Financial advice: licensing fees and the FMA levy
Cost Recovery Impact Statement

Agency Disclosure Statement

This Cost Recovery Impact Statement (CRIS) has been prepared by the Ministry of Business, Innovation and Employment (MBIE). It provides analysis of proposals to recover costs associated with the regulation of financial advice after the Financial Services Legislation Amendment Act 2019 (Amendment Act) comes into force.

This CRIS does not contain analysis of the Financial Markets Authority's (FMA) funding requirements or the FMA's hourly rate which have been set in previous policy processes. Rather, the analysis focuses on the changes that are required to implement the Amendment Act.

In designing the cost recovery model we have worked closely with the Financial Markets Authority and publicly consulted on our proposed cost recovery model, and the assumptions used, including:

- Forecast numbers of individuals and businesses that will be operating in the new regime , including forecasts of applicants in each year
- The business decisions that those operating in the new regime will make when transitioning to the new regime
- The annual number of new entrants to the industry
- The costs that the FMA will incur in processing licence applications (the FMA's licensing process itself is outside of scope for this CRIS).

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June 2019

Executive summary

The Financial Services Legislation Amendment Act 2019 (Amendment Act) introduces a new regulatory regime for financial advice in which anyone who gives regulated financial advice to a retail client will need to operate under a licence granted by the Financial Markets Authority (FMA).

We propose that licensing fees be set in regulations that will allow the FMA to recover the costs it incurs when processing these licence applications. Our proposed model for the licensing fees is a combination of a flat application fee and hourly rate that will apply when the FMA is processing resource intensive complex applications.

In addition to licensing, the FMA will have ongoing monitoring and enforcement functions in the new regime. The majority of the FMA's funding for these activities is collected from financial service providers in the form of a levy. The Amendment Act removes the current types of financial advisers, making it necessary to amend the existing levy model to ensure that the same amount of funding is collected from the financial advice industry.

We propose that the FMA levy model be amended so that financial advice providers pay a levy that is proportionate to the benefit they receive from the FMA's activities.

Our preferred options for the licensing fee and changes to the FMA levy are similar to those that were publicly consulted on between December 2018 and February 2019. Changes to the model and the underlying assumptions have been made to take into account feedback.

Status quo

New financial advice regime

The Financial Services Legislation Amendment Act (Amendment Act) gives effect to a new regulatory regime for financial advice, repealing the Financial Advisers Act 2008 (FA Act), and amending parts of the Financial Markets Conduct Act 2013 and the Financial Service Providers (Registration and Dispute Resolution) Act 2008. The new financial advice regime is expected to come into force in mid-2020 and is intended to improve access to high quality financial advice for New Zealanders. In part, this is achieved through the introduction of universal conduct and client care duties, and licensing requirements for anyone giving financial advice to retail clients.

The Amendment Act removes the current categories of financial advisers: authorised financial advisers (AFAs), registered financial advisers (RFAs) and qualifying financial entities (QFEs). In the new regime, 'financial advice providers' will be licensed by the Financial Markets Authority (FMA) and will be able to give financial advice on their own account (e.g. through a digital-advice platform) or engage individual 'financial advisers' or 'nominated representatives' to give advice on their behalf.

Diagram 1: Structure of new regulatory regime

Financial advice provider

A firm (ranging from a sole adviser business to a large firm) that either gives financial advice itself or engages individuals to give advice on its behalf

- Needs to be licensed by the FMA
- Needs to be registered on the Financial Service Providers Register

Financial adviser

An individual who is engaged by a firm to give advice on behalf of the firm

- Needs to be registered on the Financial Service Providers Register

Nominated representative

An individual who is engaged by a firm to give advice on behalf of the firm

- Has limited discretion and is tightly controlled by the firm
- Not required to be registered

Funding of the Financial Markets Authority

The FMA regulates financial services, including financial advice, in New Zealand. The Financial Markets Authority Act 2011 provides for regulations to be made for the payment of fees to the FMA, and for a levy to be collected from prescribed classes of persons.

Fees charged by the FMA are set in regulations, including the Financial Advisers (Fees) Regulations 2010, the Financial Markets Conduct (Fees) Regulations 2014 and the Financial Markets Authority (Fees) Regulations 2011. Regulations also prescribe an hourly rate of $155.00 (ex GST) which can be charged for work carried out by FMA staff, and is used in the calculation of fees charged by the FMA.

The current fees that apply to AFAs, RFAs and QFEs relate to their registration on the Financial Services Provider Register (FSPR),[1] and to the FMA's activities in determining whether the individual or entity meets the necessary requirements to offer financial advice.

The FMA receives an annual appropriation of $36 million, the majority of which is funded through a levy charged to financial service providers. Levies vary among different financial service providers and are set in the Financial Markets Authority (Levies) Regulations 2012. These were amended in 2017 following a review of the FMA's funding requirements.

The amount of levy charged to each type of financial service provider differs and is intended to reflect the level of benefit each type gains from their participation in financial markets and the FMA's activities in regulating those financial markets.

[1] The fees associated with registering on the FSPR are not being reviewed at this time as the registration requirements, and associated costs, are not significantly impacted by the Amendment Act.

Table 1: Current charges

<table>
<tr><th>Fee and service provided for fee (GST exclusive)</th><th>RFA</th><th>AFA</th><th>QFE</th></tr>
<tr><td>Application for registration on Financial Service Providers Register (FSPR)
• The register is run by the Companies Office and the fee recovers the costs of running the register</td><td colspan="3">$300.00</td></tr>
<tr><td>Criminal history check fee
• Fee is charged per person named in the application for registration
• New criminal history check may be required within a 36 month timeframe</td><td colspan="3">$35.00</td></tr>
<tr><td>Annual confirmation fee for registration on the FSPR</td><td colspan="3">$75.00</td></tr>
<tr><td>Application fee for authorisation/QFE status</td><td>N/A</td><td>$996.00</td><td>$4,249.00</td></tr>
<tr><td>Renewal of authorisation/QFE status by the FMA</td><td>N/A</td><td>$498.00</td><td>$4,000.00</td></tr>
<tr><td>Variation to terms and conditions or scope of authorisation/QFE status</td><td>N/A</td><td colspan="2">$100.00 plus $155.00 for every hour, or part-hour pro rata, of work carried out</td></tr>
<tr><th>Levies</th><th>RFA</th><th>AFA</th><th>QFE</th></tr>
<tr><td>Initial levy upon registration on the FSPR. All FA, RFA and QFEs pay the same levy when they initially register on the FSPR</td><td colspan="3">$460.00</td></tr>
<tr><td>Annual levy payable on annual confirmation</td><td>$460.00</td><td>$330.00</td><td>N/A[2]</td></tr>
</table>

Review of cost recovery charges

As the Amendment Act introduces new licensing requirements that will apply to the financial advice industry, it is necessary to set licensing fees to enable the FMA to recover the costs associated with granting licences.

The current categories of financial adviser will cease to exist once the FA Act is repealed so it is necessary to adjust some current levy classes and set some new levies in order to collect the same amount of funding from the financial advice industry. It is also necessary to amend the levy to reflect the new regulatory regime to ensure that the levies paid by different types of businesses operating in the new regime are proportionate.

Cost Recovery Principles and Objectives

In developing the cost recovery charges we have considered the Office of the Auditor General's *Good practice guide: Charging fees for public sector goods and services* and the Treasury's *Guidelines for Setting Charges in the Public Sector*.

[2] Under the current levy classes, QFEs do not pay a levy in respect of their financial adviser service if they pay a levy for any other relevant class. Because QFEs are often banks, insurance companies or other large financial service providers, they pay the levy for this activity and would therefore not pay a specific levy associated with being a QFE.

Principles

The principles underpinning the recovery of FMA's costs are:

- **Equity**: the impact of the charges on various parties has been taken into consideration when designing the cost recovery model.
- **Simplicity**: the cost recovery regime is straightforward and readily understood by the financial advice sector.
- **Accountability**: feedback from affected parties through a public consultation process should be considered in the development in the cost recover charges, and the charges should be monitored and periodically reviewed.

Objectives - Licensing fees

MBIE's key objectives in setting financial advice provider fees are:

- the charges do not reduce the availability of financial advice for consumers
- ensuring that fees are set at a level that fully recovers the costs to the FMA of assessing applications
- minimising the extent to which the fees create a cross-subsidy between different groups (particularly between those with simple and complex applications)
- limiting any uncertainty to prospective applicants as to the likely total amount of the fees that they will be required to pay
- creating incentives for the FMA to deliver services to fee payers in an efficient and effective manner
- ensuring the charging of fees is able to be undertaken in an administratively efficient manner.

Objectives – FMA levy

The FMA levy model has been set through a previous policy process. We have used the objectives from the establishment and subsequent reviews of the levy, along with one of the primary objectives of the new regime:

- the charges do not reduce the availability of financial advice for consumers
- the cost of the levy for market participants is consistent with the benefits they receive from a well-regulated financial market
- the levy will not discourage some classes of entity from supplying financial products or services
- the levy is practical in respect of its implementation, collection and also avoids large over or under collection.

Policy Rationale: Why a user charge? And what type is most appropriate?

Who will be required to pay the cost recovery charges?

The proposed charges will impact businesses that provide financial advice, including small advice firms, broking firms, banks and insurers. It is estimated that the majority of current advisers will continue to provide regulated financial advice in the new regime. The table below provides approximate numbers of the current financial advice sector, and forecast volumes for the new regime.[3] These forecasts have been updated to reflect more up-to-date figures and incorporate industry feedback.

In calculating the estimated number of licensees and individuals in the new regime, we have made the following assumptions:

- that 90 per cent of current individual AFAs and RFAs will become financial advisers
- that approximately 23 per cent of those AFAs and RFAs will also become a financial advice provider (i.e. they will be a sole-adviser business)[4]
- that 50 per cent of non-QFE companies that currently engage more than one AFA or RFA will become financial advice providers
- that all current QFEs will become financial advice providers
- that all current QFE advisers will become nominated representatives

Table 2: Current and forecast populations

Current regime (approximately)	
Authorised financial advisers	1,995 individuals
Registered financial advisers	7,100 individuals
Qualifying financial entities	57 firms employing 21,500 individuals
Registered (non-QFE) entities	540 firms
New regime (forecasts)	
Licensed financial advice providers	2,296 firms
Financial advisers	8,186 individuals
Nominated representatives	21,500 individuals

Licensing fees

A licence is a private good as the benefits of holding a licence are retained by the licensee (the financial advice provider) and not shared amongst a wider group. In this case, the licence issued by

[3] Note that this table does not include those who enter the industry after the commencement of the new regime, but is intended to illustrate our forecast volumes of those transitioning to the new regime.

[4] An individual who holds a licence and does not engage any other individuals to give regulated financial advice on their behalf, or a body corporate which holds a licence and only engages one financial adviser (being the sole director or one of two directors, and the only senior manager) to give advice on its behalf

the FMA will allow the licensed firm to provide financial advice to retail clients. We therefore consider that it is appropriate that the FMA recovers the full cost of the licence from licensees.

If the full cost is not recovered the FMA would need to subsidise the granting of licences from other revenue streams. We do not consider this appropriate as it would entail cross-subsidisation from either other financial markets participants or taxpayers.

FMA levy

Well-regulated and stable financial markets have characteristics of both a public and a private good. Everyone benefits, including businesses, consumers, investors and private individuals. For example, the financial sector as a whole benefits from FMA's activities because a stable and efficient financial market is a core requirement of their business. For this reason the majority of the FMA's operational budget is funded through a levy charged to all financial service providers with the remainder sourced from the Crown (i.e. taxpayers).

The levy accounts for the broader benefits that financial service providers obtain from the FMA's regulatory activity. The FMA undertakes a range of activities that have both direct and indirect benefits to those providing financial advice, it is therefore appropriate that some of the costs of FMA's regulatory activity are levied from those providing financial advice.

Analysis of cost recovery charges

This section provides our analysis of the proposed licensing fees and the FMA levy.

Licensing fees

The level of the proposed fee and its cost components (cost recovery model)

The Amendment Act introduces two stages of licensing: an initial transitional licensing phase, followed by full licensing. Distinct fees will be set for each phase of licensing, as the underlying costs of processing applications during each phase vary.

The licensing fees are comprised of the estimated costs associated with the development of licensing systems which will support the processing of applications and staff time, based on the estimated average processing time for a standard application.

New licensing systems are required for each phase of licensing and have been designed to provide for an effective and efficient application process. The FMA has identified the costs that relate to the relevant system for each phase of licensing, and these costs have then been apportioned evenly amongst the forecast applicants during the life span of each licensing system.

Table 3: Estimated licensing system and development costs

Licensing system and development costs	Estimated costs (ex GST)
Transitional licensing system	$840,261
Full licensing system	$1,209,156
Total costs	$2,049,418

Transitional licensing fees

During the initial transitional licensing phase the application process will be relatively straight-forward to enable the smooth transition of businesses into the new regime, allowing the benefits of the new regime to be realised as early as possible.

The transitional licence fee will be a flat application fee as the process and associated costs are not expected to vary considerably among different applicants. The flat fee will be set at a relatively low level (when compared to the full licence fee) because the process will be straightforward and the FMA is only required to consider a limited number of factors. The flat fee will recover the licensing system and development costs and an estimated average assessment time by FMA staff for each application.

Full licensing fees

During the full-licensing phase, the application process will be more robust as the FMA will be required to consider a wider range of factors, including whether an applicant is capable of effectively providing financial advice services. In addition, the application process will vary depending on the business model adopted by the applicant. For example, the Amendment Act introduces additional requirements on financial advice providers that engage financial advisers or nominated representatives, so those firms will need to go through additional assessment during the licensing process.

While the process will be more robust than that used during transitional licensing, applicants will still use a streamlined licensing system, leading to an efficient process and relatively low estimated average processing times.

Options for setting the full licensing fees

We considered but ultimately discounted setting the licensing fees as solely a flat fee or hourly rate because:

- a model that used a flat fee only would result in higher fees being charged to all applicants to ensure that the FMA was fully recovering the costs of processing complex applications. While this would provide certainty to the industry, we were concerned that this option would result in cross-subsidisation between different applicants and could potential reduce access to advice if the fees created a barrier to entry.

- a model that relies entirely on variable charging would significantly reduce certainty for the industry, which could reduce access to advice if smaller firms, which are more price-sensitive, chose not to provide financial advice.

Rather, the proposed fee model for full licensing will include both a flat fee and an hourly rate component which will be charged in certain circumstances. The purpose of this fee design is to allow for the wide variation in size and complexity of firms that provide financial advice.

The flat application fee component will recover the licensing system and development costs and some staff assessment time. The full licensing fees will provide the FMA the ability to charge an hourly rate when processing resource intensive applications that require more staff assessment time (e.g. high risk or complex applications, or those where insufficient information is provided). The FMA is developing criteria that may trigger greater assessment and these are being built into the licensing process. The FMA will notify an applicant if it is likely to be charged the hourly rate and the reasons for being charged the hourly rate.

The fee model has three categories

Businesses will be able to provide advice in a variety of ways, and the Amendment Act introduces additional obligations on financial advice providers that engage individuals to give financial advice on their behalf:

- a financial advice provider that engages others must take all reasonable steps to ensure that the other person complies with their duties
- a financial advice provider that engages nominated representatives is required to have in place processes and controls that limit the nature and scope of the advice that can be given.

The FMA must be satisfied that an applicant will comply with their duties, and the staff assessment time is likely to vary depending on how the applicant intends to provide advice. Because of this, we propose that there be the following three categories of flat application fees:

- **Category 1**: sole adviser businesses or financial advice providers that only give advice on their own account
- **Category 2**: financial advice providers that engage multiple financial advisers, but no nominated representatives
- **Category 3**: financial advice providers that engage nominated representatives (and may also engage financial advisers)

Table 4: Proposed licensing fees and cost components

Application fees (ex GST)	Transitional licensing	Full licensing		
	All Categories	Category 1	Category 2	Category 3
Total application fee	**$405.00**	**$612.00**	**$767.00**	**$922.00**
Licensing system and development costs	$366.25	$457.00	$457.00	$457.00
Estimated average application processing time	$38.75 (15 mins)	$155.00 (1 hour)	$310.00 (2 hours)	$465.00 (3 hours)
Additional hourly rates chargeable over specified threshold following notice	N/A	$155 per hour over 2 hour threshold	$155 per hour over 3 hour threshold	$155 per hour over 4 hour threshold

Assessment of proposed licensing fees against objectives

We consider that the proposed model of flat application fee and hourly rate will result in the most cost effective recovery method for the FMA and the fairest fee for licensees. By removing resource intensive applications from the model of the flat fee and allowing the FMA to recover its costs by charging these applicants through its hourly rate, the flat fee can be set at a lower level. If the flat fee was based on an estimated average cost for all financial advice provider licence applications it would need to be set higher and would cross-subsidise the costs of assessment across applicants.

Table 5: Assessment of proposed licensing fees model against objectives

Objective	Licensing fees model
The charges do not reduce the availability of financial advice	✓✓ The relatively low fees should reduce the costs for many applicants, and should not reduce access to advice.
Fees are set at a level that fully recovers the costs to the FMA of assessing applications.	✓✓ Apportioning the licensing system and development costs evenly means the FMA should be able to recover its costs and allowing the FMA to charge its hourly rate ensures that the FMA can recover additional costs incurred when considering more complex applications.
The fee model minimises cross-subsidy between different groups.	✓✓ Minimises cross-subsidisation by only requiring applicants in each category to pay a fee that is proportionate to the costs associated with considering their application. Allowing the FMA to charge the hourly rate reduces the fees for most applicants and applies those costs to complex applicants.
Uncertainty about the fee level applicants have to pay is minimised	✓ All applicants will be aware of the minimum costs that they will incur prior to applying for a licence. However, the ability for the FMA to charge additional fees in accordance with its hourly rate reduces the level of certainty. This risk will be mitigated by the FMA notifying applicants that they may incur additional costs, and licensing guides are expected to indicate the types of applications that may be 'complex or high risk' so applicants are aware of the potential additional costs.
FMA is incentivised to deliver services to fee payers in an efficient and effective manner	✓ The threshold at which the FMA is able to charge the hourly rate has been set at one hour over the estimated average processing time. This should incentivise the FMA to process applications efficiently.
Fees are able to be collected in an administratively efficient manner.	✓ The proposed charging model will allow the flat application fee to be charged for the majority of applicants, while providing for additional fees to be charged when assessing more complex applications.

Impact analysis

The requirement to obtain a licence and the proposed licensing fees will apply to anyone who provides regulated financial advice to retail clients in the new regime. The table below sets out our forecast volumes for the number of applicants in each category during the transitional licensing period, and over the first five years of the new regulatory regime.[5] It is anticipated that the vast majority of applications for full licences will be received during the initial two years as the industry transitions to the new regime.

[5] In addition to the existing financial advisers transferring to the new regulatory regime, we have estimated that there will be 70 new licensed financial advice providers per year.

Table 6: Proposed licensing fees in the new regime

Category	Application fee	Anticipated volume
Transitional licence	$405.00	2,296
Full licence – sole adviser businesses or financial advice providers that only give advice on its own account	$612.00	2,170
Full licence – financial advice provider that engages multiple advisers (no nominated representatives)	$767.00	397
Full licence – financial advice provider engages nominated representatives (may also engage financial advisers)	$922.00	79

Under the current regime, AFAs and QFEs must be assessed by the FMA before providing financial advice to retail clients, and this assessment is renewed every five years. AFAs and QFEs will incur much lower licensing costs in the new regime than they currently do. RFAs will incur licensing costs that they are currently not required to pay because they are not assessed before they are able to provide financial advice in the current regime.

Table 7: Costs under the FA Act

Category	Application/renewal fee[6] (5 yearly)	Approximate current volume
Registered financial adviser (RFA)	N/A	7,100 individuals and 540 entities
Authorised financial adviser (AFA)	$996.00/$498.00	1,995
Qualifying financial entity (QFE)	$4,249.00/$4,000.00	57

The relatively low proposed fees are driven, in part, by the expected efficiencies of the FMA's licensing process. The combination of fixed fee and hourly rate means the majority of applicants will pay a relatively low fee (by applying the costs of processing complex applications to the particular applicant), while allowing the FMA to recover the costs associated with assessing complex applications.

However, some stakeholders have raised a concern that the ability for the FMA to charge its hourly rate might result in a high volume of applicants incurring additional costs. This would reduce certainty for the industry as businesses may be unable to reasonably estimate the cost of licensing. It is intended that the hourly rate will only apply to complex or resource intensive applicants, and the FMA will only charge its hourly rate after providing written notice to the applicant of the reasons why

[6] The FMA is yet to determine the length of time that financial advice provider licences will be granted for, and recently removed expiry dates from other licences granted under the FMC Act. Further, the FMA has not designed a separate 'renewal' process, and the costs associated with processing any 'renewal' application are likely to remain the same as the costs associated with full licensing.

the hourly rate will be charged. Further, the FMA will only be able to charge the hourly rate after a threshold has been exceeded.

A large fluctuation in the number of applicants could result in a significant over or under recovery, particularly of the licensing system and development costs. We will closely monitor the number of applications during the transitional licensing window and may review our assumptions, and the relevant fees, prior to the full licensing phase if necessary.

FMA Levies

The level of the proposed levies and its cost components (cost recovery model)

Approximately $3.6 million of the FMA's annual appropriation is funded through levies charged to the financial advice industry. It is intended that the same amount of funding will continue to be collected from the financial advice industry, but that the levy classes will be amended to reflect the design of the new regime. These changes are not intended to generate additional revenue or increase the FMA's appropriation.

We consider it to be appropriate that the levy is set at a rate which reflects the relative benefit that different market participants receive from operating in a well-regulated financial market (i.e. that the levy charged to a financial market participant is proportionate to the size of the business). This is consistent with how the current levy amounts are set for other financial service providers. We have used the number of individuals engaged by a firm to give financial advice in order to provide an indication of the extent of benefits a firm receives from the FMA's activities. For example, a firm that engages a large number of individuals to give financial advice, or has a digital advice tool that can reach a large number of consumers, is considered to benefit more than a sole adviser business.

Under each of our options for the levy:

- all financial service providers will continue to pay a levy of $460 (ex GST) on initial registration, followed by a service-specific levy on each annual confirmation
- financial advisers will be levied individually, as they are separately registered, with their own annual confirmation dates, and have the potential to work for multiple financial advice providers.

Option 1 (preferred option): Incremental increase in levies for financial advice providers

Under this option, financial advice providers will pay a base levy, plus an additional amount for every individual nominated representative that they engage, and if they give advice on their own account.

This option includes an upper cap of $80,000 for financial advice providers. This is intended to reduce the risk of larger providers choosing not to provide financial advice, or reducing the number of nominated representatives providing financial advice in order to reduce the applicable levy, as this would be counter to our objectives. Further, many of these firms are likely to contribute a considerable amount to the FMA's funding under different existing levy classes (e.g. as a bank).

A large fluctuation in the number of financial advice providers, financial advisers or nominated representatives from the anticipated volumes could lead to an over or under recovery of the funding collected via the levy. This risk will be mitigated by monitoring the population numbers during the transition to the new regime.

Table 8: Levy classes (preferred option)

Proposed levy classes (payable at each annual confirmation)		Levy (ex GST)
Licensed financial advice provider		$225.00
+	Per nominated representative	$179.00
+	If gives advice on its own account	$737.00
Financial adviser		$265.00

Option 2: Tiered levies

Under this option, the levies payable by financial advice providers would be split into six different tiers. Each tier would set a levy based on the number of individuals engaged by the financial advice provider. This approach would be broadly consistent with other classes of FMA levies (e.g. the levies for banks are split into five tiers of increasing value) and should mean that the amount of the levy reflects the benefits received by the business.

However, the significant increase in the levy between different classes could deter businesses from engaging more people to give advice, potentially reducing access to advice for consumers. There is also an increased risk of over or under recovery, as we have incomplete information about the size and nature of firms that may engage nominated representatives. It is therefore difficult to accurately set the tiers, and the amount of the levies that should apply in each tier.

Table 9: Levy classes (Option 2)

Levy classes	Levy (ex GST)
At each annual confirmation	
Financial adviser	$226.00
Financial advice provider	
Tier 1 (sole adviser business)	$294.00
Tier 2 (multiple financial advisers)	$1,036.00
Tier 3 (up to 10 nominated representatives)	$2,682.00
Tier 4 (11-199 nominated representatives)	$9,833.00
Tier 5 (200-499 nominated representatives)	$35,398.00
Tier 6 (500+ nominated representatives)	$57,943.00

Assessment of options against objectives – levy

We consider that Option 1 is most likely to meet MBIE's objectives in setting the levy. It should ensure that the levy payable is proportionate to the benefit those businesses receive from the FMA's activities. In addition, the incremental increases in the levy, and the inclusion of the cap in respect of levies relating to financial advice providers, should not reduce access to financial advice

Table 10: Assessment of levy models against objectives

Objective	Option 1 (preferred option)	Option 2
The charges do not reduce the availability of financial advice	✓✓ The majority will pay lower levies, or marginally higher levies, than under the current regime.	✓ The significant levies payable in different tiers could lead firms to reduce the numbers of individuals

	Those who are likely to face a significant increase are larger firms and we do not consider the increase to be so significant as to reduce access to financial advice.	giving advice in order to reduce the applicable levy.
The cost of the levy for market participants is consistent with the benefits they receive from a well-regulated financial market	✓✓ The incremental increase in the levies paid by financial advice providers will lead to businesses paying a levy that reflects the benefits that they receive from the FMA's activities.	✓ Businesses will pay a levy that reflects the benefits they receive from the FMA's activities, however the significant jumps in levies between different tiers could lead to some inconsistencies.
The levy will not discourage some classes of entity from supplying financial products or services	✓✓ The incremental increase in the levy should not discourage firms from giving advice. Some larger providers will be required to pay more than currently, however they receive significant benefits from the FMA's activities and are likely able to bear these costs.	× May deter price-sensitive businesses from providing advice through nominated representatives, and could deter businesses from growing (due to the significant increases between levy tiers).
The levy is practical in respect of its implementation, collection and also avoids large over or under-collection.	✓✓ The levy will continue to be collected via the Financial Service Providers Register (FSPR). This model doesn't require assumptions to be made on the business models that businesses will adopt, therefore reducing the risk of over or under recovery.	× The levy will continue to be collected via the Financial Service Providers Register (FSPR). The inclusion of tiers increases the risk of over or under recovery. We have incomplete information about the likely size of firms in the new regime, so setting appropriate tiers is difficult and would require regular reviewing and amendment.

Impact analysis

The proposal will change the levies that apply to anyone who provides financial advice in the new regime.

Table 11: Forecast volumes in the new regime

Levy class	Annual levy	Anticipated volume
Financial adviser	$265.00	8,186
Financial advice provider	$225.00	2,296
+ per nominated representative	$179.00	21,500
+ if gives advice on its own account	$737.00	100

Due to the difference in design with the new regime, it is difficult to draw a direct comparison with the levies charged in the current regime.

A financial advice provider that engages one financial adviser will pay broadly similar annual levies ($490.00) to AFAs[7] and RFAs currently ($330.00 and $460.00 respectively). Firms that engage multiple financial advisers, and the individual financial advisers themselves, will pay less than under the current regime (e.g. a firm of five current AFAs could save up to $560 per year).

We anticipate that current QFEs will engage nominated representatives to give financial advice on their behalf, and will potentially pay significantly higher levies than under the status quo. QFEs are not currently levied in respect of their financial adviser service but pay a levy under other classes. While they will pay up to $80,000 more than under the status quo, we think this is justified given that they will benefit from the FMA's activities in the new regulatory regime. Many of these businesses are also generally large and these additional costs are unlikely to discourage the entity from providing financial advice.

Table 12: Levies charged in the FA Act

Levy class	Annual levy	Approximate current volume
Registered financial adviser (RFA)	$460.00	7,100
Authorised financial adviser (AFA)	$330.00	1,995
Qualifying financial entity (QFE)	N/A	57

As the levy has been calculated on forecast volumes, there is a risk of over or under recovery of the levy. We will monitor the volumes of people participating in the new regime and may recommend changes to the levies. We do not expect the amount of levy to influence the availability of financial advice, or the decisions that businesses make when determining how to structure themselves. Levying financial advisers separately might deter larger financial advice providers from giving financial advice through financial advisers (rather than nominated representatives) as they will not benefit from the cap. We consider this to be a relatively low risk.

Consultation

In December 2018 a discussion paper was released which sought feedback on our preferred options for the fees and levies. The discussion paper also sought feedback on some possible alternative or complementary options, as well as the underlying assumptions used in calculating the fees and levies.

20 submissions were received, which were broadly supportive of the preferred option. However, steps have been taken to address the concerns of stakeholders. In particular:

- to clarify when the FMA's hourly rate may be used in order to increase certainty of licensing fees
- the forecast volumes have been amended following feedback received through consultation, and to reflect more up-to-date volumes
- to include one of the primary objectives of the new regulatory regime (improving access to financial advice) in our objectives for setting the fees and levies

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[7] When the levy was reviewed in 2017, AFA levies were not changed as it was intended that these levies would be reviewed once more information regarding the new regulatory regime for financial advice was known.

- to reduce the levies payable by firms that give advice on their own account in order to reduce the likelihood that this will create a barrier to entry

Some industry associations whose members are larger organisations (some of which are QFEs) were opposed to paying a levy based on the number of nominated representatives that they engage, as some QFEs already pay substantial amounts under different levy classes (e.g. as a bank). While we understand that the new model potentially represents a significant increase in the levies for these businesses, we consider that they benefit significantly from the FMA's activities and should be levied accordingly.

Conclusions and recommendations

We recommend that the licensing fees be set to fully recover the FMA's costs associated with processing applications for a financial advice provider licence. The proposed approach of flat fee plus hourly rate will meet the principles of equity, simplicity and accountability. It will see the majority of applicants pay a relatively low fee, while allowing the FMA to recover the costs associated with considering more resource intensive complex applications.

We recommend that the FMA levy model be amended to recover the same amount of funding from the financial advice industry in the new regime. The proposed adjustments to the levy model achieve the principles of equity, simplicity and accountability, and financial advice providers will pay a levy that is proportionate to the benefit they receive from the FMA's activities.

Implementation plan

The transitional licensing fees will come into effect when transitional licensing opens, which is expected to be in Q4 2019, and the full licensing fees and changes to the FMA levy will come into effect when the new regime for financial advice comes into force (expected to be Q2 2020).

The levy will continue to be collected via the FSPR. The new regulatory regime will require existing providers to amend their registration pages to reflect new terminology, and some may need to establish a new registration page for certain services. MBIE and the FMA are actively engaging with providers to clarify their registration requirements.

Monitoring and evaluation

MBIE has ongoing regulatory stewardship obligations and will work with the FMA to monitor the implementation of the new regulatory regime. In particular, we will monitor the impact of the new regulatory regime on the FMA's resourcing and the financial advice sector and will monitor whether any significant under or over recovery is occurring. It is likely that the fees and levies discussed in this paper will be reviewed in light of our monitoring activities to ensure they are fit for purpose.

As a Crown entity, the FMA is required to report to the Minister of Commerce and Consumer Affairs and to the general public about its performance. The FMA currently collects and reports annually on a range of non-financial performance measures, including measures relating to the completion of licence applications within agreed timeframes. The FMA is also required to separately record and report on the revenue that it generates from licensing fees in its Annual Report.

Review

We will monitor the number of applicants during the transitional and full licensing periods in order to ensure that the charging models continue to meet their objectives. It may also be necessary to review the FMA's funding so that it may effectively regulate financial advice in the new regime. Any resulting changes to the FMA' appropriation and levy will be consulted on.