

DRAFT FOR CONSULTATION

Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019

Governor-General

Order in Council

At Wellington this day of 2019

Present:
in Council

These regulations are made under section 546 of the Financial Markets Conduct Act 2013—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with section 549 of that Act.

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Regulations

1 Title

These regulations are the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019.

2 Commencement

These regulations come into force on [TBC].

3 Principal regulations

These regulations amend the Financial Markets Conduct Regulations 2014 (the **principal regulations**).

4 Regulation 3 amended (Overview)

(1) In regulation 3(f), replace “and Schedule 21” with “, Schedule 21, and Schedule 21A”.

(2) After regulation 3(f)(iv), insert:

(iva) additional regulation of financial advice and financial advice services; and

5 New regulation 192A inserted (Condition for financial advice providers to keep information)

After regulation 192, insert:

192A Condition for financial advice providers to keep information

- (1) A market services licence for a provider of a financial advice service is subject to a condition that the financial advice provider (**P**) must keep a record of each disclosure under **regulation 229D, 229E, or 229F** that is given by P or by any person engaged by P to give advice to P's clients on P's behalf.
- (2) The record must include—
 - (a) the name of the person who was given the disclosure (if known); and
 - (b) the date the disclosure was given; and
 - (c) a record of the information that was disclosed.
- (3) The record—
 - (a) must be kept for a period of not less than 7 years after it has been made; and
 - (b) must be available for inspection by the FMA at all reasonable times; and
 - (c) may be kept in electronic form so long as it is readily retrievable.

6 New regulations 229A to 229H and cross-heading inserted

After regulation 229, insert:

Additional regulation of financial advice and financial advice services

229A Outline of disclosure requirements when giving financial advice to retail clients

- (1) **Regulations 229C to 229H** apply to a person who gives regulated financial advice to retail clients. They set out 4 times at which information must be made available under **section 431O** of the Act, the content of that information, and the manner in which it must be made available.
- (2) In addition, a person who gives regulated financial advice is also required to comply with the duties set out in **sections 431I to 431N** and **431P** of the Act.

Information to be publicly available

- (3) **Regulation 229C** requires a financial advice provider to make the information set out in **clause 4 of Schedule 21A** publicly available.

Information to be given before giving advice and at time of giving advice

- (4) **Regulations 229D and 229E** require the following information to be given to a client:
 - (a) at the time the nature and scope of the advice sought becomes known, the initial information set out in **clause 5 of Schedule 21A** must be given (*see regulation 229D*). The initial information includes information relating to any limitations or restrictions on the nature and scope of advice that can be given to the client, and details of any fees or conflicts

of interest (including commissions or other incentives) that may apply. The purpose of the initial information is to give retail clients information that will help them make an informed decision about whether to seek advice from a particular person or provider:

- (b) at the time advice is given, the additional information (as defined in **regulation 229E(6)**) must be given (*see* **regulation 229E**). The additional information includes further details of any fees or conflicts of interest that may apply. The purpose of the additional information is to give retail clients information that will help them make an informed decision about whether to act on advice that they have been given.
- (5) The initial information and additional information does not need to be given if the client has received the relevant information in the preceding 12 months (*see* **regulations 229D(7) and 229E(5)**). However, the client has to be informed of any material change, and the information must be given if the client requests it.

Information to be given if complaint received

- (6) **Regulation 229F** requires disputes resolution process information to be given to a complainant if a complaint is received.

This regulation is guide only

- (7) This regulation is a guide only to the general scheme and effect of **regulations 229C to 229H**.

229B Application and interpretation

- (1) **Regulations 229C to 229H** apply to a person who gives regulated financial advice to retail clients.
- (2) In **regulations 229C to 229H and Schedule 21A**,—
 - additional information** has the meaning set out in **regulation 229E**
 - advice** means regulated financial advice given, or to be given, to a retail client
 - client** includes a person who may receive advice
 - initial information** means the information set out in **clause 5 of Schedule 21A**
 - material change** means a change that a reasonable client would expect to, or to be likely to, influence a decision about whether to seek advice from a particular person or provider or to act on advice that they have been given.

229C Information that must be made publicly available

- (1) A financial advice provider (**P**) must make all of the information set out in **clause 4 of Schedule 21A** that is applicable publicly available.
- (2) The purpose of this regulation is to give retail clients access to information that will help them to find a financial advice provider that meets their needs.

- (3) P must have regard to that purpose when complying with this regulation.
- (4) P must ensure that the publicly available information—
 - (a) is worded and presented in a clear, concise, and effective manner; and
 - (b) is in a format, font, and font size that is easily readable; and
 - (c) if it is presented with other information, is given prominence; and
 - (d) is clearly identified as having been provided by P; and
 - (e) includes P's name and contact details.
- (5) In this regulation, information is **publicly available** if the information is available, free of charge,—
 - (a) as a hard copy or an electronic copy, on request to P; and
 - (b) if an Internet site is maintained by or on behalf of P, on that site in a way that ensures—
 - (i) that the information, or a link to the information, is prominently displayed on the site either on the home page or on an appropriate section of the site; and
 - (ii) that the home page prominently displays a link to the appropriate section of the site (if the information is displayed on that section of the site); and
 - (iii) that members of the public (or members of the section of the public to which the information is applicable) can easily access the information at all reasonable times.

229D Initial information must be given when nature and scope of advice known

- (1) This regulation applies if—
 - (a) a person who gives advice (**A**) knows or ought reasonably to know the general nature and scope of the advice that a client is seeking; and
 - (b) there are reasonable grounds for concluding that advice may be given to the client.
- (2) A must give the client all of the initial information that is applicable.
- (3) The purpose of this regulation is to give retail clients information that will help them make an informed decision about whether to seek advice from a particular person or provider.
- (4) A must have regard to that purpose when complying with this regulation.
- (5) The initial information must be given at the time this regulation applies or, if it is not practicable to do so, as soon as practicable after that time.

Example

Alice is a mortgage adviser who works for ABC Limited. Claire approaches Alice seeking mortgage advice. During their initial meeting, Alice learns that Claire is seeking mortgage advice in relation to a purchase of a residential property.

At that initial meeting, Alice must give Claire all of the applicable information set out in **clause 5 of Schedule 21A**.

- (6) In any event, the initial information must be given before the advice is given.
- (7) However, the following applies if the client has already been given initial information in accordance with **subclause (2)** in the preceding 12 months:
 - (a) if there has been a material change to any of that information (when considered as a whole together with any additional information the client has been given in accordance with **regulation 229E** in those 12 months), A may instead give the client an updated version of the information that has changed or an explanation of what has changed:
 - (b) if there has been no material change to any of the information (when considered as a whole together with any additional information the client has been given in accordance with **regulation 229E** in those 12 months), A does not have to give the initial information to the client unless the client requests the information.

229E Additional information must be given at time advice given

- (1) A person (**A**) who gives advice to a client must give the client all of the additional information that is applicable.

Example (continued)

While Alice is making enquiries with lenders, ABC Limited changes its arrangements with a particular lender and is no longer giving advice about the financial products of that lender.

Alice emails Claire the statement of advice. In the same email, Alice must give Claire—

- all of the information set out in **clause 6 of Schedule 21A**; and
- information about the change to the lender. Alice can do this by explaining the change to Claire, or by providing her with an updated version of the information that has changed (see **clause 5(1)(e) of Schedule 21A**).

- (2) The purpose of this regulation is to give retail clients information that will help them make an informed decision about whether to act on advice that they have been given.
- (3) A must have regard to that purpose when complying with this regulation.
- (4) A must give the additional information at the time the advice is given or, if it is not practicable to do so, as soon as practicable after the advice is given.
- (5) However, the following applies if the client has already been given initial information in accordance with **regulation 229D(2)** and additional information in accordance with **subclause (1)** in the preceding 12 months:
 - (a) if there has been a material change to any of that information (when considered as a whole), A may instead give the client an updated version of

the additional information that has changed or an explanation of what has changed:

- (b) if there has been no material change to the information (when considered as a whole), A does not have to give the additional information to the client unless the client requests the information.

Example (continued)

6 months later, Claire is interested in refinancing her home loan. Claire asks Alice for refinancing advice.

None of the information that Alice has to give to Claire has changed since Alice sent Claire the additional information 6 months ago.

Alice would normally have to give Claire the additional information at the time she gives Claire the refinancing advice. However,—

- Claire was given the initial information 7 months ago (at Claire and Alice's initial meeting); and
- Claire was given the additional information 6 months ago (when Alice emailed Claire the statement of advice), which included details about the change to the particular lenders that the advice related to; and
- nothing has changed since Claire was given that information.

Alice does not have to give Claire the additional information at the time she gives her the refinancing advice.

- (6) In this regulation, the **additional information** is—
- (a) the information set out in **clause 6 of Schedule 21A**;
- (b) if there has been a material change to the information set out in **clause 5(1) of Schedule 21A** (licence status and conditions, nature and scope of advice, and reliability history) since the client was last given that information,—
- (i) an updated version of the information that has changed; or
- (ii) an explanation of what has changed.

229F Information that must be given if complaint received

- (1) A financial advice provider (**P**), or a person engaged by P to give advice to P's clients on P's behalf, who receives a complaint about P's financial advice service must give the person complaining—
- (a) an overview of P's complaints handling process (if P has one); and
- (b) the disputes resolution process information set out in **clause 6(1)(i) of Schedule 21A**.
- (2) The information must be given as soon as practicable after the complaint is received.
- (3) In this regulation, a **complaint** includes a complaint about—

- (a) advice given by a person engaged by P or the conduct of a person engaged by P; and
- (b) a failure to provide a service or give advice.

229G Form and manner in which information must be given

- (1) A person must ensure that any information they give under **regulations 229D to 229F**—
 - (a) is worded and presented in a clear, concise, and effective manner; and
 - (b) if it is presented with other information, is given prominence; and
 - (c) is given free of charge.
- (2) A person who is required to give information under **regulations 229D to 229F** must give it as a hard copy or an electronic copy if requested.
- (3) The format, font, and font size of any information given as a hard copy or an electronic copy must be easily readable.
- (4) A person may give information in the form and manner they reasonably consider appropriate, having regard to the purpose of the regulation (in the case of information required to be given under **regulation 229D or 229E**).
- (5) **Subclause (4)** is subject to **subclauses (1), (2), and (3)**.

229H Information given or supplied by provider

- (1) This clause applies if a person (A) is—
 - (a) engaged by a financial advice provider (P) to give advice to P's clients on P's behalf; and
 - (b) required by **regulations 229D to 229F** to give information to a person (C).
- (2) P may give the information to C directly on A's behalf.

7 New Schedule 21A inserted

After Schedule 21, insert the Schedule 21A set out in the Schedule of these regulations.

Schedule
New Schedule 21A inserted

r 7

Schedule 21A
**Information to be made available by persons giving regulated
financial advice to retail clients**

r 229A–229F

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Part 1

Preliminary provisions

1 Interpretation

In this schedule,—

commission or other incentive has the meaning set out in **clause 2**

conflict of interest has the meaning set out in **clause 2**

dispute resolution scheme means the approved dispute resolution scheme (as defined in section 50 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008) of which the financial advice provider is a member in accordance with section 48 of that Act

person connected with the giving of the advice has the meaning set out section 431K(3) of the Act

publicly disciplined has the meaning set out in **clause 3**

reliability event has the meaning set out in **clause 3**.

2 Meaning of conflict of interest and commission or other incentive

- (1) This clause defines what is meant by a conflict of interest and commission or other incentive in relation to advice given by a person (**A**) to a client of a financial advice provider (**P**).
- (2) A **conflict of interest**, in relation to advice,—
 - (a) means any interest of A, P, or another person connected with the giving of the advice that a reasonable client would expect to, or to be likely to, influence the advice given by A; and
 - (b) includes a commission or other incentive.
- (3) A **commission or other incentive** is a commission, benefit, or other incentive (whether monetary or non-monetary and whether direct or indirect) that—
 - (a) is given to A, P, or another person connected with the giving of the advice as a consequence of A giving the advice or the client acting on the advice (for example, by acquiring a financial advice product); and
 - (b) a reasonable client would expect to, or to be likely to, influence the advice given by A.

3 Meaning of reliability event and publicly disciplined

- (1) A **reliability event** has happened to a person if—
 - (a) the person has, in the 5 years immediately before the date on which the information is required to be given, been publicly disciplined; or
 - (b) the person has, in the 5 years immediately before the date on which the information is required to be given, been the subject of a successful civil or criminal proceeding or regulatory action (whether in New Zealand or overseas) in relation to the contravention, or involvement in the contravention, of any—
 - (i) financial markets legislation; or
 - (ii) overseas law that regulates the supply of any financial service, any dealing in financial products, or the management of an entity; or
 - (c) the person has, in the 5 years immediately before the date on which the information is required to be given, been convicted of a crime involving dishonesty; or
 - (d) if the person is a financial advice provider or a financial adviser, the person has, in the 4 years immediately before the date on which the information is required to be given,—
 - (i) been discharged from bankruptcy (whether in New Zealand or overseas); or

- (ii) been discharged from the no asset procedure under subpart 4 of Part 5 of the Insolvency Act 2006 (or a similar procedure under a law of an overseas jurisdiction).
- (2) A person has been **publicly disciplined** if—
- (a) the person was the subject of disciplinary action under clause 46 of Schedule 5 of the Act or section 101(3) of the Financial Advisers Act 2008; and
 - (b) the disciplinary committee publicly notified the action under clause 47(3) of Schedule 5 of the Act or section 101(6) of the Financial Advisers Act 2008 in a way that included making the person’s name publicly available; and
 - (c) the decision to take the disciplinary action has not been overturned on appeal.

Part 2

Information that must be available or be given

4 Information that must be publicly available

- (1) A financial advice provider (**P**) must make the following information publicly available in accordance with **regulation 229C**:

Licence status and conditions

- (a) one of the following (as applicable):
 - (i) a statement to the effect that P holds a licence issued by the FMA to provide a financial advice service; or
 - (ii) a statement—
 - (A) to the effect that P is authorised by a licence issued by the FMA to provide a financial advice service; and
 - (B) setting out the name of the licensee; or
 - (iii) a statement to the effect that P is exempt from the requirement to hold a licence issued by the FMA to provide a financial advice service:
- (b) a brief summary of the effect of each condition of the licence that limits or restricts the advice that may be given by P or a person giving advice on P’s behalf:

Nature and scope of advice

- (c) the types of advice that P (or a person giving advice on P’s behalf) gives:
- (d) the types of financial advice products in relation to which advice is given:

- (e) if P gives advice in relation to financial advice products from particular product providers,—
- (i) a statement to that effect; and
 - (ii) the names of the product providers:
- (f) a brief explanation of any limitations or restrictions on the nature and scope of the advice that P gives, or that is given on P's behalf, that a reasonable client would expect to, or to be likely to, influence a member of the public in deciding whether to seek advice from P:
- (g) a statement to the effect that the information set out in **paragraphs (c) to (f)** will help clients understand what type of advice can be provided by P:
- Fees, expenses, or other amounts payable*
- (h) if P's clients will or may have to pay fees, expenses, or other amounts in relation to the giving of advice, an explanation of when, or in what circumstances, those amounts will or may be payable:
- Conflicts of interest, including commissions or other incentives*
- (i) if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to advice given to P's clients,—
- (i) a description of the nature of each conflict of interest; and
 - (ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:
- (j) if any commission or other incentive will or may be given in relation to advice given to P's clients,—
- (i) an explanation of when, or in what circumstances, they will or may be given; and
 - (ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:
- Complaints procedure*
- (k) an explanation of how to make a complaint:
- (l) if P has an internal complaints process, an overview of that process:
- Dispute resolution process*
- (m) in relation to P's dispute resolution scheme,—
- (i) a statement that P is a member of the scheme, including the scheme's name; and
 - (ii) a statement that the scheme provides an independent dispute resolution service; and

- (iii) a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint; and
- (iv) the scheme's contact details to make a complaint:

Availability of information

- (n) if the information is on an Internet site maintained by or on behalf of P,—
 - (i) a statement that the information is available as a hard copy or an electronic copy on request; and
 - (ii) an explanation of how a request for that information should be made.
- (2) An explanation required under **subclause (1)(j)** may describe commissions or other incentives that are of a similar kind as a class, and need not itemise each separate commission or other incentive.

Example

P is an insurance adviser and receives commissions from insurance companies if P's clients purchase insurance policies.

P's explanation might say "We receive commissions from the insurance companies about whose policies we give advice. If you decide to take out insurance, the insurer will pay a commission to your financial adviser. The amount of the commission is based on the value of the policy."

5 Initial information to be given when nature and scope of advice known

- (1) A person who gives advice (**A**) must give the following information to a client of a financial advice provider (**P**) in accordance with **regulation 229D** (which provides that initial information must be given to a client at the time A knows or ought reasonably to know the general nature and scope of the advice the client is seeking):

Licence status and conditions

- (a) one of the following (as applicable):
 - (i) a statement to the effect that P holds a licence issued by the FMA to provide a financial advice service; or
 - (ii) a statement—
 - (A) to the effect that P is authorised by a licence issued by the FMA to provide a financial advice service; and
 - (B) setting out the name of the licensee; or
 - (iii) a statement to the effect that P is exempt from the requirement to hold a licence issued by the FMA to provide a financial advice service:
- (b) a brief summary of the effect of each condition of the licence that limits or restricts the advice the client will be given:

Nature and scope of advice

- (c) the types of advice the client will be given:
- (d) the types of financial advice products the advice will be given about:
- (e) if the advice will be given in relation to financial advice products from particular product providers,—
 - (i) a statement to that effect; and
 - (ii) the names of the product providers:
- (f) a brief explanation of any limitations or restrictions on the nature and scope of the advice that the client will be given (but *see also* section 431J of the Act (duty to ensure client understands nature and scope of advice)):
- (g) a statement to the effect that the information set out in **paragraphs (c) to (f)** will help clients understand what type of advice will be provided:

Reliability history

- (h) for each reliability event that has happened to P or to A (if A is a financial adviser or a nominated representative), a statement to the effect that a reliability event has happened, including enough detail to identify the reliability event and the date on which it occurred.
- (2) The person must also give the client the following information:

Identifying information

- (a) P's name and, if the information is given as a hard copy or an electronic copy, P's contact details:
- (b) if A will give advice to the client on behalf of P,—
 - (i) A's name and, if the information is given as a hard copy or an electronic copy, A's contact details; and
 - (ii) a statement that A gives advice on behalf of P:
- (c) if A is a financial adviser, a statement that A is a financial adviser:

Fees, expenses, or other amounts payable

- (d) if the client will or may have to pay, in relation to the giving of the advice, any fees, expenses, or other amounts to A, P, or another person connected with the giving of the advice,—
 - (i) when, or in what circumstances, the amounts will or may become payable; and
 - (ii) either—
 - (A) the amount payable (if known); or
 - (B) if the amount is not known, an explanation of how the amount will be determined and, if practicable, an estimate of the amount; and

- (iii) the terms of payment (if known):
Conflicts of interest, including commissions or other incentives
 - (e) if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to the advice the client is seeking,—
 - (i) a description of the nature of each conflict of interest; and
 - (ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:
 - (f) if any commission or other incentive will or may be given in relation to the advice the client is seeking, for each commission or other incentive,—
 - (i) when, or the circumstances in which, it will or may be given; and
 - (ii) who it would be given by and to whom; and
 - (iii) its amount or value (or how that would be determined); and
 - (iv) a brief explanation of the steps that have or will be taken to manage each conflict of interest:*Availability of information*
 - (g) if the information is not given to the client as a hard copy or an electronic copy,—
 - (i) a statement that the information is available as a hard copy or an electronic copy on request; and
 - (ii) an explanation of how a request for that information should be made.
- (3) If a person other than A is likely to give the advice to the client, then the information set out in **clause 5(1)(h) and (2)(b), (c), (d), (e), and (f)** must be information relating to that person and not A.
- (4) The fact that a reliability event no longer needs to be included in the reliability history information merely because of the passage of time does not constitute a material change to the reliability history information for the purposes of **regulation 229D(7)**.
- 6 Additional information to be given at time advice is given**
- (1) A person who gives advice (A) must give the following information to a client of a financial advice provider (P) in accordance with **regulation 229E** (which provides that additional information must be given to a client at the time advice is given):
- Identifying information*
- (a) P's name and, if the information is given as a hard copy or an electronic copy, P's contact details:

- (b) if A is giving advice on behalf of P,—
 - (i) A's name and, if the information is given as a hard copy or an electronic copy, A's contact details; and
 - (ii) a statement that A gives advice on behalf of P:
- (c) if A is a financial adviser, a statement that A is a financial adviser:
Fees, expenses, or other amounts payable
- (d) to the extent not already given under **clause 5(2)(d)**, if the client will or may have to pay, in relation to the giving of the advice or acting on the advice, any fees, expenses, or other amounts to A, P, or another person connected with the giving of the advice,—
 - (i) when, or in what circumstances, the amounts will or may become payable; and
 - (ii) the terms of payment (if known); and
 - (iii) either—
 - (A) the amount payable (if known); or
 - (B) if the amount is not known, an explanation of how the amount will be determined and, if practicable, an estimate of the amount:

Example

Alice is engaged by ABC Limited to give advice to Claire. Alice recommends that Claire invest in a range of investments.

Alice must inform Claire that ABC Limited charges a monthly portfolio management fee. Alice must also provide Claire with details of that fee and its terms of payment.

Conflicts of interest, including commissions or other incentives

- (e) if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to the advice,—
 - (i) a description of the nature of each conflict of interest; and
 - (ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:
- (f) if any commissions or other incentives will or may be given in relation to the advice, for each commission or other incentive,—
 - (i) when, or the circumstances in which, it will or may be given; and
 - (ii) who it would be given by and to whom; and
 - (iii) its amount or value (or how that would be determined):
 - (iv) an explanation of when, or in what circumstances, they will or may be given; and

- (v) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:
 - Complaints procedure*
 - (g) an explanation of how to make a complaint;
 - (h) if the financial advice provider has an internal complaints process, an overview of that process:
 - Dispute resolution process*
 - (i) in relation to P's dispute resolution scheme,—
 - (i) a statement that P is a member of the scheme, including the scheme's name; and
 - (ii) a statement that the scheme provides an independent dispute resolution service; and
 - (iii) a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint; and
 - (iv) the scheme's contact details to make a complaint:
 - Duties information*
 - (j) a statement to the effect that the person giving the advice is bound by the duties in sections 431I, 431K, 431L, and 431M of the Act to—
 - (i) meet the standards of competence, knowledge, and skill set out in the code of conduct; and
 - (ii) give priority to the client's interests; and
 - (iii) exercise care, diligence, and skill; and
 - (iv) meet the standards of ethical behaviour, conduct, and client care set out in the code of conduct:
 - Availability of information*
 - (k) if the information is not given to the client as a hard copy or an electronic copy,—
 - (i) a statement that the information is available as a hard copy or an electronic copy on request; and
 - (ii) an explanation of how a request for that information should be made.
- (2) The statement for the purposes of **subclause (1)(j)** does not need to refer to the sections of the Act or recite the precise words of the Act so long as it gives an adequate statement of their general effect.
- (3) The fact that A is not the person that the information set out in **clause 5(1)(h) and (2)(b), (c), (d), (e) and (f)** was about is a material change for the purposes of **regulation 229E(5)** (and, accordingly, the client must be given an

updated version of the information as it relates to A, or receive an explanation of what has changed).

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Financial Markets Conduct Act 2013 (the **FMC Act**) and amend the Financial Markets Conduct Regulations 2014 (the **FMC Regulations**) in consequence of amendments being made to the FMC Act by the Financial Services Legislation Amendment Act 2019 (the **FSLA Act**).

These regulations come into force on [TBC].

New section 431O of the FMC Act (being inserted by the FSLA Act) will require people who give regulated financial advice to make available the information prescribed by regulations, as and when required by the regulations. The amendments made by these regulations require people who give that advice to retail clients to give the information set out in *new Schedule 21A* of the FMC Regulations.

The amendments made by these regulations divide the process of giving financial advice into stages and set out the information that must be made available or given to clients at each stage. In summary, they are—

- public disclosure:
- disclosure when the nature and scope of the advice a client is seeking becomes known:
- disclosure when advice is given:
- disclosure when a complaint is made.

New regulation 229C requires a financial advice provider to make the information set out in *clause 4 of new Schedule 21A* available to the public. The purpose of requiring this information to be publicly available is to give retail clients access to information that will help them to find a financial advice provider that meets their needs.

New regulation 229D requires a person who gives financial advice to give the information set out in *clause 5 of new Schedule 21A* (the **initial information**) to a client at the time that the person knows or ought reasonably to know the nature and scope of the advice the client is seeking. The initial information includes information relating to any limitations or restrictions on the nature and scope of advice that can be given to the client, and details of any fees or conflicts of interest (including commissions or other incentives) that may apply. The purpose of the initial information is give retail clients information that will help them make an informed decision about whether to seek advice from a particular person or provider.

New regulation 229E requires a person who gives financial advice to give the information set out in *clause 6 of new Schedule 21A* together with information regarding any material updates to the information set out in *clause 5(1)* of that schedule (together, the **additional information**) to a client at the time that advice is given to the client. The additional information includes further details of any fees or conflicts of interest that may apply. The purpose of the additional information is to give retail clients information that will help them make an informed decision about whether to act on advice that they have been given.

New regulation 229F requires a financial advice provider, or a person who is engaged by the provider, to give disputes resolution information if a complaint is received.

The information that is given to a client or a complainant must be worded and presented in a clear, concise, and effective manner (*see new regulation 229G*).

The initial information and additional information do not need to be given if the client has received the relevant information in the preceding 12 months (*see new regulations 229D(7) and 229E(5)*). However, the client has to be informed of any material change. In any case, the information must be given if the client requests it.

Financial advice providers are required to keep a record of each disclosure that is made under the FMC Regulations as a condition of their licence (*see new regulation 192A*).

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 13 February 2019 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/assets/1b7f69938a/impact-summary-financial-advice-disclosure-regulations.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

These regulations are administered by the Ministry of Business, Innovation, and Employment.