



Financial Markets Conduct (Changes to Financial Markets Authority Fees) Regulations 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 24th day of March 2014

Present:

His Excellency the Governor-General in Council

Pursuant to,—

- (a) in relation to the Auditor Regulations 2012, section 84 of the Auditor Regulation Act 2011; and
- (b) in relation to the Financial Markets Authority (Fees) Regulations 2011, section 67 of the Financial Markets Authority Act 2011; and
- (c) in relation to the Securities (Fees) Regulations 1998, section 70A of the Securities Act 1978; and
- (d) in relation to the Securities Markets (Fees) Regulations 2003, section 49D of the Securities Markets Act 1988,—

His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and, in relation to amendments to the Securities Markets (Fees) Regulations 2003, on the recommendation of the Minister of Commerce made after consultation with the Financial Markets Authority, makes the following regulations.

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Regulations

- 1 Title**
These regulations are the Financial Markets Conduct (Changes to Financial Markets Authority Fees) Regulations 2014.

2 Commencement

These regulations come into force on 1 April 2014.

Part 1**Amendment to Auditor Regulations 2012****3 Amendment to Auditor Regulations 2012**

This Part amends the Auditor Regulations 2012.

4 Schedule amended

In the Schedule, Part 2, replace paragraph (b) with:

- “(b) \$178.25 for each hour of work on the matter by an employee of the FMA who—
- “(i) is qualified in accountancy, auditing, business, commerce, economics, or law; or
 - “(ii) the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application relates.”

Part 2**Amendments to Financial Markets
Authority (Fees) Regulations 2011****5 Amendments to Financial Markets Authority (Fees)
Regulations 2011**

This Part amends the Financial Markets Authority (Fees) Regulations 2011.

**6 Regulation 3 amended (Fee payable on application for
trustee or statutory supervisor licence)**

- (1) In regulation 3(1), replace “\$4,968” with “\$8,021.25 plus the fee charged on the hourly basis specified in subclause (1A)”.
- (2) After regulation 3(1), insert:
 - “(1A) The fee referred to in subclause (1), charged on the hourly basis specified in this subclause,—
 - “(a) is only payable if—
 - “(i) the total number of hours and part-hours of work carried out in respect of the application by mem-

- bers and employees of the FMA exceeds 52 (the **specified number**); and
- “(ii) the FMA has notified the applicant, in writing, that the fee will or may be payable and given the reasons why the number of hours of work carried out on the application has exceeded, or is likely to exceed, the specified number; and
- “(b) is only payable for hours or part-hours of work (in excess of the specified number) carried out by the persons referred to in the table of hourly rates; and
- “(c) must be determined as follows for each hour or, on a proportional basis, part-hour (in excess of the specified number) of such work carried out after the FMA has notified the applicant in accordance with paragraph (a)(ii):

Table of hourly rates

Category	Fee
(i) For each hour of work carried out by a member of the FMA	\$230.00
(ii) For each hour of work carried out by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law	\$178.25
(i-ii) For each hour of work carried out by an employee of the FMA who the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application relates	\$178.25

- “(1B) The fee in this regulation—
- “(a) is payable by the applicant to the FMA; and
- “(b) as to the amount of \$8,021.25, must accompany the application; and
- “(c) as to any amount payable on the hourly basis specified in subclause (1A), is payable on an invoice issued by, or on behalf of, the FMA and within the time frame specified in that invoice.”

7 Regulation 4 amended (Fee payable on application for variation of trustee or statutory supervisor licence)

- (1) In regulation 4, replace “\$1,419.10” with “\$115 plus a fee calculated at the hourly rates set out in the table in regulation

3(1A)(c) for each hour or, on a proportional basis, part-hour of work carried out in respect of the application by the persons referred to in that table”.

- (2) In regulation 4, insert as subclause (2):
- “(2) The fee in this regulation—
- “(a) is payable by the applicant to the FMA; and
- “(b) as to the amount of \$115, must accompany the application; and
- “(c) as to the fee calculated at the hourly rates set out in the table in regulation 3(1A)(c), is payable on an invoice issued by, or on behalf of, the FMA and within the time frame specified in that invoice.”

8 Regulation 5 amended (Fees payable for request to waive levy)

- (1) In regulation 5(2), after “payable on the request is \$115”, insert “, which must accompany the request”.
- (2) Replace regulation 5(3)(a) with:
- “(a) a fee calculated at the hourly rates set out in the table in regulation 3(1A)(c) for each hour or, on a proportional basis, part-hour of work carried out in connection with the request by the persons referred to in that table; and”.
- (3) After regulation 5(3), insert:
- “(4) Any fee or costs required to be paid under subclause (3) are payable on an invoice issued by or on behalf of the FMA and within the time frame specified in that invoice.”

**Part 3
Amendments to Securities (Fees)
Regulations 1998**

9 Amendments to Securities (Fees) Regulations 1998

This Part amends the Securities (Fees) Regulations 1998.

10 Regulation 3 amended (Fees payable to Financial Markets Authority)

- (1) In regulation 3(1)(a), replace “\$112.50” with “\$115”.
- (2) Replace regulation 3(1)(b) with:

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- “(b) in respect of any of those applications, a fee calculated at the hourly rates set out in the following table for each hour or, on a proportional basis, part-hour of work carried out by the persons referred to:

Table of hourly rates

Category	Fee
(i) For each hour of work carried out by a member of the FMA	\$230.00
(ii) For each hour of work carried out by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law	\$178.25
(i-ii) For each hour of work carried out by an employee of the FMA who the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application relates	\$178.25

- (3) After regulation 3(2), insert:
- “(3) The fees in this regulation—
- “(a) are payable by the applicant to the FMA; and
- “(b) as to the fee under subclause (1)(a), must accompany the application; and
- “(c) as to the fee calculated at hourly rates in accordance with subclause (1)(b), are payable on an invoice issued by, or on behalf of, the FMA and within the time frame specified in that invoice.”

**Part 4
Amendments to Securities Markets (Fees)
Regulations 2003**

11 Amendments to Securities Markets (Fees) Regulations 2003

This Part amends the Securities Markets (Fees) Regulations 2003.

12 Regulation 6 amended (Amount of fees)

- (1) In regulation 6(a), replace “\$112.50” with “\$115”.
- (2) Replace regulation 6(b) with:

- “(b) a fee calculated at the hourly rates set out in the following table for each hour or, on a proportional basis, part-hour of work carried out by the persons referred to:

Table of hourly rates

Category	Fee
(i) For each hour of work carried out by a member of the FMA	\$230.00
(ii) For each hour of work carried out by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law	\$178.25
(i-ii) For each hour of work carried out by an employee of the FMA who the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application, advice, or decision relates	\$178.25

Michael Webster,
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, which come into force on 1 April 2014, make amendments to provisions of the following regulations (the **principal regulations**) concerning fees and charges payable to the Financial Markets Authority (the **FMA**):

- the Auditor Regulations 2012:
- the Financial Markets Authority (Fees) Regulations 2011:
- the Securities (Fees) Regulations 1998:
- the Securities Markets (Fees) Regulations 2003.

The amendments align existing fees payable under the principal regulations with the level of fees and fee structure provided for in the Financial Markets Conduct (Fees) Regulations 2014. Those regulations, which also come into force on 1 April 2014, provide for the fees and charges payable to the FMA in respect of licences for mar-

ket service providers under the Financial Markets Conduct Act 2013 and applications for exemptions from compliance with provisions of that Act and regulations made under it.

In particular,—

- in relation to an application for a trustee or statutory supervisor licence, the amendments to the Financial Markets Authority (Fees) Regulations 2011 provide for the FMA to charge a fee made up of—
 - \$8,021.25, payable at the time of filing the application; and
 - a fee charged at an hourly rate if the total number of hours that members and employees of the FMA work on the application exceeds 52 (the **specified number**). However, the FMA may only require an applicant to pay this fee if it has already notified the applicant, in writing, that the fee will or may be payable and given the reasons why the number of hours spent on the application has exceeded, or is likely to exceed, the specified number. And it may only require the applicant to pay for hours or, on a proportional basis, part-hours (beyond the specified number) of work carried out on the application after that notice was given. The hourly rates that may be charged are as follows:
 - \$230.00 for work done by a member of the FMA; and
 - \$178.25 for work done by an employee of the FMA who is qualified in accountancy, auditing, business, commerce, economics, or law or by an employee who the FMA is satisfied has a professional level of skills, training, or experience in matters of the kind to which the application relates; and
- in relation to an application to vary a trustee or statutory supervisor licence, the amendments to those regulations provide for the FMA to charge a fee made up of—
 - \$115 payable at the time of filing the application; and
 - a fee charged at the same hourly rates as set out above for each hour or part-hour of work done on the applica-

tion by members of the FMA and employees who meet the specified qualification requirements.

Amendments to the Auditor Regulations 2012, the Securities (Fees) Regulations 1998, and the Securities Markets (Fees) Regulations 2003 also—

- align the qualifications that employees of the FMA must have in order for the FMA to charge for their work on an hourly basis with the qualifications provided for in the Financial Markets Conduct (Fees) Regulations 2014 and the Financial Markets Authority (Fees) Regulations 2011 (as amended by these regulations); and
- update fee amounts specified in each of those principal regulations in order to reflect the goods and services tax increase in 2010.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 27 March 2014.

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