FINANCIAL MARKETS AUTHORITY
TE MANA TĀTAI HOKOHOKO

Ripoata-ā-Tau
Annual Report
2022/23

About the Financial Markets Authority - Te Mana Tātai Hokohoko

The FMA is an independent Crown entity and New Zealand's principal conduct regulator of financial markets. Our overarching statutory purpose is to promote and facilitate the development of fair, efficient and transparent financial markets. Well-regulated financial markets are a cornerstone of a successful economy and the financial wellbeing of its participants. For more on our organisation and how we regulate see pages 10-14.

Compliance statement

Minister of Commerce and Consumer Affairs

This report is provided as required under sections 150 and 151 (3) of the Crown Entities Act 2004. It is the annual report of the Financial Markets Authority - Te Mana Tātai Hokohoko for the year ended 30 June 2023.

Mark Todd

Chair

Financial Markets Authority

31 October 2023

Mark Weenink

Chair

Audit and Risk Committee

31 October 2023

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Financial Markets Authority Annual Report 2022/23

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Looking out for investors and consumers

Since we reviewed them in 2018/19, banks and insurers have identified a range of issues requiring **customer remediation**, with $150 million returned to a total of 1.5 million customers as of October 2022 as part of continuing efforts to review their practices and systems.

Led NZ's contribution to World Investor Week with a consumer campaign that shared resources aimed at supporting **investor resilience** and encouraging people to keep going during a market downturn.

Made a permanent stop order to Validus and Associates, which was promoting what appeared to be financial products at public events, due to the **risk of investor harm** from activities that appeared to be dishonest and misleading. An appeal against the stop order was later dismissed in the High Court.

Filed proceedings against three insurers, and saw two others ordered to pay a penalty, all in relation to **breaches of fair dealing provisions** that resulted in poor outcomes for policy holders.

Asked banks to confirm they have removed sales-based incentives for staff, and to consider how the incentives they do have are aligned with the outcome of **fair treatment of consumers**.

Ran a consumer campaign to encourage Kiwis to engage with their annual **KiwiSaver** statements, and prompt them to consider what small steps they could take today to make a big difference to their investment in the future.

Reviewed disclosure information from a range of **'ethical' managed investment funds** to identify where improvements are needed, and updated our guidance for investors on how to take a deeper look at ethical funds before making an investment decision.

Reviewed **wholesale investments** into property-related offers, identifying a number of poor practices including investments being offered to ineligible investors who may not have the information or experience to understand the product.

Noted an upward trend in **investor and financial services customer confidence**. These scores are still some way below those from broadly comparable measures from our survey of FMA stakeholders (see following page). However, implementation and bedding in of new regulatory regimes for the conduct of financial institutions, financial advice and climate-related disclosures, which are designed to improve treatment of consumers and strengthen financial markets, will help to further lift results in the coming years.

71% of investors are confident that New Zealand's financial markets are effectively regulated, up from 65% in 2022

73% of investors and customers are confident that New Zealand financial markets and financial service providers treat investors and customers fairly, up from 70% in 2022

Source: Investor Confidence survey. See page 44 for details about the survey.

Helping to keep financial markets and services fair, efficient and transparent

Auckland High Court ordered Tiger Brokers to pay $900,000 for **breaches of the Anti-Money Laundering and Countering Financing of Terrorism Act**, including failures in customer due diligence, reporting suspicious activity, and record keeping.

Published guidance, highlighting expectations for both auditors and entities, on how **climate risks** should be considered during the preparation and audit of financial statements.

Wei (Walker) Zhong and Lei (Regina) Ding were found to have breached **market manipulation** prohibitions and disclosure obligations in relation to the trading of Oceania Natural Limited shares. Following a penalty hearing in July 2023, they were given penalties of $1.33m and $760,000 respectively.

Reviewed NZX and other market operators to ensure they are meeting their **licensed market operator obligations**.

Filed High Court civil proceedings against Kok Ding Cheng for alleged **market manipulation** of NZX-listed shares in Rua Bioscience Limited.

Published an information sheet for financial service providers covering our expectations around **cyber and operational resilience**, which included guidance on risk management and resilience, and our expectations for entities to report and remediate incidents.

Carried out **risk assessments** of the Managed Investment Scheme (MIS) and Discretionary Investment Management Service (DIMS) sectors, to better understand risks and how they are mitigated within each sector, to help inform our future focus areas.

92% of stakeholders agree that the FMA supports market integrity, up from 91% in 2022.

89% of stakeholders agree that the FMA helps raise standards of market conduct, up from 88% in 2022.

82% of stakeholders agree that the FMA maintains a strong enforcement function and helps to deter misconduct by holding it to account, up from 78% in 2022.

Source: Ease of Doing Business survey. *See page 44 for details about the survey.*

Preparing for the future

Implementing remit changes

Preparing for the opening of licensing for the **Conduct of Financial Institutions** regime, including publishing a guide to licensing, and industry engagement.

Publishing guidance for and engaging with climate reporting entities to help them get ready for the first year of reporting under the **Climate-related Disclosures** regime.

The **new regulatory regime for financial advice** came into full effect on 17 March, capping off a transition that began in 2019. At 17 March, over 2500 financial advice providers were either directly licensed or operating as an Authorised Body.

61% of stakeholders agree that the FMA is effective and efficient in its role of implementing remit changes, up from 59% in 2022.

Source: Ease of Doing Business survey. See page 44 for details about the survey.

Building internal capability

We continued to deliver on our multi-year transformation, which seeks to lift the organisation's capabilities, to ensure we are best positioned to accelerate our growth and expansion plans for overseeing a broader remit, and pivot to an outcomes-focused approach to regulation.

Key initiatives have included:

- successfully implementing a **new organisational structure** to better align the way we operate with our priorities, including a shift in focus from investors to consumers, and with the needs of our regulated population as the FMA's remit expands
- starting to formulate a set of **consumer and market outcomes** that will underpin the oversight of our regulated population, with a view to consulting externally later in 2023
- strengthening the foundations of our data infrastructure to enable us to develop the data capabilities to be truly **intelligence-led and risk-based** in our work
- progressing our **Te Ao Māori strategy** by building staff understanding and cultural confidence with classes and workshops focusing on te reo Māori, kaitiakitanga and Te Tiriti o Waitangi, and bringing principles of tikanga (customary practices or behaviours) into our regulatory approach.

Pūrongo mai i te Heamana
Message from the Chair

Firstly, I would like to acknowledge that the last year has been tough on many Kiwis. Natural disasters and the cost of living have created pressures for many, and a difficult global environment is also unsettling. In these circumstances we know that our role as one of the kaitiaki or guardians of our financial markets is particularly important in enhancing resilience and encouraging trust and confidence.

The last year has been a very significant one for the FMA. It has been the first full year in which Samantha has been in post as Chief Executive, and she has led a number of initiatives that will define our approach over the coming period.

At the centre of these is the emphasis on outcomes-focused regulation. An enhanced focus on fair customer and market outcomes will form the basis of our regulatory approach going forward. We look forward to working with stakeholders to develop and refine this approach.

"An enhanced focus on fair customer and market outcomes will form the basis of our regulatory approach going forward."

This has been supported by a number of organisational developments. These include the appointment of a new executive leadership team combining institutional knowledge with fresh perspectives, and the implementation of a new structure.

We have also embarked on a programme to build capability generally, and specifically in key areas such as understanding drivers of market and consumer behaviour. And we are embedding Te Ao Māori in our thinking in a way that makes us a better regulator.

These are multi-year projects that will require ongoing focus and commitment. They have great potential to enhance our regulatory performance.

At the same time we have retained our focus on our core regulatory activities and implementing several new regimes. These activities are described in this report.

I would like to take this opportunity to thank the entire FMA team for their commitment and resilience over this period. I also acknowledge the outstanding contribution of Liz Longworth, whose term as Board member ended after 6 years, including several as chair of our Audit and Risk Committee.

Ngā mihi,

Mark Todd
Chair

Pūrongo mai i te Tumu Whakarae Matua
Message from the Chief Executive

The FMA's vision for New Zealand is a genuinely fair financial system, with more New Zealanders than ever believing the financial sector is working well for them. And as ever, our statutory duty remains to promote and facilitate the development of fair, efficient, and transparent financial markets.

Three key pieces of new legislation that have taken so much of the FMA's attention over the past few years will significantly enhance our ability proactively to support New Zealanders.

The new regulations for financial advice, which came fully into effect this year, are intended to improve consumers' access to quality advice.

The Conduct of Financial Institutions legislation requires banks, insurers and non-bank deposit-takers to adhere to an overarching principle to treat consumers fairly.

And the climate-related disclosures regime is designed to increase overall confidence in financial markets by demonstrating that the 200 or so climate reporting entities, which are so important to New Zealand's economy, are prepared to manage risks associated with climate change and seize opportunities as we move to a low-emissions, climate-resilient future.

Our progress on each of these key pieces of work is detailed throughout this report. In partnership with industry, government and other stakeholders, we are creating a rock-solid foundation for a genuinely fair financial system, where markets are trusted based on their integrity and transparency, and enable responsible innovation and growth.

> "In partnership with industry, government and other stakeholders, we are creating a rock-solid foundation for a genuinely fair financial system"

The increasing interest rate environment and cost of living pressures have made us alert to the heightened risk of financial services customers experiencing poor outcomes. We have been constant in our messaging to providers that they need to be aware of customers who may be in vulnerable circumstances or experiencing hardship, and look at all options to offer help and minimise poor outcomes.

The extreme weather events across the North Island in the first part of 2023 were a prime example of why this focus is necessary, as insurance firms dealt with a massive volume of claims, many from people who had lost almost everything. We were heartened by insurers' rapid response to the events, and remain in close communication with the industry to reinforce our expectations that they need to resolve claims in a manner that is fair and timely, putting the interests of each customer at the centre of their response.

Our consumer engagement work this year has been shaped by ongoing market volatility, with communication campaigns focusing on weathering market ups and down. For World Investor Week our key message was "stick to the plan", supported by perennial messaging about setting goals, understanding your risk tolerance, diversifying your investments, and taking a long-term approach – all actions that are likely to contribute to coming out ahead compared to reacting every time the market shifts.

Foundation-building has underpinned much of our monitoring work. Sector risk assessments of managed investment schemes and discretionary investment management services identified focus areas for the future. Deep dives into information provided by offerors of 'green' or 'ethical' investments, and the promotion and practices associated with wholesale investments have shone a light on multiple areas where we have set expectations for improved conduct that we will be keeping an eye on in the future.

Strong and swift were our watchwords this year where we identified potential harm to consumers.

We became aware that Validus and Associates was promoting its scheme with misleading offers of financial products (that did not exist). We published a warning to the public, followed by an interim stop order and then a permanent stop order. Harmful activity on our regulatory perimeter, especially when it originates overseas, stretches the FMA to the limits of our powers and jurisdiction. Our actions in this case demonstrate that we are willing to take up this challenge to protect the interests of New Zealand consumers.

In the review of wholesale investments into property related offers, we found inappropriate promotional and sales techniques that potentially targeted ineligible investors, and failures in the process to certify investors as being eligible. As a result we issued formal warnings to seven entities, and noted our intention to maintain scrutiny of the sector.

Although our preference is to work constructively with entities to resolve issues, these cases send a clear signal that enforcement action will always be on the table when justified by the level of actual or potential harm.

Two court decisions saw penalties handed out to insurers after they admitted to making false or misleading representations to customers, and we filed proceedings against a further three insurers for similar issues. Customers being overcharged or otherwise disadvantaged as a result of providers' poor practices and inadequate processes and systems has been a priority for us ever since our Conduct and Culture reviews of banks and life insurers in 2018 and 2019. Efforts to improve practices and systems have been ongoing ever since, and in October 2022 we passed the milestone of $150 million returned to customers as a result of remediation activity by banks and insurers.

Finally, I want to reiterate the message we have been taking to industry recently, and that our transformation work throughout the year has been in aid of. Namely, that an enhanced approach to outcomes-focused regulation will be progressively more apparent in all facets of our work over the coming years.

We will be encouraging entities to see this approach as an opportunity, engage with us openly, and be willing to have constructive discussions about outcomes for consumers and investors.

An outcomes-focused approach holds providers to account for achieving fair outcomes for their customers, and also recognises they know their own businesses best and are well placed to determine how to achieve these outcomes.

It will require both the industry and the FMA shifting to a mindset that centres less on detailed compliance and more on fairness, in service of developing a financial sector that works well for all New Zealanders.

Ngā manaakitanga,

Samantha Barrass
Chief Executive

Mō ā mātou mahi
About the FMA

The FMA is an independent Crown entity and New Zealand's principal conduct regulator of financial markets. Our overarching statutory purpose is to promote and facilitate the development of fair, efficient and transparent financial markets. Well-regulated financial markets are a cornerstone of a successful economy and the financial wellbeing of its participants.

What we do

As New Zealand's principal conduct regulator of financial markets, we focus on protecting investors, customers and the integrity of markets through influencing how participants behave towards their customers, investors and each other. Our activities include:

Core functions

- **Licensing:** We license a range of firms and professionals that meet the requirements in law.
- **Monitoring and supervision:** We monitor and assess conduct, compliance and competency of market participants.
- **Investigations and enforcement:** Through our investigation and enforcement activities we aim to raise standards of behaviour, deter misconduct, and hold to account those whose conduct harms the operation of our financial markets.

Support functions

- **Policy and guidance:** We engage and provide information and guidance that assists firms and professionals to comply with the law. We keep under review the law and practices relating to financial markets and participants.
- **Information and resources:** We provide information and resources to help investors and customers make better investment and financial decisions.
- **Environmental scanning:** We scan the environment to identify the most significant risks to and opportunities for promoting our priorities.

In delivering our functions we work and engage closely with industry, investors and customers, the Government and other agencies.

The legislation underpinning our work includes:

- Financial Markets Authority Act 2011
- Financial Markets Conduct Act 2013 (FMC Act)
- Auditor Regulation Act 2011
- Financial Markets Supervisors Act 2011
- KiwiSaver Act 2006 (Part 4 and Schedule 1)
- Anti-Money Laundering and Countering Financing of Terrorism Act 2009

How we approach our work

The following principles underpin our regulatory approach and guide our regulatory decisions.

- **Outcomes-focused:** We focus on the actual outcomes – or 'end results' – experienced by consumers and the market, recognising our active role as a kaitiaki of financial services.
- **Open:** We are open about our intentions and actions. We are clear about what we expect from others and what they can expect from us. Communications are targeted, clear and concise, using straightforward language. We accept and respond to constructive feedback.
- **System-focused:** We work with others to improve New Zealand's financial system and outcomes for New Zealanders. Success needs contributions from other regulatory agencies, so we collaborate and share. We identify gaps in our remit and powers, and try to mitigate them through relationships and ability to influence. We're willing to pilot or co-design new approaches.
- **Proportionate:** The expectations we set and how we enforce them are balanced, consistent, and fair. Our response to poor conduct is proportionate to its nature, the harm caused, and to changing market environments. We are conscious of unnecessary regulatory burden. We are agile, responsive and pragmatic.
- **Risk-based:** We identify and analyse patterns of risk, behaviour, and capability of consumers and markets to understand the most significant risks to our vision and purpose. This, in turn, helps us prioritise and target our interventions. When we have determined our response, we are decisive.
- **Always improving:** We seek and use data and intelligence to make better decisions. We learn about the behaviour of those we regulate (and their consumers and investors). We are flexible and respond to market innovations and changes. We seek to be innovative and forward-looking in our use of technology, new regulatory approaches and ways of working.
- **Accountable:** We communicate our regulatory approach, priorities and progress made. We continually assess whether we have the right tools and capabilities, and seek to improve. We are accountable for the actions we take (and choose not to take).
- **Disciplined:** We act consistently with our remit and are prepared to make well-considered trade-offs, to ensure we focus on where we have the most ability to make a difference to participant behaviour, market vibrancy and innovation, and outcomes for New Zealand consumers.

Who we regulate

Retail Advice and Access

Enables distribution of products on an advised or sales basis, or directly through online platforms

- Financial Advice Providers
- Derivatives issuers
- Retail platforms and aggregators
- Alternative capital raising (eg peer-to-peer and crowdfunding)

Capital Markets

Enables matching of issuers with investors, and creation and trading of securities

- Issuers
- Brokers
- Trading venues (eg financial product markets such as NZX)
- Audit
- Market infrastructure (eg settlement systems)

Investment Management

Provides investment vehicles and services to enable investors to seek returns on capital

- Retail funds, KiwiSaver, superannuation etc
- Wholesale funds
- Supervisors and licensed independent trustees
- Discretionary investment management services (DIMS)
- Custodians

Insurance

Provides risk management functions for both individuals and businesses

- Life insurance
- Non-life insurance

Banking

Provides access to deposit taking, payment services, and lending facilities (both secured and unsecured)

- Deposit taking
- Payment services
- Mortgages
- Overdrafts
- Credit cards
- Personal loans

Direct regulatory relationship with FMA, including licensed participants

Indirect relationship, other participants/activities

Planning and reporting framework

The following diagram shows how we deliver and assess performance of our statutory objective, to support the Government's overall priorities.

Government priorities

To improve the wellbeing and living standards of New Zealanders

FMA's statutory objective

To promote and facilitate the development of fair, efficient and transparent financial markets

Strategic intentions

Governance and culture	Deterrence of misconduct	Implementation of remit changes	Investor and customer decision-making	Trust and confidence in capital markets

Assessing performance

SOI 1 The FMA's actions promote fair, efficient and transparent financial markets.

SOI 2	SOI 3	SOI 4	SOI 5	SOI 6
Financial service providers demonstrate an appropriate customer-centric culture and improvements in governance, incentive structures, sales and advice processes, and systems to mitigate conduct risk.	The FMA's actions promote credible deterrence of misconduct.	The FMA works with other regulatory and government agencies, and engages with market participants, to effectively and efficiently deliver its role in remit changes.	Investors and customers are engaged and make active and informed decisions based on clear, concise and effective information and communication.	The FMA's actions promote trust and confidence in, and sustainable development of, New Zealand's capital markets.

Our suite of corporate documents provides an accountability framework that allows us to plan and report back on the strategic intentions and activities that we deliver to fulfil our statutory objective.

Statement of Intent

Outlook and performance measures to show what success will look like over a four-year horizon for the FMA, market participants and investors

Annual Report

Yearly report of progress against the Statement of Intent, results against Statement of Performance Expectations, and overview of key activities and achievements

Statement of Performance Expectations

Annual performance targets and financial forecast showing how we intend to perform the services we receive funding for

Annual Corporate Plan

Outlines activities for the coming year that will promote our strategic priorities, address regulatory risks and deliver sector outcomes

ACP Throughout this report we highlight the focus areas from our 2022/23 Annual Corporate Plan (ACP) and provide an update on progress.

Te pānui mai i ta mātou Pūrongo Whainga
Reporting on our Statement of Intent measures

The following pages highlight activity from the 2022/23 year, categorised by the strategic intentions listed in our Statement of Intent (SOI), to demonstrate progress against the SOI performance measures.

The economic landscape in 2022/23

The New Zealand economy saw a bumpy start to 2023. Severe weather events caused disruption and loss of life across regions of the North Island, and New Zealand almost entered a technical recession in the first quarter of 2023. Rising interest rates are contributing to financial pressures for households with debt, particularly recent first-home buyers with large mortgages who are transitioning away from historically low interest rates. In Q3 of 2023 some homeowners will transition onto higher interest rates than those on which they were stress-tested in 2021.

Consumer arrears are above pre-pandemic levels. Global markets are facing similar challenges, including declining projections for economic growth, rapid increases in interest rates, and some contained bank failures in America and Europe.

New Zealand's house prices have fallen, alongside turbulent equities and KiwiSaver balances. International migration has noticeably increased, including a significant inflow of international tourists and migrants, and an outflow of many Kiwis 'catching up' on time lost during Covid-19 border closures. The New Zealand labour market remains tight.

Te whakatau ō te Rautaki whānui
Overarching strategic intention

Strategic intention: The FMA's actions promote fair, efficient and transparent financial markets

Fair, efficient and transparent financial markets are a cornerstone of a well-functioning New Zealand economy. This defines the FMA's overarching statutory purpose. Within our statutory framework, we therefore work and engage with financial service providers, investors and customers to promote and facilitate developments that enhance fairness, efficiency and transparency in financial markets.

Performance measure: SOI 1

The FMA's actions promote fair, efficient and transparent financial markets

Activity contributing to this measure

All of our activity highlighted in this section ultimately aims to contribute to SOI 1. We use the following measures to gauge the overall success of our activity.

Stakeholders agree that the FMA supports market integrity	
2023	**92%**
2022	91%
2021	89%
2020	89%
2019	88%
2018	87%

Stakeholders agree that the FMA helps raise standards of market conduct	
2023	**89%**
2022	88%
2021	87%
2020	85%
2019	84%
2018	82%

Source: Ease of Doing Business survey. See page 44 for details about the survey.

In a year marked by economic instability and market volatility, and in the midst of significant changes to New Zealand's financial services regulatory landscape, it is encouraging to see the stakeholder scores remain stable. Improving market conduct and integrity are underlying outcomes we seek for all of our regulatory activity, and these scores are solid base from which to build further improvement.

Investor confidence in New Zealand's financial markets being effectively regulated	
2023	**71%**
2022	65%
2021	67%
2020	68%
2019	60%
2018	59%

Investors and customers agree that the FMA's actions help promote fair, efficient and transparent financial markets[1]	
2023	**65%**
2022	41%

Investors and customers are confident that New Zealand financial markets and financial service providers treat investors and customers fairly[1]	
2023	**73%**
2022	70%

Source: Investor Confidence survey. See page 44 for details about the survey.

These scores are still some way below those from broadly comparable measures from our survey of FMA stakeholders (see previous page). However, through implementation and bedding in of new regulatory regimes for the conduct of financial institutions, financial advice and climate-related disclosures, which are designed to improve treatment of consumers and strengthen financial markets, we aim to further lift results in the coming years.

Meanwhile, the upward trend across these measures shows we are on the right track. In addition to our ongoing remit change work, these results may reflect:

- ongoing publicity of our enforcement actions
- our scam awareness messaging and investor information campaigns
- insurers' response to the extreme weather events in early 2023
- publicity of remediation activity, demonstrating providers' willingness to do right by their customers and improve their systems
- actions that individual providers have taken in interactions with their customers.

The results are encouraging not just for the FMA as a reflection of our work to help improve investor capability and raise awareness of our regulatory activity, but for all members of the Council of Financial Regulators as we have sought to take a more joined-up approach to shared areas of interest related to financial markets.

1 In our Statement of Intent 2020-2024 we added these two measures to help gauge perceptions across a wider range of New Zealanders. This is in line with our expanding remit under the CoFI regime, which will see us monitoring the conduct of providers of a wider range of financial products and services (see page 30).

Ngā mahi Kawanatanga me ngā tīkanga
Governance and culture

Strategic intention: Regulated firms have customer-centric cultures that serve the needs of customers.

In particular, firms have appropriate governance and systems to manage conduct risk. The internal culture of a financial services firm is a core driver of conduct. A customer-centric culture is an essential way for firms to reduce the likelihood and impact of misconduct. Governance, systems and controls that reflect a customer-centric approach are important elements of good conduct risk management.

Performance measure: SOI 2

Financial service providers demonstrate an appropriate customer-centric culture and improvements in governance, incentive structures, sales and advice processes, and systems to mitigate conduct risk.

Activity contributing to this measure

ACP Cyber security and operational resilience approach

This year we noted an increase in the volume of technology incidents and associated remediation work by financial service providers. We published an information sheet covering our expectations around cyber and operational resilience, which included guidance on risk management and resilience, and our expectations for entities to report and remediate incidents.

We introduced a standard condition requiring financial institutions (which will be licensed under the CoFI regime – see page 30) to have a business continuity plan and maintain the operational resilience of their technology systems. This is designed to ensure regulated entities meet minimum standards for business continuity and technology. A requirement to notify the FMA in the event of a material disruption has also been introduced. A similar standard condition exists for licensed financial advice providers, and we have developed a consultation paper on a proposal to introduce this requirement for the remaining FMC Act licence types.

We continue to engage with domestic and trans-Tasman agencies to maintain protocols, with the aim of having effective and efficient structures, collaboration, and communication across all agencies in the event of a significant cyberattack impacting New Zealand and Australian regulated entities.

ACP Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) activity

We continued proactively monitoring and assessing the level of money laundering and terrorism financing risk levels across all FMA reporting entities. We have developed and implemented an enhanced AML/CFT risk model to enable us to focus on reporting entities based on potential risk.

In August and September 2022, we presented 14 AML/CFT training sessions across Aotearoa, which were attended by approximately 350 attendees.

We cooperated with our domestic and international counterparts through various activities to ensure consistent, effective and efficient implementation of the AML/CFT Act, and presented at the Asia Pacific Group on Money Laundering Pacific Supervisors Forum.

We also developed recommendations to contribute to a project on unregistered remitters led by the Department of Internal Affairs as part of the Transnational Organised Crime Strategy plan, and continued to contribute to the joint agency work under the Russia Sanctions Act.

ACP Cross-sector thematic review on governance

We progressed our joint thematic review with the Reserve Bank of New Zealand (RBNZ), which has involved examining the policies, processes and operational practices of boards of financial institutions in key areas of governance. We published a report early in the 2023/24 year to share our findings as well as examples of good practice for regulated entities.

Conduct and culture update

The Conduct and Culture reviews of banks and life insurers were carried out by the RBNZ and the FMA between 2018 and 2019. Following the reviews, the entities involved have been providing six-monthly updates of progress against the agreed action plans they developed in response to our findings. The majority have now completed their original action plans, and their updates have developed to focus on:

- board and senior management reporting
- dashboards and the metrics being used to measure conduct
- embedding good conduct considerations across the business and managing conduct risk
- preparing for the Conduct of Financial Institutions regime (see page 30)
- other work associated with conduct and fair outcomes.

As part of these continuing efforts to review their practices and systems, entities have identified a range of issues requiring customer remediation. As at October 2022, a total of 1.5 million affected customers had been identified, and $150 million returned to them.

FMA Director of Regulatory Delivery Clare Bolingford said “We acknowledge the substantial work by banks and insurers to date to fix their customer issues – especially those firms tracing back further than they had to. We note that over the past 12 months boards have displayed a greater understanding of what needs to occur to achieve consistent fair customer treatment.”

“This work has also helped the FMA deepen its understanding of the bank and insurance sectors, and has enabled improved engagement with the industry, in seeking to root out conduct problems and prioritise the interests of customers.”

ACP Value for money reviews

Ensuring consumers get value for money out of the fees they pay providers remains a focus for the FMA. Following our 2021 guidance to fund managers on fees and value for money, we continued to support the funds' Supervisors as they worked with KiwiSaver providers and other MIS managers to embed regular reviews of whether they are providing value for money to investors.

Value for money does not mean fees must be low. It means members should receive appropriate value for what they pay, and both value and price should be transparent. Fund managers can provide value for investors in many ways. However, fees are a meaningful indicator of whether fund managers are giving due consideration to the value they are providing. Therefore it was encouraging to see the annual KiwiSaver returns data show a 65.7% fall in administration fees for the year ended 31 March 2023.

ACP Performance fees guidance

During the year we carried out evaluation of performance fees data. The next steps for this work will be considered in the 2023/24 year as part of our wider focus on value for money.

ACP Liquidity risk management guidance

During the year we held workshops with industry groups to help shape guidance on liquidity risk management for managed funds. We did not launch public consultation on the draft guidance as planned, but expect this will happen in the first half of 2023/24.

Bank incentives structures

The design and management of staff incentive schemes offered by financial service providers is important, because incentives influence how staff act, tell them what behaviour is valued, and ultimately influence how they treat customers. In 2018, we reviewed bank incentives structures, and asked all banks reviewed to remove incentives linked to sales measures for salespeople and their managers.

However, we have since received reports of activity within banks suggesting that in some instances, sales targets have been reintroduced or other changes have been made that are not likely to be in the best interests of consumers. In light of that, we wrote to banks asking them to confirm they did remove sales-based incentives, and to consider how the incentives they do have are aligned with the outcome of fair treatment of consumers.

We noted that as part of our future engagements with banks, we will be asking for an update on their incentives and the thinking behind them – and ultimately to demonstrate that how they incentivise staff does not lead to unfair outcomes for their customers.

ACP Derivative issuer standard condition

In our 2022/23 Annual Corporate Plan, we set out our intention to consult on a new standard condition for derivative issuer licences that would limit leverage. This work was not completed during the year due to other priorities in the investment management space, and has been deferred to the 2023/24 year.

Performance indicator

Monitoring and oversight

One of the ways we assess whether firms can demonstrate they have the elements of a customer-centric culture is through our monitoring, which focuses on culture, governance, and systems and controls. The desired outcome in our monitoring activities is to set expectations for the sectors we regulate, by identifying and deterring poor conduct, to raise standards across the industry and ultimately improve outcomes for consumers.

ACP Planned monitoring

We carried out a programme of planned monitoring that focused on the newly licensed financial advice sector (see page 32) and Supervisors as part of their relicensing, as well as licensed market operators (page 39), auditors (page 38) and audit accredited bodies (page 39). We also carried out reviews at a sector level (see below), to help identify risks and inform our approach to future monitoring.

ACP Supervisor relicensing

Some types of financial products, including KiwiSaver schemes, specified managed funds and superannuation schemes, must appoint an independent licensed Supervisor to look after investors' interests.

In 2022 we completed a review of the licensed Supervisors during the process to update their licence status. Our assessment considered the requirements under the Act and the Regulations, a review of each Supervisor's approach to issues raised during the previous relicensing process, and how they had addressed feedback provided through ongoing engagements. Supervisors have made improvements in their monitoring frameworks and processes to reflect a risk-based, proactive approach. We have signalled our desire for continuous improvement in this regard.

Continued co-operation and collaboration from Supervisors is crucial to ensuring that we have an effective frontline supervisory function.

ACP Managed Investment Scheme (MIS) sector risk assessment

We published findings from an analysis of key risks in the funds management industry at a sector level. While we found that MIS managers generally have robust controls to manage risk, we did observe pockets of relatively higher risk, such as investment risk for mortgage fund managers, governance risk for the managers of smaller funds, and operational risk for the managers of larger and more complex funds. The findings will guide more targeted work on specific issues and managers.

ACP Discretionary Investment Management Service (DIMS) sector risk assessment

We conducted a survey of DIMS providers licensed to provide services to retail investors, to understand how their governance, culture, policies, processes, systems, and controls are used to meet compliance obligations and achieve positive investor outcomes. We found there may be some gaps in their interpretation of obligations and conduct that may negatively impact customer outcomes.

Areas of specific focus include risks relating to conflicts of interest management, excessive portfolio turnover, inappropriate position limits and benchmarking, misclassification of services, and lack of controls around financial advice. The risks identified will help to inform our future monitoring of the sector.

Arai atu i ngā mahi hianga
Deterrence of misconduct

Strategic intention: We deter misconduct through effective enforcement action

Enforcing compliance with legislation and other regulations is core to our role as a regulator. Enforcement activity enables us to hold individuals and entities to account, send clear messages to industry regarding their obligations, and provide clarity on those obligations.

Performance measure: SOI 3

The FMA's actions promote credible deterrence of misconduct

Activity contributing to this measure

ACP Reactive monitoring, enforcement action and use of regulatory tools

This calendar highlights key cases and actions where we have reviewed and investigated instances of potential wrongdoing, and sought to hold individuals and entities to account, using our broad suite of regulatory tools to address misconduct and effect behaviour change.

June 2023	• The Auckland High Court ordered Tiger Brokers (NZ) Limited to pay $900,000 for breaches of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, including failures in customer due diligence, reporting suspicious activity, and record keeping, in proceedings brought by the FMA. • Following proceedings filed in 2019, we reached agreement and began progressing an in-court settlement with CBL Corporation Limited and four of its former directors in respect of our claims of continuous disclosure breaches and misleading conduct. • Filed civil proceedings against AA Insurance Limited for failing to apply multi-policy and membership discounts and guaranteed no-claims bonuses to eligible customers' premiums. • Filed High Court proceedings against Medical Assurance Society New Zealand Limited and its subsidiaries for failing to apply correct inflation adjustments on customer policies, failing to apply multi-policy discounts and no-claims bonuses, and underpaying life and disability claims to eligible clients.
May 2023	• Published a permanent stop order to Validus and Associates, due to the risk of investor harm arising from activities of the entity and its associated persons, that appeared to be dishonest and misleading. An appeal against the order was later dismissed in the High Court (see page 26 for more). • Censured Aurora Financial Group Limited for misleading existing and potential clients about KiwiSaver returns. • Filed criminal charges against Yuen Pok (Paul) Loo following offences related to forgery, providing unauthorised financial services, and failing to comply with the FMA's orders, after previously issuing a permanent stop order against Mr Loo and his company Wisdom House Investment Partners Limited for engaging in misleading and dishonest conduct.

April 2023	• Wei (Walker) Zhong and Lei (Regina) Ding were found to have breached market manipulation prohibitions and disclosure obligations in relation to the trading of Oceania Natural Limited shares. Following a penalty hearing in July 2023, they were given penalties of $1.33m and $760,000 respectively.
March 2023	• Warned Du Val Capital Partners Limited over misleading or deceptive statements to investors in the Du Val Mortgage Fund. • Issued a formal warning to Vanguard Investments Australia Limited, for failing to lodge a required notice on the Companies Office Disclose Register about infringement notices that were issued to the entity in Australia in relation to funds that are also offered in New Zealand.
February 2023	• Rowan Kearns pled guilty to charges in criminal proceedings for disclosure and financial record keeping breaches, in relation to his conduct as founder and sole director of the Forestlands group of companies, following charges filed by the FMA in 2020.
January 2023	• The Wellington High Court ordered Cigna Life Insurance New Zealand Limited to pay a $3.5 million penalty, after previously admitting to making false and/or misleading representations to customers, in relation to communication of inflation adjustments to insurance cover.
December 2022	• Filed High Court civil proceedings against Kok Ding Cheng for alleged market manipulation of NZX-listed shares in Rua Bioscience Limited. • Formally warned Pencarrow Private Equity Management Limited for breaching anti-money laundering record-keeping requirements. • Suspended the crowdfunding provider licence of The Property Crowd after the entity experienced financial reporting failures, was deregistered from the Financial Service Providers Register and had ongoing compliance issues, which materially contravened its licensee obligations.
October 2022	• Filed High Court proceedings against Vero Insurance for failing to apply multi-policy discounts, which led to customers being overcharged. • Issued a formal warning to InvestNow Saving and Investment Service Limited for failing to comply with anti-money laundering requirements. • Issued formal warnings to Black Robin Equity Limited and Westwood Terraces BRE Limited; Du Val Capital Partners Limited and Du Val BTR GP Limited; E+O Property Syndication Limited; Jasper NZ Investments Limited; Provincia Property Fund Limited; Williams Corporation Capital Partnership GP Limited; and Wolfbrook Capital Limited for using non-compliant eligible investor certificates, following a review of wholesale investments into property-related offers (see page 35).
September 2022	• The Auckland High Court ordered life insurer AIA to pay a pecuniary penalty of $700,000 for making false and/or misleading representations to some customers, following proceedings brought by the FMA.
August 2022	• Issued an infringement notice to Alliant Perpetual for failing to file financial statements by the due date. • Directed Kalkine New Zealand Limited to stop making outgoing sales calls to people in New Zealand, due to concerns about the entity's misleading marketing conduct.
July 2022	• A High Court ruling upheld an FMA direction order to property development and investment company Du Val to remove advertising materials likely to mislead or deceive investors, dismissing grounds for appeal. • Censured Western Union Business Solutions (Australia) Pty Ltd for materially contravening key standard conditions of its derivatives issuer licence by failing to meet requirements relating to net tangible assets.

Validus stop order

On 2 May 2023, the FMA made a permanent stop order that applies to Validus International LLC (Validus), Validus-FZCO, and associated persons of Validus, using our powers under the FMC Act.

The Validus companies are incorporated in Delaware and Dubai respectively. Validus operated a multi-level marketing business selling "educational packages" to Validus members, including via in-person seminars held in New Zealand (of which at least one was attended by a key Validus officer).

At the seminars, the proceeds of these sales were represented as being invested into a pool of assets (Validus Pool) which comprised assets such as cryptocurrencies, forex, NFTs and other products. In terms of benefits, members were variously told:

- they would receive a 2%-3% return on their money each week for 60 weeks;
- the return would be compounding "up to 350% over 60 weeks"; and
- over a period of 60 weeks, $250 would compound to $35,000.

We took the view that investments in the Validus Pool (as described) constituted financial products (specifically, managed investment products) for the purposes of the FMC Act. This is because they are (or result in) interests in a managed investment scheme. Accordingly, our power to issue a stop order was engaged.

We first became aware of Validus in June 2022 and issued a public warning about it on 15 September 2022. We also referred the matter to the Commerce Commission, which has regulatory responsibility for pyramid schemes.

The stop order followed an interim stop order the FMA issued to Validus and associated persons in February 2023. The stop order prohibits Validus, Validus FZCO and associated persons from taking steps that will result in repeat unlawful behaviour that may cause material financial harm, in particular:

- making offers of Validus Financial Products; and
- distributing any restricted communication that relates to the offer of Validus Financial Products; and
- accepting further applications, contributions, investments, or deposits in respect of Validus Financial Products.

The term Validus Financial Products refers to the Validus Pool Products promoted at an event at Mt Smart Stadium on 19 November 2022 (the seminar) and to any other financial products used to promote the purchase of Validus educational packages, regardless of whether those financial products actually exist or are intended to be issued.

Following the FMA's interim stop order, Validus's CEO wrote to the FMA to say the Validus Pool promoted at the Seminar had been removed and no longer exists. Further, the CEO said that "Validus is not, and does not intend to be, a financial product and no person should ever enter into a commercial relationship with Validus intending or expecting to make returns of any sort, as no such returns are promised or guaranteed in any way".

The stop order is based on the FMA accepting these statements are true. Therefore, what was said and presented at the seminar was false or misleading, or was likely to mislead or confuse, because it related to an offer of financial products which did not exist or was materially different from that described.

In communications to the media, Paul Gregory, Executive Director of Response and Enforcement, said "Validus has made false or misleading representations to the public that had every appearance of an unregulated offer of financial products. The FMA considers a stop order is the most appropriate and effective response in the circumstances. We urge the public, and the communities that Validus has been targeting, to stay away from this company and these offers. There are plenty of well-regulated products available to the public where such investments have protections, and monitoring in place from the FMA."

High Court appeal

Validus appealed the Stop Order in the High Court based on three points:

- Validus's right to be heard/natural justice;
- the Stop Order must apply to a financial product that exists/a financial product must exist for Validus to be making false or misleading offers; and
- to issue a stop order, the FMA must be satisfied that Validus would break the law in the future if the Stop Order was not in place and there was no evidence of that.

Justice Jagose dismissed all three points in a judgment issued on 4 July 2023.

In respect of the first point, the Judge agreed that Validus was given enough opportunity to be heard.

In respect of the second point, the Judge agreed the reference to "intended offers" in the relevant statutory provision can be construed to extend to financial products not yet in existence. The Judge said "there is nothing in the statutory language to suggest the financial products must be in existence at the time of the offer or intended offer." The Judge also said "the construction contended by Validus would be to exclude outright scams, baldly inviting participation in non-existent financial products, from the FMA's enforcement function. Nothing in the statutory purposes justifies such exclusion."

On the third point, the Judge said the FMA was within its right to issue the Stop Order based on the reasons set out in section 462 of the Act, specifically that the subject communication was false or misleading or otherwise improper as stipulated.

In dealing with the points on appeal, the Court made some important judicial statements of general principle that reinforce the FMA's role in relation to conduct on our regulatory perimeter. This includes a statement that "the Act regulates rather than empowers participation in financial markets" and "agreement by the Court that the FMA's powers must extend to situations where offers of non-existent products are made, noting that to accept otherwise, "would be to exclude outright scams, baldly inviting participation in non-existent financial products, from the FMA's enforcement function".

The clear message in the Validus judgment is that the FMA's powers are not to be cut down or qualified, and it must be afforded the opportunity to act with speed and flexibility when we consider it is appropriate to do so.

Performance indicator

Stakeholder sentiment

Stakeholders agree that the FMA maintains a strong enforcement function and helps to deter misconduct by holding it to account	
2023	**82%**
2022	78%
2021	71%
2020	78%

Source: Ease of Doing Business survey. See page 44 for details about the survey.

This is a strong result, reflecting our ongoing work to promote our enforcement activity and help deter misconduct, in particular the large number of court cases from the year that were decided in the FMA's favour, e.g. Validus, Tiger Brokers, Wei (Walker) Zhong and Lei (Regina) Ding (Oceania Natural), Cigna and AIA (see enforcement calendar above).

ACP Responding to frauds and scams

The FMA is a member of the Interagency Fraud Working Group, which was established to reduce the incidence and impact of fraud in New Zealand. Information and updates about fraud are shared among its members, which include Consumer Protection (MBIE), the Telecommunications Forum, the Commerce Commission, Te Ara Ahunga Ora Retirement Commission, the Department of Internal Affairs, BNZ, ASB, ANZ, Police, Netsafe, the Serious Fraud Office, the Banking Ombudsman, and CERT NZ (Computer Emergency Response Team).

We continued to publish alerts about suspected scam activity (see following page), and highlighted these through our social media channels. We also published interviews with people who had been targeted by investment scams, to help raise awareness of warning signs and the tactics commonly employed by scammers.

In particular we sought to draw attention to fake investment comparison websites, which are often presented in online search results when people search for investment opportunities. Throughout the year we received multiple reports from scam victims who entered personal details into one of these websites and were then contacted by individuals purporting to be from well-known banking institutions. Some victims lost hundreds of thousands of dollars to these schemes. We issued a warning and media release about one particular comparison website, which attracted significant media attention.

Performance indicator

Warnings and alerts published

We regularly issue alerts through our website and social media, about schemes or entities that have the hallmarks of a scam, or may be offering unregulated products or services. Some alerts relate to multiple categories.

Category	2023	2022	2021
Suspected scam	47	105	89
Unregistered business	17	48	24
Fake regulator	4	1	2
Imposter website*	29	-	-
Total	**89**	**111**	**96**

*Category added in 2022/23, so there are no results for previous years

Whakaū i ngā rerekētanga o te tuku pūtea
Implementation of remit changes

Strategic intention: We deliver policy objectives in a way that promotes confidence in the regulatory regime and financial markets generally

A number of legislative reforms are underway. These are aimed at improving the conduct of financial institutions and market participants, and ultimately improving both the wellbeing of customers and investors, and confidence in financial markets.

By successfully implementing remit change (which includes building the FMA's internal capabilities to support these changes), we will deliver policy objectives in a way that promotes confidence in the regulatory regime and financial markets generally.

Performance measure: SOI 4

The FMA works with other regulatory and government agencies, and engages with market participants, to effectively and efficiently deliver its role in remit changes

Activity contributing to this measure

ACP Implementing strategic remit changes

We have specific programmes dedicated to implementing our significant remit changes in relation to the conduct of financial institutions and climate-related disclosures regimes.

Conduct of Financial Institutions regime

The Financial Markets (Conduct of Institutions) Amendment Act 2022 introduces a new regime (CoFI) for the conduct of registered banks, licensed insurers and licensed non-bank deposit takers (NBDTs). It fills a regulatory gap for oversight of the conduct of these entities, by requiring them to:

- be licensed by the FMA in respect of their conduct towards consumers; and
- comply with a 'fair conduct principle' to treat consumers fairly, through establishing, maintaining and implementing a fair conduct programme; and
- comply with regulations that ban target-based sales incentives, and regulate other types of incentives.

The requirement to treat consumers fairly includes:

- paying due regard to their interests
- acting ethically, transparently and in good faith
- assisting consumers to make informed decisions
- ensuring the services and products that the financial institution provides are likely to meet the requirements and objectives of likely consumers
- not subjecting consumers to unfair pressure or tactics or undue influence.

The overarching objective of the regime is to enable consumers get the financial products and services they need throughout their life, when they need them – and to have trust and confidence these will do what they should.

Once the new regime comes into force in 2025, these entities that provide services to consumers will need to operate under a financial institution licence issued by the FMA.

Licence applications opened in July 2023. In preparation for this, over the past year we:

- finalised the standard conditions that will be attached to financial institution licences
- published a guide to financial institution licence requirements, along with a separate information sheet to help banks, insurers and NBDTs establish, implement and maintain their fair conduct programmes as part of their financial institution licence obligations
- consulted on and published guidance on our expectations for financial institutions that distribute products and services through intermediated channels (i.e. third parties that are involved in the sale and distribution of financial institutions' products and services to consumers)
- carried out an industry engagement programme including in-person and online presentations, workshops and seminars to help financial institutions prepare for licensing and understand our expectations.

Climate-related disclosures

The climate-related disclosures (CRD) regime introduced legislation requiring around 200 entities (known as climate reporting entities or CREs) to prepare and publish climate statements covering their governance arrangements, risk management, strategies, and metrics and targets for mitigating and adapting to climate change impacts.

The first climate statements will be published in the first half of 2024. The overall aim is to provide key information to investors and support the allocation of capital towards activities that are consistent with a transition to a low-emissions, climate-resilient future.

The FMA is responsible for independent monitoring and enforcement of the CRD regime under the FMC Act. Our initial focus has been engaging with and providing resources for CREs to assist them with producing their first climate statements, which this year included:

- publicising details of our intended approach to monitoring the CRD regime, supported by a range of other communication activity including speeches and presentations, and editorial content
- launching consultation on proposed guidance for keeping proper records to support climate statements
- publishing guidance for CREs on what to consider when engaging third parties to assist them with producing climate statements
- engaging with MBIE on the draft regulations that will support the new regime.

New financial advice regime

The new regulatory regime for financial advice, which aims to improve New Zealanders' access to quality advice, came into full effect on 17 March 2023. This capped off a transition process that began when the Financial Services Legislation Amendment Act was passed in 2019, and saw us deliver a substantial programme of work including:

- running the transitional and full licensing processes
- developing guidance to clarify our expectations on aspects of the new regime
- extensive engagement with other government agencies, industry bodies and the advice sector.

All financial advice providers (FAPs) must now hold or operate under a full licence from the FMA if they want to provide regulated financial advice to retail clients.

At 17 March, over 2,500 FAPs were either directly licensed or operating as an Authorised Body, including licences issued to sole operators as well as small firms and large entities employing multiple advisers.

FMA Director of Deposit Taking, Insurance and Advice Michael Hewes, said "We've been impressed at how many advisers have recognised the opportunity and willingly done the mahi to meet the new requirements. Collectively, these efforts have further strengthened the sector as a whole."

Our focus will now turn to monitoring and supervising the licensees. As part of this new phase we published an information sheet explaining how we carry out monitoring activities, what we expect of FAPs, and what they can expect from us.

ACP FAP regulatory returns

We consulted on and finalised a new set of regulatory return questions, which FAPs will be required to answer annually to help us understand changes in the advice sector, and inform and guide our future monitoring. We also presented a series of webinars to help FAPs plan and prepare for submitting returns and understand our expectations.

ACP Financial market infrastructures (FMI) implementation and approach

FMIs provide channels through which payments, securities, derivatives or other financial transactions are cleared, settled or recorded. As joint regulator of FMIs with the RBNZ, we continued to progress implementation of the Financial Market Infrastructures Act 2021, including publicly consulting on and finalising the standards that will be the framework for the regulation of FMIs operating in New Zealand. The standards were signed off in July 2023.

ACP Co-regulator engagement

Through the Council of Financial Regulators (CoFR), we maintained strong relationships with local government agencies the Reserve Bank of New Zealand (RBNZ), the Commerce Commission, the Ministry of Business, Innovation and Employment (MBIE), and Treasury.

CoFR meets regularly to discuss developments and progress initiatives under five priority themes:

- Climate risk
- Cyber resilience
- Digital and innovation
- Inclusion
- Regulatory effectiveness.

CoFR also publishes a quarterly calendar of regulatory initiatives, to give stakeholders a consolidated view of upcoming engagement and projects impacting the financial sector.

We also engage with international regulators on areas of mutual interest, including participation in the Trans-Tasman Council on Banking Supervision and the Asia/Pacific Group on Money Laundering. This year representatives from the FMA also attended the International Organization of Securities Commissions Annual Conference, and met with regulators from the UK and Europe, Canada, Malaysia, Hong Kong, Singapore, Japan, and Australia.

ACP Policy input

We continued to contribute to development of the law through advice to the Government and other relevant agencies. This included the following areas of policy input and collaboration:

- Climate-related disclosures – MBIE, the Ministry for the Environment and the External Reporting Board (XRB)
- Conduct of Financial Institutions – MBIE
- Financial Markets Infrastructures – RBNZ
- Insurance contract law review – MBIE
- AML/CFT Act review – Ministry of Justice.

Performance indicator

Stakeholders agree that the FMA is effective and efficient in its role of implementing remit changes

2023	**61%**
2022	59%
2021	60%
2020	71%

Source: Ease of Doing Business survey. See page 44 for details about the survey.

Given the breadth of remit change in progress throughout the year, and acknowledging that some stakeholders may feel burdened by changes that impact them, the slight increase from last year is a solid result. We will continue to look for ways to mitigate burden by engaging with the market, to seek feedback on impacts and suggestions for implementation.

Whiriwhiringa Kaupapa mo ngā kaiwhakarato me ngā kaiutu moni

Investor and customer decision-making

Strategic intention: Investors and customers are engaged and make active choices based on clear, concise and effective information

We expect all financial service providers to ensure communications with investors and customers are clear, concise and effective. This includes making efforts to ensure customers and investors are engaged and make active decisions on an ongoing basis about the financial products and services they purchase.

We follow these same principles when communicating directly with consumers in our own promotional campaigns and investor capability resources.

By focusing on this area, we expect to see improved engagement by investors and customers with product providers and improved conduct, communications and disclosure by those providers. This will lead to improved decision-making and the purchase of more suitable products.

Performance measure: SOI 5

Investors and customers are engaged and make active and informed decisions based on clear, concise and effective information and communication

Activity contributing to this measure

ACP Consumer awareness campaigns

World Investor Week

The FMA is the New Zealand host of World Investor Week, a week-long global campaign promoting investor education, run by the International Organization of Securities Commissions (IOSCO). The theme for 2022 was 'Good investing is long-term investing', which aimed to support investor resilience and encourage people to keep going, even during a market downturn.

We created simple, effective content to support our key message of making a plan for investing and sticking to it, with information about setting goals, understanding your risk tolerance, diversifying your investments, and taking a long-term approach. This content was shared on social media, and through partnerships with media outlets, including appearances from our Investor Capability Manager on personal finance podcasts The OneUp Project and Cooking the Books.

It was one of the FMA's most successful World Investor Week campaigns to date, reaching people more than 2 million times.

International Women's Day 2023

In celebration of International Women's Day, the FMA hosted a panel event "Her Money Matters: A kōrero on financial wellbeing". Hosted by FMA Chief Executive Samantha Barrass, the event featured panellists including Frances Cook, Te Kahukura Boynton (Māori Millionaire), Sarah Kelsey (The OneUp Project) and Mary Holm. The event was designed to bring together women of all ages interested in improving their financial wellbeing and supporting better financial outcomes for women.

There was high demand for tickets to the in-person event, and reach was maximised with a feature in NZ Herald Viva, as well as livestreaming and publishing a recording online. The campaign achieved around 1.57 million impressions.

KiwiSaver

The theme for our yearly KiwiSaver consumer campaign, timed to coincide with members receiving their annual statements, was 'Own your tomorrow'. Our aim was to remind people that KiwiSaver is a simple way to invest and small steps today can make a big difference to their future.

With recent research from Te Ara Ahunga Ora Retirement Commission showing that women are retiring with at least 20% less in their KiwiSaver than their male counterparts, this year's campaign had a particular focus on women.

Key campaign activities included a feature in NZ Herald Viva featuring an interview with Chief Executive Samantha Barrass, and social media content. News coverage of the campaign appeared on RNZ and Stuff. The campaign achieved approximately 4.28 million impressions.

Meanwhile, our 2022 KiwiSaver Annual Report showed that member balances for the year to 31 March 2022 remained buoyant amid deflating global markets, inflation levels climbing, and uncertainties over supply chain shortages and war in eastern Europe. Fund switching returned to normal levels after increased Covid-related activity in this area during the prior year.

We noted this as highlighting the strength of KiwiSaver as a long-term savings vehicle. FMA Executive Director Response & Enforcement Paul Gregory said: "New Zealanders have become increasingly aware of the role KiwiSaver can play in their financial wellbeing and preparedness for retirement, particularly when the likelihood of owning a home becomes less certain."

We also noted the number of default fund members who made an active choice about their KiwiSaver fund during the period covered by the report jumped 71.8% to 77,886. This was largely thanks to heightened engagement between default providers and members ahead of the changes that took effect on 1 December 2021, when over 250,000 default members were moved from departing providers to the current default providers.

ACP Wholesale investing thematic review

We completed a review of wholesale investments into property-related offers, after noting an increase in complaints made and concerns raised about how such offers, which are only suitable for certain eligible experienced or sophisticated investors, were being promoted, and whether the appropriate investors were being targeted and accepted.

We noted a range of poor conduct from issuers of wholesale offers, including inappropriate promotional and sales techniques for these products, and failures in the process to certify investors as being eligible. As a result of our findings we issued warnings to seven entities, and published a report that sets clear expectations for issuers operating in the wholesale space.

ACP Consumer research and insights

Research helps us to understand consumers' perceptions and behaviours in relation to financial products and services. In addition to our regular Investor Confidence survey, this year we undertook research into:

- consumers' experience with the financial sector, looking at the mindset and motivations of consumers as they manage their money and deal with financial services firms
- KiwiSaver statements, including how KiwiSaver members engage with and understand their annual investment statement
- ethical investing, which explored underlying factors that drive people toward considering an ethical investment and their experiences of navigating providers and products
- first-time investors, including their motivations for investing, their behaviours and approach, and the information sources that influence their decisions.

Findings from our research help inform the areas of focus for a range of our consumer engagement and regulatory work.

Review of 'ethical' fund documentation

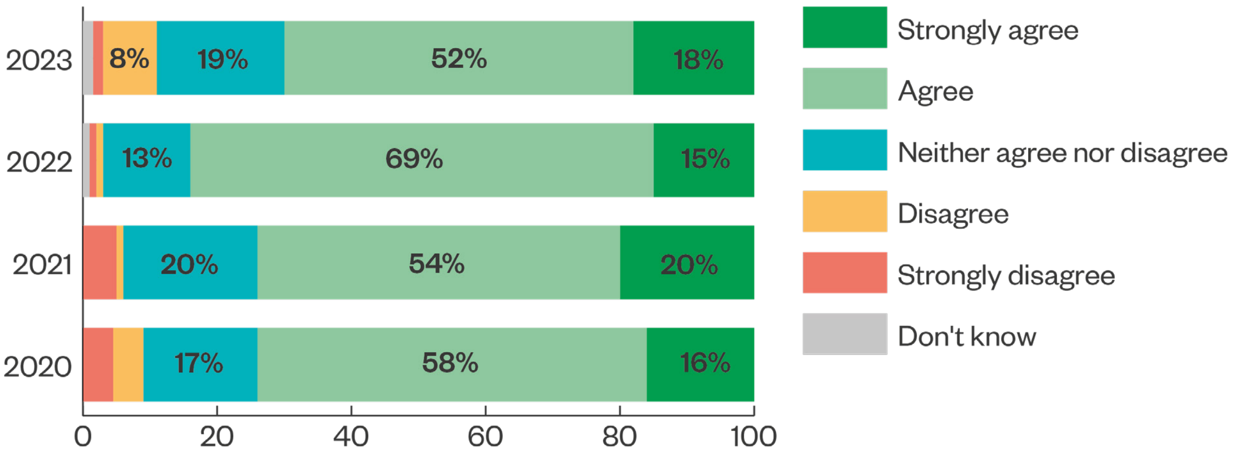
Complementing our research on ethical investing (see above), we published findings from a review of disclosure information from managed investment funds labelled or marketed as being sustainable, ethical, green etc.

We found that investment product managers need to improve the quality, utility and accessibility of the information they provide to investors about these products. There were deficiencies in both the information that funds provide to investors, and the way in which that information is presented. These deficiencies mean that it is difficult, or in some cases impossible, for an investor to fully understand the nature of the investment they are making.

We used insights from this review to expand and improve our guidance for investors on how to take a deeper look at ethical funds, including factors they may need to consider in making an ethical investment decision.

Performance indicator

To what extent do you agree or disagree that the information materials you received were clear, concise and effective?



Source: Investor Confidence survey. See page 44 for details about the survey.

This measure asks how useful investors found the disclosure information they received when considering an investment. The proportion of those who answered favourably decreased. Our reviews of 'ethical' fund documentation and wholesale investing (see above) identified some issues with information provided to investors, and a number of our enforcement actions related to potentially misleading investment information (see pages 24-25). Increased awareness of these types of issues as a result of our work may be reflected in this year's score.

The Investor Confidence survey also found that of those who received investment materials, 65% said those materials helped make an informed decision, up from 59% in 2022.

We will continue to monitor the quality of information materials on the provider side, and look at ways to help build investor capability in relation to understanding this disclosure information as part of our consumer communication activity.

Te whakapono me te manawanui ki nga Makete Nunui
Trust and confidence in capital markets

Strategic intention: Investors and participants have trust and confidence in New Zealand capital markets, enabling the sustainable growth of those markets

There are numerous factors that drive trust, confidence and growth in capital markets. We seek to promote trust and confidence by exercising our regulatory responsibilities, in particular:

- influencing improvements in audit quality, disclosure and financial reporting, and corporate governance
- maintaining effective oversight of NZX and other licensed capital-raising platforms
- providing credible deterrence in relation to trading misconduct.

This area is closely linked to both investor and customer decision-making, and deterrence of misconduct. For this area we are looking to see an improved level of confidence in the regulation of New Zealand capital markets, as well as higher levels of trust and confidence in those markets overall.

Performance measure: SOI 6

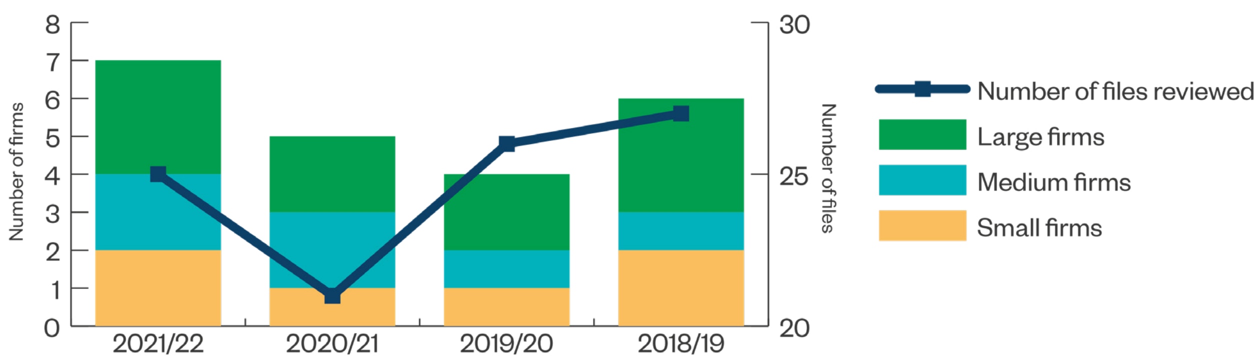
The FMA's actions promote trust and confidence in, and sustainable development of, New Zealand's capital markets

Activity contributing to this measure

ACP Audit and financial reporting reviews

Audit firms play a crucial role in maintaining the integrity of New Zealand's financial markets by ensuring an entity's financial statements are accurate from an objective view and can be relied on to help inform investor decision-making. In our 2021/22 reviews of audit quality, we found audit firms have made improvements since previous reviews, but quality remains inconsistent between firms. Auditors have made improvements in documenting their judgements about accounting estimates and how they apply professional scepticism, continuing the trend from previous years.

Scope of audit quality reviews



We also directly monitor compliance with financial reporting obligations by FMC reporting entities and registered schemes. This year we consulted on and published guidance to help entities to meet their statutory requirement to keep proper accounting records, and to address emerging and persistent issues in financial reporting, to help ensure financial information is useful to investors and other users.

ACP Accredited body monitoring

NZICA and CPA Australia are the frontline regulators of FMC licensed auditors. We monitor the audit regulatory systems of these accredited bodies to ensure they are effective in their role. Our 2021/22 monitoring did not uncover any concerns with the compliance of either body, and found they had suitable systems for membership, licensing and registration, monitoring and general oversight, promoting and monitoring competence, and handling complaints, enquiries, investigations and discipline.

ACP Market operator reviews

Our reviews of licensed market operators look at how they are meeting their licensee obligations. One of the key components of these reviews is ensuring the markets operate in a fair, orderly and transparent manner, which ensures participants receive the expected quality of service when using these markets.

Our annual review of NZX found the market operator complied with its obligations, and had a good balance between regulatory functions and commercial operations. We also observed improvements in risk management, and technology systems and resources.

Throughout the year we also conducted reviews of derivatives markets ASX24, SGX-DT, ICE Futures Europe and ICE Futures US, as well as 'stepping-stone' market Catalist, which focuses on capital raising for smaller entities. We did not identify any compliance issues in these reviews.

Climate risk and the impact on financial statement audits

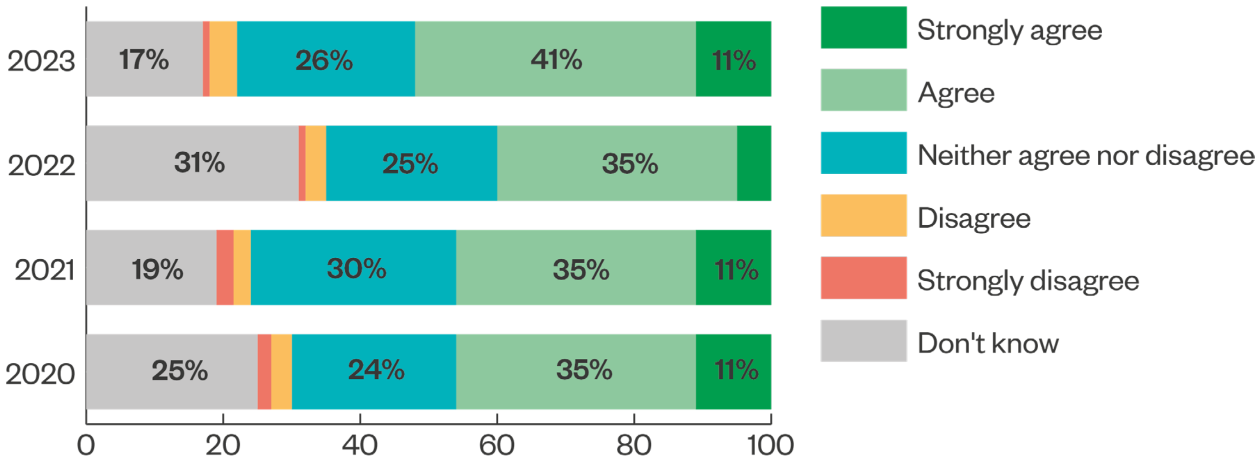
Climate change is receiving increased attention as its effects become more visible. These effects can impact the operations of entities of all types and sizes. There may also be uncertainty as to how entities will be affected by other related factors such as government policies, impacts on suppliers, changing customer preferences, and the availability of debt and equity funding.

While these aspects will need to be considered by entities that are subject to the climate-related disclosures regime (see page 31), climate risks can also impact the key assumptions and estimates that underpin accounting treatments and financial statement disclosures. We therefore published guidance, highlighting expectations for both auditors and entities, on how climate risks should be considered during the preparation and audit of financial statements.

We also signalled that climate change impacts will be an increasingly larger part of our financial reporting and audit monitoring activities, and that market participants should expect more questions and enquiries in this area.

Performance indicator

FMA's actions promote trust and confidence in New Zealand capital markets



Source: Investor Confidence survey. See page 44 for details about the survey.

The overall proportion of positive responses increased this year. Combined with the lower proportion of people who answered 'Don't know', this result is encouraging, as it may suggest an increased awareness and understanding of our work, as well as an improved perception its effectiveness. Our efforts to build public awareness of our enforcement activity, as well as our consumer capability campaigns and scams awareness communications are all factors that may have contributed to this result.

Pūrongo o te Kawenga
Statement of Responsibility

The Board is responsible for the preparation of the FMA's financial statements and statement of performance, and for the judgments made in them. The Board is responsible for any end-of-year performance information provided by the FMA under section 19A of the Public Finance Act 1989. The Board is responsible for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting. In the Board's opinion, these financial statements and statement of performance fairly reflect the financial position and operation of the FMA for the year ended 30 June 2023.

Mark Todd

Chair

Financial Markets Authority

31 October 2023

Mark Weenink

Chair

Audit and Risk Committee

31 October 2023

Pūrongo o te Mahi
Statement of Performance

The content on pages 11-15, 17-18, 24-25, 28-33 and 42-59 comprises our Statement of Service Performance. It provides users with sufficient contextual information to understand why the FMA exists, what we intend to achieve in broad terms over the medium to long term, and how we go about this, as well as information to provide users with information about what we have done during the reporting period in working towards our broader aims and objectives.

Statement of Compliance

The Statement of Service Performance of the Financial Markets Authority has been prepared in accordance with the requirements of the Crown Entities Act 2004, which includes the requirement to comply with New Zealand generally accepted accounting practice (NZ GAAP).

The Statement of Service Performance has been prepared in accordance with Tier 1 PBE financial reporting standards, which have been applied consistently throughout the period, and complies with PBE financial reporting standards.

The Statement of Performance describes the progress made by the FMA in achieving the levels of performance outlined in the Statement of Performance Expectations (SPE) for 2022/23.

The FMA receives funding from the Ministry of Business, Innovation and Employment through Vote Business, Science and Innovation to deliver services through two output classes – Services and Advice to Support Well-functioning Financial Markets, and Financial Markets Authority Litigation Fund.

Under the SPE, the FMA has performance standards and measures for each of the two output classes for the 12 months ended 30 June 2023. The output class Services and Advice to Support Well-functioning Financial Markets is reported under three categories which align to the classifications within this multi category appropriation. The financial results for each output class and each category for the multi-category appropriation are reported on throughout this section.

Performance targets are included for each appropriation. Where the performance targets in the Vote align with the target in the FMA's SPE they are reported against under the applicable category in this section of the Annual Report. Where the performance target in the Vote differs from the target in the SPE or there is not a corresponding target in the SPE these targets are separately identified.

The aim of our regulatory activities, in line with our strategic priorities and appropriation category, is to minimise conduct risks, improve behaviours within our markets, and benefit market participants and investors.

The purpose of this appropriation is to support well-functioning financial markets through the activities of the FMA. Success is measured by SPE 1, the overarching measure that reflects our overall statutory purpose of fair, transparent and efficient financial markets.

Performance standards and measures for the output of the FMA for the 12 months ended 30 June 2023

For our SPE performance measures, assessment of our performance against the targets is based on the following scaled rating system.

- Achieved – result is 100% or more of target.
- Substantially achieved – result is within 5% of target (calculated as the result proportionate to the target being between 95% and 99.99%).
- Not achieved – result is more than 5% below target (calculated as the result proportionate to the target being less than 95%).

Surveys

Data for some of our performance measures and reporting come from the following surveys.

Ease of Doing Business survey

This is a survey of key FMA stakeholders to understand the effectiveness of interactions we have with stakeholders and satisfaction with the service we provide.

2023	2022	2021
Sample: 114 responses Margin of error: +/- 8% (at the 95% confidence level) Response rate: 23%	Sample: 162 responses Margin of error: +/-7% (at the 95% confidence level) Response rate: 34%	Sample: 112 responses Margin of error: +/- 9.9% (at the 95% confidence level) Response rate: 22%

Investor Confidence survey

This is annual research we undertake to measure the level of confidence the public has in the New Zealand financial markets, and perceptions of the FMA and regulation.

Quotas are set on age, region, gender, ethnicity, income and education, to ensure the sample is nationally representative and captures vulnerable groups. Data is also weighted to ensure the sample is representative of the New Zealand population by age, gender and region.

2023	2022	2021
Sample: 1488 responses Margin of error: +/-2.5% (at the 95% confidence level)	Sample: 2509 responses Margin of error: +/- 2% (at the 95% confidence level)	Sample: 1020 responses Margin of error: +/-3% (at the 95% confidence level)

Stakeholder Relationship Management survey

This is a survey of entities that participate in our Stakeholder Relationship Management programme. As the survey population is small and limited, there is no margin of error for this survey.

2023	2022	2021
Sample: 33 responses Response rate: 85%	Sample: 31 responses Response rate: 79.5%	Sample: 20 responses Response rate: 77%

Overarching measure

The overarching measure reflects the Multi-Category Appropriation 'Services and Advice to Support Well-functioning Financial Markets', which covers all three funding categories. The single overarching purpose of this appropriation is to support well-functioning financial markets through the activities of the Financial Markets Authority.

Actual $000s 12 Months to 30 Jun 22		**Actual $000s 12 Months to 30 Jun 23**	**Budget $000s 12 Months to 30 Jun 23**
53,500	Appropriation Revenue	67,618	67,618
111	Interest Revenue	812	76
1,116	Other Revenue	1,787	1,169
54,727	**Total Revenue**	**70,217**	**68,863**
55,446	**Total expenditure**	**64,219**	**70,048**
(719)	**Surplus/(Deficit)**	**5,998**	**(1,185)**

Major variances against budget: This surplus reflects higher-than-expected revenue, as well as underspend due to number of issues that interrupted our original plans and budgeted expenditure. We had to adapt to external factors such as the tight labour market, which resulted in some hiring delays, and defer some work. As this work is still required to deliver on the priorities that have been set for us, we will be building the delayed projects into our plans for the coming years and allocating the unspent budget accordingly.

An assessment of our achievements with this appropriation is included on the following pages under each category. We have also achieved the following results for the category measures listed below.

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 1 Index measure Financial service providers and investors of New Zealand financial services believe that FMA's actions promote fair, efficient and transparent financial markets	Achieved	**Achieved** Achievement of this measure is based on meeting the targets for the two sub-components below.	Achieved	See below

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
Index sub-measures				
Stakeholders agree that the FMA's actions help raise standards of market conduct and integrity[2]	85%	**90.5% - Achieved** In a period marked by economic instability and market volatility, and in the midst of significant changes to New Zealand's financial services regulatory landscape, it is encouraging to see this result remain stable.	89.5%	Ease of Doing Business survey[3]
Investors are confident in the quality of regulation of New Zealand's financial markets[2]	65%	**75% - Achieved** As part of the 2023 Investor Confidence survey, 1488 investors were asked, "How confident are you that New Zealand's financial markets are effectively regulated?". A total of 1124 responded that they were either slightly, fairly, or very confident.	65%	Investor Confidence survey[3]

Judgements related to these measures

The FMA's statutory purpose is to promote and facilitate the development of fair, efficient and transparent markets. As such, it is what Government funds us to deliver and against which they hold us to account.

There is no easy measure for fair, efficient and transparent markets, which are demonstrated through many different market behaviours and trends. We therefore assess the quality of our performance through how key participants in New Zealand's financial markets perceive our impact on markets' fairness, transparency and efficiency, as demonstrated through improved market conduct and integrity, and overall confidence in the quality of what we do.

Relevant survey questions are repeated annually to allow us to determine trend analysis on stakeholder perceptions over time. Both survey results are shown to provide transparency of the composite measure.

2 These measures are also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations.

3 See page 44 for information about the survey

Category One: Investigation and Enforcement Functions

This category is limited to the performance of statutory functions relating to the investigation and enforcement of financial markets legislation, including the assessment of complaints, tips, and referrals.

Actual $000s 12 Months to 30 Jun 22		Actual $000s 12 Months to 30 Jun 23	Budget $000s 12 Months to 30 Jun 23
11,342	Appropriation Revenue	17,887	17,887
-	Interest Revenue	-	-
-	Other Revenue	517	-
11,342	**Total Revenue**	**18,404**	**17,887**
15,529	**Total expenditure**	**16,986**[4]	**18,531**
(4,187)	**Surplus/(Deficit)**	**1,418**	**(644)**

Major variances against budget: Revenue is above budget due to one-off cost recoveries on successful litigation cases. Expenditure is well under budget due to external factors and delays that impacted all expense categories. Refer to Note 21 Explanation of major variances against budget.

Our achievements in this category for the 2022/23 year include:

- A range of investigation and enforcement activity, including the activity highlighted in the enforcement calendar on pages 24-25
- Assessment of complaints, tips and referrals, which has resulted in investigations, enforcement activity, and publication of scam alerts (see page 29)

4 The cost allocation policy for calculating the cost of outputs is explained in Note 1 on page 86.

We have also achieved the following results for the category measures listed below.

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 2 Progress of all investigation cases is reported to the FMA Board every 40 working days[5]	100%	**100% - Achieved** The Chief Executive's report (CEO Report) to the Board at each Board meeting includes advice of new investigations opened, and significant development in existing investigations. Advice will be provided if issues are encountered, and how they are being managed, otherwise investigations are confirmed as making satisfactory progress. If new investigations are opened or there are significant developments in existing investigations after the deadline has passed for including content in the CEO Report, the Board is updated direct at the relevant meeting.	100%	Internal tracking of investigation and enforcement activity
SPE 3 Misconduct cases[6] are evaluated and decisions on follow-up actions are made within 9 working days of the information received date[5]	85%	**86.35% - Achieved** Of 718 cases, 98 were not compliant with the timeframe set out in the measure.	87.59%	Internal tracking of misconduct cases

Judgements related to these measures

We do not set quantitative targets, such as a specific number of actions or a maximum timeframe to completion, under this appropriation. Decisions to carry out investigations and enforcement actions involve multiple considerations but must always have legal or regulatory merit. Each matter under consideration also varies in size and complexity, and therefore time taken to completion. Quantitative targets could provide motivation to either close or advance matters for the wrong reasons or result in sub-standard investigation. Instead we report on performance measures aimed at assessing the quality and timeliness of this work.

5 These measures are also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations and the Vote Business, Science and Innovation Supplementary Estimates.

6 Misconduct cases involve an "allegation of financial markets conduct that could result in harm", whereas an investigation requires formal trigger points, including reasonable grounds to suspect a breach of any financial markets legislation. This requires more than mere suspicion or hunch; a basis on objective information is required.

Category Two: Licensing and Compliance Monitoring Functions

This category is limited to the performance of statutory functions relating to licensing of market participants and risk-based monitoring of compliance, including disclosure requirements under financial markets legislation.

Actual $000s 12 Months to 30 Jun 22		Actual $000s 12 Months to 30 Jun 23	Budget $000s 12 Months to 30 Jun 23
21,025	Appropriation Revenue	24,957	24,957
111	Interest Revenue	812	76
1,116	Other Revenue	1,270	1,169
22,252	**Total Revenue**	**27,039**	**26,202**
20,686	**Total expenditure**	**23,291**[7]	**25,853**
1,566	**Surplus/(Deficit)**	**3,748**	**349**

Major variances against budget: Revenue is above budget due to higher than budget interest income. Expenditure is well under budget due to external factors and delays that impacted all expense categories. Refer to Note 21 Explanation of major variances against budget.

Our achievements in this category for the 2022/23 year include:

- Licensing market participants, including assessing financial advice provider licence applications to support the new regulatory regime for financial advice
- Compliance monitoring including:
  - Reviews of FMC reporting entities' financial reporting disclosures (see page 39)
  - Audit quality reviews (see page 38)
  - Obligations reviews of licensed market operators NZX, Catalist, ASX24, SGX-GT, Ice Futures Europe and Ice Futures US (see page 39)
  - Monitoring and assessing the level of money laundering and terrorism financing risk levels across all FMA reporting entities (see page 19)
  - Planned monitoring of the financial advice sector and Supervisors as part of their relicensing (page 22)
  - A review of wholesale investments into property-related offers (see page 35)
  - A review of disclosure information from a range of 'ethical' managed investment funds (see page 36)

We have also achieved the following results for the category measures listed below.

7 The cost allocation policy for calculating the cost of outputs is explained in Note 1 on page 86.

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 4 Once received by the FMA, fully completed licence applications are processed within 60 working days[8]	93%	ACP **99.51% - Achieved** We processed and assessed FMC Act licence applications and applications made under other relevant legislation.	99.16%	Internal tracking of relevant documents and activity
SPE 5 Applications for individual exemptions are processed within 30 working days of receiving all relevant information or as communicated with reasons to the applicant	100%	ACP **100% - Achieved** Where appropriate, we granted legislative tools such as exemptions from compliance with provisions in the FMC Act.	100%	Internal tracking of relevant documents and activity

8 This measure is also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations.

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 6 The FMA undertakes a range of proactive, reactive and thematic monitoring activity to target risks identified in response to the regulatory risks identified[9]	Achieved	**Achieved** We completed a range of proactive, reactive and thematic monitoring activity to target and assess risks. This included: • proactive monitoring of financial advice providers and AML/CFT reporting entities • reviews of Supervisors as part of the relicensing process • sector risk assessments of the managed investment scheme and discretionary investment management service sectors • investigating potential misconduct and taking enforcement action where warranted • review work as part of the ongoing joint RBNZ and FMA thematic review of governance • producing external publications based on monitoring work including: - a review of wholesale investments into property-related offers - a review disclosure information from a range of 'ethical' managed investment funds - 2022 Audit Quality Monitoring Report - 2023 NZX market operator obligations review - reports on audit accredited bodies NZICA and CPA Australia - reviews of derivatives markets ASX24, SGX-DT, ICE Futures Europe and ICE Futures US, as well as 'stepping-stone' market Catalist.	Achieved	Internal tracking of relevant documents and activity

Judgements related to these measures

As with the Category 1 appropriation, we do not set quantitative performance targets such as a maximum number of licences declined, as this could provide the wrong motivation when assessing applications. In 2020 we removed a target around challenge of our licensing decisions for that reason. We use measures that focus instead on efficient and effective performance of these core functions, which help ensure we promote innovation and flexibility in the financial markets while avoiding unnecessary compliance costs for participants – some of the purposes of the Financial Markets Act 2013.

For the 2022/23 year, we removed the previous SPE measure 'New regulated offers are risk-assessed within five working days after a new Product Disclosure Statement (PDS) is registered', as we changed our process to only complete Product Disclosure Statement risk assessments on a 'by-exception' basis (e.g. because of novelty, high risk or other factors meriting the attention). Consequently, we no longer report on this measure in the Statement of Performance.

9 This measure is also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations.

Category Three: Market Analysis and Guidance, Investor Awareness and Regulatory Engagement Functions

This category is limited to the performance of statutory functions relating to market intelligence, guidance, investor education, and regulatory and government co-operation and advice.

Actual $000s 12 Months to 30 Jun 22		Actual $000s 12 Months to 30 Jun 23	Budget $000s 12 Months to 30 Jun 23
21,133	Appropriation Revenue	24,774	24,774
-	Interest Revenue	-	-
-	Other Revenue	-	-
21,133	**Total Revenue**	**24,774**	**24,774**
19,231	**Total expenditure**	**23,942**[10]	**25,664**
1,902	**Surplus/(Deficit)**	**832**	**(890)**

Major variances against budget: Expenditure is well under budget due to external factors and delays that impacted all expense categories. Refer to Note 21 Explanation of major variances against budget.

Our achievements in this category for the 2022/23 year include:

- Running a consumer information campaign encouraging KiwiSaver members to check their investment settings (see page 35)
- Communications activity for consumers centred around a key message of making a plan for investing and sticking to it, with information about setting goals, understanding your risk tolerance, diversifying your investments, and taking a long-term approach (see page 34)
- Publishing guidance for financial institutions on our conduct expectations when distributing products through third parties under the Conduct of Financial Institutions regime (see page 30)
- Policy input and collaboration on:
  - climate-related disclosures with MBIE, the Ministry for the Environment and the External Reporting Board (XRB)
  - the Conduct of Financial Institutions regime with MBIE
  - financial markets infrastructures with RBNZ
  - insurance contract law review with MBIE
  - AML/CFT Act review with Ministry of Justice.

We have also achieved the following results for the category measures listed below.

10 The cost allocation policy for calculating the cost of outputs is explained in Note 1 on page 86.

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 7 The FMA undertakes a range of speeches and presentations (in-person and online) to inform and assist users and providers of financial services[11]	30 speeches and presentations	**74 speeches and presentations – Achieved** This significantly-above-target result is due to extensive industry engagement relating to the introduction of new regulatory regimes for climate-related disclosures, conduct of financial institutions and financial advice.	41 speeches and presentations	Count of speeches and presentations that meet the aims of the measure
SPE 8 Participants find FMA communication clear, concise and effective[12]	75%	**75% - Achieved** In a year marked by extensive external engagement about our shift to outcomes-focused regulation and expectations for new regulatory regimes, it is encouraging to see stakeholders have found our communications clear, concise and effective.	72%	Ease of Doing Business survey[13]
SPE 9 Number of website page views of FMA's investor content[12]	Increase on prior year: 36,927 page views	**146,427 page views – Achieved** The measure takes account of page views of our consumer-related content, including that covering investing, financial products, and scams warnings. This year the link to our scams content was made more prominent in the FMA website navigation, which contributed to the substantial increase in page views.	36,927 unique page views	Google Analytics page view data from all pages within relevant investor sections of the FMA website

11 This measure is also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations and the Vote Business, Science and Innovation Supplementary Estimates.

12 These measures are also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations

13 See page 44 for information about the survey

Measure	2022/23 target	2022/23 actual	2021/22 actual	Info source
SPE 10 Market participants within the stakeholder relationship management programme (SHRM), who responded to our survey, say they have benefited from the relationship[14]	95%	**97% - Achieved** Industry engagement was one of the priorities set out in our Annual Corporate Plan last year, so it is encouraging to see such a high proportion of participants derived value from the SHRM programme.	90.3%	Survey of SHRM members[15]

14 These measures are also included in the 2022/23 Vote Business, Science and Innovation Estimates of Appropriations

15 See page 44 for information about the survey

Financial Markets Authority Litigation Fund

This appropriation is limited to meeting the cost of major litigation activity arising from the enforcement of financial markets and securities markets law, or defending litigation action taken against the FMA.

ACTUAL $000s 12 Months to 30 Jun 22		ACTUAL $000s 12 Months to 30 Jun 23	BUDGET $000s 12 Months to 30 Jun 23
2,594	Appropriation Revenue*	2,965	3,000
10	Other Revenue	63	-
2,604	**Total Revenue**	**3,028**	**3,000**
2,604	**Total expenditure**	**3,028**	**3,000**
-	**Surplus/(Deficit)**	**-**	**-**

Major variances against budget: Both litigation revenue and expenditure are closely in line with budget.

*The appropriation revenue received by the FMA equals the Government's actual expenses incurred in relation to the appropriations, which is a required disclosure from the Public Finance Act.

Assessment of performance

The FMA in the Estimates of Appropriation is required to report the following performance information for this appropriation measure. This appropriation is limited to meeting the cost of major litigation activity arising from the enforcement of financial markets and securities markets law.

Measure	2022/23 target	2022/23 actual	2021/22 actual
Litigation undertaken as per Fund's use conditions	Achieved	**Achieved** The FMA undertook litigation using the litigation fund as per the conditions of use.	Achieved

ACTUAL $000s 12 Months to 30 Jun 22		ACTUAL $000s 12 Months to 30 Jun 23	BUDGET $000s 12 Months to 30 Jun 23
2,604	Expenditure	3,028	7,000

Our achievements in this category for the 2022/23 year include progress on litigation activity in relation to the following cases:

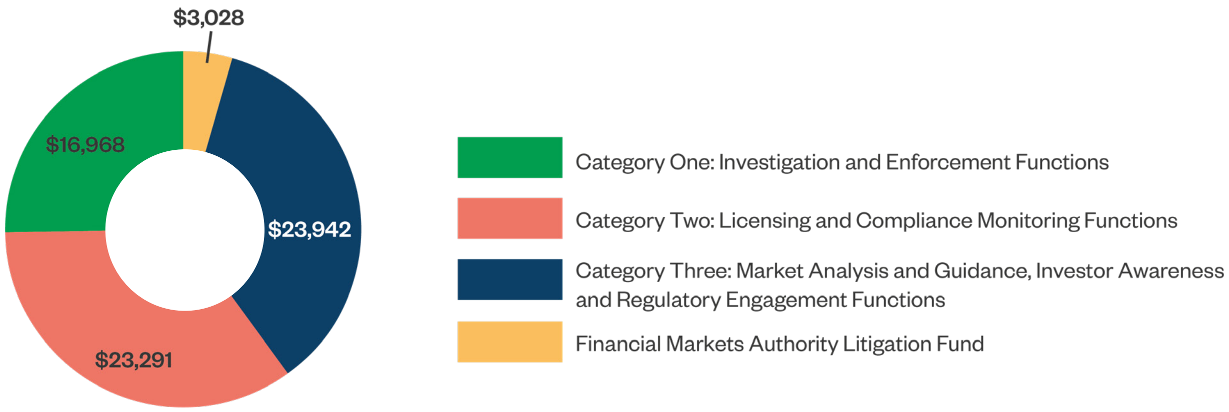
- Oceania
- Cigna and OnePath
- AIA
- Cigna Life Insurance
- Du Val.

See Note 3 to the financial statements on page 89 for more details of these cases.

Reconciliation of cost of goods and services in the service performance to the expenses in the financial statements

Actual $000s 12 Months to 30 Jun 22		Actual $000s 12 Months to 30 Jun 23	Budget $000s 12 Months to 30 Jun 23
15,529	Category One	16,986	18,531
20,686	Category Two	23,291	25,853
19,231	Category Three	23,942	25,664
55,446	**Total expenditure for the Multi-Category Appropriation**	**64,219**	**70,048**
2,604	Litigation Fund	3,028	3,000
58,050	**Total expenditure reported in the Statement of comprehensive revenue and expense**	**67,247**	**73,048**

Expenditure by category ($000)



Reconciliation of revenue in the service performance to the revenue in the financial statements

Actual $000s 12 Months to 30 Jun 22		Actual $000s 12 Months to 30 Jun 23	Budget $000s 12 Months to 30 Jun 23
11,342	Category One	18,404	17,887
22,252	Category Two	27,039	26,202
21,133	Category Three	24,774	24,774
54,727	**Total revenue for the Multi-Category Appropriation**	**70,217**	**68,863**
2,604	Litigation Fund	3,028	3,000
57,331	**Total revenue reported in the Statement of comprehensive revenue and expense**	**73,245**	**71,863**

Disclosure of judgements

Selection and aggregation of performance information

Our performance expectations are set out in two key documents within our accountability framework: our Statement of Intent (SOI) and our Statement of Performance Expectations (SPE). The Statement of Service Performance is intended to inform users how we have performed against these expectations in the past year through our activities.

We aim to demonstrate and measure our impact and progress towards our medium-term strategic intentions, contained in the SOI. Our strategic intentions reflect the following:

- our overarching statutory purpose that guides everything we do
- our assessment of the most significant risks and opportunities to our statutory functions and the markets we regulate
- the importance of effectively implementing new legislation well, to deliver policy objectives and promote confidence in the regulatory regime and financial markets generally.

To report against our SOI measures we use a range of performance indicators that provide quantitative and qualitative evidence of our annual progress towards these longer-term goals, and information about the desired changes or trends we want to see. We describe how we are undertaking a programme of work to progress towards our strategic intentions rather than using specific annual performance targets. We consider this narrative approach to reporting provides a better overall account of how we carry out our role and how our activities contribute to the desired outcomes.

The reporting on the Statement of Performance Expectations sets out how we have performed in carrying out the services we receive government funding for, in line with the SPE. Our SPE measures must relate directly to our functions under the three categories of funding we receive. They measure our non-financial operational performance across the categories, helping to show what we have achieved with the resources we receive, and how well those achievements align with our overall purpose. We regularly review our SPE measures internally to ensure they remain relevant, and we seek to have a balance of qualitative, quantitative and time-bound measures covering a range of our core activities, focused on the impact we want to have on financial service providers, investors and consumers.

For our SPE measures we use a scaled rating system of Achieved, Substantially Achieved and Not Achieved to reflect how we perform against our targets (see page 43).

We do not specifically measure the quality of our decision-making in our performance measures. We have assessed various options to measure quality, such as challenges to licensing or enforcement decisions which would measure quality based on the formal mechanisms with which our decisions can be questioned. However, for all options, we considered setting a target to measure against was only likely to dis-incentivise valid risk-taking for fear of failing to meet it (e.g. if we were challenged more times than a targeted maximum).

Further information on our judgements of certain performance measures was included on pages 46, 48 and 51.

The strategic intentions and the SPE measures were set following identification of key risks and opportunities, and extensive engagement with the FMA Board, executive and staff, as well as MBIE.

There were no significant judgements on aggregation.

How we measure

Academic research demonstrates an innate difficulty in measuring regulatory outcomes, which do not readily lend themselves to being quantified or to clear cause-and-effect analysis. For example, the concept of 'fair, efficient and transparent markets' is hard to test. It is also difficult to measure changes in firms' behaviour, or how much of that change is a direct result of the FMA's actions. A reduction in misconduct cases coming to our attention may be the result of our activities, or better concealment/poorer detection of misconduct.

Feedback from our service recipients – users of financial services, participants in our financial markets and regulated entities – is therefore some of the most relevant data we can use to measure our overall effectiveness and performance, and the impact we have as a regulator. A number of our performance measures and reporting come from the surveys described on page 44 of different stakeholder groups. All surveys are conducted by an external provider.

Tō mātou rōpū
Our organisation

Poari | Board

Mark Todd
Chairman, LLB Hons

Mark has over 25 years' experience in financial markets regulation, including as a partner at a major law firm and through holding governance roles with both listed and unlisted companies. He co-founded Anti-Money Laundering Solutions and chaired Mint Asset Management. He was also the Customer Advocate at Westpac New Zealand.

Current term ends May 2024

Steven Bardy
Member B.Ec, LLB(Hons) (ANU), MBA (LBS)

Steven is a senior executive with extensive experience over 30 years as a regulator and advisor in financial services and financial services regulation. He consults on financial services regulation to governments and regulators in emerging markets through the World Bank and is a senior advisor to Principia Advisory, a European based global leader in ethics consulting. He was previously Managing Director of Promontory Australia, an IBM company, and a senior executive leader at the Australian Securities and Investments Commission. He was also the inaugural chair of the Assessment Committee of the International Organization of Securities Commissions (IOSCO) and an ASIC representative on the IOSCO Board. His earlier career included working in the finance and tax practices of an international law firm in Australia and the US, holding ministerial advisor positions across a number of portfolios in the Victorian Government, holding senior risk and compliance positions in an Australasian Bank, and strategy consulting in both Australia and Europe.

Current term ends February 2027

Sue Chetwin
Member, FMA People, Performance and Remuneration Committee Chair | CNZM, LLB

Sue has more than 12 years' experience working for and on behalf of consumers and is the former CEO of Consumer New Zealand. She is a strong supporter of financial regulations that encourage innovation while protecting consumer interests. She chaired the Government's review of drug buying agency Pharmac and was a member of the Law Society Independent Steering Group Committee considering the terms of reference for the statutory framework for legal services. She is chair of an independent consumer panel assisting Chorus to prepare its investment proposals to be presented to the Commerce Commission in 2023 and onwards. She is also a director of Food Standards Australia NZ. Her experience includes 25 years in journalism including editing the Sunday News, Sunday Star Times and Herald on Sunday.

Current term ends November 2025

Kendall Flutey
(Ngāi Tahu, Ngāti Kahungunu), Member | BCom, PG Dip in Accounting, MEntr

Kendall is the co-Founder and co-CEO of Banqer, a financial education company that delivers experiential software to develop financial literacy and capability in their learners. She is also a Commissioner to the Insurance & Financial Services Ombudsman Scheme, and a former member of the dissolved Digital Council for Aotearoa.

Current term ends February 2027

Prasanna Gai
Member | B.Ec (Hons), ANU. M.Phil, D.Phil, Oxon.

Prasanna is Professor of Macroeconomics and Head of the Departments of Economics, Accounting & Finance, and Property at the University of Auckland. He brings over 25 years of experience in financial market issues from academic and high-level policy roles. Prasanna is a Senior Research Fellow at the Deutsche Bundesbank and an Academic Adviser to the Bank of Canada. He has previously served as Special Adviser to the Governor of the Bank of Canada, Senior Adviser at the Bank of England, and Member of the Advisory Scientific Committee of the European Systemic Risk Board. He was also Professor of Economics at the Australian National University and a Visiting Fellow of All Souls College, Oxford.

Current term ends June 2028

Vanessa Stoddart
Member | BCom/LLB (Hons), PG Dip in Prof Ethics

Vanessa is a Director of Channel Infrastructure, OneFortyOne Plantations Pty Ltd and a member of the board of Te Whatu Ora. She also holds other charitable and advisory governance roles. She was previously a senior executive at Air New Zealand and CEO of Carter Holt Harvey Packaging Australia.

Current term ends February 2024

Christopher Swasbrook
Member | BCom

Christopher has more than 25 years' experience in stockbroking and funds management. He is currently the Managing Director of Elevation Capital Management Limited, Director of NZX-listed New Zealand Rural Land Company, Director of Bethunes Investments Limited, McCashin's Brewery Limited, Ruapehu Alpine Lifts Limited and SwimTastic Limited. He is also a Member of the NZX Listing Sub-Committee (since 2008) and a Member of the Auckland Art Gallery Toi o Tamaki Advisory Committee. He was previously a Partner at Goldman Sachs JBWere.

Current term ends June 2024

Mark Weenink
Member, FMA Audit and Risk Committee Chair | LLB, MBA

Mark is an experienced corporate lawyer and director. He is currently Group General Counsel of Todd Corporation and director of several companies. Prior to joining Todd Corporation, Mr Weenink held various positions including General Counsel at Westpac New Zealand, Managing Partner at MinterEllisonRuddWatts, and Head of Legal at Challenger Asset Management in Sydney.

Current term ends February 2027

Outgoing member

Elizabeth Longworth | LLM

Elizabeth has over 20 years' legal experience, predominantly in commercial, banking and technology law, as well as international governance and development expertise. She has specialties in information policies and disclosure, risk management, ESG, ethics and ADR. As the Executive Director of UNESCO, Paris, Elizabeth had strategic and oversight responsibilities across the organisation. She was the Director of the UN office for disaster risk reduction, Geneva. Previous NZ roles include Sector Director at Industry New Zealand and In-house Counsel at the Reserve Bank.

Term ended July 2023

Roopu Whakahaere | Executive leadership team

L-R: Daniel Trinder, Liam Mason, Sharon Thompson, Paul Gregory, Samantha Barrass, Clare Bolingford

Samantha Barrass: Chief Executive | B.Com (Econ), BCA. Hons (Econ), MSc (Econ)
Samantha has extensive international regulatory experience, most recently as Chief Executive of UK's Business Banking Resolution Service, a dispute resolution scheme for banks and business customers. Prior to that she was Chief Executive of the Gibraltar Financial Services Commission, which oversees the prudential and conduct regulation of Gibraltar's financial services sector. She has held a number of other senior roles at finance regulators and industry associations, including the UK's Financial Conduct Authority and the London Investment Banking Association.

Samantha grew up in Christchurch, and studied Economics at the University of Canterbury and Victoria University of Wellington, before beginning her career as an economist at the Reserve Bank of New Zealand.

Clare Bolingford: Executive Director, Regulatory Delivery
Clare is responsible for directing, planning and delivery of the FMA's core regulatory functions across licensing, engagement and supervision of regulated individuals and firms. She is leading the FMA's implementation of the new conduct regime for banks, insurers and non-bank deposit takers, the new financial advice regime, and the Climate Related Disclosures regime.

Clare's experience includes almost 20 years with the Financial Conduct Authority in the UK, in a variety of policy, change implementation and supervision roles, including oversight of large banking groups and financial advisers. She also spent two years at the UK Treasury, leading capital markets and prudential policy.

Paul Gregory: Executive Director, Response & Enforcement

Paul is responsible for overseeing the strategic approach and appropriate response to the actions and behaviour of market participants that pose risk or harm, including the investigation and enforcement of misconduct cases. Previously, Paul has held leadership roles with the FMA as Director for Investment Management, Acting Director, Capital Markets, and Director for External Communications and Investor Capability

His experience includes Chief Operations Officer at PIE Funds, positions in the investment and communications teams at the New Zealand Superannuation Fund, and communications management roles at Macquarie Group, SKYCITY and Westpac.

Liam Mason: Executive Director, Evaluation & Oversight and General Counsel

Liam is responsible for a broad range of audit, risk, legal and governance matters along with evaluating the effectiveness of regulatory interventions and activity. He remains the FMA General Counsel. Liam has been with the FMA since its inception. He has extensive experience in securities law and corporate governance matters, advising on securities and financial services law and policy, Crown entity governance and legal compliance.

Liam has previously led frontline teams overseeing the FMA's compliance frameworks, licensing, knowledge management and intelligence, and fintech functions.

Sharon Thompson: Executive Director, Transformation & Operational Delivery

Sharon is responsible for the strategic direction of the FMA's operations and capability functions, including technical operations, project management, data engineering, IT security and architecture, customer relationship management, knowledge management, business improvement, people and capability, finance, business support and transformation. This group provides internal support to enable the whole of the FMA.

Sharon has extensive, senior leadership experience in both the New Zealand public sector and financial services industry. Previously she was Deputy Commissioner for the Customer and Compliance Services (Individuals) group at the Inland Revenue - Te Tari Taake.

Prior to Inland Revenue, Sharon held senior roles at ASB Bank and Westpac, and holds a Masters in Management from Massey University.

Daniel Trinder: Executive Director Strategy & Design

Daniel is responsible for leading the strategy and direction setting for the FMA, ensuring a clear view of the systems, priorities and regulatory design is developed and communicated across a broad range of external stakeholders.

He has extensive experience in developing and delivering strategic direction, capability and planning, implementing policy and legislative changes, while leading successful and diverse teams at a global level. He has over twenty-five years' experience in strategy, policy and regulatory affairs including senior roles at HM Treasury in the UK, the IMF, international investment banking firms, as an advisor to central banks and international organisations, and as a consultant on strategy, policy, and governance to several firms and institutions. His most recent role was at Binance, and he has also held senior global roles at Deutsche Bank and Goldman Sachs.

Tāngata | People

Leadership, accountability and culture

We successfully implemented a new organisational structure to better align the way we operate with our priorities, including a shift in focus from investors to consumers, and the needs of our regulated population as the FMA's remit expands.

Part of the FMA's new structure is the formation of new leadership cohorts. The focus has been on supporting leaders to lead through change, and build connected and collaborative teams while developing their team members. The executive leadership team has introduced a new team charter demonstrating the principles they will lead and engage by.

We established a team within the People & Capability function focused on culture, employee experience and engagement. This team is responsible for contributing to the success of the People Strategy and the development of interventions that enable the FMA to be a great place to work by ensuring our culture is authentically representative of our values. This team will operationalise the cultural and employee engagement elements of the People Strategy to enhance our talent attraction outcomes, and positively impact our culture and employee experience.

To build our shared organisational understanding of what it means to be a kaitiaki (guardian) of financial services, staff attended workshops to actively engage with the Te Ao Māori concept of kaitiakitanga and what it means for them and their teams in their work.

Employment type

	2023	2022	2021	2020	2019
Total	326	311	263	241	212
Permanent	289	267	242	213	188
Fixed term	7	12	5	5	7
Contractor/temp	28	29	14	18	14
Secondee	2	3	2	2	3
Voluntary turnover	18.9%	17.5%	9.6%	13.8%	22%
Average service length (permanent only)	3.48 years	3.2 years	3.2 years	3.3 years	3.4 years

Employee development, promotion and exit

Our learning and development offering is continually being reviewed and refined, with a range of options available to team members covering core skills, technical training, coaching and cultural competency.

Our induction and onboarding processes have been reviewed and refined, including the launch of a new one-day induction workshop Nau Mai Rā, to introduce new starters to the FMA's vision, values, purpose and enterprise functions.

Staff across the organisation are regularly engaged in learning opportunities and feedback remains positive.

The voluntary turnover rate has returned to pre-Covid levels since 2021 (see previous page), driven by the border reopening and a competitive job market. As outlined in this section, we are continually looking to enhance our approach to development and recognition, flexible ways of working and engagement initiatives, to help boost staff satisfaction and retention.

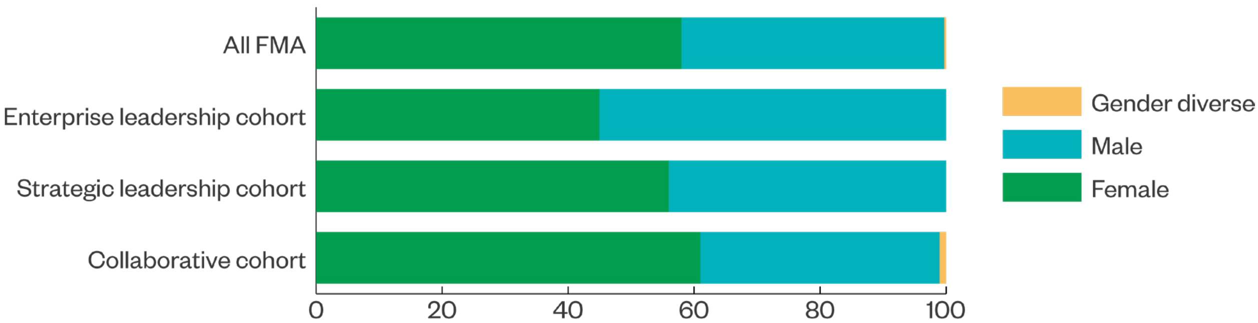
Inclusion and diversity

Our Inclusion and Diversity Advisory Group is in the process of realigning its vision and measures for success, and reviewing its terms of reference, guidelines and policy to ensure these align with Papa Pounamu, the public sector diversity and inclusion work programme.

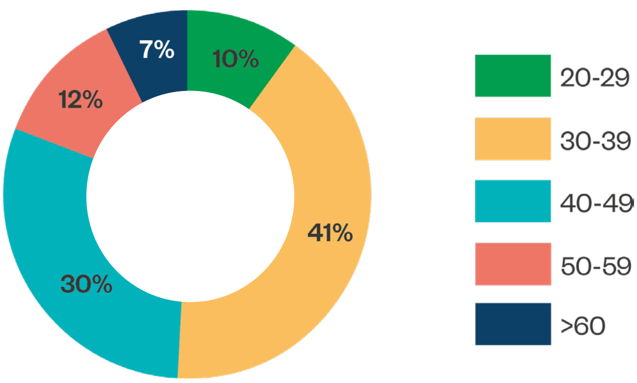
We are engaging with other organisations and an external provider to gain a better understanding of what others are doing and what initiatives they have found the most impactful. We will use this knowledge to support our discussions when enhancing our Diversity, Equity and Inclusion strategy.

At 15 March 2023, our organisation-wide gender pay gap (based on the median hourly rate for all permanent employees, including the chief executive) was 10% in favour of men. This is because we have more men represented in senior roles in the organisation, and more women represented in the lower salary bands. We are committed to ensuring we recruit more women into senior roles. As such our executive leadership team is comprised of three men and three women. Our pay equity, where we measure pay gaps between men and women doing similar roles, shows that we have good equity for roles of a similar size and scope of responsibility.

Gender



Age



Ethnicity/nationality

NZ European/Pakeha	52%
European	23%
Asian (inc Middle Eastern)	21%
Māori	5%
Pacific islander	3%
Other or not specified	6%

This data is from 2022; the survey this information comes from was not conducted in 2023. The survey permitted respondents to select multiple options.

Flexibility and work design

We have been operating with flexible working for some time. We have adopted an approach where staff can work three days in the office and two days remotely. This supports collaboration and keeping our culture strong, while also recognising the benefits of remote working. We continue to offer flexibility of working hours and work patterns. We offer centrally located offices, with modern facilities and close to public transport, as well as equipment to allow a flexible and rewarding working experience.

Location

Auckland	66%
Wellington	31%
Christchurch	3%

Remuneration, recognition and conditions

We have reviewed our remuneration and reward framework, incorporating feedback from staff. We also reviewed our benefits package, and introduced new benefits that align to the FMA's purpose.

The objective of our reward approach continues to be to attract and retain appropriately skilled people, and to recognise and reward performance and development that aligns with our strategic objectives, values and expected standards of behaviour.

Our remuneration approach sits within the organisation's broader approach to reward and recognition, which incorporates both financial and non-financial rewards, the latter including additional leave, flexible working practices, and our wellbeing programme.

Harassment and bullying prevention

The FMA fosters a workplace environment that supports all employees to treat each other with respect, and does not tolerate bullying, harassment or discrimination of any form in the workplace. We encourage the reporting of any such behaviour, and have various means by which an individual can escalate their concerns both internally and externally. We have a bullying, harassment and discrimination policy and resolution guidelines that are reviewed regularly, and online training that all staff are required to complete. We are currently reviewing and updating our online training. We also seek staff feedback on whether our systems for dealing with intimidating behaviours, workplace bullying and harassment are clear and effective.

We engage an independent external provider to contact people who have left the organisation in the past 12 months, and amongst a wide range of areas covered, ask for feedback on bullying, discrimination or harassment behaviours.

We follow WorkSafe guidance on understanding what bullying is and what we can do to support an environment of zero tolerance. We run internal campaigns during the year to raise awareness on the issue and where to seek help.

Safe and healthy environment

We have developed a wellbeing strategy, based on staff feedback, to ensure we have a healthy workplace where staff are productive, engaged and supported. This strategy encompasses all aspects of wellbeing including individual, collective and organisational wellbeing.

We continue to offer regular wellbeing seminars with experts, covering a wide range of topics such as stress, burnout, mindset, nutrition, movement and ergonomics. This focus on education empowers people to take responsibility for their own wellbeing. We also offer a 16-week wellbeing programme provided by leading wellness specialists in partnership with Firstbeat, to enhance participants' health, wellbeing and personal performance. We encourage staff to take regular breaks, and offer an enhanced leave package to enable greater flexibility for our people to focus on and embrace what matters most to them outside of the FMA, as well as having valuable time away to support their health and wellbeing.

Our Health, Safety and Wellbeing Committee meets regularly to discuss relevant topics and proactive management of any issues. The committee ensures practices, policies and processes are fit for purpose, and has a continuous risk identification approach. It also helps organise participation in national wellbeing and anti-bullying initiatives such as Mental Health Awareness Week, Pink Shirt Day and Gumboot Day.

Health issues

Mental health	7%
Hearing	1%
Sight	0%
Neurological or intellectual	0%
Other	3%

This data is from 2022; the survey this information comes from was not conducted in 2023.

Recruitment, selection and induction

We have had some hiring issues due to challenges within the New Zealand labour market.

As an organisation that is undergoing substantial growth, we have continued to enhance our hiring processes. We have had a stronger focus on proactive sourcing and targeted campaigns to attract talent with unique regulatory skillsets, while also continuing to build our talent pipeline, enhance our early careers engagement strategy, and develop our national and international market engagement strategy.

Where we find our staff

	2023	2022	2021
Corporate	6%	18%	6%
Financial services	20%	14%	10%
Government	15%	21%	14%
International	12%	6%	6%
Internal	40%	23%	48%
Legal	4%	4%	5%
Other	18%	14%	11%

Employee remuneration

As a Crown entity, the FMA is required to disclose in its annual report the number of employees receiving total remuneration of $100,000 or more per annum. Total remuneration includes end-of-contract payments such as contractual notice pay and accrued leave entitlements, but excludes cessation payments.

Remuneration paid or payable ($)	Number of employees 2023	Number of employees 2022
610,001 to 620,000	1	-
480,001 to 490,000	1	-
430,001 to 440,000	-	1
400,001 to 410,000	1	-
380,001 to 390,000	1	-
360,001 to 370,000	1	-
340,001 to 350,000	-	2
330,001 to 340,000	-	1
320,001 to 330,000	-	1
310,001 to 320,000	-	1
290,001 to 300,000	1	1
280,001 to 290,000	-	1
260,001 to 270,000	2	1
250,001 to 260,000	-	1
240,001 to 250,000	-	1
230,001 to 240,000	2	1
220,001 to 230,000	-	3
210,001 to 220,000	6	3
200,001 to 210,000	6	4
190,001 to 200,000	3	5
180,001 to 190,000	8	6
170,001 to 180,000	9	5
160,001 to 170,000	20	9
150,001 to 160,000	21	21
140,001 to 150,000	13	15
130,001 to 140,000	16	19
120,001 to 130,000	40	18
110,001 to 120,000	23	21
100,001 to 110,000	22	20
Total	**197**	**161**

Cessation payments

Cessation payments of $881,236 were paid to seven employees who ceased to be employees within the financial year ended 30 June 2023 (2022: $88,867).

Ngā Kaupapa Here me ngā mahi Kāwanatanga | Governance, policies and operations

The FMA was established by the Financial Markets Authority Act 2011. The Minister of Commerce and Consumer Affairs is responsible for the FMA. The Minister sends us an annual Letter of Expectations. We frequently engage with the Minister, briefing him on our current priorities and discussing the alignment of our work with the Government's objectives.

FMA Board

The Crown Entities Act 2004 sets out the collective and individual duties of the FMA Board and its members. The Board is the governing body of the FMA. The Board's focus is generally on the critical strategic and regulatory policy issues that determine the overall success of FMA. This includes:

- setting the FMA's strategic direction and strategic priorities
- appointing the Chief Executive and providing oversight of their performance and, through them, FMA staff
- ensuring the FMA's actions are consistent with its objectives, functions, SOI and output agreement (if any)
- maintaining appropriate relationships with stakeholders
- complying with the FMA's obligations under all applicable legislation
- ensuring the FMA operates in a financially responsible manner – achieving results and doing so within budget (operating within agreed budget parameters and managing assets and liabilities prudently).

The Board is responsible for setting policies to govern how the FMA operates, including policies for:

- managing staff conflicts of interest
- holding and dealing with information securely
- procurement and purchasing
- managing sensitive expenditure and the receipt of gifts.

The Board has delegated most regulatory decisions to staff, but retains ultimate decision-making authority for the use of some of the FMA's powers related to enforcement and exemptions. These matters are often considered by a division of the Board, which is a group of at least three Board members who have been assigned to deal with a matter or class of matter.

The Board has also two subcommittees:

- the Audit and Risk Committee, which advises on internal controls, accounting policies and internal and external audit, and approves the financial statements. On risk management, the Committee advises on key issue or project risks and provides oversight of the FMA's framework for managing organisation-wide strategic and operational risks
- the People, Performance and Remuneration Committee, which oversees FMA's performance, remuneration, development and engagement systems, including setting the Chief Executive's remuneration and key performance indicators, and considering talent management and succession planning strategies.

The FMA Board is appointed by the Governor-General, on the advice of the Minister. Industry representation is an important factor in the makeup of the Board. Members are drawn from a range of sectors, including financial services, with a particular focus on governance experience or expertise, or otherwise representing views of stakeholders such as retail investors and consumers.

The diverse views and expertise offered by members of the Board are valuable inputs to the FMA meeting its regulatory objectives.

It is inevitable, with a Board featuring market representatives, that some members may have a potential or actual conflict of interest in relation to a decision to be made or matter to be considered. The FMA has well-established conflict management practices consistent with sections 62 to 72 of the Crown Entities Act 2004, which set out the conflict of interest and disclosure rules for members of Crown Entities. In the event that a potential or actual conflict is identified for a member in relation to matters for Board decision or consideration, that member is recused from taking part in the discussion on the matter and does not receive any materials or information relating to the matter.

Composition of Board members' remuneration

Members' fees are paid on the basis of time spent on the work of the FMA. Fees were:

	Actual 2023 $000s	Actual 2022 $000s
S. Chetwin	42	46
S. Bardy	72	13
K. Flutey	43	12
P. Gai	49	52
E. Longworth	57	60
A. McLaren	-	11
V. Stoddart	40	45
C. Swasbrook	35	42
M. Todd (Chair)	202	198
M. Weenink	44	12
Total Board Members' remuneration	**584**	**491**

There have been no payment made to board observer in the period (2022: $3,750).

There have been no payments made to committee members appointed by the Board who are not Board members during the financial year.

No Board members received compensation or other benefits in relation to cessation (2022: $nil).

Leaving member	
Member name	**Membership term expiry date**
A. McLaren	September 2021

Independent committees

These committees provide independent expertise and decision-making for important areas related to the Financial Advice regime pursuant to the Financial Markets Conduct Act 2013. The members of these committees are appointed by the Minister for Commerce and Consumer Affairs. They operate and function separately from the FMA, but the FMA provides funding and secretariat services.

Code Committee

The Code Committee is Aotearoa New Zealand's independent standard setter for financial advice. It is established by Part 4 of Schedule 5 of the FMC Act.

The Committee's functions are:

- to produce a draft Code for approval by the Minister
- to review the Code from time to time
- to recommend to the Minister changes to the Code
- to liaise from time to time about the development, review, and implementation of the Code with the Minister, with the FMA and with persons that the Committee reasonably considers to be representative of the financial advice industry and of consumers of financial advice.

Composition of Code Committee remuneration

Code Committee fees are paid on the basis of time spent on the work of the committee. Fees were:

	Actual 2023 $000s	Actual 2022 $000s
B. Benson	6	2
J. Berry	-	0.2
K. Coutts	3	-
A. Dale-Jones (Chair)	35	23
G. Edwards	8	5
E. Jurgeleit	6	-
B. McCleland	2	1
B. McCulloch	-	0.4
P. Mersi	5	1
T. Singleton	4	1
Total Code Committee remuneration	**69**	**33.6**

Leaving member:	
Member name	**Membership term expiry date**
B. McCleland	January 2023
J. Berry	July 2021
B. McCulloch	July 2021

Financial Advisers Disciplinary Committee

The Financial Advisers Disciplinary Committee (FADC) is an independent body established pursuant to clause 49 of Schedule 5 to the Financial Markets Conduct Act 2013).

The FADC conducts disciplinary proceedings arising from complaints about the conduct of financial advisers relating to contraventions of the provisions of the Act that regulate financial advice and financial advice services. Complaints are referred by the Financial Markets Authority (FMA) and can include breaches of the Code of Professional Conduct for Financial Advice Services (the Code).

Composition of Financial Advisers Disciplinary Committee remuneration

Financial Advisers Disciplinary Committee fees are paid on the basis of time spent on the work of the committee. Fees were:

	Actual 2023 $000s	Actual 2022 $000s
D. Auld	0.8	-
T. Berry	0.7	-
J. Matthews (Chair)	3	-
J. Robertson (Sir Bruce Robertson)	-	-
D. Tulloch	0.7	-
S. Weir	0.7	-
Total Financial Advisers Disciplinary Committee remuneration	**5.9**	**-**

Leaving member:	
Member name	**Membership term expiry date**
J. Robertson (Sir Bruce Robertson)	November 2022

Professional indemnity insurance

The FMA has purchased directors' and officers' liability and professional indemnity insurance cover during the period. This insurance is in respect of the liability or costs of Board members and employees.

Internal governance

We maintain our robust decision-making processes through a range of internal committees and groups comprised of relevant experts that meet regularly to review significant policies, projects and decisions.

The Chief Executive's role is to manage the FMA on behalf of the Board and exercise the powers of the Board that the Board delegates to them. We have a comprehensive delegations framework, to ensure approvals (particularly those relating to enforcement activity and the granting of licences and authorisations) can only be made by an appropriately senior staff member.

The Executive Committee, comprising the Chief Executive and the Executive Directors (see pages 63-64), is a forum for executive decision-making on issues of strategic importance to the FMA.

We also have a range of internal committees and groups that meet regularly to prioritise work and manage dependencies, oversee risks and delivery issues, and to review significant policies, projects and decisions. The committees are comprised of relevant experts and senior staff from across the organisation.

Our Internal Audit Manager runs a continuous review programme to ensure the integrity of our operational and risk management processes. FMA staff are subject to a code of conduct, and a range of policies relating to finance, employee obligations, information management and travel.

ACP Strategic Change Programme

To ensure the FMA is best positioned to accelerate our growth and expansion plans for overseeing a broader remit, we are undertaking a multi-year change programme. Progress on each of programme's underlying workstreams included the following:

Implementing strategic remit changes (CoFI and CRD)

Our progress on these workstreams is reported under 'Implementation of remit changes' on pages 30 to 31.

Developing a new Conduct Framework

We commenced internal work to further understand the implications of the transition to an outcomes-focused approach. We have started formulating the specific set of fair consumer and market outcomes with a view to externally consulting later in 2023.

Refreshing our data and intelligence strategy

We significantly developed our data capabilities, published several new licence application and regulatory return forms, as well as progressing our Knowledge Strategy by cloud-enabling our major internal documentation repositories.

Reviewing our Statement of Intent (SOI) and Statement of Performance Expectations (SPE)

We received an extension from the Minister to defer the wholesale refresh of the SOI and SPE was deferred for one year.

Building our Te Ao Māori capability

We held staff workshops to build our shared organisational understanding of what it means to be a kaitiaki (guardian) of financial services (see page 65).

Putting our emerging understanding of Te Ao Māori into practice, we successfully incorporated tikanga (Māori customary practices or behaviours) into an interview with the person of interest as part of an investigation.

We also refreshed our internal scoping paper on the Māori economy. The paper looks at financial products and services that represent Māori financial interests or explicitly reflect tikanga within the sectors that the FMA regulates. It will be used to inform our engagement with Māori representatives, and contributed to our work on the CoFR financial inclusion workstream.

Implementing a new target operating model and organisational structure

We successfully implemented a new organisational structure to better align the way we operate with our priorities, including a shift in focus from investors to consumers, and the needs of our regulated population as the FMA's remit expands.

Work on the operating model commenced in March 2022. Design principles from the operating model were used to inform the business case for change at a full organisational structure level. An all-organisation consultation on proposed structural changes across all roles started in August 2022 with the executive team, and cascaded throughout all layers of the organisation. Confirmation of changes was communicated on 1 December 2022 and all structural changes were implemented on 1 February 2023.

ACP Ongoing improvement of our technology and systems

We continued work to enhance and cloud-enable our system, with the focus on supporting staff with excellent tools and making our data, documents and information as accessible as possible. This strategy also connects directly into our wider strategic goal of enabling FMA to be an intelligence-led regulator. Cyber-security also remained a key focus area.

ACP Operational budgeting and financial prudence

We maintained effective management of our finances and operational budget, including use of our litigation fund.

FY22/23 concluded with a surplus, contrary to the initial deficit projection in the budget. This outcome arose from a combination of factors:

- better-than-expected interest income (attributed to both interest rates and cash balances surpassing budget projections)
- unbudgeted cost recoveries from successful litigation cases
- underspends due to the extended time required to scale up operations and gradually staffing newly created positions established as part of the Strategic Change Programme. We had to adapt to external factors such as the tight labour market, which resulted in some hiring delays, and defer some work.

The surpluses have now been allocated to future expenditures aligned with the strategic priorities that have been set for us. This strategic allocation aligns with our commitment to responsible resource management, ensuring our funds are efficiently utilised.

See the Statement of Performance for full details of our financial performance.

ACP Strategic planning

We developed new 'interim' strategic objectives and operational priorities for FY23/24, with a work programme of supporting key initiatives. Evaluation is a critical component of our new operational model and we are currently building out this new function.

ACP Industry engagement

Engaging with industry is a key pillar of our approach to regulation, allowing us to share expectations, hear concerns, and build and maintain constructive relationships. We actively engaged with industry and their representative bodies throughout the year. Examples of this are featured throughout this report, and include:

- our Stakeholder Relationship Management programme
- roadshows, workshops and seminars related to our implementation of remit changes
- speeches and presentations at industry conferences and other events
- public consultation on proposed exemptions and other regulatory matters, and drafts of significant guidance documents.

ACP Supporting innovation

We continued to lead the CoFR Digital & Innovation workstream to ensure the New Zealand regulatory system enables and encourages innovation for consumers and participants of the financial system.

AUDIT NEW ZEALAND
Mana Arotake Aotearoa

Independent Auditor's Report

To the readers of the Financial Market Authority's financial statements and performance information for the year ended 30 June 2023

The Auditor-General is the auditor of Financial Markets Authority (the Authority). The Auditor-General has appointed me, René van Zyl, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements and the performance information, including the performance information for appropriations, of the Authority on his behalf.

Opinion

We have audited:

- the financial statements of the Authority on pages 82 to 112, that comprise the statement of financial position as at 30 June 2023, the statement of comprehensive revenue and expense, statement of changes in equity and statement of cash flows for the year ended on that date and the notes to the financial statements including a summary of significant accounting policies and other explanatory information; and
- the performance information which reports against the Authority's statement of performance expectations and appropriations for the year ended 30 June 2023 on pages 11 to 15, pages 17 to 18, pages 24 to 25, pages 28 to 33 and pages 42 to 59.

In our opinion:

- the financial statements of the Authority:
    - present fairly, in all material respects:
        - its financial position as at 30 June 2023; and
        - its financial performance and cash flows for the year then ended; and
    - comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards; and
- the Authority's performance information for the year ended 30 June 2023:
    - presents fairly, in all material respects, for each class of reportable outputs:
        - its standards of delivery performance achieved as compared with forecasts included in the statement of performance expectations for the financial year; and
        - its actual revenue and output expenses as compared with the forecasts included in the statement of performance expectations for the financial year; and

- presents fairly, in all material respects, for the appropriations:
  - what has been achieved with the appropriations; and
  - the actual expenses or capital expenditure incurred as compared with the expenses or capital expenditure appropriated or forecast to be incurred; and
- complies with generally accepted accounting practice in New Zealand.

Our audit was completed on 31 October 2023. This is the date at which our opinion is expressed.

The basis for our opinion is explained below. In addition, we outline the responsibilities of the Board and our responsibilities relating to the financial statements and the performance information, we comment on other information, and we explain our independence.

Basis for our opinion

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. Our responsibilities under those standards are further described in the Responsibilities of the auditor section of our report.

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of the Board for the financial statements and the performance information

The Board is responsible on behalf of the Authority for preparing financial statements and performance information that are fairly presented and comply with generally accepted accounting practice in New Zealand. The Board is responsible for such internal control as it determines is necessary to enable it to prepare financial statements and performance information that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements and the performance information, the Board is responsible on behalf of the Authority for assessing the Authority's ability to continue as a going concern. The Board is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to merge or to terminate the activities of the Authority, or there is no realistic alternative but to do so.

The Board's responsibilities arise from the Crown Entities Act 2004 and the Public Finance Act 1989.

Responsibilities of the auditor for the audit of the financial statements and the performance information

Our objectives are to obtain reasonable assurance about whether the financial statements and the performance information, as a whole, are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers, taken on the basis of these financial statements and the performance information.

For the budget information reported in the financial statements and the performance information, our procedures were limited to checking that the information agreed to the Authority's statement of performance expectations.

We did not evaluate the security and controls over the electronic publication of the financial statements and the performance information.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the financial statements and the performance information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Authority's internal control.

- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Board.

- We evaluate the appropriateness of the performance information which reports against the Authority's statement of performance expectations and appropriations.

- We conclude on the appropriateness of the use of the going concern basis of accounting by the Board and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements and the performance information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Authority to cease to continue as a going concern.

- We evaluate the overall presentation, structure and content of the financial statements and the performance information, including the disclosures, and whether the financial statements and the performance information represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the Board regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Our responsibilities arise from the Public Audit Act 2001.

Other information

The Board is responsible for the other information. The other information comprises the information included on pages 1 to 10, page 16, pages 19 to 23, pages 26 to 27, pages 34 to 41 and pages 60 to 77 but does not include the financial statements and the performance information, and our auditor's report thereon.

Our opinion on the financial statements and the performance information does not cover the other information and we do not express any form of audit opinion or assurance conclusion thereon.

In connection with our audit of the financial statements and the performance information, our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the financial statements and the performance information or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Independence

We are independent of the Authority in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence requirements of Professional and Ethical Standard 1: International Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

Other than in our capacity as auditor, we have no relationship with, or interests, in the Authority.

The FMA has responsibility for auditor regulation. Although the Auditor-General is specifically excluded from the quality review regime (section 67 of Auditor Regulation Act 2011) and licensing regime (section 90), the Auditor-General can opt into parts of the regime (section 15A of Public Audit Act 2001). On the 30 June 2016 the Auditor-General entered into a memorandum of understanding (MOU) with the FMA to opt into parts of the regime and the Auditor-General's service provider Audit New Zealand is subject to review by the FMA from time to time.

During the financial year the FMA undertook and completed a quality review of Audit New Zealand in accordance with the MOU. We do not consider this causes any independence concerns for our audit of the FMA, and we put appropriate mitigations in place to ensure our independence is maintained.

René van Zyl
Audit New Zealand
On behalf of the Auditor-General
Auckland, New Zealand

Ngā pūrongo pūtea
Financial statements

Statement of Comprehensive Revenue and Expense

For the 12 months ended 30 June 2023

Actual 2022 $000s		Note	Actual 2023 $000s	Budget 2023 $000s
	REVENUE FROM NON-EXCHANGE TRANSACTIONS			
53,500	Government Grant	2	67,618	67,618
2,594	Litigation fund revenue	3	2,965	3,000
	REVENUE FROM EXCHANGE TRANSACTIONS			
111	Interest		812	76
10	Interest - litigation fund	3	63	-
1,116	Other revenue	4	1,787	1,169
57,331	**Total revenue**		**73,245**	**71,863**
	EXPENDITURE			
39,321	Personnel expenses	5	46,410	49,911
3,182	Depreciation and amortisation	8,9	2,732	3,155
12,943	Other operating expenditure	7	15,077	16,982
2,604	Litigation fund expenditure	3	3,028	3,000
58,050	**Total expenditure**		**67,247**	**73,048**
(719)	Surplus / (deficit)		5,998	(1,185)
(719)	**Total comprehensive revenue and expenses**		**5,998**	**(1,185)**
	TOTAL COMPREHENSIVE REVENUE AND EXPENSE COMPRISES:			
(719)	Net operating surplus / (deficit)		5,998	(1,185)
-	Net litigation fund surplus / (deficit)	3	-	-
(719)	**Total comprehensive revenue and expenses**		**5,998**	**(1,185)**

Explanations of major variances against budget are provided in Note 21. The accompanying notes form part of these financial statements.

Statement of Changes in Equity

For the 12 months ended 30 June 2023

Actual 2022 $000s		Actual 2023 $000s	Budget 2023 $000s
	OPENING BALANCE		
(2,599)	Accumulated funds / (deficit)	(3,318)	(1,885)
12,577	Capital contributions	12,577	12,577
9,978	**Total opening balance**	**9,259**	**10,692**
	COMPREHENSIVE REVENUE AND EXPENSES FOR THE YEAR		
(719)	Net operating surplus / (deficit)	5,998	(1,185)
-	Net litigation fund surplus / (deficit)	-	-
(719)	**Total comprehensive revenue and expense**	**5,998**	**(1,185)**
	CAPITAL CONTRIBUTIONS / (REPAYMENTS) FOR THE YEAR		
-	Current contributions	485	1,735
-	**Total capital contributions / (repayments)**	**485**	**1,735**
9,259	**Closing balances**	**15,742**	**11,242**
(3,318)	Accumulated funds / (deficit)	2,680	(3,070)
12,577	Capital contributions	13,062	14,312
9,259	**Total closing balances**	**15,742**	**11,242**

Explanations of major variances against budget are provided in Note 21. The accompanying notes form part of these financial statements.

Statement of Financial Position

As at 30 June 2023

Actual 2022 $000s		Note	Actual 2023 $000s	Budget 2023 $000s
	ASSETS			
	Current assets			
6,404	Cash and cash equivalents - operating fund		8,933	5,987
2,178	Cash and cash equivalents - litigation fund		1,241	1,826
2,000	Term deposits		6,000	2,000
341	GST receivable		434	325
1,746	Receivables and prepayments	13	3,568	1,156
12,669	**Total current assets**		**20,176**	**11,294**
	Non-current assets			
3,080	Property, plant and equipment	8	2,981	3,778
4,813	Intangible assets	9	4,667	7,183
7,893	**Total non-current assets**		**7,648**	**10,961**
20,562	**Total assets**		**27,824**	**22,255**
	LIABILITIES			
	Current liabilities			
5,324	Creditors and other payables	14	5,493	4,649
3,179	Employee entitlements	5	3,699	3,258
22	Lease liabilities	11	23	1
8,525	**Total current liabilities**		**9,215**	**7,908**
	Non-current liabilities			
1,117	Lease liabilities	11	1,206	1,232
1,661	Provisions	12	1,661	1,873
2,778	**Total non-current liabilities**		**2,867**	**3,105**
11,303	**Total liabilities**		**12,082**	**11,013**
	EQUITY			
(3,318)	Accumulated funds / (deficit)		2,680	(3,070)
12,577	Capital contributions		13,062	14,312
9,259	**Total equity**		**15,742**	**11,242**
20,562	**Total equity and liabilities**		**27,824**	**22,255**

Explanations of major variances against budget are provided in Note 21. The accompanying notes form part of these financial statements.

Statement of Cash Flows

For the 12 months ended 30 June 2023

Actual 2022 $000s		Note	Actual 2023 $000s	Budget 2023 $000s
	CASH FLOWS FROM OPERATING ACTIVITIES			
	Cash was provided from:			
	Receipts from non-exchange transactions:			
53,500	- government grant	2	67,618	67,618
2,000	- litigation fund revenue		2,000	3,000
	Receipts from exchange transactions:			
106	- interest		857	76
1,085	- other revenue		1,328	1,169
83	- MBIE fees and levies (net)		393	-
501	- litigation cost awarded (net)		27	-
	Cash was disbursed to:			
-	- MBIE repayment of underutilised fund		-	-
-	- MBIE fees and levies (net)		-	-
(18,084)	- suppliers		(23,521)	(25,017)
(34,632)	- employees		(40,675)	(44,086)
(68)	- goods and services tax (net)		(173)	(99)
4,491	**Net cash flows from operating activities**	**15**	**7,854**	**2,661**
	CASH FLOWS FROM INVESTING ACTIVITIES			
	Cash was provided from:			
2	- sale of fixed assets		8	-
3,000	- decrease in term deposits		6,000	2,000
	Cash was applied to:			
(1,273)	- purchase of property, plant and equipment		(393)	(1,400)
(1,480)	- purchase of intangible assets		(1,877)	(3,605)
(4,000)	- increase in term deposits		(10,000)	-
(3,751)	**Net cash flows from investing activities**		**(6,262)**	**(3,005)**
	CASH FLOWS FROM FINANCING ACTIVITIES			
-	Capital contributions		-	1,735
-	**Net cash flows from financing activities**		**-**	**1,735**
740	Net increase / (decrease) in cash and cash equivalents		1,592	1,391
7,842	Cash and cash equivalents at the beginning of the year		8,582	6,422
8,582	**Cash and cash equivalents at the end of the year**		**10,174**	**7,813**
	COMPRISING			
6,404	Cash and cash equivalents - operating fund		8,933	5,987
2,178	Cash and cash equivalents - litigation fund		1,241	1,826
8,582			**10,174**	**7,813**

Explanations of major variances against budget are provided in Note 21. The accompanying notes form part of these financial statements.

Ngā tūhinga mo ngā pūrongo putea
Notes to the financial statements

Who is the FMA and what is the basis of financial report preparation?

Note 1 – Reporting entity and basis of preparation

The FMA is an independent Crown entity as defined by the Crown Entities Act 2004. The FMA was established on 1 May 2011 by the Financial Markets Authority Act 2011, is domiciled in New Zealand and its ultimate parent is the New Zealand Crown.

The FMA is responsible for ensuring public confidence in New Zealand's financial markets, promoting innovation and supporting the growth of New Zealand's capital base through effective regulation.

The financial statements for the FMA are for the year ended 30 June 2023, and were approved by the Board on 31 October 2023.

Basis of preparation

The financial statements have been prepared on a going-concern basis, and the accounting policies have been applied consistently throughout the year.

Statement of compliance and measurement base

These financial statements and service performance information for the FMA have been prepared in accordance with the requirements of the Crown Entities Act 2004, which includes the requirements to comply with generally accepted accounting practice in New Zealand (NZ GAAP). The financial statements and service performance information have been prepared in accordance with Tier 1 PBE accounting standards.

Functional and presentational currency

These financial statements are presented in New Zealand dollars, which is the entity's functional currency. All financial information presented in New Zealand dollars has been rounded to the nearest thousand dollars ($000).

Use of estimates and judgments

The process of applying accounting policies requires the FMA to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenue and expenses. The estimates and associated assumptions are based on past experience and various other factors that are believed to be reasonable under the circumstances. Estimates have been used in calculating provisions and useful lives of property, plant and equipment and intangible assets. Actual results may differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

Other accounting policies

Significant accounting policies

Significant accounting policies set out below have been applied consistently to all periods presented in these financial statements.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, deposits held at call with banks and other short-term highly liquid investments with original maturities of three months or less.

Term deposits

This category includes only term deposits with maturities greater than three months.

Goods and services tax

All items in the financial statements are exclusive of goods and services tax (GST), except for receivables and payables which are presented on a GST-inclusive basis.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department is included as part of current assets or current liabilities in the statement of financial position.

Commitments and contingencies are disclosed exclusive of GST.

Income tax

The FMA is a public authority, and consequently is exempt from the payment of income tax under the Income Tax Act 2007. Accordingly, no provision has been made for income tax.

Cost allocation policy

The FMA has determined the cost of outputs using the cost allocation system outlined below.

- Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner with a specific output.
- Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity or usage information. Personnel costs are charged on the basis of actual time incurred. Other indirect costs are assigned to outputs based on the proportion of direct staff time for each output.

Equity

The FMA's equity comprises the following reserves:

- Accumulated funds / (deficit) arising from normal operating activities, funded by a government appropriation and other revenue.
- Capital contribution reserve comprising closing accumulated funds transfers from the Securities Commission and capital contributions made to fund specific capital investment.

New accounting standards adopted

- PBE IPSAS 41 Financial Instruments
  The FMA has adopted PBE IPSAS 41 Financial Instruments for the year ending 30 June 2023. The FMA has done its assessment and concluded that there will be no change for the existing accounting treatments for the financial instruments of adopting PBE IPSAS 41.
- PBE FRS 48 Service Performance Reporting
  The FMA has adopted PBE FRS 48 Service Performance Reporting for the year ending 30 June 2023.

Where do FMA's funds come from?

Note 2 – Revenue from the Crown

Revenue from the Crown is recognised as revenue when earned and is reported in the financial period when the funding becomes receivable by the FMA. Revenue is measured at the fair value of consideration received or receivable.

The FMA has been provided with funding from the Crown for specific purposes as set out in its founding legislation and the scope of the relevant Government appropriations. Apart from these general restrictions, there are no unfulfilled conditions or contingencies attached to Government funding.

Note 3 – Litigation fund revenue

The current litigation funding agreement was signed with MBIE in July 2020. Under the funding agreement, the FMA can retain up to $3 million in the litigation fund account on its balance sheet at any point in time. As and when the amount held in the litigation fund account falls below $2 million, the FMA can request a top up to an amount not exceeding $3 million. Any underspend in the FMA's litigation fund appropriation can be retained across financial years. To implement this, litigation funding that is appropriated but not disbursed to the FMA will be retained within the Litigation Fund appropriation at the end of each financial year up to a maximum of $10 million. In the 2022/2023 Estimates of Appropriation, the approved litigation funding for the 2022/23 financial year was $5 million. In the supplementary Estimates this was adjusted to $7million, to reflect the underspend from the prior year. During the year, the total litigation funding amounted to $3 million, of which the FMA received $2 million, with $1 million remaining as receivables, and expended $3.03 million.

The funding is non-exchange revenue. Amounts received are accounted for as litigation revenue received in advance and the revenue is recognised as the expenditure is incurred. Any unspent or unapplied fund not exceeding $3 million at balance date are retained by the FMA and disclosed as litigation revenue received in advance. The fund is restricted for approved litigation purposes only as criteria set out in the litigation funding agreement.

Litigation fund reconciliation from opening to closing balance (including GST)

	Actual 2023 $000s	Actual 2022 $000s
Litigation revenue in advance - opening balance	**1,624**	**2,299**
Litigation fund repaid to MBIE	**-**	**-**
Litigation appropriation received during the year	2,000	2,000
Litigation appropriation receivables for the year	1,000	-
GST on litigation appropriation for the year	450	300
Interest on litigation appropriation received	63	10
Total litigation revenue in advance including GST	**3,513**	**2,310**
Expenditure on eligible litigation	(3,028)	(2,604)
GST on expenditure on eligible litigation	(447)	(381)
Reversal of over accrual brought forward from prior year	-	-
Total litigation expenditure including GST	**(3,475)**	**(2,985)**
Net litigation movement	**38**	**(675)**
Litigation revenue in advance - closing balance	**1,662**	**1,624**
COMPRISING		
Litigation cash and cash equivalents	1,241	2,178
Receivable of litigation fund	1,150	-
Trade and other payables to be funded from litigation fund	(724)	(536)
Litigation expenditure funded by FMA's operating fund repayable back to FMA's operating fund	(5)	(18)
Litigation revenue in advance	**1,662**	**1,624**

AIA

In September 2022, The Auckland High Court has ordered life insurer AIA to pay a pecuniary penalty of $700,000 for making false and/or misleading representations to some customers, following proceedings brought by the FMA. Payment was received by FMA in October 2022. Out of the total, $ 90,746 was retained by FMA for staff cost of the hours spent on the case, and the balance of $609,254 was transferred to the Crown in November 2022.

CBL

In December 2019, the FMA filed two proceedings in 2019 in relation to the collapse of CBL Corporation Limited (In Liquidation) (CBLC). The first proceeding relates to the documentation that supported CBLC's initial public offering in 2015 (IPO proceeding). The second proceeding relates to CBLC failing to disclose material information to the market during 2017 and 2018 (Continuous Disclosure proceeding). The proceedings were filed against CBLC and eight individuals made up of seven former Directors and the former CFO.

In June 2023, the FMA reached agreement with CBLC and four of its former directors in respect of the FMA's claims of continuous disclosure breaches and misleading conduct in the continuous disclosure proceeding. The penalty hearing for the admissions to the continuous disclosure hearing will be heard in December 2023. The remaining parties to the continuous disclosure proceeding and the IPO proceeding are set down to go to trial in April 2024.

Cigna and OnePath

In June 2013, OnePath and Cigna offered an enforceable undertaking to the FMA in respect of admissions to breaching the fair dealing provisions of the Financial Markets Conduct Act 2013. A term of the enforceable undertaking required Cigna and OnePath to make a joint payment of $180,000 to the FMA in lieu of a pecuniary penalty. Payment was received by FMA in June 2022. Out of the total, $ 21,723 was retained by FMA for staff cost of the hours spent on the case, and the balance of $158,277 was transferred to the Crown in October 2022.

Cigna Life Insurance

In January 2023, The Wellington High Court ordered Cigna Life Insurance New Zealand Limited to pay a final pecuniary penalty of $3,575,000 for making false and/or misleading representations relating to inflation benefits in certain life insurance policies provided by the company. Payment was received by FMA in January 2023. Out of the total, $ 94,324 was retained by FMA for staff cost of the hours spent on the case, and the balance of $3,480,676 was transferred to the Crown in February 2023.

Du Val

In July 2022, The High court ruling upholding an FMA direction order against property development and investment company Du Val, misleading investors, considering they contravened 'fair dealing' provisions in the FMCA. Du Val was ordered to make a payment of $10,158 to FMA. This payment reflected scale costs under the High Court Rules for litigation. The payment was received by FMA in July 2022 and it was transferred to the Crown in June 2023.

Oceania

The FMA filed civil pecuniary penalty proceedings against Oceania in April 2019 for breaches of the FMCA. In March 2022, two individuals have been ordered to pay pecuniary penalties of $180,000 and $130,000 respectively for market manipulation and disclosure breaches involving Oceania Natural Limited (ONL) shares. Both payments were received by FMA in April 2022. In March 2023, the total of $310,000 was retained by FMA for staff cost of the hours spent on the case. In July 2023, further penalties have been awarded for the other two defendants and we are now awaiting payment of them.

Pushpay

In 2022 the FMA filed civil and criminal proceedings in respect of breaches of insider trading conduct relating to the sale of shares in Pushpay Holdings Limited. The proceedings centre around the resignation and sell-down of shares of former Pushpay co-founder and director Eliot Crowther in June 2018. The FMA considered Mr Crowther's intention in this regard to be material information, which, if generally available, would be likely to have a material effect on the price of Pushpay's shares at the time. The FMA alleged that the individual knew of, and used, that information to advise or encourage others to trade in the lead up to Mr Crowther's announcement. The criminal trial was held in July 2023 and the defendant was convicted. The defendant will be sentenced in October 2023. The civil proceedings were stayed pending the outcome of the criminal proceeding.

Tiger

In December 2021, the FMA filed civil pecuniary penalty proceedings against Tiger Brokers (NZ) Limited for breaches of the Anti-Money Laundering and Countering Financial of Terrorism Act 2009. The proceeding contained four causes of action relating to failing to conduct customer due diligence, failing to terminate an existing business relationship, failing to report suspicious activities and failing to keep records in accordance with statutory requirements. In February 2023 Tiger admitted the breaches that occurred between April 2019 and January 2020 and was ordered to pay a penalty of $900,000 by the High Court.

Refer to page 55 for performance reporting on the Litigation Fund.

Note 4 – Other revenue

	Actual 2023 $000s	Actual 2022 $000s
Audit quality review fees	278	268
Licence fees*	969	814
Sundry revenue	536	26
Superannuation fees	4	8
Total other revenue	**1,787**	**1,116**

*Revenue for licence fees comprises application fees and hours charged for additional work performed. Revenue is recognised by reference to the stage of completion of the application at the reporting date and the probability of economic benefits accruing to the FMA. No donations were received during the year (2022: $nil).

How does the FMA spend the funds?

Note 5 – Personnel costs

Employee entitlements

Short-term employee entitlements, including holidays, are recognised as an expense over the period in which they accrue. Employee entitlements that are expected to be settled wholly before 12 months after the end of the reporting period in which the employees render the related service are measured based on accrued entitlements at current rates of pay.

A liability and an expense are recognised for performance pay where there is a contractual obligation or where there is a past practice that has created a constructive obligation.

Superannuation Schemes

Obligations for contributions to KiwiSaver, the State Sector Retirement Savings Scheme and the Government Superannuation Fund are accounted for as defined contribution superannuation schemes and are recognised as an expense in the statement of comprehensive revenue and expense as incurred.

	Actual 2023 $000s	Actual 2022 $000s
Salaries and wages	37,598	32,817
Defined contribution plan employer contributions	1,123	960
Other employment related costs*	43	132
Member and committee fees	658	520
Contract staff	4,217	3,253
Recruitment, retention and transitional costs	1,370	909
Redundancy and other termination payments	881	89
Increase/(decrease) in employee entitlements	520	641
Total personnel costs	**46,410**	**39,321**

*Other employment related costs include ACC, FBT and cash contribution to staff home office.

Breakdown of employee entitlements

	Actual 2023 $000	Actual 2022 $000
Current Portion		
Accrued salaries and wages	1,218	781
Annual leave	2,481	2,398
Total Current Portion	3,699	3,179
Total employee entitlements	**3,699**	**3,179**

Note 6 – Transactions with related parties

The FMA is controlled by the Crown.

Related party disclosures have not been made for transactions with related parties that are:

- within a normal supplier or client/recipient relationship; and
- on terms and conditions no more or less favourable than those that it is reasonable to expect the FMA would have adopted in dealing with the party at arm's length in the same circumstances.

Transactions with other government agencies (for example, government departments and Crown entities) are not disclosed as related party transactions when they are on normal terms and conditions consistent with the normal operating arrangements between government agencies.

Audit New Zealand performs the 2023 annual audit of the FMA. The FMA has undertaken a quality review of Audit New Zealand in accordance with the Memorandum of Understanding between the FMA and the Auditor-General dated 21 July 2016. The quality review was conducted in FY2022, and the final report was issued in August 2022. The review did not include any audit files where René van Zyl, appointed by the Auditor General to audit the FMA, acted as the appointed auditor. The findings of this review were provided to the Auditor General.

There are no related party transactions required to be disclosed.

Key management personnel compensation

	Actual 2023	Actual 2022
SHORT TERM EMPLOYEE BENEFITS		
Board member's remuneration ($000s)	584	491
Full time equivalent members	1.25	1.04
Code Committee remuneration ($000s)	69	34
Full time equivalent members	0.27	0.12
Disciplinary Committee remuneration ($000s)	6	-
Full time equivalent members	0.02	-
Executive team remuneration ($000s)	3,128	3,570
Full time equivalent members	6.33	10.22
Total key management personnel remuneration ($000s)	**3,787**	**4,095**
Total full-time equivalent personnel	**7.87**	**11.38**

In September 2022, the FMA confirmed its new enterprise-level leadership, consisting of five executive director roles directly reporting to the CE. The new structure has been effective from 1 February 2023. The above executive team remuneration disclosure includes the old executive leadership team under the old structure until 31 January 2023 and the new executive leadership team under the new structure from 1 February 2023.

Key management personnel include all board and committee members and the executive team. The full-time equivalent for board and committee members has been determined based on the frequency and length of board and committee meetings, and the estimated time to prepare for such meetings.

An analysis of Board member remuneration is provided on page 71.

Note 7 — Other operating expenses

	Actual 2023 $000s	Actual 2022 $000s
Fees to Audit New Zealand for financial statements audit	191	170
Impairment losses	-	(14)
Loss on disposal of fixed assets	3	1
Operating lease expenses	3,662	3,674
Professional services	3,444	2,567
Services and supplies*	6,592	5,971
Travel and accommodation	1,185	574
Total other operating expenses	**15,077**	**12,943**

*Services and supplies are mainly ICT expenses.

Property, plant and software used by the FMA for its operations

Note 8 – Property, plant and equipment

Property, plant and equipment are recognised at cost less depreciation, and less any impairment losses.

Where an item of property, plant and equipment is acquired in a non-exchange transaction for $nil or nominal consideration, the asset is initially measured at its fair value.

Costs are recognised as Capital work in progress until the assets are operating in a manner intended by management, at which time they are transferred to property, plant and equipment. When put into use, the depreciation charge commences.

Additions

The cost of an item of property, plant, and equipment is recognised as an asset only when it is probable that future economic benefits or service potential associated with the item will flow to FMA and the cost of the item can be measured reliably.

Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are reported net in the surplus or deficit.

Impairment of property, plant and equipment

Property, plant and equipment that have finite useful lives are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Given that the FMA's property, plant and equipment assets are not held with the primary objective of generating a commercial return, these assets are classified as non-cash generating assets, and therefore the value in use of these assets is measured on the basis of depreciated replacement cost.

An impairment loss is recognised in the statement of comprehensive revenue and expense whenever the carrying amount of an asset exceeds its recoverable amount. Any reversal of impairment losses is also recognised in the statement of comprehensive revenue and expense.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant, and equipment, at rates that will write off the cost of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of property, plant, and equipment have been estimated as follows:

Office equipment	*Straight line over a period of 3 to 8 years based on the estimated useful lives of each category of asset*
Office furniture	*Straight line over a period of 4 to 10 years based on the estimated useful lives of each category of asset*
Leasehold improvements	*Straight line over remaining life of lease*

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year-end.

	Office equipment $000s	Office furniture $000s	Leasehold improvements $000s	Capital Work In progress $000s	Total $000s
COST					
Property, plant and equipment at 1 July 2021	1,685	1,155	5,385	485	8,710
Additions	592	87	35	-	714
Reversal of prior year's over-accrual	-	-	-	(42)	(42)
Disposals/adjustments	(6)	(8)	(211)	-	(225)
Transfer from capital work in progress	10	87	346	(443)	-
Balance at 30 June 2022/1 July 2022	**2,281**	**1,321**	**5,555**	**-**	**9,157**
Additions	247	184	284	-	715
Disposals	(267)	(75)	-	-	(342)
Reclassification to ICT Costs	(19)	-	-	-	(19)
Balance at 30 June 2023	**2,242**	**1,430**	**5,839**	**-**	**9,511**
ACCUMULATED DEPRECIATION					
Property, plant and equipment at 1 July 2021	(1,275)	(669)	(3,174)	-	(5,118)
Depreciation expense	(348)	(107)	(513)	-	(968)
Elimination on disposal	5	4	-	-	9
Balance at 30 June 2022/1 July 2022	**(1,618)**	**(772)**	**(3,687)**	**-**	**(6,077)**
Depreciation expense	(291)	(101)	(401)	-	(793)
Elimination on disposal	262	67	-	-	329
Reclassification to ICT Costs	11	-	-	-	11
Balance at 30 June 2023	**(1,636)**	**(806)**	**(4,088)**	**-**	**(6,530)**
CARRYING AMOUNTS					
At 30 June 2022	663	549	1,868	-	3,080
At 30 June 2023	606	624	1,751	-	2,981

There are no restrictions over the titles of the FMA's property, plant and equipment nor are any items of property, plant or equipment pledged as security for liabilities.

Capital commitments

The amount of contractual commitments for the acquisition of property, plant and equipment is $nil (2022: $nil).

Note 9 – Intangible assets

Software acquisition and development

Computer software licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software. Costs that are directly associated with the development of software for internal use are recognised as an intangible asset. Direct costs include software development employee costs and an appropriate portion of relevant overheads. Staff training costs are recognised as an expense when incurred. Costs associated with maintaining computer software are recognised as an expense when incurred. Costs associated with development and maintenance of the FMA's website are recognised as expenses when incurred.

Software as a Service arrangements (SaaS)

Costs incurred in configuring or customising SaaS application are recognised as an intangible asset only if the FMA receives rights beyond a right of access to the application that creates an asset that the FMA can control and from which it expects to benefit. Such costs are amortised over the estimated useful life of the SaaS application on a straight-line basis.

Where the FMA cannot determine whether it has control of the SaaS application, the arrangement is deemed to be a service contract and any implementation costs are expensed to the Statement of Comprehensive Income and Expenses.

If the configuration and customisation services delivered are distinct from the delivery of the SaaS access services (performed by the FMA or its contractors), they are expensed as incurred.

Otherwise, if configuration and customisation services delivered are not distinct from the delivery of the SaaS access services (performed by the SaaS provider or their subcontractor), they are recognised as a prepaid asset and expensed over the expected term of the SaaS arrangement.

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date when the asset is derecognised. The amortisation charge for each financial year is expensed in the surplus or deficit.

Computer software is amortised as follows:

Computer software	*to be amortised over three to ten years (10% -33.33%), based on the expected useful life of each asset*

Impairment of intangible assets

Intangible assets that have finite useful lives are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Given that the FMA's intangible assets are not held with the primary objective of generating a commercial return, these assets are classified as non-cash generating assets, and therefore the value in use of these *assets is measured on the basis of depreciated replacement cost.*

An impairment loss is recognised in the statement of comprehensive revenue and expense whenever the carrying amount of an asset exceeds its recoverable amount. Any reversal of impairment losses is also recognised in the statement of comprehensive revenue and expense.

	Computer software $000s	Capital work in progress $000s	Total $000s
COST			
Intangible assets at 1 July 2021	19,049	536	19,585
Additions	121	1,231	1,352
Reversal of prior year's over-accrual	-	-	-
Disposals/adjustments	(3,509)	-	(3,509)
Transfers from capital work in progress	1,512	(1,512)	-
Balance at 30 June 2022/1 July 2022	**17,173**	**255**	**17,428**
Additions	-	1,793	1,793
Disposals/adjustments	(5,637)	-	(5,637)
Transfers from capital work in progress	1,344	(1,344)	-
Balance at 30 June 2023	**12,880**	**704**	**13,584**
ACCUMULATED DEPRECIATION			
Intangible assets at 1 July 2021	(13,074)	-	(13,074)
Amortisation expense	(2,214)	-	(2,214)
Elimination on disposal	2,683	-	2,683
Balance at 30 June 2022/1 July 2022	**(12,605)**	**-**	**(12,605)**
Amortisation expense	(1,941)	-	(1,941)
Elimination on disposal	5,629	-	5,629
Balance at 30 June 2023	**(8,917)**	**-**	**(8,917)**
IMPAIRMENT PROVISION			
Costs provided at 1 July 2021	-	-	-
Additional costs provided	(10)	-	(10)
Reversal of over accrual from last year's provision	-	-	-
Write off	-	-	-
Balance at 30 June 2022/1 July 2022	**(10)**	**-**	**(10)**
Additional costs provided	-	-	-
Reversal of over accrual from last year's provision	-	-	-
Write off	10	-	10
Balance at 30 June 2023	**-**	**-**	**-**
CARRYING AMOUNTS			
At 30 June 2022	4,558	255	4,813
At 30 June 2023	3,963	704	4,667

There are no restrictions over the titles of the FMA's intangible assets nor are any intangible assets pledged as security for liabilities.

Impairment of property, plant and equipment, and intangible assets

During the current year, an impairment of $nil (2022: $10K) has been recognised in respect of intangible assets.

Capital commitments

The amount of contractual commitments for the acquisition of intangible assets is $nil (2022: $nil).

Note 10 – Operating leases

An operating lease is a lease that does not transfer substantially all the risks and rewards incidental to ownership of an asset. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

Lease incentives received are recognised in the surplus or deficit over the lease term as an integral part of the total lease expense.

Operating leases as lessee

The future aggregate minimum lease payments to be paid under non-cancellable operating leases are as follows:

	Grey Street L2 $000s	Takutai Square $000s	Grey Street L7 $000s	Total $000s
2023				
Not later than one year	541	2,278	155	2,974
Later than one year and not later than five years	587	9,876	160	10,623
Later than five years	-	4,261	-	4,261
Total non-cancellable operating leases	**1,128**	**16,415**	**315**	**17,858**
Restated 2022				
Not later than one year	541	2,206	150	2,897
Later than one year and not later than five years	1,128	9,565	315	11,008
Later than five years	-	6,850	-	6,850
Total restated non-cancellable operating leases	**1,669**	**18,621**	**465**	**20,755**

The 2022 disclosures have been restated. This restatement adjusts the calculation of the value of non-cancellable operating leases related to properties at Takutai Square and Grey Street level 7 as noted in Note 22.

The FMA had three leased properties as at 30 June 2023.

Grey Street in Wellington: (Two lease agreements with two different landlords)

Level 2

In June 2020, the FMA signed a deed of variation of lease for level 2 and the new lease term is commencing on 01 July 2021 and expiring on 01 August 2025. For the lease make-good provision, the FMA has assumed it will vacate the premises at the end of the lease term being 2025.

Level 7

In March 2020, the FMA signed a new lease for part of level 7 within the same building in order to support headcount growth in the Wellington office. The lease commenced on 1 March 2020 and expires on 1 July 2025. For the lease make-good provision, it is assumed that it will vacate the premises at the end of the lease term being 2025.

Auckland offices:

Takutai Square:

In February 2021, the FMA signed a deed of variation of lease for the Takutai Square office. The variation of lease covers leasing an additional floor on level 4, extends lease period on all floors (levels 4, 5 and 6) for a new nine year lease term from the variation date, and a reduced per sqm lease rate that applies to all three floors. The new lease term is from 01 February 2021 to 31 January 2030. For the lease make-good provision, it is assumed that it will vacate the premises at the end of the new lease term being 2030.

Note 11 – Occupancy lease liabilities

Occupancy Incentives:

Occupancy incentives

Lease incentive payments received are recorded as a liability and amortised over the life of the lease. The current balance is relating to the lease agreement with the sublessor for the L7, Grey St.

Deferred rental liability

Operating lease payments are recognised as an expense on a straight-line basis over the lease term, which will create a deferred rental liability during the initial stages of the lease as the lease agreement provides for rent free from the beginning of the new lease term and future rent increases. The current balance is relating to three newly signed lease agreements: Takutai Square office (Feb 2021), Grey Street L7 (Mar 2020) and Grey Street L2 (Jun 2020).

Movements for each type of lease liability are as follows:

	Occupancy incentives $000s	Deferred rental $000s	Total $000s
Balance at 1 July 2021	5	478	483
Reclassification	-	-	-
Additional Provision made	-	675	675
Amortisation	(1)	(18)	(19)
Unused amounts reversed	-	-	-
Balance at 30 June 2022	**4**	**1,135**	**1,139**
Balance at 1 July 2022	4	1,135	1,139
Reclassification	-	-	-
Additional Provision made	-	113	113
Amortisation	(1)	(22)	(23)
Unused amounts reversed	-	-	-
Balance at 30 June 2023	**3**	**1,226**	**1,229**

	Actual 2023 $000s	Actual 2022 $000s
NON-CURRENT PORTION		
Occupancy incentives	2	3
Deferred rental	1,204	1,114
Total non-current portion	**1,206**	**1,117**
CURRENT PORTION		
Occupancy incentives	1	1
Deferred rental	22	21
Total current portion	**23**	**22**
Total lease liabilities	**1,229**	**1,139**

Note 12 – Provisions

A provision is recognised for future expenditure of uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event and it is probable that an outflow of future economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

	Actual 2023 $000s	Actual 2022 $000s
NON-CURRENT PORTION		
Lease make-good	1,661	1,661
Total non-current portion	**1,661**	**1,661**
Total provisions	**1,661**	**1,661**

Lease make-good provision

In respect of certain leases, the FMA is required at the expiry of the lease term to make good any damage caused to the premises and to remove any fixtures or fittings installed by the FMA. Information about the FMA's leasing arrangements is disclosed in Note 10.

Movements for each class of provision are as follows:

	Lease make-good provision $000s
Balance at 1 July 2021	1,872
Additional provisions made	-
Amounts used	-
Unused amounts reversed	(211)
Balance at 30 June 2022	**1,661**
Balance at 1 July 2022	1,661
Additional provisions made	-
Amounts used	-
Unused amounts reversed	-
Balance at 30 June 2023	**1,661**

The anticipated costs required to make-good both leased properties have been provided for in full.

Note 13 – Receivables and prepayments

Short-term receivables are recorded at the amount due, less an allowance for credit losses. The FMA applies the simplified expected credit loss model of recognising lifetime expected credit losses for receivables.

In measuring expected credit losses, short-term receivables have been assessed on a collective basis as they possess shared credit risk characteristics. They have been grouped based on the days past due.

Short-term receivables are written off when there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include the debtor being in liquidation.

	Actual 2023 $000s	Actual 2022 $000s
Trade debtors	2,059	281
Other receivables	131	175
Total debtors and other receivables	**2,190**	**456**
Prepayments	1,378	1,290
Total receivables	**3,568**	**1,746**
TOTAL DEBTORS AND OTHER RECEIVABLES COMPRISE:		
Receivables from services provided (exchange transactions)	238	294
Receivables from grants (non-exchange transactions)	1,952	162
Total debtors and other receivables	**2,190**	**456**

The ageing profile of trade debtors at year-end is detailed below:

	2023 $000s	2022 $000s
Not past due	1,693	244
Past due one to 30 days	205	23
Past due 31 to 60 days	78	2
Past due 61 to 90 days	13	5
Past due over 90 days	70	7
Total trade debtors	**2,059**	**281**

All trade debtors greater than 30 days in age are considered to be past due. The impairment assessment is performed on a collective basis.

No individual impairment has been recognised during the current year (2022: $Nil).

Note 14 – Creditors and other payables

Short-term creditors and other payables are recorded at their face value as they are non-interest bearing and are generally settled within 30 days.

	Note	Actual 2023 $000s	Actual 2022 $000s
CURRENT			
Trade creditors		1,942	1,253
Accrued expenses and other payables		1,880	2,431
Revenue in advance		9	16
Litigation grant received in advance	3	1,662	1,624
Total current creditors and other payables		**5,493**	**5,324**
NON-CURRENT			
Accrued expenses and other payables		-	-
Total non-current creditors and other payables		**-**	**-**
TOTAL CURRENT CREDITORS AND OTHER PAYABLES COMPRISE:			
Creditors and other payables under exchange transactions		3,831	3,700
Creditors and other payables under non-exchange transactions		1,662	1,624
Total current creditors and other payables		**5,493**	**5,324**

Note 15 – Reconciliation of the net surplus / (deficit) from operations with the net cash flows from operating activities

	Actual 2023 $000s	Actual 2022 $000s
REPORTING SURPLUS / (DEFICIT)	**5,998**	**(719)**
Add non-cash items:		
- allocation of lease incentives	(1)	(1)
- allocation of deferred rental	89	658
- allocation of make good provision	-	-
- depreciation and amortisation	2,732	3,182
- impairment losses	-	(14)
- (gain)/loss on disposal of fixed assets	3	1
- non cash other income	-	-
Add / (less) movement in working capital:		
- increase / (decrease) in creditors	166	17
- (increase) / decrease in receivables	(1,428)	(220)
- increase / (decrease) in employee entitlements	525	640
Add / (less) movement in investing activities:		
- net loss / (gain) on sale of fixed assets	(8)	(2)
- increase / (decrease) in creditors relating to investing activities	(222)	949
Add / (less) movement in financing activities:		
- litigation fund (reserve) converted to litigation fund revenue	-	-
Net cash flows from operating activities	**7,854**	**4,491**

Note 16 – Contingencies

Contingent liabilities are disclosed if the possibility that they will crystallise is not remote. Contingent assets are disclosed if it is probable that the benefits will be realised.

Contingent liabilities

The FMA undertakes civil court action regularly. Should the FMA be unsuccessful in any case, costs could be awarded against it. Cost awards are at the court's discretion.

As at 30 June 2023 there was one civil claim against the FMA and the Crown before the courts. The matter is on-going with damages being sought.

The probability of the outcome is uncertain and any financial impact cannot be reasonably estimated. (2022:$nil)

Contingent assets

The FMA undertakes civil court action from time to time. Should the FMA be successful in any case, costs could be awarded to it. Cost awards are at the court's discretion.

The FMA may also seek pecuniary penalties. Any monies paid to the FMA by way of costs or penalties are returned to the Crown, after deduction of FMA's costs in bringing proceedings.

There were no contingent assets as at the balance date 30 June 2023. (2022: $nil)

Note 17 – Events after the balance date

There were no significant events after the balance date.

Note 18 – Going concern

There is currently no indication of anything that would affect the FMA's ability to continue as a going concern.

Note 19 – Financial instruments

Financial instrument categories

The carrying amounts of financial assets and liabilities in each of the financial instrument categories are as follows:

	Actual 2023 $000s	Actual 2022 $000s
Financial liabilities measured at amortised cost		
Payables (excluding deferred revenue, taxes payable and grants received subject to conditions)	3,831	3,210
Total financial liabilities measured at amortised cost	**3,831**	**3,210**
Financial assets measured at amortised cost		
Cash and cash equivalents	10,174	8,582
Receivables	2,190	456
Investment - term deposits	6,000	2,000
Total financial assets measured at amortised cost	**18,364**	**11,038**

Financial instrument risks

The FMA's activities expose it to a variety of financial instrument risks, including market risk, credit risk and liquidity risk. The FMA has a series of policies to manage the risks associated with financial instruments and seeks to minimise exposure to those instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

Market risk

The only market risk to which the FMA is subject is interest rate risk. Interest rate risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market interest rates. Considering the FMA's exposure to interest rate risk arises from term investments only, the exposure to such risk is limited.

Term deposits are made for periods less than, equal to, or greater than three months depending on the cash requirements of the FMA, and earn interest at the respective short-term deposit rates.

Interest rate risk

The FMA's exposure to fair value interest rate risk is limited to its term deposits which are held at fixed rates of interest and, the FMA does not hold any term deposits with a variable interest rate. The FMA does not actively manage its exposure to fair value interest rate risk.

The FMA's investment policy requires a spread of investment maturity dates to limit exposure to short-term interest rate movements.

Credit risk

Credit risk represents the risk that a third party will default on its obligations to the FMA, causing it to incur a loss. Financial instruments that subject FMA to credit risk consist of bank balances, bank term deposits, and trade and other receivables. For each of these, the maximum credit exposure is best represented by the carrying amount in the statement of financial position.

Cash and deposits are held with Westpac New Zealand Limited, Bank of New Zealand Limited, ASB Bank Limited, and ANZ Bank New Zealand Limited. They are all registered banks in New Zealand and their long-term credit ratings are:

	Moody's	Standard & Poors
ANZ Bank New Zealand Limited	A1	AA-
ASB Bank Limited	A1	AA-
Bank of New Zealand	A1	AA-
Westpac New Zealand Limited	A1	AA-

The FMA held account with Kiwibank which was closed in February 2023.

The FMA does not require collateral or security to support financial instruments. Trade receivables mainly relate to receivables from the Government so exposure to this risk is very low.

The FMA holds a credit card facility of a $400k credit limit with Master Card through Westpac New Zealand Limited.

Liquidity risk

Liquidity risk represents the FMA's ability to meet its contractual obligations associated with financial liabilities. Prudent liquidity risk management implies maintaining sufficient cash and the ability to close out market positions. The FMA mostly manages liquidity risk by continuously monitoring forecast and actual cash flow requirements.

The FMA's creditors are mainly those reported as trade and other payables. The FMA aims to pay these within normal commercial terms as noted on creditors' invoices, if not earlier.

The FMA has cash and other short-term deposits that it can use to meet its ongoing payment obligations.

Contractual maturity analysis of financial liabilities:

As the FMA's creditors are mainly those reported as trade and other payables, the FMA will pay these within six months of incurring the liability.

Note 20 – Capital management

The FMA's capital is its equity, which is comprised of accumulated funds and capital contribution. Equity is represented by net assets.

The FMA is subject to the financial management and accountability provisions of the Crown Entities Act 2004, which impose restrictions in relation to borrowings, acquisition of securities, issuing guarantees and indemnities, and the use of derivatives.

The FMA manages its equity as a byproduct of prudently managing revenues, expenses, assets, liabilities, investments and general financial dealings to ensure that the FMA effectively achieves its objectives and purpose, while remaining a going concern.

How did the FMA perform against budget?

Note 21 – Explanation of major variances against budget

The budget figures are derived from the Statement of Performance Expectations 2022–2023 as approved by the Board in June 2022. The budget figures are for the 12 months to 30 June 2023 and have been prepared in accordance with PBE FRS-42, using accounting policies that are consistent with those adopted by the Board in preparing these financial statements.

Explanations for major variances from the FMA's budgeted figures in the statement of performance expectations are as follows:

Statement of comprehensive revenue and expense

1. Revenue
   - Other revenue is higher than budget and this is driven by one-off cost recoveries on successful litigation cases that were not budgeted for.
   - Interest income is higher as cash balances and bank interest rates were higher than budget throughout the year resulting in higher interest income from the bank.
2. Expenditure

   We had to adapt to external factors such as the tight labour market, which resulted in some hiring delays, and defer some work. As this work is still required to deliver on the priorities that have been set for us, we will be building the delayed projects into our plans for the coming years and allocating the unspent budget accordingly.

   - Personnel expenses are lower than budget which is primarily due to:
     i. underspend in Salaries and Substantive Contract staff due to hiring challenges for the positions that were created as part of the new organisational structure.

ii. underspend in Contractor Staff due to some projects commencing later than budget expectations (primarily due to delays created by hiring challenges) and using more internal resources over external contractors than was originally forecast.

iii. timing of Annual Leave movement resulting in an underspend.

- Depreciation and amortisation costs are less than budget, which is driven by

i. the restatements of SaaS intangible assets to operating expenses in the prior year financials resulted in smaller value of assets, thus less amortisation expenses.

ii. the revised present value calculation on make-good provision for Britomart offices using the latest discount rate resulted in smaller asset value, thus less depreciation expense.

- Other operating expenditure is lower than budget due to underspends in expert fees, travel (both domestic and international) and entertainment-related expenditures.

Statement of Financial Position

1. Assets

- Current Assets

i. Operating fund cash and term deposit balances are higher than budget at the reporting date due to higher revenue and underspends in both opex and capex.

ii. Litigation fund cash balance is lower than budget due to the timing of litigation funding differing from budget assumptions, offset by having higher Accounts Payable balance for litigation as at the reporting date.

iii. Receivables and prepayments balance is higher than budget which is primarily driven by:

- having a higher prepayment balance than budgeted assumptions at the reporting date
- a capital injection for banking and insurance-related system build and litigation funding top up was accrued at the end of FY22/23, although actual cash payment was received in FY23/24

- Non-current assets

i. Property, Plant and Equipment balance are lower because the brought-forward opening balance of PPE was lower than budget, and the budget allocation for Christchurch office fitout that was not utilised.

ii. Intangible assets are lower due to a mixed result of the timing of various capital project work being different to budget expectations and the prior period assets adjustments (SaaS), which is explained above.

2. Liabilities

   Current liabilities are higher than budget, which is driven by higher than budgeted closing AP and accrual balances as at the reporting date.

3. Equity

   - Accumulated funds are higher than budget primarily driven by YTD surplus being higher than budget expectations.
   - Capital contributions are lower than budget due to the timing of the capital injection the FMA requested for the Banking and Insurance related system build and Christchurch office fitout that was no longer required.

Statement of Cash Flows

1. Cash flows from operating activities

   - Overall Expenditure is lower due to underspends in opex (excluding depreciation and annual leave movement which are non-cash).

2. Cash flows from investing activities

   - Purchase of intangible assets is lower due to the change in scope and the timing of project work being undertaken, some capex projects costing less than budget, and the budget allocation for Christchurch office fitout that was not utilised.

3. Cash flows from financing activities

   - Capital contributions were lower as the timing of the Banking and Insurance system build has been delayed and the Christchurch office fitout being no longer required which resulted in no funding request in FY22/23.

Note 22 - Prior Period Adjustments

Note 10 – Operating Leases for the year ended 30 June 2022 are restated to adjust the calculation of the value of non-cancellable operating leases related to properties at Takutai Square and Grey Street level 7.

Previously, the figures included the value of operating expenditure (OPEX). However, the restated figures now exclude OPEX in accordance with the requirements outlined in PBE IPSAS 13 Leases.

	As previously reported $000					Adjusted $000					As restated $000				
	Quay Street	Grey Street L2	Takutai Square	Grey Street L7	**Total**	Quay Street	Grey Street L2	Takutai Square	Grey Street L7	**Total**	Quay Street	Grey Street L2	Takutai Square	Grey Street L7	**Total**
30 June 2022															
Not later than one year	-	541	2,643	195	**3,379**	-	-	(437)	(45)	**(482)**	-	541	2,206	150	**2,897**
Later than one year and not later than five years	-	1,128	11,460	404	**12,992**	-	-	(1,895)	(89)	**(1,984)**	-	1,128	9,565	315	**11,008**
Later than five years	-	-	8,207	-	**8,207**	-	-	(1,357)	-	**(1,357)**	-	-	6,850	-	**6,850**
Total non-cancellable operating leases	**-**	**1,669**	**22,310**	**599**	**24,578**	**-**	**-**	**(3,689)**	**(134)**	**(3,823)**	**-**	**1,669**	**18,621**	**465**	**20,755**

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