JULY 2021

Annual Corporate Plan 2021/22

FINANCIAL MARKETS AUTHORITY
TE MANA TĀTAI HOKOHOKO

Introduction

The FMA's Annual Corporate Plan is a key part of our strategic planning and reporting framework. It provides our stakeholders with visibility of the FMA's priorities and our intended work over the next 12 months.

This document presents our planned activities in two ways, as a plan on a page and segmented by sector.

As last year demonstrated, the ability to act quickly to unexpected events is critical and we regularly review our activities to ensure they are responsive to market developments.

Contents

Foreword from the Chief Executive

More than a year on from the start of the pandemic, COVID-19 and its impact remain top of mind. While we saw major economic disruption, it was not as severe as predicted, and financial services firms generally appear to have managed the crisis well.

I would like to acknowledge the efforts of FMA staff and financial services industry employees in adjusting and adapting to the pandemic and in particular, ensuring a core focus on customers (including the vulnerable) was maintained.

However, the work is not done. The FMA and the firms we regulate are operating against a backdrop of economic uncertainty, significant regulatory change, adoption of new ways of working, and changes in customer and investor preferences, including how they access financial services. These give rise to both risks and opportunities for pursuing our statutory objective of promoting fair, efficient, and transparent financial markets.

Recognising “change is the new normal” is undoubtedly the theme of our Annual Corporate Plan for 2021/22.

Areas where we see the need to respond to rapidly developing conditions include products and services that have ESG (environmental, social and governance) aspects, fintech innovation, and the risks from cyber attacks or technology failures.

In addition, as both we and the industry navigate the recovery, our key focus must be on the customer. At the heart of good conduct is understanding and responding to changing customer needs.

For our part, to continue to promote good customer outcomes and deliver on the strategic intentions outlined in our Statement of Intent, we have identified the following priority activities for the next 12 months:

Regulatory reform and implementation – delivering on the Government’s reform agenda across financial advice, banking and insurance, and climate-related disclosures.

Products and services are true to label and offer value for money – advertising, promotions and disclosures are accurate and not misleading, and products and services target the right investors and provide appropriate value for money.

Promoting good conduct – including a refresh of our Conduct Guide for our existing regulated population and those we will oversee in the future.

Responding to the increased retail activity in capital markets – supporting inexperienced investors and the smooth functioning of capital markets

Cyber and other operational resilience – advancing our approach, including our expectations for the management of cyber and operational risks by regulated entities.

Future-ready FMA – evolving our organisational model, core processes, and capabilities to deliver on our expanded mandate.

These areas are where we plan to focus our efforts, including monitoring, enforcement, market and customer engagement, and operational activities. However, COVID-19 has clearly highlighted the importance of being flexible and responsive to developments, so continued monitoring of the financial sector and working with our regulatory counterparts to identify threats and opportunities will remain central to our approach.

Rob Everett
Chief Executive, Financial Markets Authority

Plan on a page

Strategic intentions					
	The FMA's actions promote fair, efficient, and transparent financial markets				
	Governance and culture	Deterrence of misconduct	Implementation of remit changes	Investor and customer decision-making	Trust and confidence in capital markets

Focus for 2021/22	Trends	Outcomes sought	Priority activities
	Regulatory reform agenda • Financial advice • Banking and Insurance • Climate-related disclosures • Benchmark administrators and Financial Market Infrastructures • KiwiSaver default review transition	Successful implementation of regulatory reform that supports and promotes well-functioning, efficient financial markets and confident, informed participation by customers and investors.	**Regulatory reform** • Supporting the implementation of regulatory reform by contributing to policy development • Implementing licensing, monitoring, and enforcement approaches as required
	Product trends • Low interest rates and investor search for yield • Risks of fraud and scams • Introduction and proliferation of new products, e.g. ESG • Increasing significance of informal disclosures, advertising, and social media	Products and services act as expected – formal and informal disclosures are clear and not misleading, and products are suitable and represent value for money.	**Products are 'true to label' and offer value for money** • Review of wholesale offers and wholesale investor classification • Value for money in relation to MIS and other financial products • Reviews of promotions, advertising, social media, and related disclosure (e.g. ESG, risk, and other statements)
	Changing customer needs • Vulnerability • Economic uncertainty	The culture and governance of firms is customer-centric and supports good conduct.	**Promoting good conduct** • Refresh Conduct Guide and develop conduct maturity assessment framework • Monitoring of licensed population • Enforcement in response to misconduct
	Increased retail activity in capital markets • Popularity of retail share trading platforms	Investors have improved access to efficient markets and are informed of the risks of share trading.	**Responding to increased retail activity in capital markets** • Supporting inexperienced investors • Supporting smooth functioning of capital markets
	Increasing threat of cyber and technology risks • High profile attacks on public and private institutions within New Zealand	Firms have appropriate cyber and operational risk maturity.	**Cyber and operational resilience** Develop our regulatory approach to cyber and operational resilience, including reviewing entity obligations, enhancing our monitoring approach, and engagement with stakeholders.

Enduring regulatory activities				
	Licensing and monitoring of entities	Stakeholder engagement and guidance	Investor and customer decision-making	Investigations and enforcement

Future Ready activities			
	• System approach through working with co-regulators • Horizon scanning • Sector risk assessments	• IT and operational systems investment • Recruitment, retention, and capability	• Readiness programme for remit expansion

Cross-sector focus areas

The global COVID-19 pandemic had a weaker impact on the New Zealand economy than initially predicted, evidenced by a strong recovery in output, stable inflation, and low unemployment. However, the closure of our borders has exacerbated labour market constraints. Uncertainty remains in relation to issues including house prices, the future path of inflation, the transition of the economy to the new 'post-COVID normal', the impact on global supply chains, and the pace of global macro-economic recovery.

Most financial services firms seem to have navigated the crisis largely unscathed, with many moving effectively to remote working and online service provision. However, some firms may struggle if economic conditions decline. These conditions could bring investment risk through decreased revenue and profitability of corporates, and could also mean financial services firms do not have the resources to invest in the appropriate systems, controls, and processes to promote good conduct.

The ongoing economic impact of COVID-19 has the potential to give rise to greater customer vulnerability, while the ongoing low interest rate environment has encouraged some investors to seek out riskier investment opportunities in search of higher returns.

COVID-19 accelerated an existing trend of digitisation and online financial services provision – a notable example was the increased level of retail investor participation in the equity markets through retail platforms during the first lockdown.

Last year also saw an increase in major cyber incidents across the public and private sectors, including in financial services.

Preparation and implementation of major regulatory reform will continue across the sectors we regulate. Implementation of these reforms will require us to evolve and adapt as an organisation. As such, organisational development will be an area of Board and management focus for us over the coming years (see Organisational Development on page 11).

Our cross-sector areas of focus are:

Conduct guide – we will consult on a refresh of our 2017 Conduct Guide. The guide will set out a single set of conduct principles, with guidance targeted at both our current and future regulated population. It will also form the basis of a framework for assessing the conduct maturity of entities.

Cyber and operational resilience – we will review and enhance our approach to cyber and systems resilience of regulated entities, including:

- reviewing our standard licence conditions to ensure they set clear requirements
- enhancing our monitoring approach
- working closely with other stakeholders to raise awareness and capability across the industry.

Responding to increased retail participation in markets – we will undertake work to assess risks associated with this trend and determine any appropriate actions. We will also continue our investor capability work to support inexperienced investors with understanding the risks associated with different investments.

Innovation and fintech – continued development of the Council of Financial Regulators (CoFR) Fintech Innovation Hub and engagement with industry and Government stakeholders to support improved products and services for customers.

Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) – we will work across Government on the follow-up from the recent Financial Action Task Force (FATF) review and will continue monitoring and enforcement in relation to AML/CFT regulations.

Capital Markets

The COVID-19 crisis drove a significant increase in trading volumes, values, and volatility across markets. Despite suffering one of its largest one-day declines in price on record in March 2020, the NZX listed equity market recovered and reached record highs in early 2021.

The COVID-19 pandemic continues to generate global economic uncertainty and heightened risk of price volatility across all asset classes. It also creates increased challenges in corporate reporting and disclosure from rapidly changing business and market conditions.

COVID-related uncertainty led to a surge in trading volumes, which triggered technology issues for the NZX. NZX's operational resilience and fragility were further highlighted by a significant cyber-attack in August 2020. We subsequently carried out a targeted review of NZX's technology capability, and required NZX to develop a formal action plan to address shortcomings. We will monitor implementation of the plan throughout the year.

Several important legislative reforms are due to be implemented over the coming year, including new regimes for financial benchmarks and financial markets infrastructure.

In April 2021, the Government introduced a Bill that will make climate-related disclosures mandatory for around 200 listed companies, large insurers, banks, non-bank deposit takers, and investment managers. As currently drafted, the legislation would make the External Reporting Board responsible for developing reporting standards, while the FMA would be responsible for guidance, monitoring, and enforcement of the regime.

We will continue to focus our activity in the capital markets sector on maintaining confidence in the integrity of regulated markets. Over the last 12 months we have seen an increase in the number of referrals and complaints relating to insider trading and market manipulation. We will continue to prioritise assessing and responding to these referrals and complaints.

We will also continue to improve transparency of entities and investment products through our work on disclosure, audit quality, and financial reporting.

Our areas of focus in the Capital Markets sector are:

Implementation of regulatory reform including:

- Climate-related disclosures – supporting the development of the climate-related disclosures legislation and preparing for our regulatory role under it.
- Financial Market Infrastructures Act, and the licensing regime for Financial Benchmark Administrators.

Listed equity and debt market sector resilience – monitoring NZX's implementation of its action plan.

Market integrity – investigating referrals from NZX and other complainants and taking enforcement action against market manipulation and insider trading.

Audit and financial reporting – completing audit quality reviews and publishing our annual Audit Quality Monitoring Report. We will also be monitoring compliance with the financial reporting requirements for FMC reporting entities.

Investment Management

In December 2021, six KiwiSaver default providers (four reappointed and two new providers) will replace the current nine. The default funds will follow a balanced asset allocation and have a responsible investment mandate. This represents a significant transition for the industry.

In April 2021 we released guidance outlining our expectations for fund managers to review their fees and value for money with their Supervisor at least annually. The FMA and Supervisors will soon begin implementing the guidance with pilot groups of KiwiSaver and MIS (managed investment scheme) managers.

Driven by low interest rates, many investors are searching for yield. We see potential for harm to investors, some with large sums to reinvest, who are not aware of or misunderstand the risks of managed investments compared to the term deposits they are exiting because of low interest rates. Competition for these investors may see providers over-emphasising potential returns in promotions, advertising, social media, and other informal means of disclosure. This could unduly influence inexperienced investors to invest in unfamiliar funds or other products with greater risk and potential for loss of capital. We are also concerned that relatively new and/or inexperienced investors with larger amounts to invest may be miscategorised as wholesale.

In addition to seeking and addressing poor conduct from firms, our efforts throughout the pandemic and through the recovery will focus on increasing investor understanding of the long-term nature of investments, particularly KiwiSaver, and highlighting the importance of being in the right fund based on risk appetite.

Our areas of focus in the Investment Management sector are:

Supporting changes to the KiwiSaver default provider structure – we will support the transition of default KiwiSaver members to their new default provider (where applicable), and ensure new default providers comply with their obligations as outlined in the instrument of appointment.

Value for money – we will work with Supervisors on implementing annual value for money reviews by MIS managers, and review incentives used to entice KiwiSaver members to join or transfer to a provider, to ensure these are appropriate and do not unduly influence sound decision-making.

MIS Sector Risk Assessment – we will work with Supervisors to assess risk across their portfolios (consolidating entity-level views to include aggregated risk views for MIS sub-sectors, e.g. KiwiSaver, property, mortgage funds) to inform our future planned monitoring of entities and thematic reviews.

Financial promotions and informal disclosure – we will increase our focus on the advertising and promotion of financial products to ensure firms are meeting their fair dealing obligations, and that advertising and promotional materials are true to label in relation to ESG, risk, and other statements.

Treatment of wholesale investors – we will undertake a thematic review to assess how firms attract, categorise and treat wholesale investors, and complete a review of wholesale offers.

Banking & Insurance

The Financial Markets (Conduct of Institutions) Amendment Bill (CoFI) is currently progressing through Parliament and is expected to pass before the end of 2021, with the regime anticipated to come into force from 2023. This Bill will require banks, insurers and non-bank deposit takers to be licensed in respect of their general conduct towards consumers.

Licensing, monitoring, and supervising these sectors is a significant expansion of our remit and will require major investment in capability and systems.

A review of insurance contract law is also underway, with a focus on ensuring the law facilitates well-functioning insurance markets that enable customers to effectively protect themselves against risk. Industry consultation on a draft bill is expected to take place later in 2021. The proposed reform will give the FMA powers to monitor and enforce compliance with the new requirements.

Our areas of focus in the Banking & Insurance sector are:

Preparation for the CoFI and updated insurance contract law regimes including:

- providing policy input as part of the legislative process
- engaging with industry participants and other stakeholders to build our understanding of the banking and insurance sectors
- developing a licensing approach for CoFI
- developing a monitoring and enforcement approach for when the regimes are in force.

Retail Advice & Access

The new financial advice regime came into effect in March 2021. Everyone providing regulated financial advice to retail clients is now required to operate under a Financial Advice Provider licence. All those operating under a transitional licence must move to a full licence by March 2023 to continue providing financial advice. Working with the sector to embed the new regime and transition providers to full licensing is an important piece of work for the FMA.

Our sector risk assessment of Derivatives Issuers identified several significant risks, which we are responding to in our monitoring plans for the sector. Building on our initial survey of DIMS providers in 2020, we will undertake a sector risk assessment this financial year.

During the COVID-19 pandemic we saw an increase in fraudulent activity, scam products, and aggressive marketing for unregulated products such as crypto-currencies. Much of this activity is conducted from overseas so our focus is on raising investors' awareness of risk.

Our areas of focus in the Retail Advice & Access sector are:

Implementing the new financial advice regime – including working with industry to encourage early applications for full licences and implementing our monitoring and enforcement approach.

Derivative Issuers – based on our sector risk assessment and market intelligence, this area will be high priority for our planned monitoring.

Discretionary Investment Management Services – we will undertake a sector risk assessment to inform our future planned and thematic monitoring.

Scams and frauds – we will work alongside other government agencies to deliver regular campaigns and warnings to raise awareness of investment scams.

Organisational Development

Given the upcoming significant expansion of our remit, we need to prepare ourselves for the future. This will require us to evolve our organisation and capabilities. Central to this is supporting and growing our people. We will continue to recruit and retain the best talent and provide systems and technology that maximise their effectiveness. This approach will enable our people to work seamlessly, in line with our flexible working philosophy, to deliver on our objectives.

We also recognise the need to incorporate Te Ao Māori (the Māori world view) into our evolving approach, both within the workplace and in our regulatory approach.

In addition, as a member of CoFR, the FMA works collaboratively with other agencies to promote an integrated and coordinated approach to financial markets regulation in New Zealand. To this end, CoFR has recently agreed to a new risk-based approach to inform its priority areas.

Our areas of focus in Organisational Development are:

Readiness programme – we are embarking on a programme to evolve our organisation to be ready for our expanded remit and increased responsibilities. Core workstreams include:

- redefining our regulatory approach
- evolving our data and intelligence, and strategy frameworks
- strengthening and streamlining our decision-making processes
- reviewing our operating model.

Recruitment, retention, and capability – delivering our new employee value proposition, identifying new capabilities we will need, and recruiting and training as appropriate.

System investment – progressing our Digital Transformation programme to ensure our systems and technology remain fit for purpose and enable us to live our flexible working approach.

Developing our Te Ao Māori strategy– incorporating Te Ao Māori perspectives into the FMA's way of working and regulatory approach.

CoFR system engagement – progressing work on CoFR priority areas (climate change, conduct, digital and innovation, inclusion and access, regulatory burden and barriers to entry).

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