Class 12 Accredited bodies	Fixed levy	1.49%	$4,000	$4,400	$5,400
Class 13 Overseas auditors holding a specified licence	Fixed levy plus any debt collection costs incurred in relation to the persons	0.29%	$4,400	$4,800	$5,700
Class 14 Persons that apply for registration or incorporation under	The Building Societies Act 1965	2.47%	$17.39	$17.39	$21.74
	The Companies Act 1993		$17.39	$17.39	$21.74
	The Friendly Societies And Credit Unions Act 1982		$17.39	$17.39	$21.74
	The Limited Partnerships Act 2008		$17.39	$17.39	$21.74
Class 15 Persons that are registered or incorporated and make an annual return under	The Building Societies Act 1965	24.65%	$17.39	$17.39	$21.74
	The Companies Act 1993		$17.39	$17.39	$21.74
	The Friendly Societies And Credit Unions Act 1982		$17.39	$17.39	$21.74
	The Limited Partnerships Act 2008		$17.39	$17.39	$21.74
New levy Registered FSPs that are authorised bodies	Fixed levy	0.58%	15 March 2020 to 30 June 2021 $660	$760	$880
New levy Registered FSPs that are financial advisers (as defined in section 6(1) of the FMC Act)	Fixed levy	6.48%	15 March 2020 to 30 June 2021 $300	$340	$400
New levy Registered FSPs that are licensed financial advice providers	Fixed levy	1.55%	15 March 2020 to 30 June 2021 $260	$280	$340
	Plus every nominated representative engaged by the financial advice provider	2.76%	15 March 2020 to 30 June 2021 $220	$240	$300
	Plus if the financial advice provider gives advice on its own account	0.23%	15 March 2020 to 30 June 2021 $880	$980	$1,180