



## **Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019**

Rt Hon Dame Helen Winkelmann, Administrator of the Government

### **Order in Council**

At Wellington this 21st day of October 2019

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under section 67(1) of the Financial Markets Authority Act 2011 and sections 548(1)(o) and 552 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 the Financial Markets Conduct Act 2013.

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## Regulations

### 1 Title

These regulations are the Financial Markets Conduct (Fees) Amendment Regulations (No 2) 2019.

### 2 Commencement

- (1) Regulations 4 and 5(2) come into force on 25 November 2019.
- (2) The rest of these regulations come into force on 29 June 2020.

### 3 Principal regulations

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

### 4 Regulation 6 amended (Multiple application discount)

After regulation 6(5), insert:

- (6) This regulation does not apply if either or both of the applications are—
  - (a) an application for a transitional licence to be issued under clause 71 of Schedule 4 of the Act; or
  - (b) an application to be licensed for the market service of acting as a provider of a financial advice service.

### 5 Schedule 1 amended

- (1) In Schedule 1, Part 1, replace item 1 with:

1	Application under section 395 of the Act for a market services licence to cover*—	
	• acting as a manager of a registered scheme	\$3,565 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 25
	• acting as a provider of a discretionary investment management service	\$2,139 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 15
	• acting as an independent trustee of a restricted scheme	\$2,139 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 15
	• acting as a derivatives issuer in respect of a regulated offer of derivatives that is made by the derivatives issuer	\$10,695 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 70
	• acting as a provider of a crowd funding service	\$6,238.75 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 40
	• acting as a provider of a peer-to-peer lending service	\$6,238.75 plus fee charged on the hourly basis specified in Part 2 for hours exceeding 40
	• acting as a provider of a financial advice service within category 1†	\$703.80 plus—

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<ul style="list-style-type: none"> <li>• acting as a provider of a financial advice service within category 2<sup>‡</sup></li>   <li>• acting as a provider of a financial advice service in any other circumstances</li> </ul>	<ul style="list-style-type: none"> <li>• fee charged on the hourly basis specified in Part 2 for hours exceeding 2; and</li> <li>• fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act</li> </ul> <p>\$882.05 plus—</p> <ul style="list-style-type: none"> <li>• fee charged on the hourly basis specified in Part 2 for hours exceeding 3; and</li> <li>• fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act</li> </ul> <p>\$1,060.30 plus—</p> <ul style="list-style-type: none"> <li>• fee charged on the hourly basis specified in Part 2 for hours exceeding 4; and</li> <li>• fee of \$178.25 for each entity that is proposed in the application to be an authorised body under section 400 of the Act</li> </ul>
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(2) In Schedule 1, Part 1, after item 7, insert:

<p>7A Application under section 395(1) of the Act for a transitional licence to be issued under clause 71 of Schedule 4 of the Act</p>	<p>\$465.75 plus a fee of \$44.56 for each entity that is proposed in the application to be an authorised body under clause 74 of Schedule 4 of the Act</p>
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(3) In Schedule 1, Part 1, after “\*\*The specified number of hours, in each case where this appears, refers to total hours of work carried out by members and employees of the FMA.”, insert:

<p>†In item 1, a financial advice service is within <b>category 1</b> if—</p>	
<p>(a)</p>	<p>the provider will be an individual (A) and the application contains, or is accompanied by, a statement of A’s intention for the term of the licence to the effect that A will be the only person who will give regulated financial advice under the licence; or</p>
<p>(b)</p>	<p>the provider will be an entity (B) and the application for the licence contains, or is accompanied by, a statement of B’s intention for the term of the licence to the effect that—</p> <ul style="list-style-type: none"> <li>(i) the only person or persons who will give regulated financial advice under the licence will be any 1 or more of B, 1 financial adviser, and any authorised bodies; and</li> <li>(ii) the financial adviser referred to in subparagraph (i) is and will remain either the sole director of B or one of 2 directors of B; and</li> <li>(iii) if an authorised body will give regulated financial advice under the licence, the authorised body will engage no other person to give that advice on its behalf (or will engage only the financial adviser referred to in subparagraph (i)).</li> </ul>
<p>‡In item 1, a financial advice service is within <b>category 2</b> if the application for the licence contains, or is accompanied by, a statement of the applicant’s intention for the term of the licence to the effect that—</p>	

- (a) the licensee and any authorised bodies will be authorised to engage 2 or more financial advisers to provide regulated financial advice under the licence; but
- (b) no individual will be nominated by the licensee or an authorised body as a nominated representative of the licensee or body under section 431T of the Act.

Martin Bell,  
for 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 amend the Financial Markets Conduct (Fees) Regulations 2014.

A new fee for a transitional licence comes into force on 25 November 2019. Most of the rest of the regulations come into force on 29 June 2020.

These regulations make changes in connection with the new regime for financial advice services under the Financial Markets Conduct Act 2013. This regime is being introduced by the Financial Services Legislation Amendment Act 2019.

The main changes are—

- a fee for an application for a licence to act as a provider of a financial advice service. Different fees are prescribed for providers in different circumstances. The total fee includes a base amount ranging from \$703.80 to \$1,060.30 plus a fee charged on an hourly basis. An additional amount is also charged for each entity that will provide services under the licence as an authorised body:
- a fee for a transitional licence to provide financial advice services. This fee is \$465.75 plus a fee of \$44.56 for each entity that will provide services under the licence as an authorised body.

The fees are inclusive of goods and services tax.

### **Regulatory impact assessment**

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment in June 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/f630611225/financial-advice-licensing-fees-and-the-fma-levy-cost-recovery-impact-statement.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

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Issued under the authority of the Legislation Act 2012.

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

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Wellington, New Zealand:

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