



Review of FMA Funding Scenarios

Ministry of Business, Innovation & Employment

13 August 2021



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Glossary

Term	Description
ASIC	The Australian Securities and Investments Commission
C&C Review	<p>The Financial Markets Authority and Reserve Bank of New Zealand completed their first joint review into the conduct and culture of 11 New Zealand banks in 2018.</p> <p>https://www.fma.govt.nz/news-and-resources/reports-and-papers/bank-conduct-and-culture-review/</p> <p>This was followed in 2019 by the review of <i>Life Insurer Conduct and Culture</i> which was based on 16 insurers.</p> <p>https://www.fma.govt.nz/news-and-resources/reports-and-papers/life-insurer-conduct-and-culture/</p>
COFI	Conduct of Financial Institutions, one of the new regimes for the FMA
CRD	Climate Related Disclosures, one of the new regimes for the FMA
F&G Report	<p>The <i>Insurance conduct and culture: Fire and general insurers update</i>.</p> <p>This report summarises findings from the evaluation of New Zealand fire and general insurers' responses to the Life Insurer Conduct and Culture review undertaken by the Financial Markets Authority and the Reserve Bank of New Zealand in 2019.</p> <p>https://www.fma.govt.nz/news-and-resources/reports-and-papers/fire-and-general-insurers-update/</p>
FMA	The Financial Markets Authority
FTE	Full Time Equivalent, used as a measure of the number of (full time) staff the FMA needs to carry out its activities
ICL	Insurance Contract Law (Reform), one of the new regimes for the FMA
MfE	The Ministry for the Environment
MBIE	The Ministry of Business, Innovation and Employment
RBNZ	The Reserve Bank of New Zealand
XRB	The External Reporting Board

Summary

The Financial Markets Authority (FMA) has developed its proposed regulatory response to three upcoming regimes. This includes seeking additional funding to fulfil its expanding remit and carry out activities that are not covered by its current funding.

Background and purpose

The FMA is an independent Crown entity and New Zealand's principal conduct regulator of financial markets. It is desirable for the FMA to be a credible conduct regulator that is sufficiently resourced, resilient and able to adopt a proactive, risk-based and systems-wide approach to regulation that includes contributing to wider government policy objectives, where appropriate.

Since its establishment in 2011, the role of the FMA, its responsibilities and statutory functions have increased significantly. There have been previous reviews and funding increases, including in 2017 and in 2019. There are now three new regimes requiring regulatory activities by the FMA:

- Conduct of Financial Institutions (COFI)
- Insurance Contract Law (ICL)
- Climate-Related Disclosures (CRD)

The purpose of this report is to provide an assessment of the additional funding the FMA requires to perform its functions under these three regimes.

Summary of options

This report considers two options the FMA has developed for each of the three new regimes, and these are summarised briefly below. In each case, new capability and staff would be phased in over 3-4 years, reflected in the increased new funding sought in the tables below.

Conduct of Financial Institutions

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 1	\$6,847	\$8,432	\$11,538	\$15,243	\$42,061
Option 2	\$5,640	\$5,808	\$8,062	\$9,945	\$29,454

- Option 1 requires an additional 102 FTE to allow for a proactive approach with capacity to enable dedicated focus across industry segments. The total funding required over four years to the end of FY 25/26 is \$42.1 million.
- Option 2 requires an additional 67 FTE and involves a more reactive approach, with less focus on guidance and assistance/engagement with the industry. The total funding required over four years to the end of FY 25/26 is \$29.5 million.

The purpose of this report is to provide an assessment of the additional funding the FMA requires to appropriately perform its functions for three new regulatory regimes.

Insurance Contract Law

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 1	\$723	\$1,262	\$1,432	\$1,703	\$5,121
Option 2	\$408	\$679	\$865	\$1,141	\$3,094

- Option 1 requires an additional 12 FTE to allow for a proactive approach, including industry engagement and guidance. The total funding required over four years to the end of FY 25/26 is \$5.1 million.
- Option 2 requires an additional 8 FTE and involves a more reactive approach, with less focus on guidance and engagement with the industry. The total funding required over four years to the end of FY 25/26 is \$3.1 million.

Climate-Related Disclosures

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 1	\$1,790	\$2,105	\$1,856	\$1,856	\$7,606
Option 2	\$1,307	\$1,657	\$1,411	\$1,411	\$5,786

- Option 1 requires an additional 8 FTE to allow for a proactive approach and capacity across the relevant technical domains. The total funding required over four years to the end of FY 25/26 is \$7.6 million.
- Option 2 requires an additional 6 FTE and involves a more reactive approach, with less focus on guidance and assistance/engagement with the industry. The total funding required over four years to the end of FY 25/26 is \$5.8 million.

Options for no additional funding

The FMA also considered how it might respond to the three regimes without any additional funding. This would require reprioritising existing resource to attempt to provide a basic, purely reactive approach to the regimes.

The PricewaterhouseCoopers report¹ in 2019 concluded the FMA is a high-performing organisation, with “many indicators that point to resources being used effectively” and a “finding of strong performance... in terms of efficiency”.

We believe it would be unreasonable, therefore, to expect the FMA to accommodate three new regimes without additional funding. This would be highly unlikely to deliver on the Government’s policy intent, and would put at risk current performance in the FMA’s regulatory scope. Accordingly, we have not included any further detailed consideration of options for no additional funding in this report.

The scope of our work and this report does not include a review of efficiency and effectiveness of the FMA’s current operations, and is focused only on what would reasonably be required for the new regimes.

The FMA also considered, but subsequently discounted, a more intensive regulatory approach option for COFI, such as the “close and continuous monitoring” approach

¹ <https://www.fma.govt.nz/assets/Reports/final-report-financial-markets-authority-efficiency-effectiveness-and-baseline-review.pdf>

adopted by ASIC in Australia, but judged it was not appropriate for New Zealand at this point.

Accordingly, we have not considered any such other options in this report, which focuses on the two options for each regime the FMA considers the most viable.

Conclusions

Options and process

Based on our review and discussions, we believe the FMA has been through a robust and rigorous process to develop its options. While there are still uncertainties for each regulatory regime, the FMA has sought to develop real, effective options and choices for decision-makers.

Costings

We have reviewed the FMA’s costings, which have been refined through this process. Our assessment is that the costings for each option are reasonable.

Options assessment

We have assessed the Options developed by the FMA based on three criteria as set out in the table below:

Criteria	Components	Description
Strategic Alignment	<ul style="list-style-type: none"> Engagement with the market Deterrence of misconduct Consumer confidence 	This criterion explores how well each option is likely to give effect to legislative intent, and how well it fits with known FMA strategy and approaches
Achievability	<ul style="list-style-type: none"> Ability to build and recruit Resilience and future proofing 	This criterion explores how well each option is likely to be implemented, including risks and the ability for the FMA to scale or adjust its approach as details for the three regimes clarify
Good Public Value		This criterion discusses the balance between the above and the costs of the options

Based on our assessments, we recommend:

- Option 1 for Conduct of Financial Institutions
- Option 1 for Insurance Contract Law
- Option 1 for Climate-Related Disclosures

In each case, option 1 provides a superior proactive approach compared with option 2. We believe this provides a greater likelihood legislative intent can be achieved, and is aligned with the FMA’s strengths and approach in other regulatory areas.

While option 1 requires a higher amount of new funding in each case, we would note that the costs of the FMA are only one component of the total regulatory costs and burden of each regime. The more proactive approach of option 1 may reduce costs to comply for some in the regulated populations. On balance, we feel the additional costs of option 1 are appropriate for the greater likelihood of achieving the right outcomes.

Please refer to the sections below for more details about our assessment.

Structure of this report

The next section of this report discusses our approach and findings in relation to the costings of each option developed by the FMA.

The remainder of this report then discusses each of the three regimes in turn. This includes:

- The background and anticipated timeframe for introduction of the regime
- Descriptions of FMA's options
- Assessments of FMA's options
- Our recommendations based on our assessments for each regime

Appendix A provides a description of "seven regulatory pillars", which the FMA has used to describe its activities under the options.

Appendix B provides information about the FMA's costings for the options.

Appendix C provides a list of the people we engaged with at MBIE and the FMA in developing this report.

Limitations

This report is limited by the time available for the work, the agreed scope, the information available, the accessibility of information sources, and clarity or lack of clarity of the objectives.

Our work performed does not constitute an assurance engagement in accordance with New Zealand standards for assurance engagements, nor represent any form of audit under New Zealand standards on auditing (International Standards on Auditing (New Zealand)), and consequently, no assurance conclusion nor audit opinion has been provided. We do not warrant that our enquiries have identified or revealed any matter which an assurance engagement or audit might disclose.

In no way do we guarantee or otherwise warrant that any forecasts of future costs, cash flows or financial position of the FMA will be achieved. Forecasts are inherently uncertain. They are predictions of future events which cannot be assured. They are based upon assumptions, many of which are beyond the control of the FMA and its management team. Actual results will vary from the forecasts and these variations may be significantly more or less favourable.

Note all dollar figures in this report are nominal dollars. Numbers in tables may not add precisely due to rounding.

Acknowledgments

We would like to acknowledge the time and effort of the MBIE and FMA teams who have worked with us throughout this project, and who have been considering and developing options for the new regimes for many months. We appreciate the open and collaborative way MBIE and the FMA have shared their thoughts, responded to questions, and challenged our findings.

Approach and costings

Qualitative approach

Our assessment of the FMA’s options in this report is based on a qualitative approach. We have based our findings and views on review of a range of documentation and spreadsheets, as well as interviews with a broad range of FMA staff and MBIE. Appendix C provides a list of the roles of staff who participated in interviews with us.

Accordingly, the assessment is based on our professional judgment. Other parties may form different conclusions and have different preferences about the options, e.g. due to different perception of value or risk appetite.

Regulatory pillars approach

The FMA developed its options using seven “regulatory pillars”, to characterise the its regulatory activities across a consistent set of categories or “types” of work. These pillars are summarised below and described further in Appendix A.

Pillar	Description
Identify	Identify and prioritise areas of regulatory risk and harm for attention. This tackles areas where the risk of harm is the greatest, reflecting an intelligence-led and risk-based approach.
Set Standards	Set expectations for the financial sector. This provides clarity and certainty for businesses and consumers.
Influence	Influence and guide the financial sector to meet the FMA’s expectations. Influence and guide users of financial services. This builds collaborative and engaging relationships with the sector, and trust for consumers.
Permit	Authorise financial products, services, and markets. This ensures, for example, the FMA authorises entities that meet the licensing criteria and have sufficient capability to operate in the financial markets.
Assess	Determine if the financial sector is meeting the FMA’s expectations. This holds the financial sector to account and helps build consumer confidence and trust.
Respond	Choose and take appropriate action if the financial sector is not meeting the FMA’s expectations. This helps build consumer confidence by acting as a credible deterrent to misconduct.
Evaluate	Evaluate impact and whether the FMA has been effective and efficient in its actions. This ensures the FMA consistently promotes the confident and informed participation of businesses, investors, and consumers in the financial markets.

Review of costings

The costs for each option presented in this report are the FMA’s estimates. We have reviewed the costings developed by the FMA, discussing them with the FMA’s Finance team, Project team and various subject matter experts and business owners for the regimes.

The FMA developed its estimates through internal workshops to discuss the impacts of the new regimes, and consider the level of resourcing required to enable a suitable regulatory approach. Proposed approaches and associated resource requirements were then tested with the Executive Team and the Board. Our review process and discussions with the FMA have led to further refinements.

We believe the costs for each option are reasonable.

In particular, the FMA has built up its cost estimates by considering activity and resourcing needs across each of the seven regulatory pillars. This has included breaking down resourcing requirements by sector or sub-sector within the pillars, describing the sorts of activities staff would be carrying out, and considering operational tempo and scenarios of the work. This has been informed by the FMA's experience over the past 2-3 years through the Conduct & Culture Review with the Reserve Bank of New Zealand, and various thematic projects. The FMA has also specifically considered how it builds up its teams and capabilities across the seven pillars over the four-year horizon, and how staff would shift their focus across work activities over this time. While there are uncertainties in these estimates, this is appropriate given there are uncertainties associated with each regime, and of course with trying to forecast any work activity four years out.

We note the majority of costs are for personnel and the operating costs associated with more staff. Costings of personnel and direct on-costs are consistent with estimates made as part of the 2019 funding bid and associated review, and they are also consistent with our experience of typical cost ranges in similar organisations.

The FMA's approach has been to include incremental costs only, which means the costs and funding requirements in this report are based on leveraging existing infrastructure and investments. All costs are in nominal dollars, and the FMA has made no specific allowance for inflation in relation to operating expenses. While this poses some risks around inflationary cost pressures over time, this approach is consistent with other similar funding bids.

Please refer to Appendix B for more detail about the option costings.

Conduct of Financial Institutions (COFI)

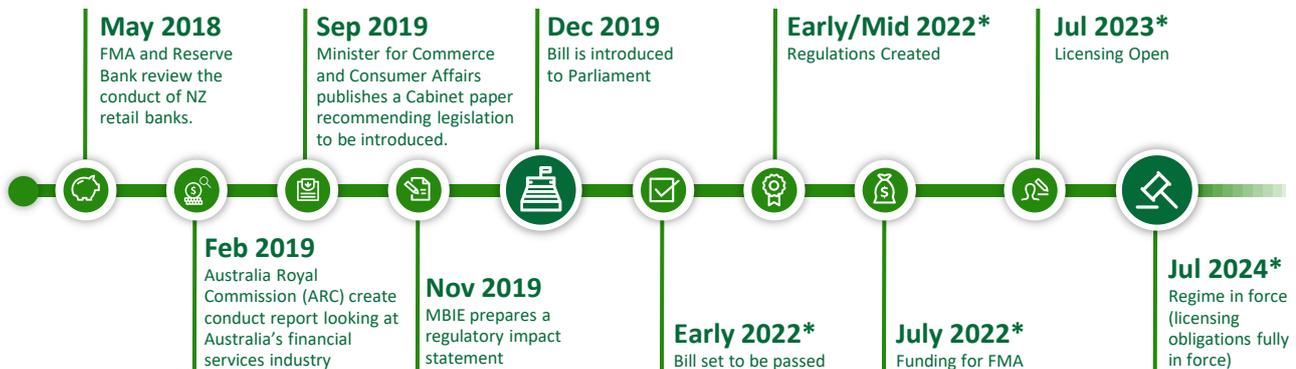
Background and timeline

In late 2018 and early 2019, reviews were conducted by the FMA and the Reserve Bank of New Zealand (RBNZ). These are collectively referred to as the Conduct & Culture Review (**C & C Reviews**) and identified significant weaknesses with bank and life insurer conduct. The FMA’s findings from its evaluation of New Zealand fire and general insurers’ responses to the 2019 Life Insurer Conduct and Culture review (**F&G Report**) also identified similar weaknesses in that sector.

The New Zealand Government undertook a policy review in response to these findings, introducing a Bill to implement conduct licensing of banks, insurers and non-bank deposit takers.

The bill will require these institutions to have and comply with a “fair conduct programme”, comprising systems and controls across all aspects of their business, that ensure the fair treatment of retail customers / consumers, and comply with regulations around sales incentives.

The diagram below summarises the timeline for the COFI regime, including planning assumptions for the bill to be passed and implementation of the regime. All future dates, marked with an asterisk (*), are planning assumptions only.



Since the C&C reviews, the FMA has continued to engage with the relevant financial institutions, including receiving periodic self-reported updates from banks and life insurers, collecting information through limited desk-based monitoring, and completing the F&G Report. These engagements have continued to uncover conduct weaknesses, including poor conduct and culture governance and risk management. They have also informed the FMA’s development of its options in terms of regulatory response.

As the Bill has not yet been passed by Parliament, the timeframes for implementation are uncertain but there is a “backstop” for the Bill to come into force three years after being passed. The bill is expected to pass in the first half of 2022.

From “build” to “operate”

The FMA will have an evolving focus for the implementation and operation of the COFI regime for the four years being considered. This shift is described below, noting the FMA already has significant project work underway to develop the processes and systems that will be needed.

- **During FY 22/23**, the FMA will focus on designing and building up the COFI regime. The FMA will engage with entities, provide guidance on the regulatory approach it intends to take, including guidance on licensing requirements, legislation, and regulations. At the end of this phase, the FMA will have finalised its approach to licensing applications.
- **During FY23/24**, the FMA will review and refine its approach. This will include supporting the sector through the licence application process. The FMA will also review licence applications and determine outcomes – which will include considering the level of follow-up and scrutiny it will apply for monitoring in subsequent years. Public awareness campaigns, targeting consumers, will also commence.
- **During FY24/25**, the FMA will review its guidance against its experience to date. The FMA will ensure all eligible applicants have applied by this point. The FMA will inspect high-risk entities and promote identified good practice. The FMA will also take regulatory action against non-compliance, although the approach will be to educate in the first year of a new regime, with regulatory action preserved only for egregious non-compliance. Thematic monitoring will start in this phase and the intensity of public awareness campaigns and research will intensify.
- **During FY25/26**, the FMA will continue to review and provide guidance, based on experience to raise standards. Data analysis and risk assessments will inform the ongoing regulatory approach, and inspections of entities will broaden. Thematic monitoring by the FMA will intensify as focus areas become apparent, as will public awareness campaigns and consumer research. The FMA will continue to promote identified good practice. Regulatory action against non-compliance will continue, with the potential for a harder line to be taken to deter misconduct.

Option descriptions and funding requirements

Option 1

Option 1 equips the FMA to meet the Government’s objectives, the policy intent of the regime, and fulfil its own legislative purpose of promoting and facilitating the development of fair, efficient, and transparent financial markets. The key features of this option are described below.

Licensing (*Permit pillar*)

This involves a detailed assessment process. There will be relatively extensive data collection and data analysis, with manual assessment components for higher risk institutions.

The licence assessment system will evaluate information held by the FMA as well as publicly available information, and information provided by RBNZ, to provide a comprehensive view of risk factors.

This supports risk-based licensing and monitoring. By providing for detailed information and considered assessments of conduct programmes, it improves the FMA’s ability to identify risks to consumers. It also allows the FMA to develop a deeper understanding of smaller, less well-resourced entities, ultimately providing

better levels of support and education to reduce regulatory burden and cost on smaller entities.

In addition to licensing the existing population and new entrants to the market, the Permit pillar also includes a range of other activities such as consideration of individual exemption applications, the policy basis for potential class exemptions and conduct implications of changes in control.

The intended outcome is that the FMA ensures only financial institutions that meet the licensing criteria are let through the licensing gateway.

Approach to monitoring, formal guidance, and engagement (Identify, Set Standards, Influence, and Assess pillars)

This option will introduce onsite entity-based monitoring, in addition to a portfolio-based approach premised on reviewing financial institutions as a collective based on common factors. There will be resources dedicated to monitoring financial institutions that the FMA has identified as having the greatest potential for risk of harm to consumers. This identification approach will be informed (in part) by the application and assessment process through licensing, and reinforced by the capacity to mobilise a rapid response where this is warranted.

Remaining entities will be subject to a mixture of proactive / reactive and entity / portfolio-based monitoring, with the frequency of onsite and desk-based monitoring determined according to risk and intelligence gathered from other sources.

This option will also enable the FMA to develop specific capability to deliver thematic monitoring that is comprehensive and targeted. Thematic monitoring is a key tool the FMA uses to develop deeper understanding of entities to identify risks and issues, set standards and influence the regulated population.

Given the cross-over to other existing licence types, there will be an opportunity to leverage into these sectors and ensure the FMA understands risks across an entity's range of relevant financial products.

The option provides resources for setting standards through market engagement and provision of guidance. This engagement focuses on influencing industry conduct and culture.

In addition to sector monitoring, the FMA will be able to take a consumer-led approach through initiatives such as targeted consumer research and behavioural insights, customer journey maps for key products, and services and advocacy campaigns. The FMA will also be equipped to engage with other financial regulators and policymakers, providing opportunities to better manage regulatory gaps and overlaps, increasing regulatory system leadership.

The intended outcome is for a reduced risk of consumer harm.

Respond

The FMA will have the capability to launch multiple, significant enforcement-led actions. The FMA will be able to flex its enforcement resourcing in an agile manner, while providing sufficient capacity to use a full range of regulatory tools.

While the FMA's focus is on influence through engagement, the FMA will also have the regulatory tools and capacity to respond in a proportionate manner. This means,

where appropriate, being able to utilise regulatory tools outside formal enforcement action (e.g. informal tools, statutory tools) when responding to harm.

The intended outcome is for the FMA's actions to promote credible deterrence of misconduct, such that action can be taken to address it swiftly, where harm is identified.

Evaluate

The FMA will have sufficient resources to review and examine its approaches, and determine whether it is achieving policy objectives. This is a critical component to help ensure the FMA is responsive to changes in markets, and remains effective in its regulatory activities.

Funding requirements

The funding requirements for option 1 are summarised below. Refer to Appendix B for more information about the costing approach and assumptions made. The total funding required over four years to the end of FY 25/26 is \$42.1 million.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	22	51	75	102	102
Capital Costs	\$1,426	\$381	\$72	\$81	\$1,960
Project Operating Costs	\$1,382	\$20	\$0	\$0	\$1,402
People & Capability Development Costs	\$292	\$191	\$282	\$214	\$978
Personnel Costs	\$2,805	\$6,502	\$9,562	\$13,005	\$31,875
Other Operating Costs	\$589	\$956	\$1,217	\$1,511	\$4,273
Depreciation & Amortisation	\$353	\$382	\$406	\$433	\$1,573
Total funding required	\$6,847	\$8,432	\$11,538	\$15,243	\$42,061

Option 2

This also equips the FMA to meet the policy intent of the regime. It provides a largely reactive approach with limited direct engagement. Risks and harms will predominantly be identified after the fact. The key features of this option are described below.

Licensing (*Permit pillar*)

This option uses a generic application and assessment process, with some ability to ask limited resource-intensive, manually assessed, qualitative questions to enable the FMA to better identify the risk of applicants. Licence assessment will only consider information held on FMA systems.

The intended outcome is that the FMA ensures only financial institutions that meet the licensing criteria are let through the licensing gateway. This option supports risk-based licensing but is limited compared to option 1.

Approach to monitoring, formal guidance, and engagement (*Identify, Set Standards, Influence, and Assess pillars*)

This option relies predominantly on desk-based entity-based monitoring, rather than regular onsite visits. The entity-based approach will be limited to entities that pose the highest risk. Desk-based monitoring significantly reduces the intensity of

engagement, and the FMA will be reliant on accepting self-reported findings of financial institutions.

Thematic reviews will be limited as will they be less-informed by proactive entity-based engagement. Similarly, formal guidance, market engagement and consumer-led initiatives will be more limited.

The FMA will have less capacity and focus on regulatory system leadership, including regular engagement and collaboration with other regulators. This could lead to poor system co-ordination and more regulatory burden on the industry.

While the intended outcome is for a reduced risk of consumer harm, the FMA's identification of risks and harms will be largely reactive in nature.

Respond

The FMA will focus resource on responding to misconduct, rather than on influencing good conduct (and prevention of risks / harms) through more resource-intensive guidance. Focus and priority will be on the most egregious conduct and it is likely that lower-level misconduct would receive less attention due to the need to prioritise limited resourcing. The risk is that such lower-level misconduct becomes ingrained and leads to more significant consumer harm in time.

The intended outcome is that, where harm is identified, action can be taken to address it swiftly. This option does provide sufficient resource to enable a relatively swift response to misconduct, giving the FMA the flexibility and capability to allocate resourcing based on an intelligence-led and risk-based approach.

Evaluate

The FMA will have basic resource and capability to examine its approach and determine whether it is achieving policy objectives and good consumer outcomes.

Funding requirements

The funding requirements for option 2 are summarised below. The total funding required over four years to the end of FY 25/26 is \$29.5 million.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	16	35	53	67	67
Capital Costs	\$1,408	\$351	\$54	\$42	\$1,855
Project Operating Costs	\$1,382	\$20	\$0	\$0	\$1,402
People & Capability Development Costs	\$189	\$95	\$158	\$101	\$542
Personnel Costs	\$2,040	\$4,463	\$6,759	\$8,544	\$21,807
Other Operating Costs	\$274	\$512	\$708	\$860	\$2,355
Depreciation & Amortisation	\$347	\$366	\$384	\$398	\$1,494
Total funding required	\$5,640	\$5,808	\$8,062	\$9,945	\$29,454

Key assumptions

The FMA has made the following key assumptions in developing its options.

Key assumption	Impact if incorrect
The FMA has recent experience incorporating new processes and systems, and has assumed it is able to implement such for COFI using its existing set of ICT applications. This is based on the FMA’s current understanding of requirements and timeframes.	Implementation costs, including capital costs for new systems, could be significantly higher if current investments and systems are not able to be leveraged.
Up to around 105 entities will be licensed at the start of the COFI regime.	If the number of entities is significantly higher, there would be greater effort (and costs) associated with licensing and monitoring activities.
The timeframes for implementation are as per the timeline provided above, particularly in relation to licensing.	The FMA needs to commence development of its systems and processes soon to be ready to operationalise the new regime. If timeframes are substantially different then this could impact the FMA’s ability to be ready / make development investments with confidence. A shorter licensing window would also mean the FMA needs to divert additional resources to deal with licence application volumes over that time.

Assessment

Strategic Alignment

Option 1 is more likely to give better effect to the legislative intent of the COFI regime, and fits better with the FMA’s strategy to be a proactive regulator. It provides for deeper engagement with consumers, the sector, and entities. This should position the FMA to influence and set standards of conduct it expects from the industry and identify risks at an earlier stage. It would also better equip the FMA to address misconduct that may lead to consumer harm in a more responsive and proportionate manner.

Option 2 can also give effect to the legislative intent of the COFI regime. However, it is more likely that harm will have already occurred by the time the FMA addresses instances of misconduct.

Components	Option 1	Option 2
Consumer confidence	<ul style="list-style-type: none"> The FMA has the capacity to engage in more consumer-focused research and behavioural insights, enabling it to build and deliver a more consumer-driven approach. This would include both broad and targeted consumer advocacy campaigns, increased consumer stakeholder support, customer journey maps for core products and services, and enhanced social media management. This more comprehensive consumer-led approach should increase consumer understanding and confidence in the financial system. Market understanding by sector and entity type, standard-setting and influencing and identifying risk factors are enhanced. Ultimately, this is likely to better enable the FMA to identify, at an earlier stage, misconduct that is likely to lead to consumer harm. Early identification and prevention of consumer harm is likely to increase consumer confidence in financial markets. 	<ul style="list-style-type: none"> This option provides for some selected consumer engagement, which will need to prioritise areas considered most important. This may need to specialise in either banking or insurance consumers, rather than achieving broader coverage. The FMA’s ability to enhance consumer understanding and confidence in the financial system is much more limited in comparison to option 1. The FMA takes a reactive approach to identifying and addressing harm. Compared to option 1, there is reduced focus on understanding the industry, standard- setting, influencing and risk identification. More reliance is placed on enforcement-based compliance. While there is scope to identify and address misconduct leading to consumer harm through such an approach, this is likely to be after the fact – i.e. more harm would or could have occurred.

<p>Engagement with the market</p>	<ul style="list-style-type: none"> • The FMA has the capacity to better understand industry participants through deeper engagement. The detailed application form and assessment processes for the licensing regime is likely to provide the FMA with a better understanding of each sector and entity type. This option also enables the licensing assessment to evaluate information not held by the FMA (publicly held information and RBNZ’s information), providing broader opportunity to consider risk factors. • There are additional opportunities for the FMA to better understand smaller, less well-resourced participants through data collection and analysis. Ultimately, this may enable the FMA to better support smaller participants and reduce regulatory burden and cost. • There are enhanced opportunities for FMA to readily influence industry mindset and behaviour. Through undertaking thematic monitoring projects, the FMA can outline key issues that need to be addressed by the industry and by outlining the standards at which industry is expected to operate at. • Finally, there is likely enhanced clarity on regulatory system ownership. There is additional resource to increase bilateral and collective engagement with other regulators (whether individually, such as the RBNZ and Commerce Commission or collectively through the Council of Financial Regulators), better enabling managing gaps and overlaps in regulatory functions and responsibilities. The enhanced clarity on regulatory system ownership, and so reduced regulatory burden, may improve relationships with industry participants.
<p>Deterrence of misconduct</p>	<ul style="list-style-type: none"> • Proactive engagement and monitoring of industry participants will increase the likelihood that issues are identified at an early stage and before they manifest themselves as consumer harm. The ability to identify issues more effectively at an earlier stage should act to deter misconduct in the first place. • The collaborative approach by the FMA is likely to generate greater willingness and ability for entities to comply – leading to less misconduct. • This option also retains the FMA’s ability to react to misconduct and consumer harm it identifies, although this will not be the foundation of the FMA’s approach. Nevertheless, the extent of resourcing will likely continue to signal FMA’s ability to flex resources to launch multiple, significant enforcement-led action.

Achievability

In terms of simple numbers, it would be more challenging for the FMA to recruit the higher number of new FTE required for option 1 than for option 2. Both options face recruitment risks in a tight and competitive labour market – exacerbated at this time by immigration restrictions and public sector remuneration restraint. Option 1 provides greater resilience than option 2.

Components	Option 1	Option 2
Ability to build and recruit	<ul style="list-style-type: none"> • A tight labour market increases the risk that the FMA is unable to scale up resources as necessary. The labour market in recent years has been highly competitive, with the skillsets required by the FMA also in demand within the financial services industry. The risk the FMA is unable to scale up is exacerbated by the potential continued immigration restrictions and the public sector remuneration restraint imposed by the Government. • There are risks the FMA is unable to recruit the right capability and skillsets required, given the specialist nature of the skillsets required. • We note the FMA reports it has been able to recruit between around 60-100 staff per year in recent years, although this includes replacement of staff leaving the FMA. The ability to retain staff is as much a risk as the ability to recruit. • The FMA has considered a range of potential mitigations including use of contractor resource, and outsourcing research and analysis to third parties, as well as commencing work to refresh its Employee Value Proposition (EVP). 	<ul style="list-style-type: none"> • The risks are the same as for option 1, although the scale is lower, with fewer FTE required in total.
Resilience and future proofing	<ul style="list-style-type: none"> • A key feature of option 1 is that it enables the FMA to maintain focus on a range of sub-segments within the regulated population. This should make it more able to respond to changes and maintain specialisms in relevant areas. • A core hypothesis for a proactive approach is that it is more enduring – building greater willingness and ability to comply across the market. The option 1 approach is likely to have a longer “useful life” than option 2. • This option also provides greater capacity to respond to changes within the next four years, e.g. as the regime is finalised and / or new issues are identified. 	<ul style="list-style-type: none"> • While it is possible the reactive approach remains effective for an extended period of time after the introduction of the new regime, it is more likely that the FMA will need to fundamentally review and revise its approach in response to market issues and behaviours. • Within the next four years, the ability of the FMA to course-correct in response to changes will be much more limited, likely requiring reprioritisation of activities from other high-value work. • The FMA would have less knowledge and specialist expertise in sub-sectors, which would take time to source and establish if this became necessary.

Good Public Value

Over the four-year horizon, option 1 requires \$12.6 million (43%) more funding for the FMA than option 2. While this is a substantial difference, we believe option 1 provides significantly greater public value than option 2. This is because:

- It is likely to better deliver on legislative intent, while being aligned with FMA's acknowledged strengths and broader strategic approach.
- This proactive and collaborative approach is less likely to require "rework" in the medium term. If a reactive regime such as option 2 were found to be insufficient, we would expect the costs of rectifying the situation (e.g. moving more towards option 1, or even a "close and continuous" regime) to be higher than doing so from the outset – and in the meantime, more harm would have occurred.
- While it is higher cost than option 2, we note that compliance costs overall for the sector will be high – and the costs of the FMA carrying out its work are only one component. It may be that for some entities the total costs of compliance are lower than under option 2, because they will have better access to guidance and engagement from the FMA.
- Even without considering total compliance costs, we believe the greater level of investment in option 1 is warranted, based on the potential value to the public (e.g. lower likelihood of consumer harm) and regulated population (e.g. clearer guidance on expectations).
- It may be more difficult to recruit 102 new staff over four years rather than 67. In our view, it would be better to aim for option 1 and then (potentially) change course, review expectations and requirements if the level of growth and capability building is not tracking to plan, than to aim for option 2.

Insurance Contract Law (ICL)

Background and timeline

In November 2019, the Government agreed to reform insurance contract law to further enhance consumer protection measures. The diagram below summarises the genesis and progress of the Bill to date, as well as the planning assumptions for the bill to be passed. All future dates, marked with an asterisk (*), are planning assumptions only.



The reforms include:

- Placing the responsibility on insurers to ask consumers the right questions when processing new insurance policies, rather than leaving it to consumers to know what to tell their insurer.
- Requiring insurance policies to be written and presented clearly, so consumers can easily understand them.
- Ensuring insurers respond proportionately when consumers don't disclose something they should have, or misrepresent themselves.
- Strengthening protections for consumers against unfair terms in financial products, including insurance.
- Extending powers to the FMA to monitor and enforce compliance with new requirements.

MBIE intends releasing an Exposure Draft Bill in late 2021. As such, the options developed by the FMA are based on policy decisions and subsequent discussions with MBIE, without review of draft legislation.

From “build” to “operate”

The FMA will have an evolving focus for the implementation and operation of the ICL regime for the four years being considered. This shift is described below, noting the FMA is yet to establish a formal project for implementation, as the regime (beyond high-level policy decisions) has not yet been developed. There is greater uncertainty than for COFI in relation to legislative timing and the duration of the transitional period.

- **During FY 22/23**, the FMA will continue to focus on working closely with MBIE to understand the design of the regime. This will include commencing research into issues and good practices to shape FMA’s approach to monitoring, as well as confirming the set of response and enforcement tools the FMA will have available.
- **During FY23/24**, the FMA will continue analysis and research and commence more active engagement in relation to guidance for Insurers, as well as consumer perspectives. Insights and findings will feed into the FMA’s approach to monitoring.
- **During FY24/25**, the FMA will review its guidance against its experience to date. Monitoring will become more operational and start targeting greater volumes in sampling. The FMA expects to need to respond to a range of issues starting to be raised by consumers, and to take appropriate response / enforcement actions.
- **During FY25/26**, the FMA will seek to settle in its “steady state” level of monitoring. The regime will still be quite new, and it is likely that continued review and revision of guidance will be required. The FMA will also commence specific research into themes or issues to help shape evolution of its response.

Option descriptions and funding requirements

Option 1

The FMA will seek to proactively monitor compliance with the new requirements, by specifically dedicating resource to monitor the:

- Plain language requirements
- Specific presentation requirements
- Specific information insurers must make publicly available

The scope of the FMA’s regulatory responsibilities is narrower than under COFI, e.g. excluding the “Permit” pillar. However, there are synergies between the regimes as they both relate to Insurers as regulated populations. Key features of option 1 are described below.

Approach to monitoring, formal guidance, and engagement (Identify, Set Standards, Influence, and Assess pillars)

The FMA will monitor the three requirements noted above by reviewing a representative sample of insurance policies. Insights from monitoring will be used to inform the market on best practice, by preparing guidance on specific issues, as well as through thematic monitoring.

The FMA would also develop engagement materials for consumers, to enhance understanding of rights, protections, and obligations.

The FMA expects to leverage its resources from COFI to ensure there is effective engagement with insurers and maintain relationships.

Respond

The FMA expects to leverage its existing infrastructure and processes for responding to consumer complaints.

The FMA will have the resources to respond to unfair contract terms, where engagement with industry is insufficient to influence compliance with the new regime. This is particularly important, as it sends a signal to insurers that the FMA has the

ability to respond with a variety of regulatory tools, and is necessary to promote credible deterrence of misconduct and achieve the policy objective of improved consumer protection.

The FMA will share responsibility for enforcement under unfair contract terms with the Commerce Commission. This will involve effort to coordinate on approach.

Evaluate

The FMA will not dedicate resources to formal evaluation of its approach within the four-year horizon of the options. Broader evaluation would be carried out by MBIE in relation to policy objectives, and it is likely the FMA will need to review and refine its approach towards the end of the four-year horizon.

Funding requirements

The funding requirements for option 1 are summarised below. The total funding required over four years to the end of FY 25/26 is \$5.1 million. Refer to Appendix B for more information about the costing approach and assumptions made.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	4	8	10	12	12
Capital Costs	\$12	\$12	\$6	\$6	\$36
Project Operating Costs	\$100	\$100	\$0	\$0	\$200
People & Capability Development Costs	\$53	\$26	\$23	\$16	\$119
Personnel Costs	\$510	\$1,020	\$1,275	\$1,530	\$4,335
Other Operating Costs	\$44	\$96	\$118	\$140	\$397
Depreciation & Amortisation	\$4	\$8	\$10	\$12	\$34
Total funding required	\$723	\$1,262	\$1,432	\$1,703	\$5,121

Option 2

Option 2 requires trade-offs and tight prioritisation of what the FMA focuses on. The FMA will either perform “light touch” monitoring of the plain language requirements, presentation regulations and unfair contract terms; or it will divert resources from other areas of its core mandate to ensure broader coverage. Key features of option 2 are described below.

Approach to monitoring, formal guidance, and engagement (Identify, Set Standards, Influence, and Assess pillars)

Proactive monitoring would be limited due to resource constraint and any insights and intelligence gathered would be of limited scope. Engagement with the market to assist them with good practice would also be constrained, as would specialist research into specific obligations.

Similarly, there will be limited ability to enhance consumer understanding through information campaigns.

Respond

Given the limited monitoring and engagement with market, there would be a stronger emphasis on enforcement. With less proactive work, triaging of issues may need to be tighter, with only high-priority incidents receiving focused attention.

Evaluate

As with option 1, the FMA will not dedicate resources to formal evaluation of its approach within the four-year horizon of the options. Broader evaluation would be carried out by MBIE in relation to policy objectives, and it is likely the FMA will need to review and refine its approach towards the end of the four-year horizon.

Funding requirements

The funding requirements for option 2 are summarised below. The total funding required over four years to the end of FY 25/26 is \$3.1 million.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	2	4	6	8	8
Capital Costs	\$6	\$6	\$6	\$6	\$24
Project Operating Costs	\$100	\$100	\$0	\$0	\$200
People & Capability Development Costs	\$24	\$10	\$18	\$14	\$66
Personnel Costs	\$255	\$510	\$765	\$1,020	\$2,550
Other Operating Costs	\$22	\$49	\$71	\$93	\$234
Depreciation & Amortisation	\$2	\$4	\$6	\$8	\$20
Total funding required	\$408	\$679	\$865	\$1,141	\$3,094

Key assumptions

The FMA has made the following key assumptions in developing its options.

Key assumption	Impact if incorrect
Unfair contract requirements will only apply to new consumer contracts.	Retrospective work would require significantly greater resources, and likely require an extensive period of time to resolve.
Existing FMA infrastructure and processes for dealing with consumer complaints will provide sufficient capacity for expected ICL volumes	If there are significantly more than 100 consumer complaints per year, the FMA would require additional systems and resource to effectively triage and respond to complaints.
The response and enforcement tools available to the FMA will be per the Financial Markets Conduct Act. The FMA is familiar with using these tools, and has developed a good understanding of proportionality.	The FMA may require new specialist skills as it learns to adopt and adapt new tools. The timeframes for effective responses would likely take longer, with some trial and error as tools and their use are bedded in.

Assessment

Strategic Alignment

Option 1 is more likely to give better effect to the legislative intent of the ICL regime, and fits better with the FMA's strategy to be a proactive regulator. It provides for more collaboration and deeper engagement with the sector as part of building understanding of, and compliance with, the regime. This should position the FMA to be influential and be perceived to be adding value by insurers through robust guidance and advice. Ultimately, this should enhance willing compliance and reduce the risks of consumer harm.

Option 2 is also a credible approach for giving effect to legislative intent. A relatively enforcement-led approach can provide clear signals to insurers about expected standards and compliance requirements.

Components	Option 1	Option 2
Consumer confidence	<ul style="list-style-type: none"> • The FMA’s proactive and collaborative approach (as the regime builds and becomes fully understood and operational) should increase its influence in the market, and encourage better understanding as well as compliance with requirements. • The FMA will be able to review, analyse and assess issues and potential issues in more detail than under option 2. This enhances the likelihood that risks, and potential harms, are identified early or avoided. • The capacity to develop meaningful consumer campaigns will enhance consumer confidence and drive better understanding of rights and obligations. 	<ul style="list-style-type: none"> • The FMA’s approach will be relatively reactive and response / enforcement oriented. Compared to option 1, this is likely to result in issues being identified after the fact and with consumer harm having occurred already. • Some limited information campaigns for consumers will be carried out. • Relative to option 1, the scope to increase consumer confidence will be reduced.
Engagement with the market	<ul style="list-style-type: none"> • The FMA will have the capacity to engage with industry more comprehensively. It will have the resources to proactively monitor compliance with the requirements of the ICL regime, identify good practice, issue guidance and ultimately influence market behaviour. • The FMA will have the capacity to engage further with the Commerce Commission, with which it will share responsibility for enforcement of unfair contract terms. The potential for further clarity on enforcement responsibility may reduce regulatory burden and provide for positive relationships with industry participants. 	<ul style="list-style-type: none"> • Relative to option 1, the FMA’s monitoring will be less extensive. This will likely mean a reduced ability to engage with the industry and other agencies, issue guidance and ultimately influence behaviour. The FMA’s views may start to be perceived as less relevant and up-to-date by insurers and consumers.
Deterrence of misconduct	<ul style="list-style-type: none"> • The FMA will have the capacity to respond to unfair contract terms, language and presentation requirements giving it the ability to credibly deter misconduct. • However, deterrence should largely be driven by the more positive relationship with the market, and the ability of the FMA to provide valuable guidance. 	<ul style="list-style-type: none"> • The FMA’s focus under this option will be more enforcement-led. As such, there will be a base level of deterrence. However, enforcement action may need to be weighed against competing priorities, possibly limiting how responsive such action might be. This, in turn, may reduce the level of deterrence this option provides.

Achievability

Regulating disclosure requirements for insurers has not previously been within the remit of the FMA. As such, there will be an element of upskilling / new skills required to develop understanding of the sector from an insurance contract perspective. There is also still a relatively high degree of uncertainty about the requirements for the regime, with the Exposure Draft Bill expected to be released later this year. These factors are common across both options in terms of achievability risks.

As with COFI, a key achievability risk will be the ability of the FMA to recruit and retain people with the right skills and experience. On a volume basis (12 FTE vs 8 FTE) this may be somewhat more difficult for option 1 than for option 2.

Components	Option 1	Option 2
Ability to build and recruit	<ul style="list-style-type: none"> • A tight labour market increases the risk the FMA is unable to scale up resources as necessary. The labour market in recent years has been highly competitive, with the skillsets required by the FMA also in demand within the financial services industry. The risk the FMA is unable to scale up is exacerbated by the potential continued immigration restrictions and the public sector remuneration restraint imposed by the Government. • There are risks the FMA is unable to recruit the right capability and skillsets required, given the specialist nature and new level of industry understanding required. • Uncertainties around further delays in legislation and regulations further increase the risk the FMA is unable to build and recruit resources in a timely manner. However, these risks can be mitigated through regular communications between the FMA and MBIE. • We note the FMA reports it has been able to recruit between around 60-100 staff per year in recent years, although this includes replacement of staff leaving the FMA. The ability to retain staff is as much a risk as the ability to recruit. • The FMA has considered a range of potential mitigations including use of contractor resource, and outsourcing research and analysis to third parties, as well as commencing work to refresh its Employee Value Proposition (EVP). 	<ul style="list-style-type: none"> • The risks are the same as for option 1, although the scale is lower, with fewer FTE required in total.
Resilience and future proofing	<ul style="list-style-type: none"> • Given the timeframes for implementation and degree of uncertainty about the regime, it is unlikely either of option 1 or option 2 endures as FMA's approach in the medium term. • Option 1 arguably provides greater resilience through greater capacity – i.e. making it easier for the FMA to reprioritise resources if required. However, the counterargument might be that, with hindsight, the greater capacity is considered to have provided relatively little marginal value. 	<ul style="list-style-type: none"> • While it is possible the reactive approach remains effective for an extended period of time after the introduction of the new regime, it is more likely the FMA will need to fundamentally review and revise its approach in response to market issues and behaviours.

Good Public Value

Over the four-year horizon, option 1 requires \$2.0 million (65%) more funding for the FMA than option 2. This is a substantial difference in relative terms, but less so in absolute terms. The \$2 million difference is unlikely to be material given the Government's overall level of investment in these changes (e.g. policy and implementation work), and the total costs to comply for industry. We believe option 1 provides better public value than option 2. This is because:

- It is more likely to deliver on legislative intent, and the proactive approach leverages FMA's acknowledged strengths.
- The proactive and collaborative approach should drive better value for insurers and consumers (in terms of certainty, guidance and requirements). It should deliver some of the consumer benefits intended by the reforms more rapidly than option 2.
- While it is higher cost than option 2, we would note compliance costs overall for the sector will be high – and the costs of the FMA carrying out its work are only one component. It may be that for some insurers the total costs of compliance are lower than under option 2, because they will have better access to guidance and services from the FMA.
- Although achievability is somewhat more challenging, requiring 12 new staff rather than 8, we note similar changes have been implemented in insurance in other parts of the world such as the UK and South Africa – i.e. we would expect the required skills are accessible in the market over the 3-4 year implementation.

Both options are likely to require refinement or redevelopment in the medium term. What will position the FMA well to flex for any changes required in the meantime is the quality of its implementation, perhaps more so than the specific option selected.

Climate-Related Disclosures (CRD)

Information in this section reflects the situation as it is understood at 10 August 2021. Should there be significant changes to the legislation, then this may mean further review and refinement to FMA’s approach and funding needs is required.

Background and timeline

The Finance Sector (Climate-related Disclosures and Others Matters) Amendment Bill was introduced in Parliament in April 2021 and is currently at Select Committee stage. The Bill amends the Financial Markets Conduct 2013 (FMC Act), Financial Reporting Act 2013 and Public Amendment Act 2001. It inserts a new Part 7A into the FMC Act which provides a framework to require certain climate-related disclosures. The diagram below summarises the genesis and progress of the Bill to date, including planning assumptions for implementation of the regime. All future dates, marked with an asterisk (*), are planning assumptions only.



Up until this point, the majority of large New Zealand entities provide limited or no information on what climate change might mean to them, or are reporting on it in inconsistent ways. The goal of mandatory climate related disclosures is to:

- Ensure that the effects of climate change are routinely considered in business, investment, lending and insurance underwriting decisions
- Help climate reporting entities better demonstrate responsibility and foresight in their consideration of climate issues
- Lead to more efficient allocation of capital

The Government’s policy objectives state that independent monitoring, reporting and enforcement will be an essential part of promoting high quality reporting, and that the FMA is best placed to carry out this function, subject to obtaining funding.

Climate statements are expected to be required from late 2023 / early 2024 at the earliest, and the new regime will capture around 200 entities including:

- All registered banks, credit unions, and building societies with total assets of more than \$1 billion.

- All managers of registered investment schemes with greater than \$1 billion in total assets under management.
- All licensed insurers with greater than \$1 billion in total assets or annual premium income greater than \$250 million.
- Equity and debt issuers listed on the NZX with a market capitalisation of more than \$60 million

New Zealand will be the first country in the world to introduce mandatory disclosures in accordance with standards.

Achieving the objectives of the new regime will require careful consideration of the end-to-end regulatory value chain and operating model, including coordination and collaboration between the FMA, the Ministry for the Environment, MBIE and the External Reporting Board (XRB).

From “build” to “operate”

The FMA will have an evolving focus for the implementation and operation of the CRD regime for the four years being considered. These are summarised below:

- **During FY 22/23**, the FMA will issue early high-level guidance to support the market by December 2022, with further guidance rolled out over the calendar year 2023. In this early phase, the FMA will be focused on recruiting and building its capability. FMA will also be working with the XRB as it develops the standards, and research the level of quality and nature of current voluntary reporting.
- **During FY23/24**, the first disclosures will be released. In this period, the FMA will put emphasis on guiding and supporting firms through the reporting process as it will be new to much of the industry. The FMA expects there will be a high degree of public interest in reporting, meaning it is likely that it will need to triage a high volume of complaints. The FMA would likely only take enforcement actions where there has been complete failure to report or gross misrepresentation.
- **During FY24/25**, the FMA expects an ongoing high degree of public interest in reporting, with associated need to triage and respond to issues raised. Guidance will be updated in line with maturing sector capability and emerging good practice.
- **During FY25/26**, the FMA will seek to settle into its “steady state” level of monitoring and review the capabilities and approaches it needs. Good practice is likely to still be emerging rather than settled, and the FMA will continue to research and develop guidance.

Option descriptions and funding requirements

Option 1

The FMA will seek to deliver a proactive approach supporting consistent high-level disclosures. Key features of option 1 are described below.

Approach to monitoring, formal guidance, and engagement (Identify, Set Standards, Influence, and Assess pillars)

The FMA will undertake proactive monitoring, including technical capability with regard to Greenhouse Gas Emissions disclosures. The FMA expects this option provides sufficient resources to build good working capability in most climate-related disclosures frameworks. The FMA will engage with the market and provide guidance as well as undertake thematic reviews to highlight issues.

Samples of all climate-related disclosures will be examined on a risk basis. The FMA's guidance and engagement with the market will enable it to prioritise the disclosures that are likely to be of the most concern. The FMA will identify areas of risk and harm, and prioritise these for attention through:

- Environmental scanning
- Goal and strategy setting, business planning
- Prioritising action
- Reviewing changes to risk appetite
- Understanding stakeholder expectations

The FMA will engage with entities making climate related disclosures to understand challenges they may see in the market, which should be addressed in FMA's monitoring approach.

Although the FMA will be able to leverage its other relationships with a range of entities under this regime (from COFI and existing activities) to maintain positive engagement, some additional effort will be needed on a portfolio basis.

Respond

The FMA expects to leverage its existing infrastructure and processes for receiving consumer complaints. New specialist skills will be required to consider, process and evaluate climate related disclosures and complaints. While enforcement and investigative resources could be required from the introduction of the regime and the publication of the first climate statements, the FMA anticipates that these will only become significant towards the end of the four-year period. Any early investigative and enforcement focus would likely respond to a failure to file a statement and / or misrepresentation / fair dealing.

Evaluate

Similarly to the ICL regime discussed above, the FMA will not dedicate resources to formal evaluation of its approach within the four-year horizon of the options. Broader evaluation would be carried out by one of the other agencies in relation to policy objectives, and it is likely that the FMA will need to review and refine its approach towards the end of the four-year horizon.

Funding requirements

The funding requirements for option 1 are summarised below. Refer to Appendix B for more information about the costing approach and assumptions made. The total funding required over four years to the end of FY 25/26 is \$7.6 million.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	6	8	8	8	8
Capital Costs	\$18	\$6	\$0	\$0	\$24
Project Operating Costs	\$230	\$230	\$0	\$0	\$460
People & Capability Development Costs	\$80	\$13	\$0	\$0	\$93
Personnel Costs	\$1,111	\$1,481	\$1,481	\$1,481	\$5,553
Other Operating Costs	\$345	\$367	\$367	\$367	\$1,446
Depreciation & Amortisation	\$6	\$8	\$8	\$8	\$30
Total funding required	\$1,790	\$2,105	\$1,856	\$1,856	\$7,606

Option 2

Under this option the FMA would develop more limited capacity and capability to oversee the new regime over the next four years.

Approach to monitoring, formal guidance, and engagement (Identify, Set Standards, Influence, and Assess pillars)

Monitoring will be carried out on risk-based sampling, and at a lower volume than option 1. Some thematic monitoring will take place on specific issues that have been identified. Compared to option 1, the lower level of resource means the selection of disclosures to examine will be driven by less knowledge and understanding of the market.

This approach will allow the FMA to build a reasonable working understanding of the climate related disclosures framework and of the standards developed by the XRB. The FMA would expect to further build its expertise over time (beyond the four-year horizon).

The FMA will rely on being able to leverage its other relationships with a range of entities under this regime (from COFI and existing activities) to maintain positive engagement.

Respond

The FMA expects to leverage its existing infrastructure and processes for receiving consumer complaints. New specialist skills will be required to consider, process and evaluate climate related disclosures and complaints. While enforcement and investigative resources could be required from the introduction of the regime and the publication of the first climate statements, the FMA anticipates that these will only become significant towards the end of the four-year period. Any early investigative and enforcement focus would likely respond to a failure to file a statement and / or misrepresentation / fair dealing.

Evaluate

Similarly to the ICL regime discussed above, the FMA will not dedicate resources to formal evaluation of its approach within the four-year horizon of the options. Broader evaluation would be carried out by one of the other agencies in relation to policy

objectives, and it is likely that the FMA will need to review and refine its approach towards the end of the four-year horizon.

Funding requirements

The funding requirements for option 2 are summarised below. The total funding required over four years to the end of FY 25/26 is \$5.8 million.

New Funding Sought (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Cumulative New FTE	4	6	6	6	6
Capital Costs	\$12	\$6	\$0	\$0	\$18
Project Operating Costs	\$230	\$230	\$0	\$0	\$460
People & Capability Development Costs	\$47	\$10	\$0	\$0	\$57
Personnel Costs	\$740	\$1,110	\$1,110	\$1,110	\$4,069
Other Operating Costs	\$274	\$295	\$295	\$295	\$1,159
Depreciation & Amortisation	\$4	\$6	\$6	\$6	\$22
Total funding required	\$1,307	\$1,657	\$1,411	\$1,411	\$5,786

Key assumptions

The FMA has made the following key assumptions in developing its options.

Key assumption	Impact if incorrect
The FMA will not need to provide authoritative datasets / scenarios for industry or interpretations on the various models that can be used for scenario analysis. Guidance provided by the FMA is intended to comment on compliance with the standard, not to set interpretations of the application of the standards. The FMA's work will not include clarifying standards, which needs to be done by the XRB.	The FMA would require significantly more resources if no datasets / scenarios are provided through standards, as this may lead to high inconsistency in the application of standards.
The FMA expects an increase in enquiries and complaints due to high public interest, but also expects a high degree of willing compliance by reporting entities. The expected level of enquiries is up to around 100 per year.	If there are materially more than 100 enquiries or complaints from the public per year, the FMA would require additional systems and resource to effectively triage and respond to these.

Assessment

Strategic Alignment

Option 1 is more likely to give effect to the legislative intent of the CRD regime as it provides more capacity for the FMA to be proactive and meet the expectations of the Government and industry.

Option 2 is a valid alternative that takes a slower approach to building up capabilities for the new regime.

As noted above, achieving the objectives of the new regime will require careful consideration of the end-to-end regulatory value chain and operating model, including coordination and collaboration between the FMA, the Ministry for the Environment, MBIE and the External Reporting Board (XRB). The option selected for the FMA’s approach and resourcing will be only one part of this.

Components	Option 1	Option 2
Consumer confidence	<ul style="list-style-type: none"> The FMA’s more proactive and collaborative approach (as the regime builds and becomes fully understood and operational) should increase its influence in the market, and encourage better understanding as well as compliance with requirements – ultimately reducing risk of harms. The capacity to respond (and be seen to respond) to a high degree of public interest would enhance broad public confidence. 	<ul style="list-style-type: none"> The FMA’s approach will be more reactive and cover less technical specialist depth. It is therefore somewhat less likely the FMA is perceived as influential, and this could impact public / consumer confidence.
Engagement with the market	<ul style="list-style-type: none"> The FMA will have the capability to undertake a proactive approach to monitoring disclosures and issuing guidance. As such, the FMA will have the capability to influence behaviour of industry participants and form positive relationships. 	<ul style="list-style-type: none"> Relative to option 1, the FMA would have more limited ability to monitor disclosures and issue guidance. As such, it may be less valued by the market.
Deterrence of misconduct	<ul style="list-style-type: none"> The FMA will have the ability take enforcement action and respond to issues raised by the public, particularly towards the end of the four-year period covered. Both options are premised on deterring only egregious misconduct within the four-year horizon, as the market learns and builds capability Option 1 has a stronger focus on collaboration and uptake of good practice to deter misconduct than option 2. 	<ul style="list-style-type: none"> Early investigative and enforcement efforts will be similar to option 1 – e.g. failure to file a statement and / or misrepresentation / fair dealing issues. Slightly lower resourcing may mean the FMA will be less able to “cast a shadow” to deter poor compliance.

Achievability

The key risks to achievability for the FMA are likely to be in relation to recruiting the specialist staff needed for the required technical expertise and capacity. We note this is a risk for the regime overall – including the other government entities involved in the regime, as well as the private market. It may be useful for government agencies to consider how they can mitigate the risk across various entities. Compared to the COFI and ICL regimes, there is much more limited expertise and experience in this field globally.

There are also achievability risks outside the FMA’s direct control – e.g. the clarity and enforceability of the standards, availability of datasets etc for reporting entities. These are common between the FMA’s options, but may ultimately have a greater impact than the option selected for the FMA at this point.

Components	Option 1	Option 2
Ability to build and recruit	<ul style="list-style-type: none"> • A tight labour market increases the risk the FMA is unable to scale up resources as necessary. The labour market in recent years has been highly competitive in general. The specific skillsets sought for CRD are new and scarce in the market overall. The risk the FMA is unable to scale up is exacerbated by the potential continued immigration restrictions and the public sector remuneration restraint imposed by the Government. • There are risks the FMA is unable to recruit the right capability and skillsets required, given the specialist nature and new level of industry understanding required. The FMA is considering alternatives to acquiring people with the skills “ready-made” e.g. through intensive training. It may be useful to consider a joined-up government approach to sourcing and developing the skillsets required. • The FMA has considered a range of potential mitigations including use of contractor resource, and outsourcing research and analysis to third parties, as well as commencing work to refresh its Employee Value Proposition (EVP). 	<ul style="list-style-type: none"> • The risks are the same as for option 1, although the scale is lower, with fewer FTE required in total.
Resilience and future proofing	<ul style="list-style-type: none"> • Given the timeframes for implementation and degree of uncertainty about the regime, it is unlikely either of option 1 or option 2 endures as FMA’s approach in the medium term. • Option 1 arguably provides greater resilience through greater capacity – i.e. making it easier for the FMA to reprioritise resources if required. However, the counterargument might be that, with hindsight, the greater capacity is considered to have provided relatively little marginal value. • There is also a risk that raising expectations now about the proactive role the FMA would like to play (rather than a more limited ambition) would make future changes to the approach more difficult, in the event the FMA is unable to meet those expectations. 	<ul style="list-style-type: none"> • The lower coverage of technical specialism may make it more difficult to respond to issues as they arise. • The lower capacity (in terms of FTE) during the build up to operating the new regime would make it more difficult for the FMA to adapt to changes and resource any gaps – e.g. as standards are developed and datasets established.

Good Public Value

Over the four-year horizon, option 1 requires \$1.8 million (31%) more funding for the FMA than option 2. This is a substantial difference in relative terms, but less so in absolute terms. The \$1.8 million difference is unlikely to be material given the Government's overall level of investment in these changes (e.g. policy and implementation work), and the total costs to comply for industry.

Both options are likely to require refinement or redevelopment in the medium term. What will position the FMA well to flex for any changes required in the meantime is the quality of its implementation, perhaps more so than the specific option selected.

We believe option 1 provides somewhat better public value than option 2. This is because:

- It provides more opportunity to deliver on legislative intent, and the proactive approach leverages FMA's acknowledged strengths.
- The proactive and collaborative approach could drive better value for reporting entities (e.g. in terms of guidance).
- If delivered as part of a well-coordinated regime implementation across government, it could better enhance public / consumer confidence – e.g. being seen to take the issues more seriously, and have meaningful levels of resourcing to deal with issues.

In some ways, the choice of option for CRD may depend on where and how the Government believes it should invest overall (across multiple agencies) to achieve a good understanding of requirements and make it easy for reporting entities to comply. The risks relating to inability to recruit are greater for CRD than the other regimes, given how scarce the skills are globally, and this applies to other agencies that may be competing for similar skills. Government may decide its priority for those skills sits in agencies other than the FMA.

Nonetheless, there will be value in the FMA pursuing a collaborative and proactive approach. We feel it would be better to aim for option 1 and then (potentially) change course, review expectations and requirements if the level of growth and capability building is not tracking to plan, than to aim for option 2.

Appendix A – Regulatory Pillars

The table below provides a summary description of the seven regulatory pillars the FMA is using to describe its approach under the options.

Pillar	Description
Identify	<p>Identify and prioritise areas of risk and harm for attention through:</p> <ul style="list-style-type: none"> • Environmental scanning • Strategy setting, business planning • Prioritising for action what impacts root causes of harm • System engagement through the Council of Financial Regulators • Reviewing changes to remit and risk appetite settings • Identifying gaps in remit, powers • Understanding stakeholder expectations, including the Statement of Expectations <p>This tackles areas where the risk of harm is the greatest, reflecting an intelligence-led and risk-based approach.</p>
Set Standards	<p>Set expectations for the financial sector through:</p> <ul style="list-style-type: none"> • Setting baseline expectations for financial service providers • Influencing law reform • Setting conduct standards • Interpreting policy • Framing expectations in terms of root causes of harm • Building deep knowledge of regulatory approaches to fair treatment in other jurisdictions <p>This achieves clarity and certainty for businesses and consumers.</p>
Influence	<p>Influence and guide the financial sector to meet the FMA’s expectations, as well as users of financial services, through:</p> <ul style="list-style-type: none"> • Market participant guidance (and consultation) • Market engagement • Consumer guidance on their rights and protections <p>This builds collaborative and engaging relationships with the sector, and trust for consumers.</p>
Permit	<p>Authorise financial products, services and markets through:</p> <ul style="list-style-type: none"> • Licensing • Exemptions • Facilitating innovation (and being innovative) • Mutual recognition <p>This ensures, for example, the FMA authorises entities that meet licensing criteria and have sufficient capability operate in the financial markets.</p>
Assess	<p>Determine if the financial sector is meeting the FMA’s expectations, through:</p> <ul style="list-style-type: none"> • Developing an assessment framework which emphasises root cause risk and how people make decisions • Developing capability to establish and articulate linkages between symptoms and root causes • Engaging directly with entities governance (directors, senior management) and compliance function • Investigation • Preparing information requests • Monitoring of licensed entities • Thematic projects and desk-based research • Participant engagement • Monitoring of the regulatory perimeter • Analysing investor & consumer behaviour

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- Analysing complaints

This holds the financial sector to account and helps build consumer confidence and trust.

Respond

Choose and take appropriate action if the financial sector is not meeting the FMA’s expectations through:

- Enforcement
- Informal tools (e.g., public pressure)
- Statutory tools (e.g., revoking licences)
- Referrals
- Warnings
- No action
- Frontline supervisors (Supervisors, NZX) – noting there are no frontline supervisors under the COFI regime

This helps build consumer confidence and trust by acting as a credible deterrent to misconduct.

Evaluate

Evaluate impact and whether the FMA has been effective and efficient through:

- Assessing and reporting performance and impact
- Assessing the FMA’s regulatory burden
- Assessing whether the FMA is achieving its strategic objectives SPE and SOI measures.
- Financial and performance measurement and reporting
- Developing lessons learned to apply to future actions

This ensures the FMA consistently promotes the confident and informed participation of businesses, investors, and consumers in the financial markets.

Appendix B – Costing Approach

This Appendix describes the approach and key assumptions the FMA has made in developing costings for this funding bid. We have distinguished between “Build Costs” and “Ongoing Operating Costs”.

Build Costs

The table below provides a breakdown of the total Build Costs. These are specific costs relating to investments and work needed to establish each regime.

Build Costs (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 1 - COFI					
Capital Costs	\$1,426	\$381	\$72	\$81	\$1,960
Project Operating Costs	\$1,382	\$20	\$0	\$0	\$1,402
People & Capability Development Costs	\$292	\$191	\$282	\$214	\$978
Total Build Costs	\$3,100	\$592	\$354	\$295	\$4,341
Option 2 - COFI					
Capital Costs	\$1,408	\$351	\$54	\$42	\$1,855
Project Operating Costs	\$1,382	\$20	\$0	\$0	\$1,402
People & Capability Development Costs	\$189	\$95	\$158	\$101	\$542
Total Build Costs	\$2,979	\$466	\$212	\$143	\$3,799
Option 1 - ICL					
Capital Costs	\$12	\$12	\$6	\$6	\$36
Project Operating Costs	\$100	\$100	\$0	\$0	\$200
People & Capability Development Costs	\$53	\$26	\$23	\$16	\$119
Total Build Costs	\$165	\$138	\$29	\$22	\$355
Option 2 - ICL					
Capital Costs	\$6	\$6	\$6	\$6	\$24
Project Operating Costs	\$100	\$100	\$0	\$0	\$200
People & Capability Development Costs	\$24	\$10	\$18	\$14	\$66
Total Build Costs	\$130	\$116	\$24	\$20	\$290
Option 1 - CRD					
Capital Costs	\$18	\$6	\$0	\$0	\$24
Project Operating Costs	\$230	\$230	\$0	\$0	\$460
People & Capability Development Costs	\$80	\$13	\$0	\$0	\$93
Total Build Costs	\$328	\$249	\$0	\$0	\$577

Build Costs (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 2 - CRD					
Capital Costs	\$12	\$6	\$0	\$0	\$18
Project Operating Costs	\$230	\$230	\$0	\$0	\$460
People & Capability Development Costs	\$47	\$10	\$0	\$0	\$57
Total Build Costs	\$289	\$246	\$0	\$0	\$535

Project Costs (operating and capital) are incremental to current funding, based on leveraging existing investments and other projects the FMA is delivering. They include development of the systems, processes and information required for the new regimes. Capital costs also includes technology devices required for new staff. People & Capability Development Costs reflect investments needed to establish new skills, roles and training in relation to the new regimes.

Ongoing Operating Costs

The table below provides a breakdown of the total Ongoing Operating Costs. These are summarised across the four-year period commencing FY 22/23 and show the build-up of resources over that time.

Ongoing Operating Costs (\$ 000s)	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Option 1 – COFI					
Personnel Costs	\$2,805	\$6,502	\$9,562	\$13,005	\$31,875
Other Operating Costs	\$589	\$956	\$1,217	\$1,511	\$4,273
Depreciation & Amortisation	\$353	\$382	\$406	\$433	\$1,573
Total Other Operating Costs	\$3,747	\$7,840	\$11,185	\$14,948	\$37,720
Option 2 – COFI					
Personnel Costs	\$2,040	\$4,463	\$6,759	\$8,544	\$21,807
Other Operating Costs	\$274	\$512	\$708	\$860	\$2,355
Depreciation & Amortisation	\$347	\$366	\$384	\$398	\$1,494
Total Other Operating Costs	\$2,661	\$5,341	\$7,850	\$9,802	\$25,655
Option 1 – ICL					
Personnel Costs	\$510	\$1,020	\$1,275	\$1,530	\$4,335
Other Operating Costs	\$44	\$96	\$118	\$140	\$397
Depreciation & Amortisation	\$4	\$8	\$10	\$12	\$34
Total Other Operating Costs	\$558	\$1,124	\$1,403	\$1,682	\$4,766
Option 2 - ICL					
Personnel Costs	\$255	\$510	\$765	\$1,020	\$2,550
Other Operating Costs	\$22	\$49	\$71	\$93	\$234
Depreciation & Amortisation	\$2	\$4	\$6	\$8	\$20
Total Other Operating Costs	\$279	\$563	\$842	\$1,121	\$2,805
Option 1 - CRD					
Personnel Costs	\$1,111	\$1,481	\$1,481	\$1,481	\$5,553
Other Operating Costs	\$345	\$367	\$367	\$367	\$1,446
Depreciation & Amortisation	\$6	\$8	\$8	\$8	\$30
Total Other Operating Costs	\$1,462	\$1,856	\$1,856	\$1,856	\$7,029
Option 2 - CRD					
Personnel Costs	\$740	\$1,110	\$1,110	\$1,110	\$4,069
Other Operating Costs	\$274	\$295	\$295	\$295	\$1,159
Depreciation & Amortisation	\$4	\$6	\$6	\$6	\$22
Total Other Operating Costs	\$1,017	\$1,411	\$1,411	\$1,411	\$5,251

All Ongoing Operating Costs are incremental to current funding arrangements. Personnel Costs are based on current average costs per FTE across all bands (excluding the Chief Executive) with the exception of CRD, where a higher average cost has been used (reflecting the demand and scarcity of these skills in the market). Other Operating Costs include direct staff on-costs (e.g. for ICT and consumables) as well as specific costs for each regime (e.g. Professional Services and Campaign costs). Depreciation & Amortisation are based on the Capital Costs above using the FMA's standard rates.

Appendix C – List of Interviewees

We interviewed a range of FMA and MBIE staff as part of developing this report.

Organisation and Title of Interviewees

MBIE	Senior Policy Advisor, Financial Markets Policy (x2)
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MBIE	Manager, Financial Markets Policy
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FMA	Director of Strategy and Stakeholder Relations
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FMA	Director of Banking and Insurance
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FMA	Principal Adviser, Policy
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FMA	Financial controller
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FMA	Senior Management Accountant
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FMA	Director of Capital Markets
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FMA	Head of Audit and Financial reporting
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FMA	Director of Supervision
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FMA	Chief Executive
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FMA	Director of People and Capability
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