MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Impact Summary: Introduction of a new regulatory regime for financial benchmarks

Section 1: General information

Purpose
The Ministry of Business, Innovation and Employment (MBIE) is solely responsible for the analysis and advice set out in this Regulatory Impact Summary, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.

Key Limitations or Constraints on Analysis
Policy work to define the nature and scope of the problem and possible solutions relied to some extent on the expertise and advice of industry participants about the use and importance of financial benchmarks, including in relation to maintaining access to European Union (EU) financial markets. This advice was largely coordinated by the New Zealand Financial Markets Association (the Association). However, we worked closely with the Financial Markets Authority (FMA) and with the Reserve Bank of New Zealand (Reserve Bank) to corroborate industry advice about market practices and the nature of the problem. The key constraint was the time pressure to gather and analyse information and to complete the actions necessary to achieve compliance with EU financial benchmark regulation requirements before they take full effect (on 1 January 2020). This time constraint applied to: • consultation; • the New Zealand legislative process; and • subsequent engagements with the EU (possibly requiring 12 months) to confirm compliance and any other actions necessary to ensure continued access to EU financial markets. However, we are satisfied that this time pressure did not unduly compromise the policy process followed or options selected. We did not complete a formal public consultation process in the form of releasing an issues/discussion document. However, we are confident in our scoping and evidence of the problem from our targeted consultation with the Financial Markets Authority (FMA), the New

Zealand Financial Markets Association and some consultation with New Zealand banks. We do not consider that wider consultation would have provided materially different evidence or feedback from stakeholders and, given the need for prompt action, a truncated policy process was appropriate.

We also did not seek specific feedback from consumer groups in the interests of time. However, the general public will not be affected by the licensing of benchmark administrators and will be worse off if no action is taken. We are therefore confident that consumers would support the proposed approach.

We are confident in our understanding of the proposal's likely (positive) impacts on consumers. Maintaining New Zealand access to derivatives via the EU markets will help New Zealand to avoid upward pressure on domestic interest rates, which could increase the cost of borrowing for New Zealand businesses and consumers.

Responsible Manager

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Section 2: Problem definition and objectives

2.1 What is the policy problem or opportunity?

Background

- In June 2016, the EU published new regulations relating to financial benchmarks.
- A financial benchmark is a reference index or indicator used to determine the price, value, or performance of financial instruments like derivatives (e.g. interest rate swaps and cross-currency basis swaps). The accuracy and integrity of benchmarks is vital in the international financial markets where New Zealand banks and other financial institutions use derivatives to hedge exposure to New Zealand dollar interest rate risk, and foreign exchange rate risk when issuing debt in foreign currency.
- Benchmark administration in New Zealand is carried out by the New Zealand Financial Markets Association (the Association) using operating rules and principles consistent with international best practice. Financial market regulators, including the FMA and Reserve Bank, participate as observers on the Association's Benchmark Oversight Committee.
- To address concerns about benchmark manipulation, new EU regulations have been made prescribing standards around the processes for setting benchmarks and which benchmark administrators must meet if the benchmarks they set will be accepted in the EU. The EU regulations, which take full effect on 1 January 2020, are based on International Organization of Securities Commissions Principles for Financial Benchmarks, (the IOSCO Principles). The EU regulations have significant implications for New Zealand.
- Unless our regulatory regime and the administrator of New Zealand benchmarks, the Association, meet the standards set in the EU regulations, New Zealand benchmarks will not be accepted in critical financial contracts with EU counterparties.

Counterfactual

Unless appropriate regulatory action is taken before the EU regulations take full effect, New Zealand benchmarks will no longer be accepted in critical derivatives contracts with EU counterparties. This will have significant implications for New Zealand banks and other large private and public sector organisations (e.g. ACC and the New Zealand Super Fund) that rely on these contracts and access to EU financial markets for risk management, investment and capital raising purposes.

The big four New Zealand banks alone currently have approximately NZD$1.1 trillion exposed to EU counterparties, through their own requirements and those of their clients, in instruments that reference a key New Zealand benchmark (the Bank Bill Benchmark Rate (BKBM)). If these banks were no longer able to transact with EU counterparties, they would have to find alternative counterparties for this hedging activity. This would lead to significant liquidity reduction and credit concentration risk in the markets for relevant derivatives, leading to an overall increase in banks' costs of funding. We estimate that this funding impact could be between five to ten basis points on banks' current outstanding exposure in BKBM-related instruments with EU counterparties. Banks would pass any increase in their cost of funding on to New Zealand domestic customers in the form of increased borrowing costs.

Other key public sector entities, such as the Reserve Bank, ACC, New Zealand Super Fund and New Zealand Debt Management Office also use instruments that reference the BKBM. Some of these transactions will be with EU counterparties and would be significantly affected by the EU regulations. We do not have estimates of the extent to which they might be impacted.

From a wider market perspective, removal of EU entities from BKBM-related instruments will reduce liquidity and participation in other NZD financial products, including forwards, foreign exchange contracts, inflation bonds and kauri bonds. This may inhibit the development of New Zealand's

capital markets. EU holders of New Zealand Government bonds and New Zealand Local Government Funding Agency bonds will also be impacted due to their reduced ability to hedge NZD interest rate risk through interest rate swaps referencing BKBM. This would potentially reduce their appetite to hold NZ dollar denominated debt including that issued by the New Zealand Debt Management Office.

Overall, therefore, loss of EU market access could have a very significant impact on NZ Inc.

Government intervention is required

Government intervention is necessary to avoid loss of access to EU financial markets. A non-regulatory response is not possible as the only practicable option to achieve compliance with EU regulations is through a European Commission 'equivalence' decision based on New Zealand legislation. The Commission equivalence decisions involve consideration of the legal framework and supervisory practice of a third country and how that ensures:

- benchmark administrators comply with binding requirements equivalent to the EU regulations (including compliance with the IOSCO principles) and
- effective supervision and enforcement on an on-going basis.

New legislation is therefore required to provide for licensing of administrators of financial benchmarks. This will enable New Zealand and our benchmark administrators to meet the EU requirements, provide additional assurance around the integrity of New Zealand benchmarks, and ensure continued access for New Zealand benchmark users to EU financial markets, thereby avoiding potentially significant costs to New Zealand businesses and consumers.

Industry, legal and other expert opinions have confirmed the nature of the problem and support the proposed regulatory approach.

2.2 Who is affected and how?

Although the Association already acts in accordance with IOSCO Principles, compliance with the EU regulations will not be achieved unless we have a regime with binding requirements. The regulatory reform will therefore preserve and enhance the status quo by providing for effective supervision and enforcement by a regulatory authority (the FMA) on an ongoing basis.

The proposed addition to the New Zealand regulatory regime will help to ensure that affected entities maintain their ability to enter into transactions via the EU financial markets that comply with new EU requirements and market practice. The New Zealand regulations will support, rather than change industry practice.

The parties who are seeking this change are the Association, as the current benchmark administrator, and the entities who participate in EU financial markets and will be affected by the new EU requirements. These include large financial corporates such as registered banks. These entities strongly support the reform, so they can continue to directly access EU markets for hedging and capital raising purposes.

Although we have not consulted with them, we anticipate that other large financial asset managers such as the New Zealand Super Fund, ACC and Debt Management Office will also strongly support the change as these entities also enter into derivatives with EU counterparties that reference Association-administered benchmarks.

We are not aware of any opposition to the proposals.

2.3 Are there any constraints on the scope for decision making?

The key constraints on the scope of decision-making are the parameters of the EU regulatory requirements, which New Zealand's regulatory regime will need to meet in order for our benchmarks to be accepted for use by EU "supervised entities". The key EU regulation requirements are those applying to European Commission "equivalence" decisions, which mean we need a New Zealand regulatory regime for financial benchmark administration with binding requirements equivalent to the EU regulations (including compliance with the IOSCO principles); and effective supervision and enforcement on an on-going basis.

Consultation with the European Commission has indicated that in order to achieve "equivalence", it would be essential for New Zealand to include several key elements of the EU benchmark regulations in our regulatory regime. These include emergency-type powers for the FMA to direct contributors to a benchmark (eg banks) to continue providing input data to a benchmark administrator, and to direct benchmark administrators to continue to administering a benchmark for a specified period of time.

As well as equivalence, the EU regulations also provide for 'recognition' and 'endorsement' decisions by the European Commission. The potential for, and practicability of, securing recognition and endorsement decisions were assessed before determining options for analysis. As explained in more detail in the following section, Commission recognition and endorsement are not feasible options.

The analysis has confirmed that the EU financial benchmark regulations create significant implications for New Zealand, including in terms of:

- legislation necessary to establish the basis for an EU equivalence decision (i.e. legislation that ensures the effectiveness of New Zealand's existing benchmark administration arrangements and alignment with international best practice) and
- ensuring continued access to EU markets for New Zealand users of non-EU benchmarks and helping to preserve the overall soundness and efficiency of the New Zealand financial system.

The new regulations will be made under the Financial Markets Conduct Act 2013. Our recent work on G20 rules around derivative margins and related regulatory reforms addressed similar issues for the New Zealand financial markets. There are no other significant linkages or dependencies.

We do not see any connection with the Treasury-led review of the Reserve Bank of New Zealand Act 1989. The proposals can proceed independently and ahead of the findings from that Review. The proposals fit within existing financial markets system frameworks and have no precedent effect.

Section 3: Options identification

3.1 What options have been considered?

Important context

The EU regulations state that they do not apply to a central bank, and the European Securities and Markets Authority (ESMA) has confirmed that this means that:

- the regulations do not apply to third country central banks;
- benchmarks provided by such banks are not to be included in the register referred to in the regulations; and
- supervised entities in the EU (eg banks, financial institutions) can use such benchmarks, subject to meeting other requirements in the regulations.

Otherwise, the EU regulations provide the following three ways for other administrators of benchmarks outside the EU to comply and have their benchmarks accepted for use by EU-supervised entities.

1. ***Equivalence***: This involves consideration by the European Commission of the legal framework and supervisory practice of a third country and how that ensures:

- benchmark administrators comply with binding requirements equivalent to the EU regulations (including compliance with the IOSCO principles);
- effective supervision and enforcement of these requirements by a competent regulatory authority on an on-going basis; and
- cooperation arrangements between regulatory authorities.

If New Zealand establishes a regulatory authorisation/registration regime with binding requirements and effective supervision and enforcement provisions consistent with the EU regulations, it is likely that would provide the basis for an EU equivalence decision.

2. ***Recognition***: This involves the non-EU administrator providing proof of compliance with the IOSCO Principles equivalent to the EU regulations, but additionally having a permanent legal representative in a 'reference Member State of the EU' (reference State) to oversee the provision of benchmarks as performed by the administrator and be accountable to a relevant authority in the reference State.

Achieving recognition under the EU regulations is unlikely to be feasible for New Zealand because:

- The primary benchmark administered by our administrator, the Bank Bill Benchmark Rate (BKBM), does not have any EU affiliates, so it would be difficult to find anyone willing to take on the required permanent representative role;
- setting up suitable arrangements would be costly (as it would involve radical changes to existing operational arrangements) and the appetite for ceding control offshore to another entity may be limited; and
- there are likely to be difficulties in identifying any reference State. The criteria for identifying the reference State are complex, but, in summary, the reference State will likely be the EU state in which the highest numbers of entities use BKBM. The New Zealand administrator would need to ensure it has the relevant data available to determine reference State.

3. ***Endorsement***: This involves endorsement by an administrator of a supervised entity located in the EU that a non-EU administrator adheres to the IOSCO Principles in a manner equivalent to complying with the EU regulations.

Endorsement requires the EU endorser to:

- have "*a clear and well-defined role within the control or accountability framework of the third country administrator*" that allows it to "*effectively monitor the provision of the benchmar*k"; and
- demonstrate on an ongoing basis to its own regulator that the provision of benchmark fulfils requirements that are "*at least as stringent*" as those set out in the EU regulations.

Endorsement is unlikely to be a feasible option for New Zealand because:

- in practice, an EU-based person could not effectively monitor or control a New Zealand administrator (due to distance and different time zones). Endorsement would therefore require substantial and costly restructure of the way in which the benchmark is provided; and
- there must also be an objective reason for the endorsement of benchmark by the EU endorser (e.g. geographical proximity between the endorser's Member State and the third country). A benchmark such as the BKBM is unlikely to be seen to be significant enough to any one EU country to support any such reason.

Initially, we also considered whether licensing benchmark administrators as a 'prescribed intermediary' under the Financial Markets Conduct Act 2013 was a viable option. However, this option was not analysed due to concerns about the *vires* of that approach.

Objectives and criteria

The main objectives that we are seeking to achieve are preserving the overall soundness and efficiency of the financial system, including by enhancing assurance around administration of financial benchmarks in New Zealand, and ensuring ongoing access for affected entities to EU financial markets.

We consider that the criteria for assessing the options are:

- ***Effectiveness***: Including in relation to:
    - managing any actual or potential benchmark-related issues in New Zealand in a manner consistent with international best practice; and
    - most importantly, establishing and maintaining the basis for an EU equivalence decision (or using an approach to which the EU regulations do not apply) and so ensuring continued access to EU markets.
- ***Regulatory fit***: In both statutory and functional contexts. How the regulatory approach and allocation of responsibilities aligns with established/existing regulatory tools, roles and expertise.
- ***Timeliness (ease and speed of implementation)***: Recognising that earlier implementation will provide more time for engagement with the EU to secure an equivalence decision before the EU regulations come fully into effect.
- ***Costs:*** Relative costs of the options.

Option A – Central bank administration of benchmarks

This option involves an amendment to the Reserve Bank of New Zealand Act 1989 (RBNZ Act) to establish the Reserve Bank as the administrator of relevant New Zealand benchmarks. New

regulations will also be necessary to prescribe the detail of this regime.

The benefits of this option are that the EU regulations would not apply as the regulations do not apply to third country central banks. An EU equivalence decision would therefore not be required. Supervised entities in the EU could use benchmarks administered by the Reserve Bank and the desired access to EU financial markets for affected New Zealand entities would be maintained. The continued market access would avoid potential increases in the cost of offshore financial instruments.

However, as the regulatory role relates mainly to market conduct concerns (e.g. managing conflicts of interest and benchmark manipulation), rather than market stability issues, it would not be an ideal fit within the scheme of the RBNZ Act. The need for an amendment to an Act and subsequent regulation-making means that a significant period of time would be needed. This is also likely to be the costliest option as it would also require the Reserve Bank to establish and fund the benchmarking systems and processes currently being delivered by the Association, as well as employing new in-house operational expertise. This option would significantly disrupt the largely satisfactory status quo benchmarking activities of the Association.

Option B – Joint designation of benchmarks as systemically important systems under the Reserve Bank of New Zealand Act

This option would involve an amendment to the RBNZ Act to provide for a joint approach to designation of benchmarks which were systemically important for market stability and efficiency. This approach would be similar for designation of settlement systems in Part 5C of the Act where the Reserve Bank and FMA can make joint designations for similar reasons. This would be an opt-in regime, with designation applications made to the joint regulators. The legislation would set out the matters the joint regulators may have regard to when assessing applications for designations.

The benefits of this option are that it would establish a basis for an EU equivalence decision. Assuming a positive outcome from an equivalence application, it would ensure continued access to EU markets and avoid the potential cost increases associated with the loss of such access. The involvement of the FMA in the designation process means that market conduct expertise would be available and be able to be applied during the process.

However, the focus on market conduct concerns means that this option would also not be an ideal fit within the scheme of the RBNZ Act. Although regulations are not needed, an amendment to primary legislation would still be required. The costs of involving the Reserve Bank in the process of overseeing benchmark administration would be likely to outweigh the benefits. Moreover, joint regulatory arrangements would be inherently more complex and costly than if a single regulator carried out the role and are not clear that they would bring significant benefits.

Option C – Licensing of administrators of benchmarks (preferred option)

This option involves amending the Financial Markets Conduct Act 2013 and making new regulations to provide for licensing of administrators of benchmarks. This would be an opt-in regime. The Association has confirmed its strong intention to opt-in to any licensing regime and we are satisfied that it would have a clear incentive to do so given the costs of not doing so.

A licensing regime would impose various obligations on administrators of financial benchmarks through the legislation and regulations (eg licence conditions). One of the necessary key elements of a licensing regime, however, would be a power for the FMA to direct licensed administrators to continue to generate/administer a benchmark (or to transfer the benchmark to another administrator) for a specified period and in accordance with specified requirements.

Although they are not licensed entities, a similar power would be included for the FMA to direct

contributors to a benchmark (eg banks) to continue to provide input data to the benchmark administrator for a period of time. Civil liability, including a pecuniary penalty of $200,000 in the case of an individual or $600,000 in any other case, would attach for non-compliance with a direction from the FMA. The general purpose of these powers is to ensure market stability if an important benchmark is at risk of being disrupted or its accuracy undermined.

The benefits of a licensing regime are that it would establish a basis for an EU equivalence decision. Assuming a positive outcome from an equivalence application, it would ensure continued access to EU markets and avoid the potential cost increases associated with the loss of such access. There would be a good regulatory fit within the FMC Act as the behaviour being regulated relates to market conduct rather than market stability or efficiency (which is the domain of the RBNZ Act), and implementation costs are expected to be lower than for options A and B. Involvement of the FMA as the sole regulator means that their market licensing, monitoring and enforcement expertise would be applied with a clear focus on conduct-related requirements. With the Single Economic Market Agenda in mind, we also note that the Australian response to market conduct problems there has been to establish a licensing regime.

However, despite these benefits, an amendment to primary legislation and new regulations would be necessary, requiring time to implement. However, it may be possible to implement the amendments to the FMC Act as part of an existing omnibus Bill rather than requiring a new standalone legislative vehicle. The new regulations, among other things, could set mandatory licence conditions and minimum standards for licensing (or allow the FMA to set minimum standards with further detail provided in licensing guides).

3.2 Which of these options is the proposed approach?

The table 1 below summarises the analysis described above. The key to the table is:

+++ scores highly against the criteria – close to the best possible outcome

++ scores well against the criteria – an acceptable outcome

+ a low score against the criteria, but better than doing nothing/the status quo

0 doing nothing/the status quo.

	No action	**Option A: Central bank administration**	**Option B Joint designation**	**Option C Licensing of benchmark administrators**
Effectiveness	**0**	**+++**	**++**	**++**
Regulatory fit	**0**	**+**	**+**	**+++**
Timeliness	**0**	**+**	**+**	**++**
Implementation costs	**0**	**+**	**+**	**++**
Overall assessment	**0**	**+**	**+**	**++**

The best option is Option C (amending the Financial Markets Conduct Act 2013 (FMC Act) and new regulations to enable licensing of administrators of financial benchmarks) because:

- initial set-up and ongoing operational costs are relatively low;

- costs incurred by the regulator can be recovered through licence fees and levies;
- it is a very good regulatory fit, due to the primary focus on market conduct issues and the involvement of the FMA as sole regulator;
- it may be possible to progress the amendments to the FMC Act necessary to achieve the policy objectives in a timely manner through the existing International Financial Reforms Bill, rather than requiring separate, standalone legislation;
- it is consistent with the licensing approach being implemented by Australia;
- minimum standards for licensing and licence conditions could be aligned with technical requirements of the EU regulations and New Zealand's existing approach (which is already consistent with international best practice); and
- it should provide the basis for an EU equivalence decision, which would ensure we achieve the objective of continued access for New Zealand banks and others to EU financial markets which, in turn:
    - would prevent upward pressure on domestic interest rates and consequent increases in the cost of borrowing for New Zealand consumers and businesses; and
    - help to maintain the soundness and efficiency of the New Zealand financial system.

Section 4: Impact Analysis (Proposed approach)

4.1 Summary table of costs and benefits

Affected parties *(identify)*	**Comment**: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	**Impact** *$m present value, for monetised impacts; high, medium or low for non-monetised impacts*
Additional costs of proposed approach, compared to taking no action		
New Zealand Financial Markets Association	Benchmark administrators (currently only the Association) would pay a licensing fee and an annual levy. Amounts of fees and levies are yet to be determined accurately, but the estimate in the impact column is realistic. As an opt-in regime, other than failing to meet licence conditions, there is no/low risk of non-compliance. Benchmark administrators would also bear some costs in having to continue to generate or operate a benchmark, or to transfer a benchmark to another administrator, in compliance with a direction from the FMA under their emergency compulsion powers. These costs are not possible to quantify as they are conditional on the FMA powers being exercised in unforeseeable situations and even then are dependent on the specific situation (eg length of time the powers need to be exercised). Overall, however, we expect that these costs would be low as they would essentially arise from similar activities to what the benchmark administrator did before they were compelled by the FMA.	0,08, low
Financial Markets Authority	FMA's one-off, initial set-up cost of the licensing regime and ongoing operational costs – fully recovered through licence fees and levies.	Nil
Wider government	Not applicable	Nil
Contributors to financial benchmarks (eg banks, brokers)	Contributors to financial benchmarks would bear some costs in having to continue to provide information or data necessary for the generation or operation of a benchmark in compliance with a direction from the FMA under their emergency compulsion powers.	Low

	These costs are not possible to quantify as they are conditional on the FMA powers being exercised in unforeseeable situations and even then are dependent on the specific situation (eg length of time the powers need to be exercised). Overall, however, we expect that these costs would be low as they would essentially arise from similar activities to what the contributor did before they were compelled by the FMA.	
Total Monetised Cost		0,08
Non-monetised costs		*Low*

Expected benefits of proposed approach, compared to taking no action		
Registered banks	The benefit of the proposed approach is banks will retain access to EU counterparties in BKBM-related instruments and avoid funding increases on their hedging activities. Based on the current exposure of the big four banks to EU entities in BKBM-related instruments ($1.1 trillion as at June 2018), and an estimated five to ten basis point funding cost increase that they would face if they lost EU market access, the NPV of this is $760 million - $1.5 billion.	760 - 1,500
Consumers and businesses	New Zealand consumers and businesses will avoid higher costs of borrowing/credit, which they would have faced as the banks would have passed on their funding cost increases as noted above.	
Crown entities	The New Zealand Debt Management Office, Reserve Bank, ACC and the New Zealand Superannuation Fund will also be affected if no action is taken. We do not have a quantification of these costs/benefits.	
Total Monetised Benefit		760 - 1,500
Non-monetised benefits		*High*
Notes on benefits The NPV of $760 million - $1.5 billion is based on a standard discount rate of 6 per cent over a five		

year period. The average duration of a BKBM-related instrument was assumed to be three years and costs annualised on this basis.

4.2 What other impacts is this approach likely to have?

No other significant impacts have been identified. The main risks/uncertainties are the outcome of the EU equivalence decision and the time it may take to secure the decision. However, we consider that these are manageable through close liaison with the EU during the regulation development process and ensuring that the regulations are made as soon as practicable to maximise the time available to prepare/submit the equivalence application and to respond to any questions from the EU before it makes its decision.

Section 5: Stakeholder views

5.1 What do stakeholders think about the problem and the proposed solution?

We have discussed the matters with the FMA, Reserve Bank, the Association and relevant industry participants (primarily banks) indirectly through the Association. We have discussed the compulsion powers directly with contributors (namely banks) who will be subject to the powers and liability for non-compliance.

There was general agreement on the nature of the problem. There was also strong agreement that a timely government response is necessary and our proposed approach was the preferred option.

The FMA (which would be the regulator carrying out the licensing, supervision and enforcement) supports the proposal to license benchmark administration, and the Association (the party we are proposing becomes a licensee) also strongly supports being licensed. The Reserve Bank also supports the proposal.

We have held preliminary discussions with EU representatives to ensure a level of confidence that benchmark administrator licensing based on international best practice (as codified in the EU regulations) would establish the basis for an EU equivalence decision.

We did not consult the general public or any specific consumer groups due to time constraints and the nature of the issue. However, we are confident in our scoping and evidence of the problem from our targeted consultation and do not consider that wider consultation would have provided materially different evidence or feedback from stakeholders. The general public will not be affected by the licensing of benchmark administrators and will be worse off if no action is taken. We are therefore confident that consumers would support the proposed approach.

Section 6: Implementation and operation

6.1 How will the new arrangements be given effect?

The proposals involve amending the Financial Markets Conduct Act 2013 and making new regulations under the Act.

The new arrangements will come into effect as soon as possible after passage of the legislation. We understand that, apart from the Association who will need to apply for a licence, affected entities do not need any time to prepare for the new regulations. That is because, apart from the opt-in licensing arrangement, the status quo will be maintained.

No public announcements will be made about the regulatory reforms. MBIE will work with the FMA, Reserve Bank, Association and others to ensure that key stakeholders are informed of progress as it is made.

During the regulation development process, there will be regular engagements with the EU to ensure, as far as practicable, that the New Zealand legislation will provide the basis for the desired EU equivalence decision and that the EU decision can happen in a timely manner.

Administration of licensing, supervision and enforcement of the new regulations will be led by the FMA. The FMA has indicated no concerns about this role consisting of the initial licensing set-up and ongoing operational, supervision and enforcement activities as additions to its existing functions provided it is adequately funded for the new functions.

We are not aware of any implementation risks at this stage. If we become aware of any during drafting or the Select Committee stage, we will consider these as appropriate.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Securing an EU equivalence decision will confirm that the regulatory reforms have achieved the primary objective of maintaining access to EU financial markets for New Zealand benchmark users. Within six months of the EU decision being secured and the licensing regime becoming operational, we will follow-up on the impacts of the proposals in this Regulatory Impact Summary with the FMA, the Association, banks, and other directly affected entities to determine if there have been any issues associated with implementation.

The system-level impacts of the proposals will be monitored primarily by the FMA as part of its role in monitoring and responding to market conduct issues. MBIE will provide support to the FMA as appropriate and necessary and monitor the regulatory settings as part of its wider regulatory stewardship obligations.

7.2 When and how will the new arrangements be reviewed?

There is no plan to conduct a formal review of the amendments within a particular timeframe. However, the interaction with stakeholders following implementation of the amendments, as well as the FMA's ongoing engagement with the markets, are likely to reveal quickly whether there are any issues. We expect that stakeholders are likely to be very forthcoming if this is the case, given the significant financial interests at stake.