

Submission template

Discussion paper – Financial institution licensing fees under new conduct regime

This is the submission template for the discussion paper *Financial institution licensing fees under new conduct regime*.

The Ministry of Business, Innovation and Employment (MBIE) and the Financial Markets Authority (FMA) seeks written submissions on the questions set out in the consultation paper **by 5pm on Wednesday 26 October 2022**.

MBIE intends to upload PDF copies of submissions received to MBIE's website at www.mbie.govt.nz. MBIE will consider you to have consented to uploading your submission in full including your name by making a submission, unless you clearly specify otherwise. Please note that submissions are subject to the Official Information Act 1982.

Please make your submission as follows:

1. Fill out your name and organisation in the table, "Your name and organisation".
2. Fill out your responses to the consultation document questions in the table, "Responses to discussion document questions". Your submission may respond to any or all of the questions in the consultation paper. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. We also encourage your input on any other relevant issues in the "Other comments" section below the table.
4. When preparing to send your submission:
 - a. Delete these first two pages of these instructions.
 - b. Include your e-mail address and telephone number in the e-mail or cover letter accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
 - c. If your submission contains any confidential information:
 - i. Please clearly indicate this on the front of your submission or in the accompanying cover letter or e-mail. Any confidential information, together with reasons for withholding the information, should be clearly marked within the text of your submission. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.
 - ii. Please provide a separate version of your submission excluding the relevant information for publication on MBIE's website.
 - d. If you do not wish for your submission to be published:
 - i. please clearly indicate this in the cover letter or e-mail accompanying your submission. However, please note that submissions remain subject to request under the Official Information Act 1982.

5. Send your submission:

- as a Microsoft Word document or searchable PDF to FinancialConduct@mbie.govt.nz (preferred), or
- by mailing your submission to:

Financial Markets Team
Small Business, Commerce and Consumer Policy
Building, Resources and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140
New Zealand

Please direct any questions that you have in relation to the submissions process to FinancialConduct@mbie.govt.nz.

Submission on Discussion paper - Financial institution licensing fees under new conduct regime

Your name and organisation

Name	Katrina Shanks
Organisation (if applicable)	Financial Advice NZ

Responses to consultation document questions

Objectives

1 *Do you agree with these objectives for setting the financial institution licensing fees? Are there other objectives which should be considered in setting these fees?*

In principle we agree with the approach of having a fair and equitable approach when applying a licensing fee regime.

We agree that infrastructure costs should be crown funded and only actual costs for the application process should be applied.

We are concerned with regards to the comments made in the consultation paper where they state new functions (monitoring and enforcing) are funded through a mix of both Crown funding and FMA levies payable by financial institutions that will be licenced under the new COFI regime.

We believe that financial institutions which have good conduct and culture and abide by the legislation and regulation should not have to fund enforcement for poor performers in the sector. This part of the model should be reviewed with a lens of risk and performance and be more targeted.

Proposed fees for financial institution licensing

2 *Do you have any comments on our assessment of the proposed financial institution licensing fee as set out above?*

The approach for a flat fee with an additional hourly rate for more complex applications appears to be reasonable.

Alternative options

3 *Do you have any comments on our analysis of these alternative options? Are there other options, or variations on the above options, that should be considered?*

We understand the basis for the setting of the fees but do not understand how smaller but just as important parts of the sector pay the same fees but their risk is substantially lower for harm to occur and their income bases are much lower. The fees when viewed in this manner are not proportionate to the cost of the business.

For example:

FAP Tier 1 – licence fee - \$612 (based on hourly rate \$178.25 = 3.4 hours to process as application)

FAP Tier 2 – licence fee - \$767 (based on hourly rate \$178.25 = 4.3 hours to process as application)

FAP Tier 3 – licence fee \$922 (based on hourly rate \$178.25 = 5.17 hours to process as application)

Financial Institution licence Fee - \$1024.93 (based on hourly rate \$178.25 = 5.75 hours to process as application)

On the above information the comparisons don't reflect the risk in the sector or the complexity of the business which is applying for the licence type. We accept the premise of the cost of additional hours for extra work may cover the complexity of an application and would like to see evidence of the hours required for each application type compared to the flat fee charged.

We would like MoBIE to consider the fairness of the way the costs are allocated in the sector for the potential risk.

Annex 1: Assumptions

4 Do you have any comments on the assumptions used in this paper as outlined above?

As per above.

Other Comments

Financial Advice NZ believes there should be a mix between government and sector contributions for the funding as is the present position.

There has been no evidence provided which would indicate any change in a shared model of funding.

The current shared funding model is based on public and industry interest. What needs to be considered is how great is the public benefit outside of just the industry benefit of having a well-functioning regulator.

5 The FMA has two roles:

1. to promote and facilitate the development of fair, efficient and transparent financial markets by working and engaging with industry, investors and customers
2. to seek to identify and mitigate risks to achieving these conditions.

In both of these roles, the sector and the public obtain the benefit. Efficient allocation of capital benefits the broader economy and the government through growth and increased taxes.

There has been no evidence that there has been financial modelling performed on where the split should be proportioned. It is our understanding the current split is based on a principles approach, and on what was presented and accepted in Cabinet in 2016.

We have not been able to obtain or see that any financial analysis was presented to Cabinet in 2016 when Cabinet approved the split 75%/25% (or thereabouts).

Having a principles-based split, not backed up by robust modelling for a spend of between \$36m and \$60.8m does not seem prudent. Neither the government nor the sector should accept a share of this cost without robust justification for the apportionment, which has not been provided.

We would like to see evidence based analysis on how the split between government and sector based contributions.