



## COVERSHEET

<b>Minister</b>	Hon Dr Duncan Webb	<b>Portfolio</b>	Commerce and Consumer Affairs
<b>Title of Cabinet paper</b>	Regulations and commencement order to support the Financial Markets (Conduct of Institutions) Amendment Act 2022: Authorisation for submission to the Executive Council	<b>Date to be published</b>	18 July 2023

### List of documents that have been proactively released

<b>Date</b>	<b>Title</b>	<b>Author</b>
June 2023	Regulations and commencement order to support the Financial Markets (Conduct of Institutions) Amendment Act 2022: Authorisation for submission to the Executive Council	Office of the Minister of Commerce and Consumer Affairs
1 June 2023	Regulations and Commencement Order to Support the Financial Markets (Conduct of Institutions) Amendment Act 2022  LEG-23-MIN-0082 Minute	Cabinet Office
24 May 2023	Regulatory Impact Statement: Financial Markets (Conduct of Institutions) Amendment Act: Regulations for market services licences	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.



# Cabinet Legislation Committee

## Minute of Decision

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### Regulations and Commencement Order to Support the Financial Markets (Conduct of Institutions) Amendment Act 2022

Portfolio                      Commerce and Consumer Affairs

On 1 June 2023, the Cabinet Legislation Committee:

- 1        **noted** that the Financial Markets (Conduct of Institutions) Amendment Act 2022 (the Act) introduces a new regulatory regime for the conduct of financial institutions;

#### Fees Amendment Regulations

- 2        **noted** that under the Financial Markets Conduct Act 2013 and the Financial Markets Authority Act 2011, regulations can be made requiring applicants for a financial institution licence under the new regulatory regime to pay a fee to the Financial Markets Authority;
- 3        **noted** that in September 2022, the Cabinet Economic Development Committee (DEV) agreed to the release of a discussion document on the licensing fee to apply under the Act [DEV-22-MIN-0221];
- 4        **noted** that, as proposed in the discussion document, the Financial Markets Conduct (Fees) Amendment Regulations 2023 impose a fee of \$1,024.93 for standard applications, with an hourly fee of \$178.25 applying for applications which require more assessment time;
- 5        **agreed** to introduce licensing fees on a cost-recovery basis as outlined in the Financial Markets Conduct (Fees) Amendment Regulations 2023;

#### Conduct Regulations

- 6        **noted** that in February 2022, DEV made policy decisions in relation to proposed regulations under the Act and authorised the Minister to issue drafting instructions to Parliamentary Counsel Office to give effect to these decisions [DEV-22-MIN-0003];
- 7        **noted** that in September 2022, DEV agreed to the release of an exposure draft of regulations relating to sales incentives [DEV-22-MIN-0221];
- 8        **noted** that the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 give effect to the policy decisions referred to in paragraph six above by prohibiting financial institutions and intermediaries from offering incentives based on volume or value targets to customer-facing employees and their managers, agents and intermediaries;

- 9 **agreed** to a limited exclusion for financial advice provider intermediaries (who are not financial institutions) to allow them to remunerate employed financial advisers through a fixed base salary, plus (once a certain level of sales is reached) linear commissions;
- 10 **noted** the advice of the Minister of Commerce and Consumer Affairs that the statutory prerequisites in section 546(4) of the Financial Markets Conduct Act are met in relation to regulations prohibiting incentives;
- 11 **noted** that the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 also address a technical issue by excluding services provided to retail clients controlled by wholesale clients from the regime;
- 12 **noted** the advice of the Minister of Commerce and Consumer Affairs that the statutory prerequisites in section 550 of the Financial Markets Conduct Act are met in relation to the proposed exclusion in paragraph 11 above;

### Commencement Order

- 13 **noted** that the Financial Markets (Conduct of Financial Institutions) Amendment Act 2022 Commencement Order 2023 provides that:
- 13.1 some technical provisions of the Financial Markets (Conduct of Institutions) Amendment Act 2022 will come into effect on 25 July 2023 to enable the Financial Markets Authority to consider licence applications from that date, and;
- 13.2 the remaining provisions will come into effect on 31 March 2025;

### Authorisation

- 14 **authorised** the submission to the Executive Council of the:
- 14.1 Financial Markets Conduct (Fees) Amendment Regulations 2023 [PCO 25218/3.0];
- 14.2 Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 [PCO 24973/3.0];
- 14.3 Financial Markets (Conduct of Financial Institutions) Amendment Act 2022 Commencement Order 2023 [PCO 25219/3.0];
- 15 **noted** that the Financial Markets Conduct (Fees) Amendment Regulations 2023 come into force on 25 July 2023 and that the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 will come into force on 31 March 2025.

Rebecca Davies  
Committee Secretary

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#### Present:

Hon Kiri Allan  
Hon David Parker  
Hon Kieran McAnulty (Chair)  
Hon Dr Duncan Webb  
Tangi Utikere, MP (Chief Government Whip)

#### Officials present from:

Office of the Prime Minister  
Officials Committee for LEG