



Financial Markets Conduct (Fees) Amendment Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 16th day of November 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 67 of the Financial Markets Authority Act 2011 and sections 548(1)(o) and 552 of the Financial Markets Conduct Act 2013, His Excellency the Governor-General makes the following regulations, acting—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with section 549 of the Financial Markets Conduct Act 2013.

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Regulations

1 Title

These regulations are the Financial Markets Conduct (Fees) Amendment Regulations 2015.

2 Commencement

- (1) Regulation 6 comes into force on 1 June 2016.
- (2) The rest of these regulations come into force on 17 December 2015.

3 Principal regulations

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

4 Regulation 3 amended (Interpretation)

In regulation 3, insert as subclause (2):

- (2) For the purposes of these regulations, individuals working for the FMA as contractors or secondees must be treated as if they are employees of the FMA.

5 Schedule 1 amended

In Schedule 1, Part 1, after item 4, insert:

4A	Application for a declaration under section 562 of the Act	\$115 plus fee charged on the hourly basis specified in Part 2
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6 Schedule 3 amended

- (1) In Schedule 3, before the definition of **fund**, insert:
closed to new investors status, in relation to a fund, means that the fund has, or should have, a closed to new investors status under clause 51(1)(ea) and (2) of Schedule 4 of the Regulations
- (2) In Schedule 3, after the definition of **managed fund**, insert:
open status, in relation to a fund, means that the fund has, or should have, an open status under clause 51(1)(ea) and (2) of Schedule 4 of the Regulations
open for applications status, in relation to a PDS, means that the PDS has, or should have, an open for applications status under regulation 280 of the Regulations
- (3) In Schedule 3, after the definition of **Regulations**, insert:
In this schedule, in relation to a confirmation notice,—
 - (a) a fund in a managed fund is covered by a confirmation notice under regulation 52A of the Regulations if the fund in the managed fund has an open status or a closed to new investors status:

- (b) a fund in a managed fund is covered by a confirmation notice under regulation 52B of the Regulations if the fund is the specified fund referred to in that regulation:
- (c) a PDS is covered by a confirmation notice under regulation 52A of the Regulations if the PDS has an open for applications status:
- (d) a PDS is covered by a confirmation notice under regulation 52B of the Regulations if the PDS is the PDS referred to in that regulation.
- (4) In Schedule 3, table, replace the item relating to the annual confirmation fee with:

Confirmation fee	Payable on the lodgement of a confirmation notice for managed investment products in a managed fund	s 97	rr 52 to 52B	\$600 per fund covered by the confirmation notice
	Payable on the lodgement of a confirmation notice for financial products (other than managed investment products in a managed fund)	s 97	rr 52 to 52B	\$2,700 per PDS covered by the confirmation notice

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Financial Markets Conduct (Fees) Regulations 2014 (the **principal regulations**). The amendments relating to fees for a confirmation notice come into force on 1 June 2016. The rest of these regulations come into force on 17 December 2015.

The amendment in *regulation 4* clarifies that fees calculated on an hourly basis for work done by the Financial Markets Authority (the **FMA**) will take into account work carried out by contractors and secondees as well as employees (*see* regulation 8 of the principal regulations).

The amendment in *regulation 5* provides for a fee in relation to applications for declarations under section 562 of the Financial Markets Conduct Act 2013 (which relates to the FMA's designation power in subpart 3 of Part 9 of that Act). The fee is charged on the same basis as the fee for an application for an exemption under section 556 of that Act.

The amendment in *regulation 6* relates to the fee payable on the lodgement of a confirmation notice under regulation 52 of the Financial Markets Conduct Regulations 2014 (for the purposes of section 97 of the Financial Markets Conduct Act 2013).

Regulation 52 has been amended by the Financial Markets Conduct Amendment Regulations 2015 so that a separate confirmation notice is no longer lodged for each PDS. Instead, the confirmation notice relates to the regulated offer as a whole (accordingly, if more than 1 PDS has been lodged for the offer, the confirmation notice will cover all of those PDSs). As a result of this change, the fee is now expressed in terms of each PDS that is covered by the confirmation notice.

The amendments also clarify when a fund or PDS is covered by the confirmation notice for the purposes of the principal regulations.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 19 November 2015.

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