

Financial Markets Conduct Amendment Bill

Government Bill

As reported from the Finance and Expenditure Committee

Commentary

Recommendation

The Finance and Expenditure Committee has examined the Financial Markets Conduct Amendment Bill and recommends unanimously that it be passed. We also recommend all amendments unanimously.

About the bill as introduced

This bill is one of three related to financial services that the Government is progressing as a package. The other bills are the Credit Contracts and Consumer Finance Amendment Bill and the Financial Service Providers (Registration and Dispute Resolution) Amendment Bill. The overall objectives of the bills are to simplify and streamline regulation of financial services, remove undue compliance costs for financial markets participants, and improve outcomes for consumers.

This is an omnibus bill that would amend the Financial Markets Conduct Act 2013 and the Financial Markets Authority Act 2011. Among other things, the bill would:

- amend provisions in subpart 6A of Part 6 of the Financial Markets Conduct Act to adjust the minimum requirements that apply to a financial institution's fair conduct programme under the Conduct of Financial Institutions regime
- amend other provisions in Part 6 of the Financial Markets Conduct Act relating to market services licences issued by the Financial Markets Authority (FMA)
- insert new provisions into the Financial Markets Conduct Act that would require the FMA to approve certain changes relating to licensed market service providers and authorised bodies
- insert new provisions into the Financial Markets Authority Act that would enable the FMA to conduct on-site inspections of financial markets participants.

Amendment Paper 446

Shortly before we finished considering the bill, the Minister of Commerce and Consumer Affairs wrote to us requesting that we consider changes to the climate-related disclosure regime as set out in Amendment Paper 446. We have done so, and discuss the proposed changes at the end of this commentary.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of good legislative design. We considered several matters, which we are satisfied have been addressed without requiring any amendments to the bill. Refer to pages 16 to 18 of the departmental report for more information.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Definition of price

Clause 4(4) would insert a definition of “price” into section 6 of the Financial Markets Conduct Act. We recommend deleting the definition. It is not needed because the term “price” is intended to carry its ordinary meaning (an amount paid for a financial product or service).

FMA’s approval required for certain changes

Clause 18 would insert subpart 3A into Part 6 of the Financial Markets Conduct Act. Under the new subpart, the FMA’s approval would be required for:

- someone to obtain significant influence over a licensee or an authorised body (new section 421A)
- a licensee or an authorised body to enter into a significant transaction (new section 421C)
- a licensee or an authorised body to amalgamate with 1 or more other entities (new section 421D).

We recommend several changes to clause 18, set out below.

Significant transactions and amalgamations

We received a submission that new sections 421C and 421D appear to require approval from the FMA even if the proposed action is not relevant to or governed by the Act’s licensing regime. Such an approval would be unnecessary.

We recommend amending section 421C so that approval would not be required for non-licensed business. The section should only apply in respect of a business for providing a market service. We do not think that section 421D should be amended. We think it is appropriate to require the FMA’s approval for amalgamation, since the sur-

viving entity of any amalgamation would hold, or would be authorised under, a licence to provide one or more market services.

Report on proposal

New section 421I would enable the FMA to arrange for a suitably qualified person to prepare a report on a proposed change in order to assist the FMA to perform its functions, powers, or duties. We think an expert report is unlikely to be needed and think the FMA has the requisite expertise to assess any proposed change on its own. We recommend deleting section 421I. We also recommend amending clause 22 to remove the civil liability that would arise if section 421I was contravened.

FMA's consideration of request

New section 421J would require the FMA, when considering a request for approval under new subpart 3A, to:

- consider whether the licensee or authorised body would still meet the requirements referred to in section 396(a) to (g) or 400(1)(a) to (e) or (1A)(a) to (e) if the proposed change occurred
- consult the Reserve Bank of New Zealand if the licensee or authorised body was a regulated entity.

It is intended that the test for approval is targeted on the licensing requirements in the above sections. To make this explicit, we recommend amending new section 421J to require the FMA to grant a request for approval if satisfied that the requirements in the above sections would continue to be met outright or subject to conditions that the FMA would impose.

Nature of the conditions FMA may impose

Under new section 421K, an approval given by the FMA under subpart 3A could be subject to any conditions:

- prescribed by the regulations; or
- that related to matters prescribed in the regulations.

We think the bill should provide more certainty about the nature of the conditions that the FMA could impose. We recommend amending new section 421J so that when the FMA grants approval it could do either or both of the following:

- impose non-liscence conditions of approval relating to the requirements in section 396 or 400 of the Act
- vary, revoke, add to, or substitute any conditions of licence imposed on the licensed person.

We think the bill should also provide more certainty about procedural requirements. We recommend inserting section 421JA so that the imposition of conditions is subject to procedural requirements that are broadly equivalent to those set out in section 405 of the Act.

Appealing decisions

We recommend inserting clause 29B to amend section 531 of the Act. New section 531(e) and (f) would enable a person to appeal to a court against a decision of the FMA to:

- refuse to grant approval under subpart 3A of Part 6; or
- give its approval subject to conditions that it would impose.

This amendment would be consistent with the appeal rights that exist for other decisions of the FMA under Part 6 of the Act.

Exemptions from requirements for FMA's approval

Section 546 of the Act empowers the Governor-General to make regulations related to market services (by Order in Council and on the recommendation of the Minister). Clause 30(1) would insert section 546(1)(fa) into the Act. This would enable regulations to be made that exempt any class of licensees or authorised bodies from the requirement to obtain approval from the FMA under subpart 3A of Part 6.

We recommend amending clause 30(1) so that regulations could be made that exempted any class of persons—not just licensees or authorised bodies—from complying with any provision of subpart 3A of Part 6. We think exemptions should be able to cover any class of persons who have compliance obligations under subpart 3A.

We also recommend amending clause 30(1) so any class of transactions could be made exempt from complying with any provision of subpart 3A of Part 6. This would be consistent with the policy intent to enable approval requirements to be narrowed in a way that is proportionate to risk.

Minimum requirements for fair conduct programme

Section 446G of the Act requires every financial institution to have a fair conduct programme. These programmes are designed to ensure that institutions are compliant with the fair conduct principle (that consumers must be treated fairly). Section 446J sets out minimum requirements for fair conduct programmes.

Clause 19(5) of the bill would replace section 446J(1)(e) to (h). New paragraph (e) relates to supervision and training of each employee to ensure they are supporting their institution's compliance with the fair conduct principle. We recommend limiting this provision so it applies only to the extent that an employee's work is relevant to supporting compliance with the fair conduct principle. Some work will not be relevant, making supervision and training unnecessary.

On-site inspection power

Clause 56 would insert sections 28A to 28D into the Financial Markets Authority Act. These sections would give the FMA the power to conduct an on-site inspection of a financial markets participant. However, the definition of financial markets participant under section 4 of the Act may not cover a wholesale offeror of financial products that is regulated under Part 2 of the Act. We recommend expanding clause 56 so that

the on-site inspection power covers entities regulated under Part 2 of the Act, in addition to financial markets participants.

Amendment Paper 446: climate-related disclosures

Background and process

The climate-related disclosures regime requires financial markets entities above a certain size to report on their climate-related risks and opportunities in annual climate statements. The purpose of the regime is to ensure that climate change is considered in business and investment decisions.

In October 2025, Cabinet decided to modify the climate-related disclosures regime. The changes Cabinet agreed to include:

- raising the reporting threshold for listed issuers from \$60 million in market capitalisation (or quoted debt) to \$1 billion
- removing Managed Investment Scheme managers from the regime
- adjusting the liability settings to:
 - remove deemed (i.e., automatic) director liability for certain entity breaches
 - provide that directors and entities are not required to have the same high level of evidence for their climate disclosures as they do for their financial disclosures.

The Minister of Commerce and Consumer Affairs asked us to consider the above changes as part of our consideration of the bill. The changes would be given effect to by Amendment Paper 446. The changes relate to the bill's single broad policy by making it easier for participants to comply with the requirements of the financial markets regulatory system, and for the FMA to administer it.

We agreed to consider the proposed changes and obtained an extension from the Business Committee to our reporting deadline, to 30 January 2026. This enabled us to call for submissions on the amendment paper.

Our consideration

We recommend inserting the proposals in Amendment Paper 446 into the bill with the following changes:

- New section 26A (as inserted by proposed new clause 4A) would remove the prohibition on unsubstantiated representations for climate reporting entities that comply with climate standards. We recommend amending this provision to clarify that it would be sufficient for them to comply with climate standards in all material respects. A minor or immaterial failure to comply with standards should not disqualify a climate reporting entity from benefiting from new section 26A.
- We recommend inserting clause 28B(2), which would repeal section 461P(2)(a) and 461P(5) of the Financial Markets Conduct Act. These provi-

sions exempt listed issuers with securities quoted only on a growth market from preparing climate statements. The exemption is not necessary if the reporting threshold is raised to a market capitalisation of \$1 billion.

- We recommend amending sections 461Z, 461ZA, and 461ZB of the Financial Markets Conduct Act to remove the requirement for two directors to sign climate statements. We see no additional benefit in the requirement, and removing it should not affect the potential liability or accountability of directors under the Act.
- We recommend amending Schedule 1 to make it more explicit that if the bill means an entity ceases to be a climate reporting entity for an accounting period, it need not prepare and lodge climate statements for that period.

New Zealand Labour Party differing view

The Labour Party opposes the changes to climate change reporting. While some tweaks to the current rules are desirable, the significant reduction in climate change reporting obligations is yet another signal that this Government is not committed to meeting the challenge of climate change.

Appendix

Committee process

The Financial Markets Conduct Amendment Bill was referred to us on 20 May 2025. The House instructed us to report the bill back no later than 20 October 2025. The Business Committee granted our request to extend the report back deadline to 30 January 2026, which enabled us to consider Amendment Paper 446.

On 21 May 2025, we called for submissions on the bill with a closing date of 23 June 2025. We received and considered written submissions from 62 interested groups and individuals. We heard oral evidence from 16 submitters.

On 27 November 2025, we called for submissions on Amendment Paper 446 with a closing date of 4 December 2025. We received and considered written submissions from 28 interested groups and individuals. We heard oral evidence from 9 submitters.

Advice on the bill was provided by the Ministry of Business, Innovation and Employment and the Financial Markets Authority. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Cameron Brewer (Chairperson)

Jamie Arbuckle (to 13 August 2025)

Dan Bidois

Hon Barbara Edmonds

Ryan Hamilton

Mariameno Kapa-Kingi (from 4 June to 25 June 2025)

Nancy Lu

Hon Dr Deborah Russell

Todd Stephenson

Chlöe Swarbrick

Rawiri Waititi (except 4 June to 25 June 2025)

Dr David Wilson (from 13 August 2025)

Hon Dr Megan Woods

Arena Williams participated in our consideration of the bill.

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Scott Simpson

Financial Markets Conduct Amendment Bill

Government Bill

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Schedule 1

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Schedule 2

Amendments to Financial Markets Conduct Act 2013 relating to references to financial advice products

Schedule 3

Consequential amendments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Financial Markets Conduct Amendment Act **2025**.

2 Commencement

(1) This Act comes into force on the day after Royal assent.

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(2) However,—

- (a) **sections 4(4), 19 to 21, 29, and 30(2)** come into force 6 months after Royal assent; and
- (b) **sections 4(3), 16 to 18, 22, 30(1) and (3), and 31** come into force on a date or dates set by Order in Council.

(3) If **section 17** has not come into force by the first anniversary of Royal assent, it comes into force then.

(4) Any provision of **sections 4(3), 16, 18, 22, 30(1) and (3), and 31** that has not come into force by the third anniversary of Royal assent comes into force then.

(5) An Order in Council made under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

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Part 1

Amendments to Financial Markets Conduct Act 2013

3 Principal Act

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This Part amends the Financial Markets Conduct Act 2013.

4 Section 6 amended (Interpretation)

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(1) In section 6(1), repeal the definition of **financial advice product**.

(2) In section 6(1), insert in its appropriate alphabetical order:

FMC product means—

- (a) a financial product (as defined in section 7); or
- (b) a DIMS facility; or
- (c) a contract of insurance; or
- (d) a consumer credit contract; or
- (e) any other product declared by the regulations to be an FMC product; or
- (f) a renewal or variation of the terms or conditions of an existing FMC product

(3) In section 6(1), insert in their appropriate alphabetical order:

overseas authorised body means an overseas person that is an authorised body

overseas licensee means an overseas person that holds a market services licence

overseas person means—

- (a) a body corporate incorporated outside New Zealand; or

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(b) an unincorporated body that has its head office or principal place of business outside New Zealand

(4) In section 6(1), insert in its appropriate alphabetical order:

~~price, in relation to a financial service, a relevant service (as defined in section 446F), or an FMC product, includes valuable consideration in any form, whether direct or indirect; and includes any consideration that in effect relates to the supply of the service or the acquisition of the product, although ostensibly relating to any other matter or thing~~

4A New section 26A inserted (Unsubstantiated representations prohibition does not apply to climate statements) 10

After section 26, insert:

26A Unsubstantiated representations prohibition does not apply to climate statements

(1) Section 23 does not apply to any representations in any climate statements if the statements are prepared, in all material respects, in accordance with— 15

(a) applicable climate standards; or

(b) an exemption granted under subpart 2 of Part 9.

(2) This section applies regardless of whether the climate statements are required to be prepared under Part 7A (for example, it may apply to climate-related disclosures voluntarily prepared for an entity). 20

(3) In this section,—

applicable climate standard

(a) has the meaning set out in section 6(1); and

(b) in relation to an entity that is not a climate reporting entity, includes a climate standard within the meaning of section 5(1) of the Financial Reporting Act 2013 that is applied with all necessary modifications as if the entity were a climate reporting entity 25

climate statements

(a) has the meaning set out in section 6(1); and

(b) includes climate-related disclosures provided under an exemption granted under subpart 2 of Part 9; and

(c) in relation to an entity that is not a climate reporting entity, also includes climate statements within the meaning of section 6(1) applied with all necessary modifications as if the entity were a climate reporting entity. 30

5 Section 69 amended (Waiting period does not usually apply to continuous issue PDSs) 35

Replace section 69(4) with:

- (4) The FMA's reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.
- (5) A notice issued under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

6 New section 131A inserted (Independence requirement in section 131(1)(d) partly disapplied for certain restricted schemes)

After section 131, insert:

131A Independence requirement in section 131(1)(d) partly disapplied for certain restricted schemes

- (1) This section applies to a restricted scheme if—
 - (a) either—
 - (i) the scheme's trustees consist only of a sole corporate trustee; or
 - (ii) both of the following apply:
 - (A) the scheme's trustees include a licensed independent trustee who also acts as a director of a sole corporate trustee for 1 or more other restricted schemes;
 - (B) the sole corporate trustee is a related body corporate of a relevant person; and
 - (b) the licensed independent trustee in respect of the scheme is not a director of any related body corporate of a relevant person (other than a related body corporate that is a sole corporate trustee referred to in **paragraph (a)**); and
 - (c) the constitution of a sole corporate trustee referred to in **paragraph (a)** does not authorise any of its directors to act in a manner that the director believes is in the best interests of a holding company of the sole corporate trustee even though it may not be in the best interests of the sole corporate trustee.
- (2) Section 131(1)(d) does not apply to the extent that it requires the licensed independent trustee to be a person who is not a director of a related body corporate of a relevant person (*see* paragraph (c) of the definition of independent in section 131(3)).
- (3) In this section, **relevant person**, in relation to a restricted scheme, means—
 - (a) an employer that provides access to the scheme for its employees; or
 - (b) an administration manager or an investment manager of the scheme.

7 Section 216 amended (Manner of keeping registers)

- (1) In section 216(1), after “New Zealand”, insert “, Australia, or any other country, state, or territory prescribed by the regulations”.
- (2) In section 216(2), replace “may” with “must”.

8 Section 220 amended (Issuer must notify Registrar of registers)

Replace section 220(1) to (3) with:

(1) If, under section 221, a register of regulated products (or a part of a register) must be available for inspection under **section 222**, the issuer must send a notice to the Registrar of—

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(a) either or both of the following:

(i) the place in New Zealand where the register (or part) is available for inspection under **section 222(1)(a)(i)**;

(ii) a link to or URL for the page or section of the Internet site on which the register (or part) is available for inspection under **section 222(1)(a)(ii)**; and

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(b) any change in the information referred to in **paragraph (a)** (including a change in whether the issuer complies with **section 222(1)(a)(i) or (ii)** or both).

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(2) The issuer must give the notice within 10 working days after—

(a) the register is established; or

(b) a change referred to in **subsection (1)(b)** occurs.

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(3) If a relevant person (within the meaning of **section 222**) requests that an issuer provide information about how a register of regulated products (or a part of a register) may be inspected, the issuer must, as soon as practicable, give the person information about how they may inspect the register or part—

(a) at a place in New Zealand (unless the issuer does not comply with **section 222(1)(a)(i)**); and

(b) on an Internet site, including giving the person the link or URL referred to in **subsection (1)(a)(ii)** (unless the issuer does not comply with **section 222(1)(a)(ii)**).

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(3A) This section does not apply to an issuer in relation to a register if—

(a) the issuer is a company within the meaning of section 2(1) of the Companies Act 1993; and

(b) the register is available for inspection at its registered office.

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9 Section 221 amended (Public inspection of register)

(1) In section 221(3)(a), delete “if the supervisor serves written notice on the issuer of intention to inspect”.

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(2) In section 221(3)(b), delete “if the scheme participant serves written notice on the issuer of intention to inspect”.

(3) In section 221(3)(c), delete “if the person serves written notice on the issuer of intention to inspect”.

(4) After section 221(3), insert:

(3A) If regulations are made for the purposes of subsection (2)(c), the regulations must provide for the manner in which the register (or parts of the register) must be made available for inspection.

10 Section 222 replaced (Manner of inspection)

Replace section 222 with:

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222 Manner of inspection

(1) For the purposes of section 221, a register of regulated products (or the part of a register referred to in section 221(3)(b) or (c)) must—

(a) be available for inspection in either or both of the following ways:

- (i) by a relevant person who serves on the issuer a written notice of an intention to inspect, at the relevant place between the hours of 9 am and 5 pm on each working day during the inspection period;
- (ii) by a relevant person on a relevant Internet site at all reasonable times; and

(b) otherwise be available for inspection in the manner prescribed by the regulations (if any).

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(2) If the issuer complies with **subsection (1)(a)(ii)**, the issuer must ensure that—

(a) the relevant Internet site is maintained by or on behalf of the issuer; or

(b) an Internet site maintained by or on behalf of the issuer contains a prominent link to the relevant Internet site.

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(3) In this section,—

relevant Internet site means the Internet site notified under **section 220(1)**

relevant person means,—

(a) in the case of a register of managed investment products in respect of a superannuation scheme, workplace savings scheme, or KiwiSaver scheme or a register of derivatives, a person to whom the register or part of the register is available for inspection under section 221(3)(a) to (c);

(b) in any other case, any person

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relevant place means—

(a) the place in New Zealand notified under **section 220(1)**; or

(b) the issuer's registered office (in the case of an issuer referred to in **section 220(3A)**).

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11 Section 238 amended (Situations not giving rise to relevant interests)

After section 238(1)(h), insert:

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(i) A is a law enforcement or regulatory agency (as defined in section 4 of the Financial Markets Authority Act 2011) and is performing or exercising a function, power, or duty under any legislation.

12 Section 304 amended (Listed issuer must keep interests register)

(1) After section 304(1), insert: 5

(1A) An interests register must—

(a) be an electronic register; or

(b) be kept in any other reasonable manner that the listed issuer thinks fit.

(2) Replace section 304(2)(b) with: 10

(b) any other place in New Zealand, Australia, or any other country, state, or territory prescribed by the regulations.

(3) Repeal section 304(3).

(4) In section 304(5), replace “305 and” with “**305 to**”.

13 Section 305 replaced (Public inspection of interests register)

Replace section 305 with: 15

305 Public inspection of interests register

(1) An interests register must—

(a) be available for inspection in either or both of the following ways:

(i) by a person who serves on the listed issuer a written notice of an intention to inspect, at the relevant place between the hours of 9 am and 5 pm on each working day during the inspection period;

(ii) on a relevant Internet site at all reasonable times; and

(b) otherwise be available for inspection in the manner prescribed by the regulations (if any).

(2) The listed issuer must ensure that— 25

(a) the relevant Internet site is maintained by or on behalf of the issuer; or

(b) an Internet site maintained by or on behalf of the issuer contains a prominent link to the relevant Internet site.

(3) In this section,—

relevant Internet site means the Internet site notified under **section 305A(1)** 30

relevant place means—

(a) the place in New Zealand notified under **section 305A(1)**; or

(b) the listed issuer’s registered office (in the case of a listed issuer referred to in **section 305A(4)**).

305A Listed issuer must give notice of where interests register is available for inspection	
(1) Every listed issuer must send a notice to the FMA of—	
(a) either or both of the following:	
(i) the place in New Zealand where its interests register is available for inspection under section 305(1)(a)(i) ;	5
(ii) a link to or URL for the page or section of the Internet site on which its interests register is available for inspection under section 305(1)(a)(ii) ; and	
(b) any change in the information referred to in paragraph (a) (including a change in whether the listed issuer complies with section 305(1)(a)(i) or (ii) or both).	10
(2) The listed issuer must give the notice within 10 working days after—	
(a) the interest register is established; or	
(b) a change referred to in subsection (1)(b) occurs.	15
(3) If a person requests that a listed issuer provide information about how its interests register may be inspected, the listed issuer must, as soon as practicable, give the person information about how they may inspect the register—	
(a) at a place in New Zealand (unless the issuer does not comply with section 305(1)(a)(i)); and	20
(b) on an Internet site, including giving the person the link or URL referred to in subsection (1)(a)(ii) (unless the issuer does not comply with section 305(1)(a)(ii)).	
(4) This section does not apply to a listed issuer if—	
(a) it is a company within the meaning of section 2(1) of the Companies Act 1993; and	25
(b) the interests register is available for inspection at its registered office.	
14 Section 306 amended (Copies of documents)	
In section 306(b), after “fee”, insert “(if any)”.	
15 Section 307 amended (Offences relating to interests register)	30
In section 307(1), replace “section 304(1) to (3) or 305” with “section 304(1) to (2), 305, or 305A ”.	
16 Section 386 amended (Overview)	
After section 386(1)(c), insert:	
(ca) subpart 3A provides for the FMA to approve certain changes involving licensees and authorised bodies:	35

17	Section 399 amended (Licence must be issued for particular market services)	
(1)	In the heading to section 399, replace “ be issued for particular market services ” with “ specify particular market services covered ”.	
(2)	Replace section 399(2) with:	5
(2)	A person may hold only 1 market services licence, but the same licence may cover more than 1 type of market service.	
(3)	In section 399(3), replace “In that case” with “If a licence covers more than 1 type of market service”.	
18	New subpart 3A of Part 6 inserted	10
	After section 421, insert:	
	Subpart 3A—FMA’s approval required for certain changes	
	<i>Obtaining significant influence</i>	
	421A Person who obtains significant influence over licensee or authorised body must obtain FMA’s approval	15
(1)	A person (A) must obtain the approval of the FMA before giving effect to a transaction if the transaction would result in A obtaining significant influence over a licensee or an authorised body.	
(2)	In this section and section 421B , a person (A) obtains significant influence over a licensee or an authorised body if—	20
(a)	A obtains the power (whether directly or indirectly) to—	
(i)	exercise, or control the exercise of, 25% or more of the voting rights in the licensee or authorised body; or	
(ii)	appoint 50% or more of the directors of the licensee or authorised body; or	25
(b)	A obtains, together with 1 or more specified persons, the power (whether directly or indirectly) to—	
(i)	exercise, or control the exercise of, 25% or more of the voting rights in the licensee or authorised body; or	
(ii)	appoint 50% or more of the directors of the licensee or authorised body.	30
(3)	In this section and section 421B , specified person , in relation to A, means—	
(a)	a person who is acting or will act jointly or in concert with A in respect of exercising, or controlling the exercise of, a power referred to in sub-section (2)(b)(i) or (ii) ; or	
(b)	a person who acts, or is accustomed to acting, in accordance with the wishes of A.	35

(4) **Subsection (1)** does not apply in relation to an overseas licensee or overseas authorised body (*see instead section 421B*).

421B Overseas licensee or authorised body must notify FMA if person obtains significant influence

(1) If a person (A) gives effect to a transaction that results in A obtaining significant influence over an overseas licensee or overseas authorised body (B), B must give the FMA written notice of that matter within 20 working days after B becomes aware that A has obtained that influence. 5

(2) The notice must specify the following information (to the extent that B is aware of the information): 10

- (a) A's name and the names of any specified persons; and
- (b) the nature and extent of the power referred to in **section 421A** that A (or A together with 1 or more specified persons) may exercise or control; and
- (c) the date on which A obtained the significant influence. 15

Significant transactions

421C Licensee or authorised body must obtain FMA's approval before entering into significant transaction

(1) A licensee or an authorised body must obtain the approval of the FMA before entering into a significant transaction. 20

(2) In this subpart, **significant transaction** means a transaction that involves,—

- (a) in the case of an overseas licensee or overseas authorised body,—
 - (i) the transfer of all or a material part of the licensee's or body's New Zealand business to—
 - (A) another person; or
 - (B) 2 or more persons who are associated with each other; or
 - (ii) the acquisition of all or part of a New Zealand business that, immediately after the acquisition, will be a material part of the licensee's or body's New Zealand business: 25
- (b) in the case of any other licensee or authorised body,—
 - (i) the transfer of all or a material part of the licensee's or body's business to—
 - (A) another person; or
 - (B) 2 or more persons who are associated with each other; or
 - (ii) the acquisition of all or part of a business that, immediately after the acquisition, will be a material part of the licensee's or body's business. 30

- (3) Whether a part of a business is **material** must be determined in the manner prescribed by the regulations.
- (4) In this section, **business** means a business to the extent that it involves the provision of a market service.

Amalgamation

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421D Licensee or authorised body must obtain FMA's approval before amalgamation

- (1) A licensee or an authorised body must obtain the approval of the FMA before the licensee or body amalgamates with another person (whether it occurs under Part 13 of the Companies Act 1993 or any other law of similar effect that results in 2 or more entities amalgamating and continuing as 1 entity).
- (2) In this subpart, **amalgamated entity** means the single entity that is proposed to result from and continue after a proposed amalgamation.
- (3) **Subsection (1)** does not apply in relation to an overseas licensee or overseas authorised body (*see instead section 421E*).

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421E Overseas licensee or authorised body must notify FMA if it amalgamates with another person

- (1) If an overseas licensee or overseas authorised body (A) amalgamates with another person (under a law that results in 2 or more entities amalgamating and continuing as 1 entity), A must give the FMA written notice of the amalgamation within 20 working days after it takes effect.
- (2) The notice must specify—
 - (a) the names of each amalgamating entity and the amalgamated entity; and
 - (b) the date of the amalgamation.

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Failure does not invalidate proposed change

421F Failure to get approval does not invalidate proposed change

- (1) Nothing in this subpart invalidates any change in significant influence over a licensee or an authorised body, significant transaction, or amalgamation made without the approval of the FMA.
- (2) However, *see* subpart 3 of Part 8, which provides for civil liability for a contravention of the duties under this subpart.

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Process for approval

421G Meaning of proposed change

In this subpart, **proposed change** means any of the following in respect of which approval is required under this subpart:

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- (a) the obtaining of significant influence over a licensee or an authorised body;
- (b) the entering into of a significant transaction;
- (c) the amalgamation of a licensee or an authorised body with 1 or more other persons.

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421H Request for approval

- (1) A request for the FMA to give its approval under this subpart must be made in the manner (if any) prescribed by the regulations.
- (2) A joint request may be made by 2 or more persons that are parties to the proposed change.

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421I Report on proposal

- (1) ~~The FMA may arrange for a suitably qualified person (B) to prepare a report on a proposed change to assist the FMA with performing or exercising its functions, powers, or duties under this subpart.~~
- (2) ~~A person that makes a request for approval under this subpart and every other party to the proposed change must provide to B the information that B requires to assist them in preparing the report.~~

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421J FMA's consideration of request

~~The FMA must, in considering a request for approval under this subpart,—~~

- (a) ~~consider whether, if the proposed change occurs, the FMA would still be satisfied that the licensee or authorised body meets the requirements referred to in section 396(a) to (g) or 400(1)(a) to (e) or (1A)(a) to (e) (where those provisions are applied with all necessary modifications as if references to the applicant or body corporate (or entity) were references to the licensee or authorised body respectively); and~~
- (b) ~~consult the Reserve Bank if the licensee or authorised body is a regulated entity (within the meaning of section 5 of the Reserve Bank of New Zealand Act 2021).~~

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421J When FMA must give its approval

- (1) ~~After considering a request for approval under this subpart, the FMA must approve the request if it is satisfied that, if the proposed change occurs, the licensee or authorised body will continue to meet the requirements referred to in section 396(a) to (g) or 400(1)(a) to (e) or (1A)(a) to (e) (where those provisions are applied with all necessary modifications as if references to the applicant or body corporate (or entity) were references to the licensee or authorised body, respectively).~~
- (2) ~~The FMA's approval may be given—~~
 - (a) unconditionally; or

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(b) subject to either or both of the following:

- (i) 1 or more conditions of approval relating to the requirements referred to in section 396 or 400 (for example, to ensure that those requirements continue to be satisfied and to require verification that those requirements continue to be satisfied):
- (ii) a variation of, a revocation of, an addition to, or a substitution of any 1 or more conditions of any licence under which the licensee or authorised body provides a market service.

(3) Section 403(1)(b) and (2) to (5) applies to a variation of, a revocation of, an addition to, or a substitution of a condition under **subsection (2)(b)(ii)**. However,

- (a) the FMA must ensure that the variation of, revocation of, addition to, or substitution of the condition comes into effect only if the proposed change takes place; and
- (b) section 405 does not apply (see instead **section 421JA**).

421JA Procedure for imposing conditions

(1) If the FMA is considering exercising a power under **section 421J(2)(b)**, the FMA must give—

- (a) each relevant person no less than 10 working days' written notice of the following matters before it exercises the power:
 - (i) that the FMA may exercise the power; and
 - (ii) the reasons why it may exercise the power; and
- (b) each relevant person or the relevant person's representative an opportunity to make written submissions on the matter within that notice period.

(2) In this section, **relevant person**, in relation to a request for approval, means either of the following:

- (a) a person that made the request;
- (b) in the case of a power under **section 421J(2)(b)(ii)**, the licensee.

421JB When FMA must consult Reserve Bank

The FMA must, before making a decision under **section 421J**, consult the Reserve Bank if the licensee or authorised body is a regulated entity (within the meaning of section 5(1) of the Reserve Bank of New Zealand Act 2021).

421K FMA's decision on approval FMA must give notice of its decision

(1) The FMA may, after considering a request for approval under this subpart,—

- (a) give its approval unconditionally or subject to any conditions that the FMA may impose under **subsection (3)**; or
- (b) refuse to give its approval.

(2) The FMA must give notice of its decision to the licensee or authorised body and any other person who made the request within 20 working days after receiving ~~both of the following~~: all of the information that the FMA reasonably requires to assist it in determining whether to give its approval (including any written submission or other response to a notice given under **section 421JA**). 5

- (a) ~~all of the information that the FMA reasonably requires to assist it in determining whether to give its approval~~;
- (b) ~~all reports that the FMA has arranged to receive under this subpart in respect of the matter~~.

(3) ~~The approval may be subject to any conditions prescribed by the regulations or conditions that relate to matters prescribed in the regulations.~~ 10

(4) If the FMA refuses to give its approval, the notice under **subsection (2)** must contain a statement of its reasons for doing so.

421L Duty to comply with condition of approval

~~If an approval imposes conditions that apply to a person, the person must comply with the conditions.~~ 15

~~If a condition of approval imposed under **section 421J(2)(b)(i)** applies in respect of a person, the person must comply with the condition.~~

421M Requirement for approval is in addition to other requirements

This subpart does not limit any other legislation that must be complied with in order to give effect to a proposed change that requires approval under this subpart (for example, in the case of amalgamating companies, the requirements of Part 13 of the Companies Act 1993). 20

19 Section 446J amended (Minimum requirements for fair conduct programme)

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- (1) Repeal section 446J(1)(a) and (k).
- (2) In section 446J(1)(b)(i), after “providing for the methods”, insert “(if any)”.
- (3) In section 446J(1)(b)(ii), after “methods”, insert “(if any)”.
- (4) In section 446J(1)(b)(v), after “enhancements or improvements”, insert “(if any)”. 30
- (5) Replace section 446J(1)(e) to (h) with:

(e) managing or supervising, and providing training to, each of the financial institution’s employees to ensure that they are supporting the financial institution’s compliance with the fair conduct principle, and monitoring whether those persons have carried out that training and are giving that support (see **subsection (3AA)**); and 35

(f) requiring the financial institution’s agents to follow the procedures or processes that are necessary or desirable to support the financial institution’s compliance with the fair conduct principle; and

(g) resolving complaints made by consumers in a timely and effective manner; and

(6) In section 446J(1)(i), after “managing incentives”, insert “(if any)”. 5

(7) In section 446J(1)(j), after “manner”, insert “(including with respect to the price of the services or products)”. 10

(8) Replace section 446J(1)(l) with:

(i) ensuring that any identified deficiencies in the effectiveness of the programme are promptly remedied; and

(9) In section 446J(3), replace “(1)(a)” with “(1)(b)” in each place. 15

(10) After section 446J(3), insert:

(3AA) **Subsection (1)(e) applies in relation to an employee of a financial institution only to the extent (if any) that the employee’s work is relevant to supporting the financial institution’s compliance with the fair conduct principle.**

(3A) **Subsection (1)(f) does not apply to the financial institution’s employees (but see instead subsection (1)(e)).**

20 Section 446O repealed (Pecuniary penalty order may not be made if failure relates only to certain legal obligations) 20

Repeal section 446O.

21 Section 446P amended (Other definitions used in subpart)

(1) In section 446P(1), insert in its appropriate alphabetical order:

complaint means an expression of dissatisfaction relating to a financial institution’s relevant services or associated products to which a response or a resolution is explicitly or implicitly expected 25

(2) In section 446P(1), definition of **insurer**, paragraph (b), replace “enters into any 1 or more of the following with 1 or more New Zealand policyholders” with “is liable as an insurer under 1 or more of the following to a New Zealand policyholder”. 30

22 Section 449 amended (Part 6 services provisions)

(1) After section 449(3)(b), insert:

(ba) **section 421A** (person who obtains significant influence over licensee or authorised body must obtain FMA’s approval):

(bb) **section 421C** (licensee or authorised body must obtain FMA’s approval before entering into significant transaction): 35

(bc) **section 421D** (licensee or authorised body must obtain FMA's approval before amalgamation):

(2) After section 449(4)(e), insert:

- (ea) **section 421B** (overseas licensee or authorised body must notify FMA if person obtains significant influence):
- (eb) **section 421E** (overseas licensee or authorised body must notify FMA if it amalgamates with another person):
- (ee) **section 421I(2)** (requestor and other parties to proposed change must provide information to assist):
- (ed) **section 421L** (duty to comply with condition of approval):

23 **Section 456 amended (Place where accounting records to be kept)**
Replace section 456(2) with:

- (2) The accounting records may be kept at a place outside New Zealand only if the documents referred to in **subsection (2A)** are sent to, and kept at a place in, New Zealand, Australia, or any other country, state, or territory prescribed by the regulations.
- (2A) The documents are those in respect of the business dealt with in the accounting records that will enable the preparation, in accordance with this Act, of—
 - (a) the financial statements of the FMC reporting entity and any registered scheme referred to in section 455; and
 - (b) any other document annexed to any of those statements that gives information that is required by any enactment.

24 **Section 459 amended (Inspection of accounting records)**
After section 459(1), insert:

- (1A) The accounting records and the documents referred to in **section 456(2) and (2A)** must be available for inspection under subsection (1) in either or both of the following ways:
 - (a) on an Internet site maintained by or on behalf of the FMC reporting entity;
 - (b) by the FMC reporting entity sending the records or documents by an electronic communication to a person referred to in subsection (1) as soon as practicable after receiving a request from that person.

25 **Section 461 amended (Group financial statements must be prepared)**
After section 461(3), insert:

- (3A) However, subsection (3) does not apply in respect of a subsidiary (A) of an FMC reporting entity if—
 - (a) A is incorporated in an overseas jurisdiction; and

(b) under the law or regulatory requirements of that jurisdiction, A's balance date cannot be changed at the absolute discretion of A or the FMC reporting entity.

(3B) For the purpose of **subsection (3A)(b)**, if A's balance date can be changed through a regulatory approval process, the change is not at the absolute discretion of A or the FMC reporting entity.

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26 Section 461A amended (Financial statements for registered schemes and funds)

After section 461A(4), insert:

(5) Subsection (3)(a) is subject to **section 461LA**, which provides that financial statements for certain schemes may not be required if they consist only of separate funds.

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27 Section 461L amended (FMA may issue notice relating to level of public accountability)

Replace section 461L(3) with:

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(3) The FMA's reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.

(4) A notice issued under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

28 New subpart 3A of Part 7 inserted

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After section 461L, insert:

Subpart 3A—Requirements do not apply in certain circumstances

Financial statements for registered schemes consisting only of separate funds

461LA When financial statements for registered scheme not required

(1) Section 461A(3)(a) does not apply to a registered scheme if—

- (a) the scheme is not a KiwiSaver scheme; and
- (b) the scheme consists of 1 or more separate funds; and
- (c) all of the scheme assets are attributable to a separate fund; and
- (d) the governing document of the scheme provides that, for each separate fund, except in relation to the payment of tax,—
 - (i) the assets of the fund must be held solely for the benefit of investors in that fund; and
 - (ii) the liabilities of the manager or scheme in respect of that fund must be met from the assets of that fund only (and not from the assets of any other separate fund or other scheme assets); and
- (e) in relation to the payment of tax,—

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(i) the scheme is a portfolio investment entity for which tax is calculated and paid in accordance with the PIE rules; or

(ii) the governing document of the scheme provides that—

(A) tax must be calculated and paid separately for each separate fund; or

(B) if that is not the case, adjustments must be made between the separate funds to put each of them into the position it would have been in if tax were calculated and paid separately for each separate fund.

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(2) In this section,—

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PIE rules has the same meaning as in section YA 1 of the Income Tax Act 2007

portfolio investment entity has the same meaning as in section YA 1 of the Income Tax Act 2007

separate fund has the same meaning as in section 461A(2)

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tax has the same meaning as in section 3(1) of the Tax Administration Act 1994.

28A Section 461O amended (Meaning of climate reporting entity)

(1) Repeal section 461O(2).

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(2) In section 461O(3), repeal the definition of large manager.

28B Section 461P amended (Definitions relating to listed issuers)

(1) In section 461P(1)(a)(ii) and (b)(ii), replace “\$60 million” with “\$1 billion”.

(2) Repeal section 461P(2)(a) and (5).

28C Section 461Q amended (Meaning of large (in relation to registered banks, licensed insurers, credit unions, and building societies))

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(1) In section 461Q(2)(b), replace “gross premium revenue” with “total insurance revenue”.

(2) In section 461Q(3), delete “, credit union, building society.”.

(3) In section 461Q(3)(b), replace “section 461O(1)(b) to (e)” with “section 461O(1)(b) or (c)”.

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(4) Replace section 461Q(4) with:

(4) The New Zealand business of an overseas company or its group is large in respect of an accounting period if at least 1 of the following paragraphs applies (calculated as if the New Zealand business were an entity):

(a) the overseas company is a registered bank and, as at the balance date of each of the 2 preceding accounting periods, the total assets of the New Zealand business exceed \$1 billion:

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(b) the overseas company is a licensed insurer and, as at the balance date of each of the 2 preceding accounting periods, the total assets of the New Zealand business exceed \$1 billion;

(c) the overseas company is a licensed insurer and, in each of the 2 preceding accounting periods, the annual total insurance revenue of the New Zealand business exceeds \$250 million.

(5) In section 461Q(5), replace “subsection (4) must be applied in determining whether that provision applies” with “this section must be applied in determining whether this section applies”.

28D Section 461R amended (Meaning of large after amalgamation)
In section 461R(3)(a), replace “461P(2)(a) or (b)” with “461P(2)”.

28E Section 461S repealed (Meaning of large manager)
Repeal section 461S.

28F Section 461T amended (Application if person’s status changes during accounting period)
Repeal section 461T(4).

28G Section 461V amended (Climate reporting entities must keep proper CRD records)

(1) Repeal section 461V(2).

(2) In section 461V(4), repeal the definition of climate statements relating to the registered scheme.

28H Section 461Y amended (Inspection of CRD records)

(1) In section 461Y(1)(b), delete “or the manager of a registered scheme”.

(2) In section 461Y(1)(d), delete “or scheme”.

28I Section 461Z amended (Climate statements must be prepared)

(1) In section 461Z(1)(b), delete “and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director”.

(2) Repeal section 461Z(2)(c).

(3) In section 461Z(2), repeal the example.

28J Section 461ZA amended (Group climate statements must be prepared)

(1) In section 461ZA(2)(b), delete “and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director”.

(2) Repeal section 461ZA(3)(b).

28K	<u>Section 461ZB amended (Climate statements for overseas climate reporting entities)</u>	
	<u>In section 461ZB(2)(b) and (3)(b), delete “and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director”.</u>	
28L	<u>Sections 461ZC and 461ZD and cross-heading repealed</u>	5
	<u>Repeal sections 461ZC and 461ZD and the cross-heading above section 461ZC.</u>	
28M	<u>Section 461ZE amended (Climate statements may be combined in single document)</u>	
	<u>Repeal section 461ZE(b).</u>	10
28N	<u>Section 461ZG amended (Offence to knowingly fail to comply with climate standards)</u>	
	<u>Replace section 461ZG(1)(a)(iii) and (iv) with:</u>	
	<u>(iii) the climate statements or group climate statements prepared by the entity under section 461ZB; and</u>	15
28O	<u>Section 461ZH amended (Assurance engagement required for parts of climate statements relating to greenhouse gas emissions)</u>	
	<u>In section 461ZH(1), replace “461ZC” with “461ZB”.</u>	
28P	<u>Section 461ZHB amended (Assurance practitioner’s report)</u>	
(1)	<u>In section 461ZHB(1), replace “461ZC” with “461ZB”.</u>	20
(2)	<u>In section 461ZHB(2)(c), delete “or a manager of a registered scheme”.</u>	
28Q	<u>Section 461ZHD amended (Climate reporting entity must give assurance practitioner access to information)</u>	
	<u>In section 461ZHD(1)(a) and (b), delete “or scheme”.</u>	
28R	<u>Section 461ZI amended (Lodgement of climate statements)</u>	25
	<u>Repeal section 461ZI(2).</u>	
28S	<u>Section 461ZK amended (Part 7A climate-related disclosure provisions)</u>	
	<u>In section 461ZK(3)(b), replace “461ZC” with “461ZB”.</u>	
29	<u>Section 489 amended (When court may make pecuniary penalty orders)</u>	
	<u>Repeal section 489(3)(ab).</u>	30

29A Section 501 amended (Additional disclosure or financial reporting or climate-related disclosure defence for directors who are treated as contravening)

(1) In the heading to section 501, delete “**or climate-related disclosure**”.

(2) In section 501(1)(a), replace “461H, 461Z to 461ZC, 461ZH, and 461ZI” with “and 461H”. 5

29B Section 531 amended (Appeals against market services licence decisions)

After section 531(d), insert:

(e) refuse a request for approval under **subpart 3A** of Part 6; or

(f) exercise a power under **section 421J(2)(b)**. 10

29C Section 534 amended (Directors treated as having contravened in case of defective disclosure, financial reporting contravention, or climate-related disclosure contravention)

(1) In the heading to section 534, replace “**, financial reporting contravention, or climate-related disclosure contravention**” with “**or financial reporting contravention**”. 15

(2) Repeal section 534(1)(cb).

(3) In section 534(3) and (5), delete “climate reporting entity,”.

(4) In section 534(3), delete “(cb),”.

30 Section 546 amended (Regulations for purposes of Part 6 (market services)) 20

(1) After section 546(1)(f), insert:

Exemption from requirements for FMA’s approval for changes

(fa) exempting (on terms and conditions, if any) any class of ~~licensees or authorised bodies~~ persons or class of transactions from compliance with any provision of **subpart 3A** of Part 6: 25

(2) In section 546(1)(oa), replace “446J(1)(a)” with “446J(1)(b)”.

(3) In section 546(2), before “(me),”, insert “**(fa)**,”.

30A New section 546A inserted (Regulations for purposes of Part 7A (climate-related disclosures)) 30

After section 546, insert:

546A Regulations for purposes of Part 7A (climate-related disclosures)

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for the purpose of amending an amount in 1 or more of the following provisions: 35

(a) section 461P(1)(a)(ii) and (b)(ii) (large listed issuers):

	(b) <u>section 461Q(1)(a) and (4)(a) (large registered banks, credit unions, or building societies):</u>	
	(c) <u>section 461Q(2)(a) and (b) and (4)(b) and (c) (large licensed insurers).</u>	
(2)	<u>The regulations—</u>	5
	(a) <u>may only increase an amount; and</u>	
	(b) <u>must not be made if the amount has been previously increased by regulations made under this section within the previous 3-year period.</u>	
(3)	<u>The Minister must, before making a recommendation,—</u>	10
	(a) <u>consult the Financial Markets Authority and the External Reporting Board; and</u>	
	(b) <u>consult the Reserve Bank if the regulations amend an amount in a provision referred to in subsection (1)(b) or (c); and</u>	
	(c) <u>consult the persons or representatives of the persons that the Minister considers will be substantially affected by the regulations; and</u>	
	(d) <u>have regard to whether the regulations—</u>	15
	(i) <u>are necessary or desirable to ensure that entities are not subject to costs of complying with Part 7A that are disproportionate to the benefits of that compliance (whether those benefits are received by the public generally, the entities, or any other persons); and</u>	
	(ii) <u>are consistent with promoting the confident and informed participation of businesses, investors, and consumers in the financial markets; and</u>	20
	(e) <u>have regard to when entities are subject to substantially similar climate reporting requirements in the overseas jurisdictions that the Minister considers are relevant.</u>	25
(4)	<u>Sections 48 and 49 of the Financial Reporting Act 2013 do not limit this section and this section does not limit those provisions.</u>	
(5)	<u>Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).</u>	
31	Section 550 amended (Procedural requirements for regulations relating to exemptions, exclusions, and definitions)	30
(1)	In section 550(1)(c), after “(d),”, insert “ (daa) ,”.	
(2)	After section 550(2)(d), insert:	
	(daa) section 546(1)(fa) (regulations may prescribe exemptions relating to requirements for the FMA’s approval for changes relating to licensees or authorised bodies):	35
32	Section 556 amended (FMA may grant exemptions)	
	Replace section 556(4) with:	

- (4) The FMA's reasons for granting the exemption (including why the exemption is appropriate) must be published together with the exemption.
- (5) An exemption granted under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

33 Section 557 amended (Restriction on FMA's exemption power) 5

In section 557(1), replace "this subpart" with "section 556".

34 Section 558 amended (Exemption in force for not more than 5 years)

In section 558, replace "this subpart" with "section 556".

35 New section 558A inserted (Certain exemptions may continue in force for more than 5 years)

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After section 558, insert:

558A Certain exemptions may continue in force for more than 5 years

- (1) Section 558 does not apply to the Financial Markets Conduct (Multiple-participant Schemes—Participation Agreements) Exemption Notice 2022.
- (2) This section does not prevent the FMA from exercising a power to amend or revoke a notice to which this section applies. 15

36 Section 559 amended (Breach of exemption conditions)

In section 559, replace "this subpart" with "section 556".

37 Section 560 amended (Exemptions in respect of specified overseas jurisdictions)

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In section 560(1), replace "this subpart" with "section 556".

38 Section 561 amended (Effect of exemptions on regulated offers)

In section 561(1) and (2), replace "this subpart" with "section 556".

39 Section 561A amended (Financial reporting and climate-related disclosure exemptions)

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In section 561A(1) to (2), replace "this subpart" with "section 556".

40 New section 561B inserted (Other exemptions relating to periods)

After section 561A, insert:

561B Other exemptions relating to periods

- (1) This section applies to a provision of this Act or the regulations (**provision A**) 30 if—
 - (a) the provision imposes a duty in connection with a period (the **main period**); and

(b) the duty must be performed within a certain period after the end of the main period (the **compliance period**).

(2) An exemption granted under section 556 in relation to provision A may, if the FMA thinks fit, apply to a main period that commenced before the exemption is granted (including a main period that ended before the exemption is granted) if the exemption is granted before the end of the compliance period.

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Example

A provision of the regulations requires a person to obtain an annual report about the person's business during a 12-month period ending on a particular date. This period is the main period.

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The person must ensure the report is provided to the FMA within 4 months after the end of the main period. The 4-month period is the compliance period for the duty.

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The FMA may grant an exemption from the provision for a main period that has ended as long as the exemption is granted before the end of the 4-month compliance period.

41 Section 562 amended (FMA's designation power)

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(1) In section 562(3), replace "subpart 2" with "section 556".

(2) In section 562(4), replace "this subpart" with "this section".

(3) Replace section 562(5) with:

(5) The FMA's reasons for making the declaration (including why the declaration is appropriate) must be published together with the declaration.

(6) A declaration made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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42 Section 563 amended (Procedural requirements)

In section 563(1), replace "this subpart" with "section 562".

43 Section 564 amended (Transitional matters)

In section 564, replace "this subpart" with "section 562".

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44 Section 565 amended (FMA may make interim orders pending exercise of powers)

In section 565(1)(a), replace "this subpart" with "section 562".

45 Section 567 amended (Purpose)

In section 567(2), replace "this subpart" with "section 568".

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46 Section 568 amended (FMA may specify frameworks or methodologies)

(1) In section 568(1)(e), replace "this subpart" with "this section".

(2) Replace section 568(4) with:

- (4) The FMA's reasons for issuing the notice (including why the notice is appropriate) must be published together with the notice.
- (5) A notice issued under this section is secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).

47 Section 569 amended (Consultation)

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In section 569(1), replace “this subpart” with “section 568”.

48 Subpart 5 of Part 9 repealed

Repeal subpart 5 of Part 9.

49 Schedule 1 amended

In Schedule 1, replace clause 19(1A) and (1B) with:

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- (1A) An offer of options (and the offer of the option underlyings) does not require disclosure under Part 3 of this Act if—
 - (a) the options and option underlyings are equity securities, debt securities, or managed investment products; and
 - (b) the option underlyings are of the same class as quoted financial products that have been quoted on a licensed market at all times during the 3-month period before the time of the offer; and
 - (c) trading in those quoted financial products on the licensed market on which they are quoted was not suspended for more than a total of 5 trading days during the 3-month period referred to in **paragraph (b)**; and
 - (d) in the case of an offer of options by way of issue, it is a term of the offer that the issuer will take any necessary steps to ensure that, immediately after the option underlyings are issued, the option underlyings are quoted; and
 - (e) in the case of an offer of options by way of sale, the offeror has reasonable grounds to believe that, immediately after the option underlyings are issued, the option underlyings will be quoted; and
 - (f) the market rules of the licensed market on which the option underlyings are quoted contain continuous disclosure provisions.

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- (1B) In this clause,—

options means options to acquire, by way of issue, financial products

option underlyings, in relation to an offer of options, means the underlying financial products to which the options relate.

50 Schedule 4 amended

- (1) In Schedule 4, clause 1(1), insert as the last paragraph:

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(jk) **Part 10 11** provides for transitional provisions relating to the Financial Markets Conduct Amendment Act **2025**.

(2) In Schedule 4, clause 1(1), in the last paragraph (as inserted by **subsection (1)**), make any necessary consequential amendment.

(3) In Schedule 4,—

- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

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51 Amendments to various references to financial advice products

(1) In the provisions specified in **Part 1 of Schedule 2**, replace “financial advice product” with “FMC product” in each place.

(2) In the provisions specified in **Part 2 of Schedule 2**, replace “a financial advice product” with “an FMC product” in each place.

(3) In the provisions specified in **Part 3 of Schedule 2**, replace “financial advice products” with “FMC products” in each place.

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52 Consequential amendments

(1) Amend the Acts specified in **Part 1 of Schedule 3** as set out in that Part.

(2) Amend the secondary legislation specified in **Part 2 of Schedule 3** as set out in that Part.

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53 Notices revoked

The following notices are revoked:

- (a) Financial Markets Conduct (Financial Statements for Schemes Consisting Only of Separate Funds) Exemption Notice 2022 (SL 2022/261);
- (b) Financial Markets Conduct (Licensed Independent Trustees of Restricted Schemes) Exemption Notice 2021 (LI 2021/199);
- (c) Financial Markets Conduct (Overseas Subsidiary Balance Date Alignment) Exemption Notice 2021 (LI 2021/205).

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Part 2

Amendments to Financial Markets Authority Act 2011

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54 Principal Act

This Part amends the Financial Markets Authority Act 2011.

55 Section 4 amended (Interpretation)

(1) In section 4(1), definition of **financial markets participant**, replace paragraph (c)(i) with:

- (i) a body corporate that is related to a person referred to in paragraph (a) or (b) that is also a body corporate (where **related** has the same meaning as in section 12(2) of the Financial Markets Conduct Act 2013); or

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(ia) a body corporate that is related to a person referred to in paragraph (a) or (b) who is an individual (where **related** is defined in **subsection (1A)**); or

(2) In section 4(1), definition of **financial markets participant**, paragraph (c)(iii), replace “(c)(i)” with “**(c)(i), (ia),**”.

(3) In section 4(1), insert in its appropriate alphabetical order:
voting product has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013

(4) After section 4(1), insert:

(1A) For the purposes of **paragraph (c)(ia)** of the definition of financial markets participant, a body corporate (A) is **related** to an individual (B) if—

- (a) more than half of A’s voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) are held by—
 - (i) B; or
 - (ii) 1 or more bodies corporate that are related to B under this subsection; or
 - (iii) B and 1 or more bodies corporate that are related to B under this subsection; or
- (b) more than half of the voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) of a body corporate that is related to B under this subsection are held by A (whether directly or indirectly, but other than in a fiduciary capacity); or
- (c) the businesses of A and B have been so carried on that the separate business of each of A and B, or a substantial part of that business, is not readily identifiable; or
- (d) there is another body corporate to which—
 - (i) A is related (within the meaning of section 12(2) of the Financial Markets Conduct Act 2013); and
 - (ii) B is related under this subsection.

56 New sections 28A to 28D and cross-heading inserted

After section 28, insert:

On-site inspection

28A Purpose of on-site inspection power

(1) The purpose of **section 28B** is to facilitate the FMA’s ability to monitor compliance with financial markets legislation by doing 1 or more of the following:

(a) assessing the adequacy of a financial markets participant's policies, processes, controls, or other arrangements for complying with its obligations under financial markets legislation;

(b) verifying a financial markets participant's compliance with its obligations under financial markets legislation;

(c) verifying the reliability of information or a document supplied to the FMA by a financial markets participant under financial markets legislation;

(d) examining any matter relating to the business, operation, or management of a financial markets participant in order to understand and identify risks in connection with those matters;

(e) examining the financial position, financial performance, or cash flows of a financial markets participant;

(f) carrying out a review of all, or 1 or more classes of, financial markets participants in connection with conduct under financial markets legislation;

(g) doing any other thing that is incidental and related to, or consequential on, any thing that the FMA does under **paragraphs (a) to (f)**.

(2) In this section and **sections 28B and 28C**, financial markets participant—

(a) has the meaning set out in section 4(1); and

(b) includes any person that has any obligation under Part 2 of the Financial Markets Conduct Act 2013 (fair dealing).

28B FMA may conduct on-site inspection

(1) The FMA may enter and remain at any relevant place to carry out an on-site inspection of a financial markets participant if the FMA considers it necessary or desirable for the purposes of doing 1 or more of the things referred to in **section 28A**.

(2) The FMA—

(a) may exercise the power only at a reasonable time and in a reasonable manner; but

(b) is not required to give notice of the exercise of the power.

(3) In this section, **relevant place**, in relation to a financial markets participant,—

(a) means any place of business of the participant; but

(b) does not include a dwellinghouse or marae.

28C Person may be required to answer questions or give information

During an on-site inspection, the FMA may require any employee, director, or agent of the financial markets participant to—

(a) answer questions relating to its records and documents; and

(b) supply all other information or documents that the FMA may reasonably require for the purpose of the inspection.

28D Continuation of on-site inspection without search warrant

If the FMA, in the course of exercising a power under **section 28B or 28C**, finds evidence of conduct that constitutes or may constitute a contravention or an involvement in a contravention of any provision of financial markets legislation, it is not required to obtain a search warrant under section 29 to continue exercising its powers under **section 28B or 28C**.

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57 Section 55 amended (Protection from liability for persons exercising powers)

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In section 55, after “25”, insert “, **28B, 28C**.”.

58 Section 61 amended (Criminal liability for obstructing exercise of powers)

(1) In section 61(1)(a), after “25”, insert “or a requirement under **section 28C** to answer any questions or supply other information or documents”.

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(2) In section 61(1)(b), after “25”, insert “or a requirement under **section 28C** to answer any questions or supply other information or documents”.

(3) After section 61(1)(b), insert:

(ba) wilfully resists, obstructs, or delays the FMA in carrying out an on-site inspection under **section 28B**; or

Schedule 1
New Part ~~10~~ 11 inserted into Schedule 4 of Financial Markets
Conduct Act 2013

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5	Part 1011 Provisions relating to Financial Markets Conduct Amendment Act 2025
	<u>101103</u> Multiple licences consolidated into single licence
10	(1) This clause applies if, immediately before commencement, a person holds 2 or more market services licences that, in total, cover 2 or more market services (or classes of market service).
15	(2) The person must be treated as holding a single market services licence that covers those market services (instead of 2 or more licences).
20	(3) The conditions of a licence referred to in subclause (1) that apply to a market service continue to apply to the market service as conditions of the licence under subclause (2) .
25	(4) A person that is authorised to provide a market service under a licence referred to in subclause (1) continues to be authorised to provide the service under the licence under subclause (2) .
30	(5) If, immediately before commencement, a market services licence is suspended,— <ul style="list-style-type: none"> (a) section 409(2) does not apply for the purposes of this Part (with the effect that the person to whom the suspension relates may still be taken to hold the licence); and (b) the suspension continues to apply to the licence under subclause (2) (but only in respect of the market services to which it originally applied).
	(6) In this clause and clauses 102 and 103 104 and 105 , commencement means the commencement of section 17 of the Financial Markets Conduct Amendment Act 2025 .
	<u>102104</u> FMA may exercise powers in respect of consolidated licence
	Nothing in clause 101 103 prevents the FMA from exercising any powers under this Act in respect of a licence referred to in that clause (for example, to vary, revoke, add to, or substitute any conditions or to suspend or cancel the licence).

103105 Pending applications or appeals

(1) If, immediately before commencement, a person has 2 or more pending applications, the FMA must treat the applications as a single application for a single market services licence.

(2) **Subclause (3)** applies if, immediately before commencement,—

- a person (A) already holds 1 or more market services licences; and
- (b) A has 1 or more pending applications.

(3) The FMA must treat each pending application as an application under section 404 to vary the conditions of the market services licence held by A after commencement so that the licence covers the market service to which the pending application relates.

(4) An application made under section 395 before commencement is a **pending application** if, immediately before commencement, the FMA has not made a decision under section 396.

(5) If, after commencement and as a result of an appeal under section 531 or for any other reason, a person would otherwise hold 2 or more market services licences that cover 2 or more market services (or classes of market service), the person must be treated as holding a single market services licence that covers those market services (instead of 2 or more licences) and **clauses 101(3) to (5) and 102 103(3) to (5) and 104** apply with all necessary modifications.

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104106 Notifying Registrar of register of regulated products

(1) This clause applies to a register of regulated products kept under subpart 4 of Part 4 of this Act if the register was established before commencement.

(2) The issuer must be treated as having sent a notice to the Registrar under **section 220(1)(a)** that specifies the existing place as the place in New Zealand where the register (or part of the register) is available for inspection under **section 222(1)(a)(i)**.

(3) **Subclause (2)** does not prevent the issuer from giving a notice under **section 220(1)** to change the information referred to in **section 220(1)(a)**.

(4) In this clause,—

- commencement** means the commencement of **section 8** of the Financial Markets Conduct Amendment Act **2025**; and
- existing place** means the place where, immediately before commencement, the register is available for inspection under former section 222; and
- (c) a reference to a provision (for example, **section 220(1)**) is a reference to that provision as in force on and after commencement; and

(d) a reference to a former provision (for example, former section 220(1) 222) is a reference to that provision as in force immediately before commencement.

105107 Notifying FMA of interests register

(1) This clause applies to an interests register kept under subpart 6 of Part 5 of this Act if the register was established before commencement. 5

(2) The listed issuer must be treated as having sent a notice to the FMA under **section 305A(1)(a)** that specifies the existing place as the place in New Zealand where the interests register is available for inspection under **section 305(1)(a)(i)**. 10

(3) **Subclause (2)** does not prevent the issuer from giving a notice under **section 305A(1)** to change the information referred to in **section 305A(1)(a)**. 15

(4) In this clause,—

- (a) **commencement** means the commencement of **section 13** of the Financial Markets Conduct Amendment Act **2025**; and
- (b) **existing place** means the place where, immediately before commencement, the interests register is available for inspection under former section 305; and
- (c) a reference to a provision (for example, **section 305A(1)**) is a reference to that provision as in force on and after commencement; and
- (d) a reference to a former provision (for example, former section 305) is a reference to that provision as in force immediately before commencement. 20

106108 Overseas subsidiary balance date alignment

(1) **Section 461(3A) and (3B)** (as inserted by **section 25** of the Financial Markets Conduct Amendment Act **2025**) apply to the following accounting periods of an FMC reporting entity: 25

- (a) an accounting period of the entity that started before commencement (including an accounting period that ended before commencement) if the financial statements for that period would be required to be delivered to the Registrar for lodgement under section 461H after commencement; and 30
- (b) subsequent accounting periods.

(2) In this clause, **commencement** means the commencement of **section 25** of the Financial Markets Conduct Amendment Act **2025**. 35

107109 When financial statements for registered scheme not required

(1) **Section 461LA** (as inserted by **section 28** of the Financial Markets Conduct Amendment Act **2025**) applies to the following accounting periods of a registered scheme referred to in **section 461LA**:

(a) an accounting period of the scheme that started before commencement (including an accounting period that ended before commencement) if the financial statements for that period would be required to be delivered to the Registrar for lodgement under section 461H after commencement; and

(b) subsequent accounting periods.

(2) In this clause, **commencement** means the commencement of **section 28** of the Financial Markets Conduct Amendment Act **2025**.

110 Climate-related disclosures

(1) The provisions of Part 7A of this Act, as amended by the Financial Markets Conduct Amendment Act **2025**, apply to the following accounting periods of an entity or a scheme:

(a) an accounting period that started before commencement (including an accounting period that ended before commencement) if commencement is before the climate statements or group climate statements for that period would otherwise be required to be lodged under Part 7A of this Act; and

(b) subsequent accounting periods.

(2) If, under the amendments made by the Financial Markets Conduct Amendment Act **2025**, an entity (A) ceases to be a climate reporting entity (or a climate reporting entity in respect of a scheme) in respect of an accounting period, A is not required to ensure the following:

(a) the completion of climate statements or group climate statements under any of sections 461Z to 461ZC in relation to the accounting period;

(b) the lodgement of those climate statements.

Example

Before commencement, an entity (A) is a climate reporting entity in respect of a registered scheme (the **scheme**). On commencement, an accounting period of the scheme has just ended. The 4-month time frame for lodging the climate statements for the period under section 461ZI has not yet elapsed.

Under **subclause (1)**, the amendments made by the Financial Markets Conduct Amendment Act **2025** apply to the accounting period.

The effect of the amendments is that A is no longer a climate reporting entity in respect of that accounting period. This means that climate statements for the scheme for that period no longer need to be prepared or lodged.

(3) The CRD records that A held on commencement must continue to be held for the period referred to in section 461X (and, for that purpose, this Act continues to apply as if the Financial Markets Conduct Amendment Act **2025** had not been enacted).

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(4) Regulations 252D and 252E of the Financial Markets Conduct Regulations 2014 continue to apply to information held, immediately before commencement, on the climate-related disclosures register in respect of registered schemes (and, for that purpose, those regulations continue to apply as if the Financial Markets Conduct Amendment Act 2025 had not been enacted).

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Guidance note

Regulations 252D and 252E relate to the contents of the climate-related disclosures register and to searches of that register.

(5) Nothing in section 461T limits this clause.

(6) In this clause, **commencement** means the commencement of this clause.

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Schedule 2
Amendments to Financial Markets Conduct Act 2013 relating to
references to financial advice products

s 51

Part 1

5

Replacing references to “financial advice product” with “FMC product”

Section 6(1), definition of acquire , paragraph (d)	
Section 6(1), definition of dispose of , paragraphs (b) and (ba)	
Section 6(1), definition of product provider , paragraph (e)	10
Section 18, definition of financial product , paragraph (b)(i)	
Section 431G(b)(v)	
<u>Section 446F(2)</u>	
Schedule 5, clause 7(c)	
Schedule 5, clause 15(b)	15

Part 2

Replacing references to “a financial advice product” with “an FMC product”

Section 6(1), definition of product provider	
Section 431C(1)(a)	20
Section 431W(5), definition of client money , paragraph (a)	
Section 431W(5), definition of client property , paragraph (a)	
<u>Section 446F(2)</u>	
Schedule 5, clause 7(a) and (b)	
Schedule 5, clause 13(2)(b)	25
Schedule 5, clause 14(c)	
Schedule 5, clause 15(a)	

Part 3

Replacing references to “financial advice products” with “FMC products”

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Section 403(3)(a)	
Section 498(c) and (e)	

Section 546(4)(c)(i)

Section 548(1)(a) and (d)(ia)

Schedule 1, clause 41(2A)

Schedule 5, clause 32(1)(b) and (3)(a) and (b)

Schedule 3

Consequential amendments

s 52

Part 1

Amendments to Acts

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Deposit Takers Act 2023 (2023 No 35)

In Schedule 3, Part 1, item relating to the Financial Markets Conduct Act 2013, after the item relating to section 461Q(3), insert:

In section 461Q(4)(a), replace “registered bank” with “licensed bank”.

Fair Trading Act 1986 (1986 No 121)

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In section 48P(6), definition of **financial product**, paragraph (b)(i), replace “financial advice product” with “FMC product”.

In section 48R(1), after “register entry”, insert “or a representation of the kind referred to in section 26A(1) of that Act”.

Financial Reporting Act 2013 (2013 No 101)

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In section 48(1)(a), replace “sections 461Q and 461S” with “section 461Q”.

In section 49(1)(i), replace “sections 461Q and 461S” with “section 461Q”.

Repeal section 49(1)(j).

Trusts Act 2019 (2019 No 38)

In Schedule 3, clause 1(3), definition of **services**, paragraph (b)(iii), replace “a financial advice product” with “an FMC product”. 20

Part 2

Amendments to secondary legislation

Financial Markets Authority (Levies) Regulations 2012 (SR 2012/121)

Revoke regulation 12A(2)(b). 25

In regulation 12A(3)(b), replace “gross premium revenue” with “total insurance revenue”.

Replace regulation 12A(5) to (6) with:

(5) For the purposes of subclause (3), **annual total insurance revenue** means— 30

- (a) the annual total insurance revenue of A and A’s subsidiaries (if any); or
- (b) if A is an overseas company, the annual total insurance revenue of A’s New Zealand business or its group’s New Zealand business, calculated as if the New Zealand business were an entity (and determined after

Financial Markets Authority (Levies) Regulations 2012 (SR 2012/121) – continued

applying the financial reporting standard (or part of a standard) referred to in section 461Q(5) of the FMC Act (if any)).

In Schedule 2, item relating to class 16, replace “or (2) of the FMC Act (but subject to regulation 12A(5A))” with “of the FMC Act”.

Financial Markets Conduct (Fees) Regulations 2014 (LI 2014/110)

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In Schedule 3, revoke clause 3 and the cross-heading above clause 3.

In Schedule 3, table, item relating to the climate statements fee, replace “or (2) of the Act or the delivery of a notice of exemption from compliance (but subject to clause 3)” with “of the Act or the delivery of a notice of exemption from compliance”.

In Schedule 3, table, item relating to the climate statements fee, replace “s 461ZI(1) or (2)” with “s 461ZI(1)”. 10

Financial Markets Conduct Regulations 2014 (LI 2014/326)

In regulation 111(b)(i), delete “if A serves written notice on the issuer of intention to inspect”.

Revoke regulation 252D(2) and the heading above regulation 252D(2). 15

Revoke regulation 252E(1)(c).

In regulation 252E(2)(a) and (c), delete “or (2)”.

In Schedule 21A, clause 2(3)(a), replace “a financial advice product” with “an FMC product”.

In Schedule 21A, clause 4(1)(c) and (d), replace “financial advice products” with “FMC products”. 20

In Schedule 21A, clause 5(1)(a) and (b), replace “financial advice products” with “FMC products”.

In Schedule 21B clause 1(1)(c), replace “a financial advice product” with “an FMC product”. 25

Financial Markets Conduct (Multiple-participant Schemes—Participation Agreements) Exemption Notice 2022 (SL 2022/268)

Revoke clause 3.

Financial Service Providers (Rules for Approved Dispute Resolution Schemes) Regulations 2024 (SL 2024/31)

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In Schedule 2, clause 2(2)(a), replace “a financial advice product” with “an FMC product”.

In Schedule 2, clause 2(4), replace the definition of **financial advice product** with:

FMC product has the meaning given in section 6(1) of the Financial Markets Conduct Act 2013

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Financial Markets Conduct Amendment Bill

Legislative history

31 March 2025

20 May 2025

Introduction (Bill 135–1)

First reading and referral to Finance and Expenditure Committee