MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

COVERSHEET

Minister	Hon Dr David Clark	**Portfolio**	Commerce and Consumer Affairs
Title of Cabinet paper	Financial Markets Authority levy regulations: Policy approvals	**Date to be published**	19 May 2022 **after Budget 2022 announcement**

List of documents that have been proactively released		
Date	**Title**	**Author**
April 2022	Financial Markets Authority levy regulations: Policy approvals	Office of the Minister of Commerce and Consumer Affairs
13 April 2022	DEV-22-MIN-0088 Minute	Cabinet Office
6 April 2022	Regulatory Impact Assessment: 2021 Review of the Financial Markets Authority funding and levy	MBIE

Information redacted **NO**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

© Crown Copyright, Creative Commons Attribution 4.0 International (CC BY 4.0)

Regulatory Impact Assessment: 2021 Review of the Financial Markets Authority funding and levy

Coversheet

Purpose of Document	
Decision sought:	Financial Markets Authority funding levels and changes to the FMA levy
Advising agencies:	Ministry of Business, Innovation and Employment
Proposing Ministers:	Minister of Commerce and Consumer Affairs
Date finalised:	6 April 2022

Problem Definition

The Financial Markets Authority (**FMA**) is the principal conduct regulator of financial markets in New Zealand. Since the FMA's baseline funding was reviewed in 2019/2020, its remit has continued to evolve as a result of two new upcoming legislative regimes: Conduct of Financial Institutions (**CoFI**) and Climate-related Disclosures (**CRD**). The FMA requires additional funding in order to prepare for, implement and oversee these regimes.

Executive Summary

Context

This regulatory impact assessment (**RIA**) is for the additional funding of the FMA and changes to the FMA levy.

In October 2021, the Ministry of Business, Innovation and Employment (**MBIE**) and the FMA released a discussion document (the **Discussion Document**) seeking views on additional funding for the FMA. At the time of consultation, the Discussion Document set out funding options for the FMA in relation to three legislative regimes, being CoFI, insurance contract law (**ICL**) and CRD.

Under the Financial Markets Authority Act 2011 (**FMA Act**), the FMA can recover levies from market participants in performing or exercising its functions, powers and duties under the FMA Act or any other enactment. As a result of this provision, the FMA can impose levies to recover costs in relation to the FMA's functions generally, which includes its work in reviewing the law and practices relating to financial markets and financial market participants, and promoting confident and informed participation in financial markets. As the FMA's cost recovery this year relates to its new statutory functions under the new regimes, the levies will be charged once the relevant regime has been passed by Parliament.

The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act implementing the new CRD regime was passed by Parliament in October 2021, the Financial Markets (Conduct of Institutions) Amendment Bill is expected to be passed by mid-2022, and

the Insurance Contracts Bill will be introduced into Parliament later this year. Taking into account the most recent expected passing of legislation for the CoFI and ICL regimes, for the purposes of this RIA, only funding options for the CoFI and CRD regimes are set out. The proposed levies for the ICL regime will only take effect once the Insurance Contracts Bill is passed by Parliament (a date which is unknown at this stage). A separate RIA will be prepared in relation to the funding options and levies for the ICL regime at a later date.

Structure

Given the breadth of the issues and proposals, this RIA is a hybrid of the Regulatory Impact Statement and Cost Recovery Impact Statement 1 and 2 templates, and is split into four parts:

- **Part 1:** Sets out the policy problem and background information
- **Part 2:** Discusses the additional funding options of the FMA for the CoFI and CRD regimes
- **Part 3:** Assesses how any increase should be split between the Crown and levy payers
- **Part 4:** Sets out how increased levy funding should be recovered through the FMA levy

Part 1 – Policy problem and background information

The FMA's baseline funding was last reviewed in 2019/2020. In April 2020, Cabinet agreed to increase the FMA's annual appropriation to $60.805 million by FY22/23. Following its last funding review, the FMA will be responsible for monitoring and enforcing two incoming legislative regimes: Conduct of Financial Institutions and Climate-related Disclosures.

These two regimes represent a significant expansion in the FMA's mandate which it is not currently funded for. Without additional funding, the FMA will be at significant risk of failing to meet both its existing obligations, as well as its new obligations under the two regimes.

Further details of the two regimes are set out below:

- **Conduct of Financial Institutions:** This regime will introduce conduct licensing of banks, insurers and non-bank deposit takers that provide products and services to consumers/retail customers. It will also require those institutions to have systems and processes in place to ensure they treat consumers fairly.
- **Climate-related Disclosures:** This regime introduces mandatory climate reporting for large banks, insurers, managers of registered investment schemes and certain listed issuers.

Part 2 – FMA's regulatory approach and funding under the two regimes

MBIE considered the FMA taking a proactive approach to monitoring and enforcing each legislative regime (Option 1) and a reactive approach (Option 2), as well as the status quo (i.e. no additional funding) and a more intensive regulatory approach. The options were assessed against the criteria of strategic alignment/effectiveness, achievability and cost impact.

MBIE considers that the FMA should take a proactive approach to monitoring and enforcing both regimes, resulting in Option 1 for both regimes being required. Option 1 for the CoFI regime will provide the FMA with sufficient resourcing to enable it to identify poor conduct before consumer harm occurs. Option 1 for the CRD regime will enable the FMA to take a guidance-focused approach to engaging with the industry given that the regime is a world-first. Overall, Option 1 for both regimes is likely to better deliver on the legislative intent of each regime and will result in a greater level of consumer and investor confidence in financial institutions.

A reactive regulatory approach (Option 2) was not considered to be the preferred option as it could result in greater harm to consumers for the CoFI regime and would take a slower approach to building up capabilities for the CRD regime. The status quo and a more intensive regulatory approach were not considered as viable options as:

- no additional funding would result in the FMA needing to divert recourses from other areas of its remit, undermining its ability to meet its existing statutory functions and likely lead to an increased risk of harm to consumers and

- a more intensive regulatory approach would not be appropriate in New Zealand at this time as conduct regulation of financial institutions is new and it would be inconsistent with the FMA's regulatory stewardship culture and approach.

The proposed Option 1 will result in an increase of $15.596 million in the FMA's appropriation (i.e. its total appropriation will increase from $60.805 million to $76.401 million per annum) by FY25/26 and outyears. The funding under Option 1 will be phased over four years from FY22/23 and is set out separately for each regime in the tables below.

CoFI Option 1* – proactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$6.255	$7.644	$10.356	$13.740**
Cumulative FTE	20	43	67	92

*The reference to CoFI Option 1 above reflects the revised Option 1 following feedback received through consultation (i.e. CoFI Option 1 in this RIA differs from CoFI Option 1 set out in the Discussion Document). For the purposes of this RIA, and where it is not otherwise indicated to the contrary, CoFI Option 1 referred to in this document reflects the revised Option 1. Further details about what changes were made to Option 1 following consultation is set out later in the RIA.

** For FY 25/26 only, this figure does not include $14,000 capital funding. The total funding required for FY 25/26 (including capital funding) is $13.754 million. There is no capital funding required for outyears.

CRD Option 1 – proactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$1.772	$2.099	$1.856	$1.856
Cumulative FTE	6	8	8	8

A full breakdown of the funding showing the operating and capital expenditure is set out in Annex 1 of this RIA.

Part 3 – The source of the FMA's funding

The nature of the FMA's operations under the two regimes and how they will benefit the public and financial market participants mean the public and private benefits cannot be precisely quantified. Accordingly, we cannot specifically determine an ideal percentage split of Crown and levy funding for the FMA to reflect these benefits.

However, taking into account the overall public and private benefits of the FMA's activities in relation to the two regimes, and best practice cost recovery guidance and principles, MBIE considers that the Crown should contribute:

- at least 17% (maintaining the current proportion of the Crown's contribution) of the FMA's funding for the CoFI regime; and
- 100% of the FMA's funding for the CRD regime, to reflect the greater public benefit of the regime in supporting New Zealand's transition to a low-emissions economy.

Part 4 – The FMA levy

Following a review of the FMA levy model and consideration of the entities who will be subject to one or both of the regimes, and the overarching objectives of the levy, MBIE considers that the FMA levy be updated to:

- add new levy classes to appropriately levy those market participants who are within the scope of the CoFI and/or CRD regime
- impose new levies for climate-reporting entities and/or update existing levies to recover the increase in the FMA's funding for the relevant levy payers; and
- make technical changes to some population forecasts for relevant participants and the names of existing levy classes to appropriately capture the relevant participants.

Limitations and Constraints on Analysis

Analysis independent of Budget 2022

This RIA represents MBIE's analysis and assessment to inform the Minister of Commerce and Consumer Affairs and Cabinet. MBIE notes that final funding decisions, including the level of Crown contribution are ultimately made by Cabinet and are dependent on the outcome of Budget 2022.

Through Budget 2022, Cabinet agreed to increase the FMA's appropriation as per the level of funding required under Option 1 for both CoFI and CRD regimes. In addition, Cabinet agreed to provide Crown funding towards all capital expenditure and some operating expenditure that the FMA requires for the CoFI and CRD regimes. The below tables set out the Crown's contribution towards the FMA's appropriation increase.

Conduct of Financial Institutions

	FY22/23	FY23/24	FY24/26	FY25/26 and outyears
Operating expenditure (million)	0	$0.287	$0.874	$1.162
Capital expenditure (million)	$1.063	$0.726	$0.014	$0.014*

*This figure is capital expenditure for FY25/26 only. There is no ongoing capital expenditure for outyears.

Climate-related Disclosures

	FY22/23	FY23/24	FY24/26	FY25/26 and outyears
Operating expenditure (million)	$0.406	$0.487	$0.464	$0.464
Capital expenditure (million)	$0.150	$0.150	0	0

Cabinet's decision on the Crown's contribution towards the FMA's funding is less than MBIE's preferred recovery option and level of Crown contribution set out in Part 3 of this RIA. However, this does not materially change MBIE's analysis and overall assessment in any part of this RIA.

Timing of the funding review and process

The time period for policy development, consultation and implementation of funding and levy changes was very limited. Additional time would have enabled a better understanding and articulation of the problem and provided greater ability to test funding options and their potential impacts on levy payers through consultation. The timing of decisions from Budget 2022 has also constrained MBIE's analysis of Cabinet's decision on the level of Crown contribution. These timing constraints arose from the need to develop new levy regulation and have any new levies in place for FY22/23.

Scope of the review

The scope of this review was limited to only consider levy changes to those entities who are within the scope of the CoFI and/or CRD regime. It did not include a full review of the underlying levy model structure, or a review of the FMA's baseline funding, which was last reviewed in 2019/2020. This was not considered necessary given that PricewaterhouseCoopers (**PwC**) conducted an efficiency, effectiveness and baseline funding review of the FMA in December 2019. Instead, MBIE commissioned Deloitte to conduct an independent assessment of the FMA's new funding requirements.

Assumptions underpinning analysis

The FMA operates a risk-based regulatory model of focusing on certain types of conduct and activities that it believes pose the greatest harm. The FMA's activities and focus evolve continuously in response to its assessment of risks to investors, consumers and the wider economy.

We have not been able to precisely quantify the direct benefit of the FMA's activities and well-regulated financial markets in relation to the two regimes that accrue to individual regulated

firms or sectors and the public more generally. Accordingly, in order to assess the options, our allocations and assessment of benefit are constrained to more general explanations and assumptions.

Expected timing of legislation

The two legislative regimes are at different stages of the legislative process. The CRD legislation was passed by Parliament in October 2021. However, the CoFI Bill is aimed to be passed by Parliament in the first half of 2022.

As the CoFI Bill has not yet been passed by Parliament, levies for CoFI will only take effect once the Bill has been passed. We anticipate that the levies for both the CoFI and CRD regimes will take effect in FY22/23.

Assumptions regarding the total appropriation

As noted above, this RIA does not analyse the funding options in relation to the ICL regime. The total appropriation figures set out in this document are on the basis of the funding requirements for CoFI and CRD only. If the Crown contributes any funding towards the ICL regime in Budget 2022, the FMA's total appropriation figure will slightly increase.

Responsible Manager(s) (completed by relevant manager)

Tom Simcock

Manager, Financial Markets

Ministry of Business, Innovation and Employment

6 April 2022

Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Business, Innovation and Employment
Panel Assessment & Comment:	The MBIE panel reviewing this RIA considers that it meets the RIA quality criteria and that our feedback on earlier drafts of the RIA has been addressed. Our main comments were focussed on being clear about the criteria used to assess each option and the relationship between the amount of Crown funding and the implications for levy payers. While the specific analysis of levy increases is limited, due to the timeframes of Budget decisions, MBIE's preferred option is clearly presented. The panel were satisfied that stakeholders were aware that decisions on the level of Crown funding would determine the level of levy funding required and that the rationale for the preferred proactive response is not affected by the decision on the level of Crown funding. The panel also noted that the preferred option was revised to reflect stakeholder feedback and this is clearly identified.

Contents

Regulatory Impact Assessment: 2021 Review of the Financial Markets Authority funding and levy ... 1

Coversheet ... 1

Part 1 – Policy problem and background information ... 9

What is the context behind the policy problem and how is the status quo expected to develop? ... 9

Key features and objective of the regulatory system ... 9

The FMA's current funding ... 10

The FMA's evolving remit ... 10

What is the policy problem or opportunity? ... 13

What objectives are sought in relation to the policy problem? ... 14

Part 2 - Deciding upon an option to address the policy problem ... 14

Impact of Budget 2022 decision ... 14

What criteria will be used to compare options to the status quo? ... 14

What scope will options be considered within? ... 15

What options are being considered? ... 16

How were the funding options developed? ... 16

Independent assessment of the FMA's funding options ... 17

Stakeholder feedback ... 18

Funding option revised following consultation ... 19

Conduct of financial institutions – funding options ... 19

How do the CoFI options compare to the counterfactual? ... 23

Climate-related disclosures- funding options ... 25

How do the CRD options compare with the counterfactual? ... 28

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits? ... 30

What are the marginal costs and benefits of the preferred options? ... 32

Part 3 – Sourcing the FMA's funding (CRIS 1) ... 37

Impact of Budget 2022 decision 37
Who should pay for an increase in the FMA's funding? 37
Status quo 37
Funding recovery options 38
Assessment criteria 39
Stakeholder feedback on the source of FMA's funding 39
Assessment 40
Conclusion 42

Part 4 – The FMA levy model (CRIS 2) 44
Impact of Budget 2022 decision 44
Cost recovery principles and objectives 46
Changes required to levy the relevant entities 46
Setting the levies 49
Stakeholder feedback on FMA levy 50
Cost recovery impact analysis 50
Conclusion for the FMA levy 53

Implementation and operation 54
How will the new arrangements be implemented 54
COVID-19 impact on proposals and implementation 54
Implementation issues/risks 54

Monitoring, evaluation and review 56
How will the new arrangements be monitored, evaluated, and reviewed? . 56
When and how will the new arrangements be reviewed? 56

Annex 1 – Outputs, costings and number of FTE by regulatory pillar 57
Outputs and costing of the activity 57
Regulatory pillars and number of FTE 59

Annex 2 – Proposed CoFI levies 61

Annex 3 – FMA levy model analysis for Climate-related Disclosures 63

Annex 4 – Proposed CRD levies 66

Part 1 – Policy problem and background information

What is the context behind the policy problem and how is the status quo expected to develop?

The Financial Markets Authority (**FMA**) is an independent Crown entity and New Zealand's principal conduct regulator of financial markets. Since the FMA's funding was reviewed in 2019, its remit has continued evolving to encompass activities that are not covered by its current funding. This includes the new Conduct of Financial Institutions (**CoFI**) and Climate-related Disclosures (**CRD**) regimes.

It is desirable and consistent with international best practice, including the objectives of securities regulation of the International Organisation of Securities Commission (**IOSCO**), for the FMA to be a credible conduct regulator that is sufficiently resourced for these regimes, resilient and able to adopt a proactive, risk-based and systems-wide approach to regulation that includes contributing to wider government policy objectives where appropriate.

Key features and objective of the regulatory system

The financial markets conduct regulatory system is a foundational system providing the legal framework for New Zealand's capital markets and financial services. That legal framework:

- provides for fair dealing in financial markets
- regulates offers of financial products and the governance of certain types of financial products
- regulates financial product markets
- regulates certain financial market services (including financial advisers and registration and dispute resolution requirements) and
- establishes and funds the FMA as the system enforcement agency.

The system excludes prudential regulation of banks, non-bank deposit takers (**NBDTs**) and insurers (the Reserve Bank of New Zealand leads this), and some financial reporting matters that sit within the corporate governance regulatory system. Prudential regulation is focused on institutional soundness, and promoting the maintenance of a sound and efficient financial system.

The system also excludes the consumer credit protections in the Credit Contracts and Consumer Finance Act 2003 (this forms part of the consumer and commercial regulatory system).

The objective of the financial markets conduct regulatory system is to promote the confident and informed participation of businesses, investors and consumers in financial markets, and to promote and facilitate fair, efficient and transparent financial markets.

The FMA's current funding

The FMA's annual appropriation is sourced from Crown and third-party funding. In addition to its appropriation, the FMA also receives up to $5 million annually from the Crown for external litigation expenditure. The FMA also recovers some of its expenses through fees for services it provides, including licensing fees and auditor quality review fees.

Due to funding pressures, including preparation for the new financial advice regime under the Financial Services Legislation Amendment Act 2019, the FMA incurred a $5.6 million operating deficit during the financial year 2019/2020. In response, the FMA's baseline funding was reviewed. Following consultation, Cabinet agreed to increase the FMA's annual baseline funding by $24.805 million to a total of $60.805 million, phased in over three years.

The increase in funding was for the implementation of the new financial advice regime. It also included a small amount to begin general preparatory work ahead of the new CoFI regime coming into effect, but not for its implementation. It provided no funding for the CRD regime.

The FMA's evolving remit

The FMA's mandate has continued to expand since its funding was reviewed in 2019/2020. The background of the CoFI and CRD regimes is set out below.

Conduct of Financial Institutions regime

In late 2018 and early 2019 the FMA and Reserve Bank of New Zealand (RBNZ) published two joint reviews into the conduct and culture of banks and life insurers in New Zealand. The reviews identified weaknesses in the governance and management of conduct risks leading to poor consumer outcomes and consumer harm. The Government considered options to address the issues that had been identified with the conduct and culture of those key financial institutions. In 2019, it introduced the Financial Markets (Conduct of Institutions) Amendment Bill[1] (**CoFI Bill**) to Parliament in response to these findings.

The CoFI Bill amends the Financial Markets Conduct Act 2013 (**FMC Act**) to introduce FMA conduct licensing of banks, insurers and NBDTs that provide products and services to consumers/retail customers. It also requires those institutions to have systems and processes in place to ensure they treat consumers fairly. The new regime will also prohibit or regulate incentives based on sales targets.

The CoFI regime represents a significant expansion in the FMA's remit by giving it direct oversight of the 'entity-level' conduct of these financial institutions and providing the FMA with formal supervisory and enforcement tools to support good conduct that comes with licensing.

MBIE and the FMA estimate around 110 entities that provide services to retail clients may seek a licence under the CoFI regime (out of the total of 136 registered banks, insurers and

[1] Available at https://legislation.govt.nz/bill/government/2019/0203/latest/LMS262880.html

NBDTs that are currently prudentially regulated). The licensed population under the CoFI regime has a number of large and complex institutions which will be challenging to regulate.

Climate-related Disclosures

The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 (**CRD Act**) received royal assent in October 2021. The CRD Act amends the FMC Act, Financial Reporting Act 2013 and Public Audit Act 2001. In particular, the CRD Act inserts a new Part 7A into the FMC Act which provides a framework to require certain entities, known as climate reporting entities, to comply with record-keeping requirements and produce annual climate statements.

We estimate that the regime will capture around 180 entities, including:

- registered banks, credit unions, and building societies with total assets of more than $1 billion
- managers of registered investment schemes with greater than $1 billion in total assets under management
- licensed insurers with greater than $1 billion in total assets or annual gross premium revenue greater than $250 million
- listed issuers of equity securities if the market price of all of the issuer's equity securities exceeds $60 million, and listed issuers of debt securities if the face value of the quoted debt exceeds $60 million.

Monitoring and enforcement of the new regime will be carried out by the FMA. The FMA's view is that clear guidance on compliance expectations of climate reporting entities in regard to monitoring and enforcement will be needed to ensure the success of the regime.

The External Reporting Board (**XRB**) are currently developing climate standards as part of a climate-related disclosure framework. Climate reporting entities are required to produce climate statements that comply with the standards. The first climate standard is expected to be issued by the XRB in December 2022. If this occurs, the first climate statements will be produced in early 2024.

The FMA is not currently funded to implement and oversee these regimes

Cabinet has previously noted the FMA would likely require additional funding to oversee the two new regimes[2]. The two regimes represent a substantial expansion of the FMA's remit which it does not currently have any funding for. When the FMA's funding was last reviewed in 2019/2020, PricewaterhouseCoopers (**PwC**) carried out an independent efficiency and effectiveness review of the FMA and found strong indicators that the FMA uses its resources effectively and efficiently. There is very limited ability for the FMA to reprioritise its existing

---

[2] See DEV-19-MIN-0237, available at https://www.mbie.govt.nz/dmsdocument/6929-conduct-of-financial-institutions-introduction-of-a-new-conduct-regime-proactiverelease-pdf; see also DEV-20-MIN-0151, available at https://environment.govt.nz/publications/cabinet-minute-climate-related-financial-disclosures/

funding to implement and oversee the CoFI and CRD regimes due to the size of, and new functions the FMA will have under, the two regimes.

We note that the FMA received some funding in 2019/2020 to begin preparatory work for the CoFI regime and follow-up work on the FMA and RBNZ's 2018/2019 conduct and culture reviews of banks and life insurers. However, funding for the implementation of the CoFI regime was outside the scope of that previous funding review.

External assessment of new funding options

As PwC's review was carried out during the last funding review in 2019/2020 and it found strong indicators that the FMA uses its resources effectively and efficiently, MBIE did not consider another baseline review was required for this review. Instead, MBIE commissioned Deloitte to conduct an independent assessment of the FMA's new funding requirements.

Deloitte stated in its report that it would be unreasonable to expect the FMA to accommodate the CoFI, CRD and insurance contract law (**ICL**) regimes without additional funding. Deloitte further stated that, with the FMA's current budget, it would be highly unlikely to deliver on the Government's policy intent for the new regimes, and no additional funding would put the FMA's current performance at risk.

Counterfactual of no change in funding

If no new funding is provided, the FMA would have to take a bare minimum approach to implementing the new regimes in order to meet its statutory obligations and functions, including by reprioritising existing funding and resources based on the relative risks of the different activities it regulates.

Conduct of financial institutions

In relation to the CoFI regime, with no additional funding the FMA would only be able to take the lightest touch possible approach to licensing and there would be no proactive entity-based monitoring. Reactive monitoring would be prioritised based on self-reporting from financial institutions only. The FMA would not provide guidance for the new regime and would only be able to respond to the most serious cases of misconduct. The consequence of this would mean that there is a high risk that misconduct arises undetected which could lead to significant consumer harm in the long run and reduced consumer confidence in financial institutions.

Climate-related disclosures

The FMA's independent monitoring, guidance on compliance expectations and enforcement of the CRD regime will be an essential part of promoting high quality climate reporting. Without additional funding, the FMA would be limited to targeting entities that fail to file a climate statement, and would not be able to provide guidance or undertake proactive monitoring. This could lead to entities filing low quality or misleading disclosures, which in

turn would affect investors' ability to access information about how climate change may impact businesses' strategies and financial position[3].

Overarching/general FMA functions

To implement the new regimes, even to this minimal operational level, the FMA would need to divert funding and resources from other areas of its remit. This would result in a significant reduction in guidance to assist the industry to comply with the law, less information and resources to help investors and consumers make better investment and financial decisions, and generally less engagement with other agencies individually and collectively through the Council of Financial Regulators (CoFR), compromising system coordination and efficiency.

Reallocating sufficient resources from other areas for the FMA to implement the three regimes would undermine its regulatory effectiveness. These areas include the new financial advice regime, its system-wide engagement with other agencies and anti-money laundering monitoring. We believe that it would not be viable for the FMA to meet government and stakeholder expectations, nor the policy objectives of the regimes, without additional funding (this view is also noted in Deloitte's independent assessment of the FMA's new funding requirements[4]).

What is the policy problem or opportunity?

The problem: an evolving and expanding regulatory environment without additional funding

The two regimes represent a significant expansion in the FMA's mandate which the FMA cannot effectively meet with its current funding levels. Without additional funding, the FMA will be at significant risk of failing to meet both its existing obligations, as well as its new obligations under the two regimes.

The CoFI regime will provide both large-scale public benefits and private benefits which will increase consumer trust in financial institutions and reduce consumer harm by introducing conduct licensing requirements for banks, insurers and NBDTs. Private benefits to market participants as a result of the FMA's activities in relation to CoFI will include entities receiving guidance from the FMA, confident consumers will be more likely to engage with the industry and use financial products and services, and benefits of a well-regulated financial market.

The CRD regime seeks to ensure the effects of climate change are routinely considered by entities in business, investment, lending and insurance. This will improve climate reporting information in the market which will better help businesses and investors make more informed and efficient decisions, contributing to the efficient operation of financial markets. The CRD regime also supports the transition to a low-emissions economy by potentially

---

[3] See the RIA for the climate-related financial disclosures work, dated 23 July 2020, available at https://environment.govt.nz/assets/Publications/REDACTED-CRFD-Regulatory-Impact-Assessment-July-2020.pdf

[4] See 'Review of FMA Funding Scenarios', Deloitte, 13 August 2021, available at https://www.mbie.govt.nz/dmsdocument/17022-review-of-fma-funding-scenarios

redirecting investment away from emissions-intensive activities towards low-emissions investments.

In order for the FMA to monitor and enforce the regimes and meet the Government's policy objectives it needs additional funding.

As previously noted above during the previous funding review in 2019/2020, PwC's independent efficiency and effectiveness review found strong indicators that the FMA uses its resources effectively and efficiently. Therefore, the FMA has very limited ability to reprioritise resources from existing functions and still maintain its current activities in enforcing legislation relating to financial markets. If the FMA were to reprioritise its existing resources, its ability to be an effective regulator and ability to promote and facilitate the development of fair, efficient and transparent markets would be undermined.

What objectives are sought in relation to the policy problem?

The objectives of the funding review are to:

- Ensure that the FMA has sufficient additional funding so it can meet its new statutory functions under the CoFI and CRD regimes, and can operate as a credible and effective financial markets regulator that helps to achieve the objectives of those regimes.
- Consider the level of Crown and third-party levy funding that is appropriate to reflect the public-private good elements of the FMA's new role and operations under these regimes
- Ensure that the FMA levy settings remain appropriate and proportionate to the benefits received.

Part 2 - Deciding upon an option to address the policy problem

Impact of Budget 2022 decision

Cabinet's decision on the level of Crown funding through Budget 2022 does not change MBIE's assessment (set out in this Part 2) that the FMA should take proactive regulatory approach to monitoring and enforcing the regimes (resulting in the higher level of funding required under Option 1 for both regimes) as the best option.

What criteria will be used to compare options to the status quo?

The following criteria will be used to assess the funding options.

Criteria	Components	Description
Strategic alignment/effectiveness	Engagement with the market	The level of engagement and guidance that the FMA will be able to undertake and provide.
	Deterrence of misconduct	How well each option will equip the FMA to deter and respond to misconduct.

	Consumer confidence	The level of engagement and overall benefits each option will give to consumers, as well as whether the option meets the legislative intent of the relevant regime.
Achievability	Ability to build and recruit	How well each option is likely to be implemented.
	Resilience and future proofing	The risks and ability for the FMA to scale or adjust its approach as details of the two regimes become clearer.
Cost impact	Impact on levy payers	The value each option will deliver and consequential impact levies will have on levy payers.

What scope will options be considered within?

Options considered but ruled out

The following options were considered but ruled out.

- ***No additional funding (i.e. the status quo)***

As noted above, to implement the new regimes, even to a bare minimum operational level, the FMA would need to divert funding and resources from other areas of its remit. This would undermine core areas of the FMA's existing remit, threatening its ability to meet its statutory functions and likely leading to increased risk of harm to consumers.

- ***A more intensive regulatory approach***

In developing the funding options for CoFI, the FMA also carefully considered comparable regimes internationally and their regulatory approaches. In particular, a more intensive regulatory approach, such as close and continuous monitoring of financial institutions (the approach taken in Australia immediately following the "Hayne Review", currently deferred by the Australian Securities and Investments Commission (FMA equivalent) due to COVID-19) was considered. However, MBIE and the FMA do not believe it would be appropriate in New Zealand to undertake this type of approach at this time. This is because conduct regulation of banks, insurers and NBDTs is new and it would be prudent to give entities time to embed good conduct practices when the regime is introduced before determining whether a more intensive regulatory approach is necessary. In addition, we do not consider this approach would be proportionate to the nature of the New Zealand market and would be inconsistent with the FMA's regulatory stewardship culture and approach.

General scope of the review

- The FMA's baseline funding is out of scope of this review as it was reviewed in December 2019.
- This review no longer includes the FMA's additional funding requirements for the ICL regime, as any levies for this regime will be determined closer to when the Insurance Contracts Bill has been passed by Parliament, and this timing is uncertain.
- There are no proposed changes to levies for those financial market participants who fall outside the scope of the two regimes.

What options are being considered?

Two different funding options for both regimes for the FMA were developed and independently assessed by Deloitte and are set out in the Discussion Document[5]. At a high level:

- Option 1 under each regime requires a higher level of funding but would enable the FMA to take a proactive regulatory approach. This would provide the FMA with sufficient resources to license entities, detect and enforce misconduct. The FMA will also have more capacity to engage with the industry and consumers and provide guidance to them.
- Option 2 under each regime requires a lower level of funding and would enable the FMA to take a reactive regulatory approach. This would mean the FMA focuses its resources on responding to misconduct and enforcement of the regimes and it would have less capacity for proactive engagement with industry and consumers.

How were the funding options developed?

Regulatory pillars approach and development of funding figures

All options for the CoFI and CRD regimes are based on the FMA's internal assessment of its requirements and were developed using seven regulatory pillars to characterise the FMA's regulatory activities across a consistent set of categories or 'types' of work. A summary of the seven regulatory pillars and the activities under each pillar are set out below.

Pillar	Description
Identify	Identify and prioritise attention areas of regulatory risk and harm. This tackles areas where the risk of harm is the greatest, reflecting an intelligence-led and risk-based approach.
Set Standards	Set expectations for the financial sector. This provides clarity and certainty for business and consumers.
Influence	Influence and guide the financial sector to meet the FMA's expectations, and influence and guide users of financial services. This builds collaborative and engaging relationships with the sector, and trust for consumers.
Permit	Authorise financial products, services and markets. This ensures for example, the FMA only authorises entities that meet the licensing criteria and have sufficient capability to operate in the financial markets.
Assess	Determine if the financial sector is meeting the FMA's expectations. This holds the financial sector to account and helps build consumer confidence and trust.

[5] See '2021 Review of the Financial Markets Authority Funding and Levy', MBIE and FMA, 5 October 2021, available at https://www.mbie.govt.nz/dmsdocument/17028-discussion-document-2021-review-of-the-financial-markets-authority-funding-and-levy

Respond	Decide on the appropriate action to take if the financial sector is not meeting the FMA's expectations. This helps build consumer confidence by acting as a credible deterrent to misconduct.
Evaluate	Evaluate impact and whether the FMA has been effective and efficient in its actions. This ensures the FMA consistently promotes the confident and informed participation of businesses, investors and consumers in the financial markets.

The FMA considered the resources it will likely required under each pillar rather than allocating new FTE to its existing teams. It allocated a different level of FTE under the pillars based on whether its regulatory approach is proactive (Option 1) or reactive (Option 2). The allocation of new FTE under regulatory pillars as opposed to allocation of FTE to current team structures reflects that the FMA anticipate that its organisation structure may need to change and differ significantly in the future as a result of taking on responsibility for these new regimes.

The FMA built up its costs and FTE estimates by considering activity and resource needs across each of the regulatory pillars, including breaking down resourcing requirements by sector or sub-sector within the pillar. This has been informed by the FMA's past and current experience in financial markets regulation, including its experience over the past 2-3 years in its conduct and culture reviews of bank and insurers, and various thematic projects.

Estimates were developed by the FMA through internal workshops and other engagement to consider the impacts of the new regimes and to reflect on the level of resourcing required to enable a suitable regulatory approach. Proposed approaches and associated resourcing were then tested with the FMA's Executive Team and Board. This enabled both a bottom-up and a top-down approach.

The FMA has also specifically considered how it builds up its teams and capabilities across the regulatory pillars over the four-year horizon, and how staff would shift their focus across work activities over this time. The majority of costs are for personnel and the operating costs associated with more staff. Costings of personnel and direct on-costs (e.g. for ICT and consumables) are consistent with estimates made as part of the 2019 funding bid and associated review. In particular, a higher average FTE cost has been applied to the funding required for the CRD regime to (reflect the demand and scarcity of those skills in the market). In addition, the approach has been to include incremental costs only, which means the costs and funding requirements are based on leveraging existing infrastructure and investments. Further details about the costings under each option is set out in Annex 1 of this RIA.

Independent assessment of the FMA's funding options

MBIE commissioned Deloitte to conduct an independent assessment of the funding options and costings. Deloitte's assessment is based on a qualitative approach and its findings and views are based on a review of a range of documentation and spreadsheets, as well as interviews with staff at the FMA and MBIE. Based on Deloitte's review, its assessment was that there has been a robust and rigorous process in the development of the funding options and the costings for each option were reasonable.

Deloitte's recommendations

Deloitte recommended funding Option 1 (the options as set out in the Discussion Document) for both regimes as this option provides a proactive approach, a greater likelihood legislative intent can be achieved, and is aligned with the FMA's strength and approach in other regulatory areas. Deloitte believes that it would be unreasonable to expect the FMA to accommodate these regimes without additional funding.

Stakeholder feedback

Seventeen written submissions were received on the funding proposals during the consultation period. In addition, seven online workshops were held with different industry groups including:

- banks
- credit unions and NBDTs
- insurers
- listed issuers
- fund managers
- consumer and financial dispute resolution groups.

Key industry bodies representing entities within the scope of the regimes including the New Zealand Bankers' Association, Insurance Council of New Zealand, Financial Services Council, Financial Services Federation and Boutique Investment Group provided written submissions on behalf of their members/individual entities.

We note that all references to stakeholder feedback and their comments on the FMA's funding options relate to the funding options as set out in the Discussion Document and not the revised CoFI funding Option 1 set out in this RIA.

Key themes from stakeholder feedback on FMA funding

Some of the key general comments from submissions included:

- There were concerns around recruitment risk and labour shortage for the FMA hiring the necessary new FTE, particularly for CoFI given the high number of FTE the FMA are seeking to hire and the fact that the FMA would be competing with the industry to hire individuals with the relevant skills.
- There was strong support for a proactive regulator for the CRD regime given it is a world-first regime.
- There is lots of regulatory change happening in the industry, so there were concerns that costs will continue to rise and that these costs will be passed onto consumers. This was particularly a concern noted from smaller entities, including not-for-profit entities.

In terms of a preferred funding option under the regimes, a summary of general comments on the funding options are set out below:

- **CoFI:** There was mixed support in terms of a preferred funding option for the CoFI regime. However, some submitters suggested changes to Option 1 such as scaling down this option to take into account recruitment risk and the labour shortage.
- **CRD:** The majority of submitters preferred Option 1 for the CRD regime, given that it is a world-first regime and the industry would like good levels of guidance and support from the FMA.

Funding option revised following consultation

Following feedback received during public consultation and updated expectations on the timing of legislation, CoFI funding Option 1 as set out in the Discussion Document[6] was revised as follows:

- CoFI Option 1: Level of funding for FY25/26 and each of the outyears reduced by $1.489 million and total cumulative FTE sought over the forecast period reduced by 10 FTE.

The original CoFI Option 1 (as set out in the Discussion Document) was discarded as a viable option and replaced by the revised option set out above. The funding options referred to in this document reflect the revised CoFI Option 1. All other funding options remain unchanged from the options set out in the Discussion Document.

Conduct of financial institutions – funding options

The two funding options for the CoFI regime are set out in the tables below. The funding would be phased over a four-year period commencing in FY22/23. This reflects the FMA's evolving focus for implementation and operation of the CoFI regime.

A full breakdown of the funding showing the operating and capital expenditure is set out in Annex 1 of this RIA.

CoFI Option 1 – proactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$6.255	$7.644	$10.356	$13.740*
Cumulative FTE	20	43	67	92

* For FY 25/26 only, this figure does not include $14,000 capital funding. The total funding required for FY 25/26 (including capital funding) is $13.754 million. There is no capital funding required for outyears.

[6] See '2021 Review of the Financial Markets Authority Funding and Levy', MBIE and FMA, 5 October 2021, available at https://www.mbie.govt.nz/dmsdocument/17028-discussion-document-2021-review-of-the-financial-markets-authority-funding-and-levy

CoFI Option 2 – reactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$5.640	$5.808	$8.062	$9.945
Cumulative FTE	16	35	53	67

A breakdown of the estimated number of FTE forecast under each option by regulatory pillar as well as details of the costings is set out in Annex 1.

A summary of the FMA's activities over the four years is set out below:

- **FY22/23:** Design and begin to build up the CoFI regime. Engage with entities and provide guidance on its regulatory approach, licensing requirements, legislation and regulations.
- **FY23/24:** Review and refine regulatory approach, with a focus on supporting the sector through the licence application process prior to licensing opening in July 2023 (expected). Review licence applications and process licence applications. Commence public awareness campaigns.
- **FY24/25:** Review guidance, inspect high-risk entities and promote identified good practice. Inspect high-risk entities and promote good practice. Take regulatory action for egregious non-compliance. Commence thematic monitoring and increase public awareness campaigns/research.
- **FY25/26**: Review and provide guidance based on experience to raise standards. Thematic monitoring will intensify as focus areas become apparent, as will public awareness campaigns and research. Regulatory action against non-compliance will continue, with the potential to step up the approach to deter misconduct.

FMA's regulatory approach under CoFI funding options

CoFI Option 1

The FMA would take a proactive regulatory approach, with capacity to enable dedicated focus and engagement across industry segments. This option would allow the FMA to:

- develop a detailed licensing assessment process resulting in an enhanced and comprehensive understanding of each sector and entity type
- take a proactive monitoring approach aimed at identifying poor conduct before consumer harm occurs
- engage in more consumer-focused research and behavioural insights
- influence and set standards for the sector through guidance to proactively tackle conduct issues

- increase both bilateral and collective engagement with other financial regulators and policymakers, which is critical to managing gaps and overlaps with the RBNZ and Commerce Commission.

In particular, as the table in Annex 1 illustrates there is a higher number of FTE required under the pillars ‘Influence’ and ‘Assess’ under CoFI Option 1 compared to CoFI Option 2 which reflects that more guidance will be provided to entities and a proactive monitoring approach to identify poor conduct before consumer harm occurs will be taken.

CoFI Option 1 (compared with CoFI Option 2 set out below) is likely to better deliver on the legislative intent of the CoFI regime and would better equip the FMA to address misconduct that may lead to consumer harm.

Stakeholder feedback

Comments from stakeholders include:

- CoFI Option 1 will contribute to the regime’s success as it will enable the FMA to regulate proactively rather than being reactive to instances of harm. The regime is better suited for proactive regulatory engagement given that the regime is principles-based.

- Concerns around the recruitment of 102 FTE under CoFI Option 1 (as set out in the Discussion Document). Some submitters suggested that CoFI Option 1 be revised by reducing the number of FTE to take into account the challenges with recruitment and the current labour market (we note that CoFI Option 1 has been revised by reducing the total number of FTE required over 4 years from FY22/23 by 10 FTE from 102 FTE to 92 FTE following feedback received from submissions).

CoFI Option 2

The FMA would take a more reactive approach, and focus its resources on responding to misconduct and enforcement of the regime. This option would allow the FMA to:

- develop a generic and less risk-based licensing application and assessment

- identify risks and harms in a largely reactive manner, which would mean consumer harm would generally be identified after it has occurred

- undertake relatively infrequent desk-based and entity-based monitoring, limited to entities that pose the highest risks

- undertake a more enforcement-led approach, rather than setting standards and engaging with industry to improve practice

- provide some selected consumer engagement, which would prioritise areas considered most important.

CoFI Option 2 may result in greater harm to consumers, as the FMA would focus more on an enforcement-led approach and compared with Option 1, its ability to address consumer harm would more likely happen after that harm has occurred.

Stakeholder feedback

Comments from stakeholders include:

- While it is acknowledged that the FMA requires some funding to prepare for the regime, deferral of long-term funding requirements is appropriate given that the CoFI Bill is at second reading. If funding requirements cannot be delayed, the lower level of funding, being Option 2, is supported.

How do the CoFI options compare to the counterfactual?

	Counterfactual	CoFI Option 1	CoFI Option 2
Strategic alignment - Engagement with the market	0	++ The FMA would focus on influencing industry conduct and culture through setting standards and issuing guidance. This would allow the FMA to build deeper relationships with regulated sectors, resulting in improved conduct through influencing behaviour rather than enforcement action by default. This option would achieve greater financial market system co-ordination through engagement and influence with CoFR agencies.	+ As compared to CoFI Option 1, the FMA would have a lesser ability to effectively influence industry conduct and culture through setting standards and guidance, and would end up focusing more on enforcement after consumer harm has occurred.
- Deterrence of misconduct	0	++ The FMA will have a full range of regulatory responses available to it, including enforcement and litigation, to deter misconduct. This is particularly important against large and well-resourced institutions.	+ The FMA would be equipped to provide a base level of credible deterrence, as resource constraint may hinder its ability to use the full range of regulatory tools. There would be more focus on actual harm assessment and the use of more formal enforcement tools, rather than proactive monitoring and prevention.
- Consumer confidence	0	++ Resource and research to support consumer-focused behavioural insights and targeted consumer campaigns would lead to consumers making more informed decisions. A well-regulated market, and improved conduct and culture of financial institutions will overall increase consumer confidence in these entities and is likely to better deliver on the legislative intent of the regime.	+ The FMA's more limited consumer education focus under CoFI Option 2 may result in a lower level of consumer awareness compared with Option 1. In addition, a less equipped regulator will mean the FMA focuses on enforcement after consumer harm has occurred which may overall reduce consumer confidence in financial institutions.

	Counterfactual	CoFI Option 1	CoFI Option 2
Achievability - Ability to build and recruit	0	- - Successful delivery of hiring 92 FTE over the forecast period may be challenging and will require the FMA to manage and mitigate staff turnover. However, the FMA has successfully on-boarded significant numbers of new staff (106 FTE in the year to June 2021) in recent years in a highly competitive and tight labour market.	- Successful delivery of hiring 67 FTE over the forecast period may be challenging and will require the FMA to manage and mitigate staff turnover. There is a risk with a lesser number of FTE compared with Option 1 as FMA staff may have higher workloads and increased stress, which could risk increased turnover and loss of capability, capacity and skills.
- Resilience and future proofing	0	++ The FMA would seek to build willingness and ability to comply across the market from the regime's outset and enable the FMA to focus on a range of sub-segments within the regulated population. The FMA would identify areas of good practice and promote and influence its adoption by similar entities in the sector. This should mean the FMA would need to devote relatively less resourcing to enforcement in the long term.	+ A reactive regulatory approach may be effective for an extended period of time after the introduction of the new regime. However, FMA may need to fundamentally review and revise its regulatory approach in response to market issues and behaviours, which may require the FMA to reprioritise resources from other areas.
Cost impact		- - This option will cost $3.785 million more than Option 2 from FY 25/26 and outyears. A higher level of funding will enable the FMA to deliver a proactive regulatory approach. However, the cost to levy payers will be higher than Option 2. The consequence of higher costs to levy payers means there is a greater possibility that these costs may be passed onto consumers.	- This option will cost $3.785 million less than Option 1 from FY 25/26 and outyears. A lower level of funding means that the FMA will deliver a reactive regulatory approach. However, the cost to levy payers will lower than Option 1 and there is a lower risk that costs will be passed onto consumers.
Overall assessment	0	++ This option is likely to better deliver on the intended outcomes of the CoFI regime and better equip the FMA to address misconduct that may lead to consumer harm in a more responsive and proportionate manner. However, this option comes with greater cost to levy payers and a greater risk of achievability in terms of a higher number of FTE required compared with the number of FTE under Option 2.	+ Option 2 carries a lower cost to levy payers than Option 1, but it may result in higher total cost of compliance for some entities, who would have less access to guidance and engagement from the FMA. This could in turn result in greater harm to consumers, as the FMA may not have the ability to address harm until after it has occurred.

Climate-related disclosures- funding options

The two funding options for the CRD regime are set out in the tables below. The funding will be phased over a four-year period commencing in FY22/23. This reflects the FMA's evolving focus for implementation and operation of the CRD regime.

A full breakdown of the funding showing the operating and capital expenditure is set out in Annex 1 of this RIA.

CRD Option 1 – proactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$1.772	$2.099	$1.856	$1.856
Cumulative FTE	6	8	8	8

CRD Option 2 – reactive approach

	FY22/23	FY23/24	FY24/25	FY25/26 and outyears
Funding (million)	$1.307	$1.657	$1.411	$1.411
Cumulative FTE	4	6	6	6

A breakdown of the number of FTE under each option by regulatory pillar is set out in Annex 1.

A summary of the FMA's activities over the four years is set out below:

- **FY22/23:** Issue early high-level guidance to support the market. The FMA will focus on recruiting and building its capability along with working with the XRB as it develops the climate reporting standards.
- **FY23/24:** Focus on guiding and supporting entities through the reporting process. The FMA will likely only take enforcement action where there has been a complete failure to report or gross misrepresentation. As the FMA expects a high degree of public interest in reporting, it anticipates it will need to triage a high volume of complaints.
- **FY24/25:** Review and update guidance in line with maturing sector capability and emerging good practice.
- **FY25/26**: Seek to settle into a 'steady state' level of monitoring and reviewing the capabilities and approach needed. The FMA will continue to research and develop guidance.

FMA's regulatory approach under CRD funding options

CRD Option 1

The FMA would take a proactive approach to the regime, with sufficient capacity across the relevant technical domains. This funding option would mean that the FMA would:

- deliver a proactive approach that supports consistent high-level disclosures
- engage with and inform the market through guidance on compliance expectations and thematic monitoring
- undertake detailed monitoring, including technical capability with regard to greenhouse gas emissions disclosures
- choose and assess samples of disclosures on a risk-based approach for the purposes of monitoring and enforcement
- have sufficient resource to build good working capability in most climate-related disclosure frameworks.

This option is more likely to support the FMA to give effect to the purpose of the CRD regime and enables more resources to provide guidance and support to the industry given it is a world-first regime. In particular, this is reflected in the table in Annex 1 which shows an additional FTE required under the pillars 'Set Standards' and 'Influence' under CRD Option 1 compared to CRD Option 2.

Stakeholder feedback

Stakeholders during consultation showed strong support for CRD Option 1 as the regime is a world-first. Industry is seeking for the FMA to be sufficiently funded to provide guidance and support to climate-reporting entities. This will help to build good industry practice and robust comparable disclosures, consistent with the policy goals of the regime.

CRD Option 2

The FMA would take a more reactive approach to the regime, with less focus on guidance on compliance expectations and assistance/engagement with the industry. This funding option would mean that the FMA:

- would have some limited capacity to begin developing capability to oversee the new regime and begin to build up internal expertise in a completely new area, while minimising disruption to other ongoing FMA work
- would seek to review a sample of entities' disclosures and there would be some ability to inform the market on best practice
- would undertake some thematic monitoring on specific issues as they are identified
- would have some technical capability with regard to greenhouse gas emissions disclosures for the purposes of monitoring

- could build a reasonable working understanding of the climate-related disclosures framework and standards designed by the XRB.

Stakeholder feedback

As noted above, there was strong support for CRD Option 1. However, one submitter stated that a reactive approach (i.e. CRD Option 2) with capacity slowly building over time would be more appropriate as the regime is new and still developing.

How do the CRD options compare with the counterfactual?

	Counterfactual	CRD Option 1	CRD Option 2
Strategic alignment - Engagement with the market	0	++ The FMA would take a more proactive and guidance focused approach. This should increase the FMA's influence in the market, build positive relationships and encourage better understanding as well as compliance with requirements, particularly given that the CRD regime is a world-first.	+ The FMA's regulatory approach would be more reactive and cover less technical specialist depth as compared with Option 1. The FMA would have less capability and capacity to influence the sector. The FMA would have more limited ability to monitor disclosures, respond to issues as they arise and issue guidance on compliance expectations as compared with Option 1. As such, it may be less valued by the market.
- Deterrence of misconduct	0	++ The FMA would have the ability to take enforcement action and respond to issues raised by the public, particularly towards the end of the four-year period covered.	+ Slightly lower resourcing under this option could mean the FMA would be less able to deter poor compliance.
- Consumer confidence	0	++ The FMA's capacity to respond (and be seen to respond) to misconduct (which has a high degree of public interest) would enhance broad public confidence. In addition, this option could better enhance consumer/investor confidence as there will be a stronger focus on collaboration and uptake of good practice to deter non-compliance. This is likely to better deliver on the legislative intent of the CRD regime.	+ As the FMA would have less capability and capacity to influence the sector, this could impact public and consumer confidence.

	Counterfactual	CRD Option 1	CRD Option 2
Achievability - Ability to build and recruit	0	- - The key achievability risk is the FMA's ability to recruit the required specialist staff with the necessary level of technical expertise and capacity. The FMA is considering alternatives to acquiring people with the skills "ready-made" e.g. through intensive training and contracting.	- As staff recruitment and retention is the key risk to achievability, CRD Option 2 comes with a lower risk of unsuccessful delivery as this option requires less FTE compared with Option 1.
- Resilience and future proofing	0	++ With more FTE under CRD Option 1, the FMA may be more resilient as it would have greater ability to reprioritise resources if required.	+ The lower capacity (in terms of employees) during the build up to operating the new regime would make it slightly more difficult for the FMA to support sector preparation compared to CRD Option 1, for example as standards are developed and datasets established. This may mean that the FMA would need to undertake more work over the longer term to build climate-reporting entities' understanding of their compliance obligations.
Cost impact	0	- - This option will cost $0.445 million more than Option 2 from FY 25/26 and outyears. As a result, the cost to levy payers will be higher than Option 2. The consequence of higher costs to levy payers means there is a greater possibility that these costs may be passed onto consumers.	- This option will cost $0.445 million less than Option 1 from FY 25/26 and outyears. As a result, the cost to levy payers will not be as high as Option 1 and there will be a lower risk that costs will be passed onto consumers.
Overall assessment	0	++ This option is more likely to support the FMA to give effect to the purpose of the CRD regime and enables more resources to provide guidance and support to the industry given it is a world-first regime. However, this option comes at a higher cost to levy payers than Option 2.	+ This option is a valid alternative that would still meet the legislative intent of the regime. This option comes at a lower cost to levy payers compared to Option 1. However, it takes a slower approach to building up capabilities for the new regime.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

Based on information provided by the FMA, Deloitte's independent review of the costings, feedback from stakeholders, the obligations and objectives for financial market regulators as set by IOSCO and the purposes of the FMA Act and FMC Act, we believe the following options set out below for each of the regimes are more likely to address the problem, meet the policy objectives of the regimes and deliver the greatest net benefits over the other options.

Conduct of financial institutions – Option 1 (as amended following consultation)

This option will provide the FMA with sufficient resourcing to be a credible conduct regulator and to take a proactive approach to supporting entities to meet the FMA's expectations under the CoFI regime.

While there were mixed views from submitters in terms of support for a particular funding option, some submitters agreed that Option 1 provides the FMA with appropriate resourcing for a proactive approach which would provide greater clarity and certainty in respect of regulator expectations. However, submitters also noted the challenges around recruitment and suggested that these be taken into account. As a result of feedback from consultation, Option 1 has been scaled down by reducing the total FTE required over 4 years from FY22/23 by 10 from 102 FTE to 92 FTE.

MBIE's view is that Option 1, as amended following consultation, is the best option as we recognise that the CoFI regime is a significant expansion in the FMA's remit and it is important that the FMA is appropriately resourced to implement and oversee this regime. Option 1 will provide the FMA with sufficient resourcing to undertake a proactive monitoring approach which will enable it to identify poor conduct before consumer harm occurs.

As previously noted, the industry expressed concerns that regulatory costs continue to rise and there is a risk that these costs will be passed onto consumers or result in firms exiting the industry. When setting the proposed levies we have taken into account feedback from submissions and the levy model objectives, including ensuring that the levy does not discourage entry into the market for, and/or the continued supply of, financial products or services and avoids large over- or under-collections. We have done our best to mitigate the financial impacts of the levies (particularly for smaller entities) to the extent possible within the constraints of the levy model.

We note that any Crown funding received will also help mitigate the financial impact on entities within the scope of the regimes and the potential for costs to be passed onto consumers. This is consistent with our views set out in Part 2 of this RIA that the Crown should contribute funding towards both the CoFI and CRD regimes.

While there will be costs for financial institutions as a result of the CoFI regime, the FMA's regulatory approach under Option 1 better meets the policy objectives of the regime than Option 2 and better ensures prevention of the risk of harm to consumers as a result of weaknesses in the governance and management of conduct risks in financial institutions. In our view, the benefits of better outcomes for consumers and increasing consumer confidence in well-regulated financial markets outweigh the increased costs of Option 1 on businesses.

Climate-related disclosures – Option 1

It is important that climate-reporting entities receive guidance and support from the FMA given that (i) this is a world-first regime and (ii) it seeks to improve climate reporting information in the market which will better help business and investors make more informed and efficient decisions, contributing to the efficient operation of financial markets.

As the CRD Act has passed and XRB intends to issue its first climate standard in December 2022, reporting requirements for climate reporting entities will come into force for financial years commencing on or after 1 January 2023. This option will provide the FMA with resources to hire the necessary staff in order to prepare guidance on compliance expectations to the market by December 2022.

The majority of submitters preferred Option 1 as the regime is technical and a world-first, therefore, entities will require support and guidance from the FMA. Less guidance on compliance expectations from the FMA will increase the burden on institutions. However, two submitters were of the opinion that the level of funding for the CRD regime should be higher than proposed under CRD Option 1.

MBIE's view is that Option 1 is the best option as it will enable the FMA to take a guidance-focused approach to engaging with the industry and monitoring and enforcing the regime.

As noted above, this is a world-first regime and it is important that the FMA is appropriately resourced to implement and oversee this regime. While CRD Option 1 comes at a higher cost for climate-reporting entities, the benefits of the FMA's proactive regulatory approach under the CRD regime will better assist climate-reporting entities on their compliance obligations and will better contribute to the objectives of the regime, including helping New Zealand transition to a low-emissions economy.

What are the marginal costs and benefits of the preferred options?

The comments in the below table are intended to cover the two regimes. However, where a comment is specific to a particular regime, that regime is identified.

Affected groups	Comment	Impact	Evidence Certainty	Comment	Impact	Evidence Certainty
	Additional *costs* of the preferred option compared to taking no action			**Additional *benefits* of the preferred option compared to taking no action**		
Regulated groups	The costs involved would be the monetary amount of the additional funding that is to be met by third-party levy payer funding (i.e. only those entities within the scope of one of the two regimes).	A maximum of $15.596* million in FY 25/26 and outyears (both regimes) if the cost was fully met by levy payers[7]	Medium-high The exact monetary impact will depend on whether, and how much of, the additional funding is met by Crown revenue.	Benefits to regulated entities including, deeper FMA engagement with industry to provide guidance and influence industry behaviour.	Medium-high	Medium
Regulator (FMA)	Short-term organisational change costs for the FMA in implementing the increase in FTEs and organisational growth.	Low-medium	Medium	The FMA will be able to monitor and enforce the regimes in a manner that meets the legislative intent of the regimes.	High	High

[7] We note that through Budget 2022, as the Crown is contributing some funding to the CoFI and CRD regimes, the impact on levy payers will be $13.970 million in FY25/26 and outyears.

Affected groups	Comment	Impact	Evidence Certainty	Comment	Impact	Evidence Certainty
Wider government	The Companies Office collects the majority of the FMA levies. There will be system and project costs associated making IT changes to the levies.	Estimated IT costs are between $75,000 - $100,000.	Medium-high The estimated cost is based on system and project costs from changes to the FMA levy in previous FMA funding reviews. The exact amount will depend on the nature and complexity of the changes and the number of years the funding increase is phased over.	Increased engagement and co-ordination with other government entities (including CoFR). For example, in relation to the CRD regime, increased co-ordination and engagement with XRB as they develop the climate-related disclosures framework and climate standards. In addition, RBNZ and the Ministry for the Environment who both have roles in New Zealand's climate change response generally and in relation to financial markets.	Medium	Medium
Consumers	Potentially increased costs on the regulated groups may be passed onto consumers (this was noted in submissions).	Unknown monetised impact.	Medium Some submitters noted that increased levies would be passed onto consumers particularly, by insurers but the extent to which this will occur is unknown	The FMA engage with and provide information to consumers. As a result of the FMA's activities in enforcing and overseeing the regimes, increased consumer trust in financial institutions, reduced consumer harm (in relation to the CoFI regime). For the benefits on consumers for the CRD regime (see below).	Medium-high	Medium

Affected groups	Comment	Impact	Evidence Certainty	Comment	Impact	Evidence Certainty
Businesses, investors and consumers	N/A	N/A	N/A	In relation to the CRD regime, improved climate reporting information in the market will better help businesses and investors make more informed and efficient decisions, contributing to the efficient operation of financial markets. In addition, consumers will be better able to make informed investment decisions by utilising climate reporting information.	Medium	Medium
Wider public	N/A	N/A	N/A	In relation to CRD funding option, this supports the transition to a low-emissions economy by potentially redirecting investment away from emissions-intensive activities towards low-emissions investments as disclosures improve transparency.	Not known	Medium Supported by overseas studies which show a positive link between climate disclosures and emissions reductions. In addition, supported by the New Zealand's Productivity Commission's Low-emissions economy report, August 2018.

Affected groups	Comment	Impact	Evidence Certainty	Comment	Impact	Evidence Certainty
Total monetised costs	Costs of third-party funding contribution from regulated parties and potentially costs passed onto consumer by regulated groups. However, it is difficult to provide an estimate as evidence of the exact financial impact on levy payers was not provided in submissions.	A maximum of $15.596* million in FY 25/26 and outyears (both regimes) if the cost was fully met by levy payers[8]	Medium-high	Without accurate quantifiable evidence, it is difficult to provide an estimate.	Not known	Not known
Non-monetised costs	Organisational change cost for the FMA.	Low-medium	Medium	Overall high level of benefits from a proactive regulator, including supporting and contributing to high quality climate reporting.	High	Medium
Total monetised benefits	It is difficult to provide a monetised estimate and there was no feedback provided on this through consultation.	Not known	Not Known	N/A	N/A	N/A

[8] We note that through Budget 2022, as the Crown is contributing some funding to the CoFI and CRD regimes, the impact on levy payers will be $13.970 million in FY25/26 and outyears.

Affected groups	Comment	Impact	Evidence Certainty	Comment	Impact	Evidence Certainty
Total non-monetised benefits	N/A	N/A	N/A	Overall high level of benefits from a more resilient, effective and proactive regulator, a more co-ordinated financial system and well-regulated financial market. There will be lower risks and harms to consumers, investors and businesses as a result of a proactive approach from the FMA.	High	Medium

*This figure does not include $14,000 capital funding required for the CoFI regime in FY 25/26.

Part 3 – Sourcing the FMA's funding (CRIS 1)

Part 3 of this regulatory impact assessment discusses how any increase in FMA funding should be split between the Crown and financial market participants through the FMA levy.

Impact of Budget 2022 decision

Through Budget 2022, Cabinet agreed to provide Crown funding towards all capital expenditure and some operating expenditure that the FMA requires for the CoFI and CRD regimes. The below tables set out the Crown's contribution towards the FMA's appropriation increase.

Conduct of Financial Institutions

	FY22/23	FY23/24	FY24/26	FY25/26 and outyears
Operating expenditure (million)	0	$0.287	$0.874	$1.162
Capital expenditure (million)	$1.063	$0.726	$0.014	$0.014*

*This figure is capital expenditure for FY25/26 only. There is no ongoing capital expenditure for outyears.

Climate-related Disclosures

	FY22/23	FY23/24	FY24/26	FY25/26 and outyears
Operating expenditure (million)	$0.406	$0.487	$0.464	$0.464
Capital expenditure (million)	$0.150	$0.150	0	0

Cabinet's decision on the Crown's contribution towards the FMA's funding is less than MBIE's preferred recovery option and level of Crown funding set out in this Part 3. However, this does not materially change MBIE's analysis and overall assessment set out in this Part 3.

Who should pay for an increase in the FMA's funding?

Status quo

The FMA receives an annual appropriation from the Crown. However, it is funded through a combination of Crown and third-party industry funding recovered through levies. Section 67 of the Financial Markets Authority Act 2011 provides authority for regulations to be made for the purposes of fees and charges being paid by financial market participants to the FMA. The levy payers affected by the increase in the FMA's funding are listed in the Annex to the RIA.

When the FMA was established, the split of its operational funding (excluding litigation funding) was approximately 40% Crown and 60% levy funding.

The justification for this split was based on a judgement that the activities and operations of the FMA have both public and private good aspects but that the majority of this benefit accrued to financial market participants.

The majority of the last increase to the FMA's funding was met by levy funding and consequently resulted in the Crown's proportional contribution to the FMA's funding decreasing from FY22/23 to around 17% compared to the industry's contribution of around 83%.

Funding recovery options

MBIE and the FMA have consulted publicly on two options for the source of the additional funding for the FMA, i.e.

- maintain the status quo of 17% Crown and 83% levies across all regimes, or
- fund the increase for both regimes with 100% levies.

Following feedback received from consultation, an additional funding recovery option was included (being, Option 2 in the below table) which shows 17% Crown funding for CoFI and 100% Crown funding for CRD. This Option 2 reflects our preferred option following consultation.

Funding recovery option	Portion of total FMA appropriation (excluding litigation, fees and third party revenue) from FY25/26*		Approximate split of total appropriation from FY25/26	
	Crown	Levy	Crown	Levy
Option 1: Status quo mix 17% Crown and 83% levies for both regimes	$12.946 million	$63.455 million	17%	83%
Option 2: New mix 17% Crown and 83% levies for the CoFI regime	$14.488 million	$61.913 million	19%	81%
100% Crown for CRD regime				
Option 3: Levy Increase is 100% levy funded for both regimes	$10.304 million	$66.097 million	13%	87%

*The appropriation figures in this table do not include the $14,000 capital funding required for the CoFI regime in FY 25/26.

We note that through Budget 2022, the Crown is contributing $1.626 million (operational expenditure) towards the CoFI and CRD regimes from FY25/26 and outyears. This amount was not one of the recovery options that we consulted on. However, it will result in the approximate split being 16% Crown and 84% levy funded from FY25/26.

Assessment criteria

In developing our criteria and carrying out our assessment we have considered the Office of the Auditor General's good practice guide: *Charging fees for public sector goods and services* and the Treasury's Guidelines for *Setting Charges in the Public Sector*.

Our overarching principle in assessing how the increase in FMA funding should be sourced is that the split should reflect the benefit that both the broader public and private participants receive from the FMA's activities and from operating in well-regulated financial markets (i.e. proportionality).

In addition, we also use the following principles to guide our assessment:

- equity – the relative impacts of the proportion of Crown and third-party funding (e.g. ability to pay) are taken into account.

- sustainability – the split of funding is sustainable and viable in the long-term and the Crown operating balance and market activity are not unduly negatively impacted as a result of the levy.

Stakeholder feedback on the source of FMA's funding

The public discussion paper sought feedback on how an increase in FMA funding should be split between the Crown and third-party levy payers.

All submitters who responded to the relevant question/s on funding recovery options in the discussion paper stated that the Crown should contribute something to the FMA's additional funding requirements. In particular:

- 4 submitters stated that the current Crown/levy split (i.e. 17% Crown / 83% levies) should be maintained
- 3 submitters stated the Crown should increase its contribution (one submitter stating increasing the Crown's contribution to 25%, being the level of Crown funding prior to the 2019/2020 review)
- 2 submitters (who represented fund managers) stated that the Crown should fully fund the CRD regime.

Key reasons given for why the Crown should fund the FMA's additional funding requirements include:

- All regimes will deliver substantial public benefits and are intended to benefit New Zealand as a whole.
- Businesses are subject to taxes, licence costs, and levies across a range of government organisations. There is only so much cost that can be passed down to businesses before hampering even further New Zealand competitiveness on the international stage, particularly when the nation is just recovering from a health and economic crisis. As a result of a time where there is high regulatory burden and costs on the industry, additional costs imposed on entities may be passed onto consumers and could also result in entities exiting the market. The Crown contributing to the increases would positively reduce cost for the regulated population and consequential financial impacts on customers.
- The proposed levies for CoFI Option 1 (as set out in the Discussion Document) will disproportionately affect smaller entities (such as credit unions and NBDTs). The proposed levies would cause great detriment to the sustainability of these smaller entities which will be detrimental to consumers and financial inclusion.
- The scope of consumers who fall within the FMA's remit is much broader compared to when the FMA was first formed, and this makes a case for increasing the Crown's contribution to reflect the broader public benefit.

In particular, reasons given as to why the Crown should fully fund the CRD regime include:

- The regime is particularly for the public benefit and was introduced as part of the reforms to assist the whole of New Zealand's transition to a low carbon economy.
- The regime is an example of regulation that has been inserted into the FMC Act for the overriding purpose of achieving a public good outcome that stands apart from most of the other additions to the FMC Act that have been primarily introduced to benefit particular financial markets participants and consumers.

Assessment

In order to determine who should pay for the increased funding we have attempted to assess the private and public benefits of the two regimes and to assign these to the group we

consider derives the majority of the benefit from that regime (i.e. proportionality). This allocation of benefit is then weighed against equity and sustainability to make our assessment.

However, this assessment is limited by the fact that the private and public benefits of the two regimes cannot readily be translated into quantitative benefit. Accordingly, it is not possible to make direct and isolated correlations between the benefit derived by particular participants or the public. Indeed, unlike a fee, a levy can factor in benefits shared between groups or benefits that cannot be specifically assigned to individual groups. Accordingly, we cannot establish percentages or proportions for the level of private and public benefit. Instead, our allocations and assessment of benefit are constrained to the more general explanations below.

Proportionality

Regime	Benefit/s	Benefit predominantly private or public
Conduct of financial institutions	General benefit attributable to financial institutions through these entities holding conduct licences and being able to provide products and services to consumers, receiving guidance, support and engagement from the FMA. Increased consumer trust in financial institutions and reduced consumer harm as a result of the FMA's activities will result in benefits to both the industry (from confident consumers being more likely to engage with the industry and use financial products and services) and the general public (confidence in financial markets and well-functioning financial markets generally).	Predominantly private benefit to relevant financial institutions, but some public benefit
Climate-related disclosures	Some benefit attributable to climate reporting entities receiving guidance, support and engagement from the FMA. In addition, benefits to businesses and investors through improved information in the market, as well as a strong overarching public benefit of the regime. The regime supports the transition to a low-emissions economy[9] by potentially redirecting investment towards low-emissions investments and thereby benefits the general population as a result of regimes/activities that contribute to New Zealand's response to climate change.	Predominantly public benefit

In addition to the benefits in relation to the two regimes set out above, there are also broader public good aspects of the FMA's regulatory activities (in general) that cannot be attributed to specific sectors or groups. These include the benefit that the FMA's work and role can have on efficiency and stability in financial markets and on fostering the growth and innovation of

[9] A mandatory climate-related disclosures regime was one of the recommendations in the New Zealand Productivity Commission's Low-emissions economy report, August 2018 https://www.productivity.govt.nz/assets/Documents/lowemissions/4e01d69a83/Productivity-Commission_Low-emissions-economy_Final-Report_FINAL_2.pdf

confident and informed markets that support access to capital, products and advice and international standing of well-regulated financial markets that are beneficial to operate in.

As outlined above, subject to caveats about our ability to precisely quantify the public/private benefit, we believe that the increases in the FMA's activities and operations as a result of its expanding remit under the two regimes will have benefits for the broader public (consumers and the functioning of financial markets) as well as private market participants.

Equity and sustainability

We are also conscious of the financial impact of large increases in levy funding on financial markets participants and the industry and any unintended consequences this could have on the makeup of financial markets. Aside from considerations regarding who benefits from increased FMA funding, there is a risk that sourcing the increase in funding entirely from levy payers would unduly burden levy payers with significant additional costs and that some firms may simply pass more of these costs down to end consumers, ultimately reducing the net benefit of the FMA's activities.

A number of submitters also raised high regulatory burden and costs in the industry in recent years and the potential risk that these costs could be passed onto consumers. We see this as a real risk as the industry will not only be faced with increased FMA levies but their own internal compliance costs for both regimes (and any other costs as a result of other regulatory regimes those entities are or will become subject to). To the extent possible, we have done our best to mitigate the risk that costs will passed onto consumers for smaller entities within the constraints of the levy model. Further detail about the changes made to the levy model are set out in Part 4 of this RIA.

The potential risk of increased levies being passed onto consumers was also a risk identified in the 2019/20 funding review. However, we see this as a greater risk (particularly for mid-small sized entities) for the 2021 funding review given the size of the total appropriation increase in the FMA's funding from $60.805 million per annum to $76.401 million per annum by 2025/26 and outyears. This increase represents approximately a 26% increase in the FMA's total appropriation that will be met by only those levy payers within the scope of the two regimes as opposed to the funding costs being spread out across all levy payers as was the case in the 2019/20 review.

If the increase was met entirely from levies there is also a risk that these additional costs may lead to market distortions, such as firms exiting or not entering the industry due to the cost and subsequent reductions in competitive forces and pressures in the market. While this is likely to be a relatively low risk in the immediate future, as the funding increases are gradually phased in, some firms could exit the market in future. While evidence certainty about these risks is hard to predict, the potential for this issue was raised in submissions and we believe that this could be a risk in the future.

Conclusion

We do not consider option 1 or 3 is the preferred option

Based on our assessment, we do not consider recovery Option 1 (maintain the 17% Crown / 83% levy split) or option 3 (100% levy funded) is the preferred option. While Option 1 maintains the Crown's contribution of 17% and recognises that there are some public benefits, it does not reflect the predominantly greater public benefit of the CRD regime and its role in supporting New Zealand's transition to a low-emissions economy.

Option 3 is also not the preferred option as it will dilute the Crown's contribution to 13.5% with levy payers increasing their contribution to 86.5%. This option and decrease in the Crown's overall contribution would not reflect the proportionate benefits received by both the public and wider financial markets on the one hand, and levy payers on the other, or recognise the public benefits of the FMA activities as a result of the CoFI and CRD regimes.

We consider Option 2 is the preferred option

As previously noted, the nature of the FMA's activities and options and how they benefit the public and participants mean that they cannot be precisely quantified and we cannot determine a specific percentage split of Crown and levy funding for the FMA. However, given the broad public and private benefits of the FMA's activities and operations, and taking into account the public and private benefits of the new regimes:

- We do not believe there is any justification to depart from the status quo of sourcing the FMA's appropriation from a combination of Crown and levy funding in relation to the CoFI regime as there is a public benefit of increased consumer trust in financial institutions and reduced consumer harm as a result of the FMA's activities.
- We consider that the Crown should contribute 100% funding towards the CRD regime due to the greater public benefit of this regime, and due to its role in supporting New Zealand's transition to a low-emissions economy and in helping tackle climate change.

Accordingly, based on our assessment of the relevant criteria we consider that Option 2 (i.e. maintain the Crown's contribution of 17% for the CoFI regime and 100% Crown contribution for the CRD regime) is the preferred option.

Part 4 – The FMA levy model (CRIS 2)

Part 4 of this RIA discusses how the preferred funding option in Part 2 and the apportionment of the preferred recovery option in Part 3 should be distributed between levy payers through the FMA levy.

As set out in Part 3, notwithstanding Cabinet's decision of providing a lower level of Crown funding than MBIE's preferred option, we consider that the Crown should contribute 100% funding for the CRD regime. Accordingly, this section:

- sets out our analysis on the current FMA levy model structure that charging a levy by classes and tiers is appropriate for recovering the FMA's additional funding requirements and
- discusses options to levy entities within the scope of the CoFI regime only.

For illustrative purposes only, Annex 3 sets out options to levy entities within the scope of the CRD regime.

Impact of Budget 2022 decision

Annex 2 and Annex 4 set out proposed CoFI and CRD levies on the basis that the Crown contribution is 17%. Through Budget 2022, as the Crown will provide a lower level of Crown funding than MBIE's preferred option in Part 3 (to provide a higher level of Crown funding), this will result in:

- higher levies than the proposed CoFI levies set out in Annex 2 (as Budget 2022 provides less than 17% Crown contribution towards CoFI funding) and
- lower levies than the proposed CRD levies set out in Annex 4 (as Budget 2022 provides a higher level of Crown contribution than 17%).

Budget 2022 decisions do not change MBIE's underlying analysis set out in Part 4 of this RIA. In particular, it does not change MBIE's application of the cost recovery principles and objectives and the process followed to determine the relevant levy amounts.

During consultation in October and November 2021, entities within the scope of the regimes were consulted on proposed levies on the basis that the FMA's funding would be fully recovered through industry levies (i.e. there would be no Crown contribution). Cabinet's decision to provide some level of Crown funding for both regimes should not result in greater costs for market participants as the final levies will be lower than the amounts consulted on in the Discussion Document.

The FMA levy

The FMA levy was created in 2012 to allow the Crown to recover some of the costs of the FMA's activities and operations from the industry. The levy is payable by financial market participants either on registration or annually or at the time of the prescribed event.

Statutory authority for the FMA levy is outlined in section 68 of the Financial Markets Authority Act 2011 and has been used multiple times to first introduce and then amend the levies payable by different classes of specified persons.

The FMA levy model

The high-level methodology the model has used since its inception is that each class or sector of the levy paying population is assigned a portion of the total dollar amount of FMA expenditure that has been identified as recoverable from the industry. This portion is then divided among the forecast number of participants within each levy class and, where appropriate, by the size of businesses within those classes to recognise variations in size and nature of financial market participants.

The levy is prescribed on an activity/class basis such that financial market participants make a contribution for each class in which they operate. For example, a registered bank that is also a derivatives issuer and manages a KiwiSaver scheme will pay the levy for all three activities.

The majority of the levy is collected by the Companies Office across the different registers they administer such as the Financial Service Providers Register or Disclose Register. The FMA also collects some levy classes from financial market participants outside of the registers.

The model was reviewed in 2016 to ensure it remained accurate and appropriate and to update the levies to account for the previous increase to the FMA's funding. It has been periodically amended over time to add new market participants or make changes required by new regulatory regimes, including most recently in 2019/20.

The FMA has a discretionary power to waive a levy where the circumstances of a financial market participant are exceptional when compared to others in the same levy class. The threshold is deliberately high and the waiver power is not intended to be used to revisit settled policy positions.

The current levies are set out in Schedule 2 of the Financial Markets Authority (Levies) Regulations 2012.

The current FMA levy model structure is still appropriate

The FMA levy model was last reviewed in 2019/20. This included a review of population forecasts for participants, new classes and tier adjustments and an increase in levy amounts to recover an increase in FMA funding.

We believe that the current FMA levy model structure of charging a levy by classes and tiers is appropriate for recovering the FMA's additional funding requirements. The current model enables an appropriate differentiation of the varying types and areas of market participants. In addition, as this is not a substantive review of the full FMA levy model and its underlying structure, maintaining the current model ensures that it remains equitable, simple and consistent with how current levies paid by existing classes are being collected.

Summary of required changes to FMA levies

While we are not proposing changes to the underlying FMA levy model structure, as a result of the proposed increase in the FMA funding, changes are required to levy entities captured by the CoFI regime. The following changes are required:

- create two new classes to capture banks and NBDTs, and insurers within the scope of the CoFI regime and
- increase their current levies.

These above changes were considered in the context of the whole levy model to ensure that the model remains equitable, consistent with existing classes, and is as simple as possible. Further details on these changes are set out below.

As previously noted, funding policy decisions in relation to the ICL regime and proposed levies will be made at a later date and closer to when the Insurance Contracts Bill is passed by Parliament. Levy payers outside the scope of the CoFI, CRD and ICL regimes were not consulted as part of this review and we do not propose any changes to their levies.

Cost recovery principles and objectives

The objectives that will be taken into account to determine the FMA levies are:

- The cost of the levy for market participants is consistent with the benefits they receive from well-regulated financial markets.
- The levy does not discourage entry into the market for, and/or the continued supply of, financial products or services.
- The levy does not unduly burden smaller market participants.
- The levy is practical in respect of its implementation, collection and also avoids large over- or under-collections.

There will necessarily be trade-offs to be made in balancing these objectives.

Changes required to levy the relevant entities

New levy populations

The CoFI regime will apply to registered banks, licensed insurers and NBDTs providing one or more relevant services to retail clients. To include these new types of participants for the purpose of the levy for the CoFI regime, we propose to create two new levy classes.

The Financial Markets (Conduct of Institutions) Amendment Bill (**CoFI Bill**) which introduces the new conduct regime is part way through its second reading. Under the FMA Act, the FMA can recover levies from market participants in performing or exercising its functions, powers and duties under the FMA Act or any other enactment. As a result of this provision, levies to recover costs in relation to the FMA's functions under a new regime should only be charged once that regime has been passed by Parliament. Accordingly, the ability to set

levies for this regime will not come into effect until the amendments proposed in the Bill are passed into law.

At the time of writing this RIA, we anticipate that CoFI Bill will be passed in the first-half of 2022 and the new levies for CoFI will take effect in FY22/23.

New levy class: Conduct-licensed banks and NBDTs

Existing levy class 2 currently captures all registered banks and licensed NBDTs. Any banks and NBDTs covered by the CoFI regime because they provide relevant services to retail clients would move into the new levy class while the remaining entities (i.e. wholesale banks) would stay in class 2. The name/description of the current class 2 would be updated to reflect the distinction between those banks and NBDTs that remain in class 2 and those that move into the new levy class.

The tiers within the new class are proposed to mirror the same tiers currently under class 2 for consistency. Creating a new levy class for conduct-licensed banks and NBDTs as well as maintaining the same tiers in class 2 ensures that the levy is practical in respect of its implementation and collection, and consistent with how banks and NBDTs are currently levied.

A summary of the proposed changes is set out below.

Levy class and description	Existing or new levy class	Change/s
Class 2 Registered banks or licensed NBDTs not covered by CoFI	Existing	The name/description of this levy class will be changed to reflect the distinction between those entities in Class 2 and Class 2A. Relevant banks and NBDTs currently in this class will move to Class 2A if they are within the scope of the CoFI regime. There is no change to the current levies for entities who remain in Class 2 as they will not be required be licensed under the CoFI regime.
Class 2A Registered banks or licensed NBDTs (conduct licensed)	New	New class created for registered banks or licensed NBDTs who will require a conduct licence. Relevant banks and NBDTs currently in Class 2 will move into Class 2A. The tiers in Class 2A will be the same tiers that exist in current Class 2. We propose to increase levies on these entities (on top of their current Class 2 levy) as these entities are within the scope of the CoFI regime.

New levy class: Conduct-licensed insurers

The new class will cover insurers who are within the scope of the CoFI regime. To include these new types of participants for the purpose of the levy, we propose to create a new class for those insurers who will be required to obtain a conduct licence.

The current levy class 3 captures licensed insurers. Any licensed insurers covered by the CoFI regime will move into the new class while the remaining entities (i.e. wholesale insurers) will stay in class 3. The name/description of the current class 3 will be updated to reflect the distinction between those insurers that remain in class 3 and those that move into the new levy class.

The tiers within the new class are proposed to mirror the same tiers currently under class 3 for consistency. Creating a new levy class for conduct-licensed insurers as well as maintaining the same tiers in class 3 ensures that the levy is practical in respect of its implementation and collection, and consistent with how insurers are currently levied.

A summary of the proposed changes is set out below.

Levy class and description	Existing or new levy class	Change/s
Class 3 Licensed insurers not covered by CoFI	Existing	The name/description of this levy class will be changed to reflect the distinction between those entities in Class 3 and Class 3A. Relevant insurers currently in this class will move to Class 3A if they are within the scope of the CoFI regime. There is no change to the levies for entities who remain in Class 3 as they will not be required be licensed under the CoFI regime.
Class 3A Licensed insurers (conduct licensed)	New	New class created for licensed insurers who will require a conduct licence under the CoFI regime. Relevant insurers currently in Class 3 will move into Class 3A. The tiers in Class 3A will be the same tiers that exist in current Class 3. We propose to increase levies for these entities (on top of their current Class 3 levy) as these entities are within the scope of the CoFI regime

Population estimates

For simplicity, the model assumes that the forecast populations for each new levy class will remain static over time. However, in reality, the total population of financial market participants and the number within each levy class and tier fluctuate from year-to-year in ways that are not predictable. This necessitates that the model and its underlying forecasts are reviewed regularly and updated during any review of the FMA's funding and levies.

As we did not conduct a full baseline funding review and are only proposing new levies for those entities within the scope of the two regimes, only the forecast populations for those regimes have been reviewed and updated where necessary.

Assumptions

For the purposes of setting the levies, we have based our calculations on there being approximately:

- 37 banks and NBDTs who will be required hold a conduct licence (these entities will move from existing Class 2 to new levy Class 2A)
- 22 banks and NBDTs not within the scope of the CoFI regime (these entities will remain in the current Class 2)
- 62 insurers who will be required to hold a conduct licence (these entities will move from existing Class 3 to new levy Class 3A)
- 23 insurers not within the scope of the CoFI regime (these entities will remain in the current Class 3).

We note that the above figures are estimates only and the actual population of entities above may differ and fluctuate over time.

Setting the levies

In creating new levy classes and setting levies for only those entities affected, there are inevitable trade-offs between equity, simplicity and practicality in administration to ensure the levy model continues to meet its objectives. There is also a certain element of judgement in setting the levies payable within each levy class and tier.

In Part 2 of this RIA, we set out that a certain level of funding needs to be recovered over the next four years commencing in FY22/23 (e.g. in the first year, $6.255 million under CoFI Option 1 needs to be recovered from an estimated 37 conduct-licensed banks and NBDTs, and 62 conduct-licensed insurers).

As a starting point in setting the levies, the relative percentages or portions that banks and NBDTs and insurers are currently paying in levies (as well as the percentages that each tier is currently paying) was kept consistent in terms of apportioning the additional level of funding that needs to be recovered each year. Following that, we have further adjusted the levy amounts to take into account the cost recovery principles and objectives (as previously set out), feedback received during consultation, and other factors. In particular:

- the levy amounts on smaller entities (including small NBDTs) are proportionally smaller than larger entities, recognising that they are less resourced to absorb increased levy costs and to ensure that the increased levies do not unduly burden smaller market participants
- larger entities have higher levy increases to reflect that these entities receive a larger benefit from well-regulated financial markets
- higher tiers within each class experience a greater percentage increase in their levies over the four years relative to lower tiers, also reflecting the larger benefit entities in higher tiers receive from a well-regulated financial market
- the levies have been adjusted to minimise, to the extent possible, large over- or under-collections in the levies.

We recognise that in setting the levies, the above factors illustrate that it requires a certain element of judgement necessary and consideration of balancing the cost recovery principles and objectives.

In applying the process above, the detailed table in the Annex 2 to this RIA shows the proposed new levies (assuming the Crown contributes 17%). As the amount of funding that needs to be recovered changes each year, the levies have been adjusted accordingly while keeping our approach to setting the levies consistent across the four years. The levy rates for each new CoFI levy class are set at a rate that includes both the existing levy (that these entities would otherwise pay if they were not within the scope of the CoFI regime) and an additional levy to cover funding of the CoFI regime.

Stakeholder feedback on FMA levy

Key feedback received from submissions includes:

- The levy model should take into account those insurers who have a small portion of consumer revenue that makes up their overall business.
- There are significant increases and differences in the levies moving between the different tiers.
- The levies should be proportionate based on the size of the entity.
- Smaller entities should not have any levy increases as the cost of compliance of the new regimes is burdensome enough.
- The levy model should recognise profit/not-for-profit entities.
- The levy model should set levies on a percentage basis rather than using tiers when entities reach a certain size to smooth any increase resulting from growth.

Cost recovery impact analysis

Impact of updated levy amounts

The proposed levy amounts and financial impact for entities within the scope of the CoFI regime is set out in the table in Annex 2 to this RIA and show the current (if applicable) and new levy amounts. The table is based on the Crown maintaining its 17% contribution rate for the CoFI regime.

Given the proposals relate to the levies, the predominant impact on participants will be financial through the increased levies. These costs are modelled in both on pages 32 to 36 in Part 1 of the RIA and the table in the Annex 2 and as previously stated the assessment of their impact is limited by the constrained time and consultation period.

As previously noted, the size of the total FMA appropriation increase under the preferred option from $60.805 million per annum to $76.401 million per annum by 2025/26 and outyears (which represents approximately a 26% increase in the FMA's total appropriation).

There is a risk that some participants may pass higher levy costs down to end-consumers potentially through higher fees or costs for services, or alternatively through reducing service offerings or coverage. This risk was noted in the submissions from industry and, in particular, smaller entities such as NBDTs and credit unions. While we acknowledge that this is a potential risk, we believe that smaller entities should still be levied for a new regime given that they receive some benefit (e.g. guidance from the FMA) and we have done our best to mitigate the increased costs on these smaller entities within the constraints of the levy model.

Limitations of forecast populations

As the levies are calculated based on forecasts of sector populations who are within the scope of the two regimes (i.e. captured under the new levy classes), there is always a risk of under- or over-recovery of the levy over time.

Consideration of feedback following consultation

Our consideration of some key feedback and changes (if any) we made to the levy model following consultation is set out below.

High increases between the tiers (i.e. vertically) and high increases across the four year forecast period (i.e. horizontally)

As noted previously there is a certain element of judgement in setting the tiers within each levy class and the actual levies payable. To ensure that the model remains equitable, is consistent with existing classes and is as simple as possible, the tiers within the new classes for banks, NBDTs and insurers mirror the tiers in their current classes. Some new tiers were added in the 2019/20 funding review[10] to address equity issues and to ensure that the model does not discourage entry or growth in financial markets. We have not created additional tiers.

---

[10] See the RIA 'Changes to the Financial Markets Authority's funding and levy', MBIE, 2 April 2020, available at https://www.mbie.govt.nz/dmsdocument/11385-financial-markets-authority-funding-and-levy-regulatory-impact-assessment-proactiverelease-pdf

In relation to the proposed levy amounts that were set out in the Discussion Document, we have adjusted the levy amounts based on the revised funding options and have also attempted to smooth (to the extent possible) the increases in levies for entities over the four year forecast period.

It would be unfair for insurers that have a small portion of their overall business which is retail pay the proposed increase to levies for the CoFI regime

Overall, industry based submitters agreed that levies should be apportioned according to the size of the entity. Two submitters queried why the levies payable for insurers that fall within the CoFI regime are calculated on the annual gross premium revenue of the insurer, rather than just the premium revenue that relates to their consumer business. The basis of this argument is that new CoFI regime only applies to their consumer business and accordingly, levies should be calculated on consumer business premium revenue only.

All entity types captured under CoFI will be differentiated for levy purposes by class and tier. Under the current levy model, tiers for banks and licensed NBDTs are based on total assets and tiers for licensed insurers are based on annual gross premium revenue. MBIE do not consider a differentiation as to the source of contribution size metric (i.e. only annual gross premium revenue or assets derived from consumer business for any entity type) is necessary to achieve the objectives of the levy model. The metric is a rough proxy for economic activity and perceived benefit across the regulated population; it is not intended to reflect the actual cost of regulation for each individual market participant in each levy class.

The size metric enables the levy tiers to allow for lower costs to smaller or newer market participants which supports the objectives of not discouraging entry into the market and the continued supply of financial products or services, and does not unduly burden smaller market participants.

It is also important that the levy model remains simple and practical in respect of its implementation. This approach is simple in respect of levy calculation and collection as it relies on data already reported by market participants without further need for reclassification or calculation. In addition, significant systems changes are not required to accommodate the new levy classes.

The levy model should recognise profit/not-for-profit entities

Two submitters raised a comment that in setting levies we should consider the distinction between profit and not-for-profit entities. This could be demonstrated through lower levy rates for these entities or an exemption from paying a levy.

We recognise that the financial institutions liable for levies come in various forms, including not-for-profit or member owned organisations. We note that not for profit financial institutions do not have a primary purpose of generating profits and we acknowledge that not-for-profit and charitable organisations play a unique role in society. However, all entities, irrespective of their structure, receive a private benefit from the FMA's activities as well the general benefit of well-regulated financial markets and accordingly, should carry some of that cost.

Conclusion for the FMA levy

We consider that the FMA levies should be updated and changed in accordance with the above analysis and the table in the Annex 2 in relation to levies for the CoFI regime.

These changes appropriately reflect that:

- two new levy classes are needed to distinguish between banks, NBDTs and insurers that are within the scope of the CoFI regime, and those entities who are not and
- only those entities within the scope of the CoFI regime should be subject to increased levies.

In relation to the proposed levies, we do not expect there to be material adverse impacts on the market for regulated parties from these levies. In setting the levies, we carefully considered the cost burden and sustainability of smaller entities as a result of increased levies. The levies set out in Annex 2 show relatively small increases in levies for smaller entities and higher levies for larger entities due to the greater benefit these entities receive from well-regulated financial markets.

Implementation and operation

How will the new arrangements be implemented

Approach to give effect to changes

The increase to the FMA's funding and any Crown contribution will need to be effected through an update to the FMA Multi-Category Appropriation at the next available opportunity (the Budget or a baseline update).

The changes to the FMA levy will need to be made by amending the Financial Markets Authority (Levies) Regulations 2012 through an Order in Council.

Timing of changes

Given the progress of the legislative regimes, the FMA funding and levy changes are intended to come into effect during FY22/23. This will ensure that the FMA has sufficient funding in place to meet its expanding legislative remit under the two regimes and that the Crown can recover the relevant portion of the FMA's appropriation from participants through the levy.

Levy payers were informed of the upcoming changes to levies when consultation began. We anticipate that the relevant participants will be informed of the new levy amounts after Budget day in May 2022.

COVID-19 impact on proposals and implementation

The existence and spread of COVID-19, in particular the Delta variant, in New Zealand as well as the Government's response has impacted the broader context and implementation of the FMA's funding and levy changes.

Changes in alert levels for New Zealand since the first lockdown has impacted the progress of legislation, including the CoFI Bill.

Implementation issues/risks

Achievability of funding increase and organisational change

The FMA has grown significantly since its establishment and the new regimes represent a significant expansion in the FMA's remit.

In relation to the funding options, there may be recruitment challenges for the FMA particularly in relation to seeking the required total 92 FTE required over the four-year period commencing FY22/23 for the CoFI regime and specialist skills required for the CRD regime.

The FMA has a number of mitigation strategies for this risk which include using the experience it has gained in recent years, including recruiting for attributes, using sourcing specialists and building good working relationships with industry recruiters, continued work

on its employee value proposition, and using contractors when required. The FMA will look to broaden the length and frequency of secondments between other government agencies, and is planning to open an office in Christchurch in 2022, which will provide access to a wider labour market.

In particular, in relation to specialist skills required for the CRD regime, the FMA will consider alternatives to acquiring people with the skills ready-made, such as through intensive training of either current staff or staff being onboarded.

Monitoring, evaluation and review

How will the new arrangements be monitored, evaluated, and reviewed?

Assessing whether the anticipated impacts and outcomes will materialise will be difficult given one of the primary pieces of evidence to assess this is the effective prevention and mitigation of risk and harm in financial markets. Success in this regard would mean risk or harm not occurring and so there would be no activity or event to evaluate against.

However, we are confident that the FMA's formal performance framework (i.e. its statement of intent, its annual statement of performance expectations, parliamentary scrutiny processes and MBIE's monitoring activities) as well as informal methods of assessing the FMA's performance (e.g. FMA surveys of performance) can adequately measure its continued effectiveness and efficiency.

Given the challenge involved in achieving the expenditure and recruitment levels particularly for the CoFI and CRD regimes, MBIE will continue to monitor the FMA's financial position and recruitment. Should the required level of recruitment not be achieved, the FMA would prioritise its recruitment and resources to ensure it is able to fulfil its statutory functions and responsibilities e.g. implementing the new regimes and monitoring and supervision under the FMC Act. Under this circumstance, unused resources from lower recruitment would be carried over into future years to ensure the necessary recruitment still occurs.

MBIE will also monitor the FMA levy with both the FMA and the Registrar of Companies over the longer term to ensure it operates as intended.

When and how will the new arrangements be reviewed?

The FMA's funding was last comprehensively reviewed in 2019/20. As part of its regulatory stewardship role, MBIE reviews both the funding of the Crown entities it monitors and any cost recovery regimes for these entities. These changes will be reviewed consistent with this approach.

Given that the CoFI regime is part way through the legislative process, the funding options developed for CoFI reflect the FMA's funding requirements based on current information. If there are significant changes to the FMA's expected role under the CoFI regime or if there is a new legislative regime introduced where the FMA will have a role, MBIE may need to review the FMA's funding and the FMA levy, in part or full, sooner than would normally occur. MBIE will monitor the impact of these factors on the FMA's funding and the FMA levy.

As previously noted, the proposed levies for the ICL regime can only take effect once the Insurance Contracts Bill is passed by Parliament (a date which is unknown at this stage). A separate RIA will be prepared in relation to the funding options and levies for the ICL regime at a later date.

Annex 1 – Outputs, costings and number of FTE by regulatory pillar

Outputs and costing of the activity

The tables below show the breakdown of FMA spending on CoFI and CRD across future financial years for both Option 1 and 2.

Conduct of financial institutions – Option 1

Additional funding ($m)	22/23	23/24	24/25	25/26 & outyears
Cumulative new FTE	20	43	67	92
*Capital costs**	1.080	0.709	0.014	0.014**
Project operating costs	1.382	0.020	0	0
People and Capability development costs	0.327	0.196	0.282	0.198
Personnel costs	2.547	5.476	8.533	11.717
Other operating costs	0.568	0.869	1.130	1.402
Depreciation and amortisation	0.351	0.374	0.398	0.422
Total funding	**$6.255**	**$7.644**	**$10.356**	**$13.754*** **

*The phasing of the capital costs differs slightly from the phasing in Budget 2022 for FY22/23 and FY23/24. However, the total capital costs over the four-year forecast period are consistent with the total capital funding that is being provided by the Crown in Budget 2022.

**This figure is a one-off capital cost for FY 25/26.

***This figure includes the $14,000 one-off capital cost. Total CoFI funding for outyears only is $13.740 million.

Conduct of financial institutions – Option 2

Additional funding ($m)	22/23	23/24	24/25	25/26 & outyears
Cumulative new FTE	16	35	53	67
Capital costs	1.408	0.351	0.054	0.042
Project operating costs	1.382	0.020	0	0
People and Capability development costs	0.189	0.095	0.158	0.101
Personnel costs	2.040	4.463	6.759	8.544
Other operating costs	0.274	0.512	0.708	0.860
Depreciation and amortisation	0.347	0.366	0.384	0.398
Total funding (m)	**$5.640**	**$5.808**	**$8.062**	**$9.945**

Climate-related disclosures – Option 1

Additional funding ($m)	**22/23**	**23/24**	**24/25**	**25/26 & outyears**
Cumulative new FTE	6	8	8	8
Capital costs	0.150	0.150	0	0
Project operating costs	0.080	0.080	0	0
People and Capability development costs	0.080	0.013	0	0
Personnel costs	1.111	1.481	1.481	1.481
Other operating costs	0.345	0.367	0.367	0.367
Depreciation and amortisation	0.006	0.008	0.008	0.008
Total funding (m)	**$1.772**	**$2.099**	**$1.856**	**$1.856**

Climate-related disclosures – Option 2

Additional funding ($m)	**22/23**	**23/24**	**24/25**	**25/26 & outyears**
Cumulative new FTE	4	6	6	6
Capital costs	0.012	0.006	0	0
Project operating costs	0.230	0.230	0	0
People and Capability development costs	0.047	0.010	0	0
Personnel costs	0.740	1.110	1.110	1.110
Other operating costs	0.274	0.295	0.295	0.295
Depreciation and amortisation	0.004	0.006	0.006	0.006
Total funding (m)	**$1.307**	**$1.657**	**$1.411**	**$1.411**

Regulatory pillars and number of FTE

Below is a breakdown of the estimated number of FTE forecast under each option by regulatory pillar. The table has an added 'Support' pillar which covers administration, People & Capability and operations staff required. We note that the FMA will utilise the funding in the most appropriate way to successfully implement the regimes, so the actual FTE in each regulatory pillar may vary.

Conduct of financial institutions

Regulatory pillar	CoFI Option 1 Number of FTE	CoFI Option 2 Number of FTE
Identify *Identify and prioritise for attention areas of regulatory risk and harm*	5	5
Set standards *Set expectations for the financial sector*	4	2
Influence *Influence and guide the financial sector to meet the FMA's expectations and influence and guide users of financial services*	8	2
Permit *Authorise financial products, services and markets.*	3	3
Assess *Determine if the financial sector is meeting the FMA's expectations*	32	25
Respond *Decided on the appropriate action to take if the financial sector is not meeting the FMA's expectations*	20	20
Evaluate *Evaluate the impact and whether the FMA has been effective and efficient in its actions*	4	2
Support *Administration, People & Capability, and operations staff*	16	8
Total FTE	**92**	**67**

Climate-related disclosures

Regulatory pillar	CRD Option 1 Number of FTE	CRD Option 2 Number of FTE
Identify *Identify and prioritise for attention areas of regulatory risk and harm*	0	0
Set standards *Set expectations for the financial sector*	3	2
Influence *Influence and guide the financial sector to meet the FMA's expectations and influence and guide users of financial services*	2	1
Permit *Authorise financial products, services and markets.*	0	0
Assess *Determine if the financial sector is meeting the FMA's expectations*	2	2
Respond *Decided on the appropriate action to take if the financial sector is not meeting the FMA's expectations*	1	1
Evaluate *Evaluate the impact and whether the FMA has been effective and efficient in its actions*	0	0
Support *Administration, People & Capability, and operations staff*	0	0
Total FTE	**8**	**6**

Annex 2 – Proposed CoFI levies

The below table sets out the two new levy classes (Class 2A and 3A) and proposed levies for entities within the scope of the CoFI regime. These levies are based on the FMA receiving 17% Crown funding for that and are for illustrative purposes only.

If the level of Crown funding is higher or lower than 17%, the levies in the below table will decrease or increase respectively.

Current levy model			Approximate total $ levy under proposed funding changes (excl. GST)			
Levy class	**Type of levy (fixed or tiers)**	**Status quo 2022/2023 $ levy (excl. GST)**	**2022/2023**	**2023/2024**	**2024/2025**	**2025/2026**
Class 2A Registered FSPs that are registered banks or licensed NBDTs and captured within the scope of the CoFI regime	Total assets exceed $50 billion	$1,130,000	$1,845,000	$2,010,000	$2,280,000	$2,740,000
	Total assets exceed $10 billion but not $50 billion	$350,000	$560,000	$617,000	$692,000	$801,000
	Total assets exceed $2 billion but not $10 billion	$95,000	$147,000	$154,000	$188,000	$195,000
	Total assets exceed $1 billion but not $2 billion	$46,000	$62,000	$70,000	$90,000	$96,000
	Total assets exceed $500 million but not $1 billion	$17,000	$22,600	$24,600	$31,500	$35,000
	Total assets exceed $40 million but not $500 million	$10,500	$11,600	$11,950	$12,450	$12,950
	Total assets do not exceed $40 million	$3,000	$3,320	$3,420	$3,520	$3,650

Current levy model			Approximate total $ levy under proposed funding changes (excl. GST)			
Levy class	**Type of levy (fixed or tiers)**	**Status quo 2022/2023 $ levy (excl. GST)**	**2022/2023**	**2023/2024**	**2024/2025**	**2025/2026**
Class 3A Registered FSPs that are licensed insurers and captured within the scope of the CoFI regime	Annual gross premium revenue exceeds $1 billion	$480,000	$675,000	$720,000	$802,000	$914,500
	Annual gross premium revenue exceeds $500 million but not $1 billion	$370,000	$494,000	$527,000	$591,000	$647,000
	Annual gross premium revenue exceeds $250 million but not $500 million	$136,000	$179,000	$191,000	$216,000	$232,500
	Annual gross premium revenue exceeds $100 million but not $250 million	$94,000	$123,000	$129,000	$146,000	$158,000
	Annual gross premium revenue exceeds $50 million but not $100 million	$50,000	$63,000	$65,000	$75,000	$80,000
	Annual gross premium revenue exceeds $10 million but not $50 million	$20,000	$23,000	$23,800	$26,000	$27,000
	Annual gross premium revenue does not exceed $10 million	$5,200	$6,040	$6,140	$6,400	$6,600

Annex 3 – FMA levy model analysis for Climate-related Disclosures

This analysis in this Annex is for illustrative purposes only and sets out how we propose to levy entities within the scope of the CRD regime in the event that Cabinet does not agree to our preferred funding recovery option set out in Part 3 of the RIA and the Crown contributes less than 100% funding towards the CRD regime.

This analysis in this Annex should be read in conjunction with the general analysis and explanatory sections that is applicable in Part 4 of this RIA.

New levy class: climate-reporting entities

Climate-reporting entities within the scope of the new CRD regime include large banks, credit unions, building societies, insurers, managers of registered investment schemes and certain listed debt and equity issuers. These entities are currently paying levies under different classes. To include these new types of participants for the purpose of the levy, we propose to create a new class with different levies for banks, fund managers, insurers and listed issuers who are climate-reporting entities.

In recognition of the different types of entities who are climate-reporting entities, sub-levies will be created to capture the different entities (i.e. banks, fund manager, insurers and listed issuers). Creating a single new levy class for climate-reporting entities ensures that the levy is practical in respect of its implementation and collection.

Within the sub-levies for banks, fund managers and insurers two different tiers have been created to capture different sized entities by either total assets for banks, gross annual premium revenue and/assets for insurers or total managed assets for fund managers. The introduction of different tiers is consistent with the current levy model and how these entities are currently levied.

We estimate that 180 climate-reporting entities will be captured under this new class.

A summary of the proposed change is set out in the table below.

Activity/levy class	Existing or new levy class	Change/s
Class 16 Climate-reporting entities	New	New class and specific sub-levies created to capture different climate-reporting entities: banks, insurers, fund managers and listed issuers. Create two new tiers for banks, insurers and fund managers to capture different sized entities and to introduce the progressive nature of levies. We propose to create new levies for the different climate-reporting entities.

Setting the levies

In creating new levy classes and setting levies for only those entities affected, there are inevitable trade-offs between equity, simplicity and practicality in administration to ensure the levy model continues to meet its objectives. There is also a certain element of judgement in setting the levies payable within each levy class and tier.

In setting the levies, we recognise that the different climate-reporting entity types warrant a different levy and the private benefits that these market participants receive from well-regulated financial markets differs. The introduction of tiers within sub-levies for climate-reporting entities capture different sized large entities and introduces the progressive nature of levies.

As a starting point, these entities are currently paying different proportions of FMA levies. A summary of what factors were taken into account in setting the levies is set out below by entity type:

- The levy for banks was set relatively higher than other climate-reporting entities, taking into account the current benefit banks receive from well-regulated financial markets.
- The levy for fund managers is somewhat proportionally higher than other climate-reporting entities' levies. Fund managers will be required to produce a climate statement for every fund which will lead to the FMA being required to monitor multiple statements per fund manager.
- More than half of the estimated 180 climate-reporting entities are listed issuers. Due to the large number of listed issuers, the levy was set relatively lower than other entities taking into account the current benefit that these issuers receive from well-regulated financial markets as well as the projected revenue this levy would collect would be high due to the higher number of listed issuers relative to the number of other climate-reporting entities.

We recognise that in setting the levies, the above factors illustrate that a certain element of judgement is necessary as well as balancing the cost recovery principles and objectives.

In Part 2 of this RIA, we set out that a certain level of funding needs to be recovered over the next four years commencing in FY22/23 (e.g. in the first year, $1.772 million under CRD Option 1 needs to be recovered from approximately 180 climate-reporting entities). As the amount of funding that needs to be recovered changes each year, the levies have been adjusted accordingly while keeping our approach to setting the levies consistent across the four years. We note that as a result of the amount to be recovered in FY24/25 and FY25/26 being the same across both years, the levies for climate-reporting entities does not change for both years.

In applying this process above, the detailed table in Annex 4 of the RIA sets out the CRD levies on the assumption that the Crown contributes 17% of funding towards the CRD regime. This level of Crown funding was chosen for illustrative purposes only as it is the Crown's current contribution to the FMA's overall appropriation.

The new levy for climate-reporting entities is a separate new levy that will be paid in addition to any other levies these entities currently pay under the existing levy regulations.

Annex 4 – Proposed CRD levies

If the Crown contributions less than 100% funding towards to the CRD regime, the below table shows the new levy class and proposed levies for entities within the scope of the CRD regime. These levies are based on the FMA receiving 17% Crown funding for that and are for illustrative purposes only. If the level of Crown funding is higher or lower than 17%, the levies in the below table will decrease or increase respectively.

Current levy model				Approximate total $ levy under proposed funding changes (excl. GST)			
Levy class	**Entity type (if applicable)**	**Type of levy (fixed or tiers)**	**Status quo 2022/2023 $ levy (excl. GST)**	**2022/2023**	**2023/2024**	**2024/2025**	**2025/2026**
Class 16 Climate-reporting entities	**Banks, credit unions and building societies**	Total assets exceed $10 billion	N/A	$49,000	$59,000	$53,000	$53,000
		Total assets exceed $1 billion but not $10 billion	N/A	$24,000	$28,000	$25,500	$25,500
	MIS fund managers	Total managed assets exceed $10 billion	N/A	$39,000	$48,000	$43,000	$43,000
		Total managed assets exceed $1 billion but not $10 billion	N/A	$19,000	$23,000	$20,000	$20,000
	Licensed insurers	Gross annual premium revenue and/or assets exceeds $1 billion	N/A	$6,800	$8,100	$8,000	$8,000
		Gross annual premium revenue exceeds $250 million but not $1 billion	N/A	$ 3,300	$3,600	$3,000	$3,000
	Listed issuers	As captured within the CRD regime	N/A	$2,300	$2,700	$2,300	$2,300