

Update: Development of legislative tools to support the FMC Act regime

Over 2015 the FMA has been working with the Ministry of Business, Innovation, and Employment (MBIE) to implement the Financial Markets Conduct Act 2013 (FMC Act). To support the implementation of the Act we can use various legislative tools such as class exemptions, frameworks, or methodologies, public accountability notices, and designations (the FMA's legislative tools). These help businesses comply effectively with the Act.

This update provides a consolidated summary of our legislative tools work. Throughout the year, individual announcements of many of these decisions have been made on our website.

This update includes some recent decisions that haven't been published. The update also summarises the matters for which we are still exploring legislative tool solutions, and the expected timing for resolution.

This update also summarises a few new matters that have arisen during the year where we considered whether support from the FMA's legislative tools is necessary or desirable.

We have granted a number of exemptions

We have publicly consulted on a number of matters and already have exemptions in place. These matters are set out in [table 1](#).

The FMC Regulations have been amended to address some matters

MBIE has also addressed a number of matters in recent amendments to the Financial Markets Conduct Regulations 2014 (FMC Regulations). See our [website](#) for a list of what has been addressed. These included the following matters highlighted in our March [Consultation paper: Financial Markets Conduct Act exemptions](#):

- banks' regulatory capital
- rights, options and convertible securities
- multiple employer superannuation schemes
- schemes with multiple funds and investment options

Sometimes we don't see legislative tool support as necessary or desirable

On some matters, we do not think it necessary or desirable to grant an exemption, or use another legislative tool provided under the FMC Act. These matters and the reasons for that decision are summarised in [table 2](#). A few of these matters have been addressed in recent amendments to the FMC Regulations.

We continue to explore solutions on other matters

Following recent consultation, we are continuing to work on other matters and aim to finalise policy decisions, and get any exemption in place by mid-2016. There are also a number of matters that we are developing policy proposals for. We expect to consult on those in the coming months. [Table 3](#) provides an update on the progress of the matters we are working on and their anticipated timeframes.

Generally, businesses and professionals who may be affected by these matters are able to continue operating under the Securities Act regime until 30 November 2016. Our aim is to have solutions signalled and in place well before the transition deadline to enable them to understand what their obligations will be from 1 December 2016.

We are continuing to work with MBIE

We are continuing to work with MBIE on the development of regulations. See MBIE’s [website](#) for a list of the matters that might be addressed through regulatory change in 2016. We will consult relevant businesses and interest groups once the regulatory approach has been determined if it appears further legislative tools solutions are required.

Table 1: Exemptions granted and other legislative tools issued at December 2015 to support the FMC Act regime

Please refer to [Current Exemptions](#) at any time for an updated list of exemption notices and their details.

Exemption	Summary
<p>Financial Markets Conduct (Derivatives Issuers—Link to Financial Statements) Exemption Notice 2015</p>	<p>When making offers, the derivative issuers are usually required to include audited NZ GAAP financial statements that comply with the FMC Act. However, some issuers may not have previously prepared that information or are not yet required to register that information. This is a short-term transitional exemption for licensed derivative issuers with a balance date within the period 1 February 2015 to the close of 31 May 2015. It allows derivative issuers to use financial statements they were required to prepare prior to being licensed (if any) for their initial FMC regulated offers. Once an issuer has registered FMC Act compliant financial statements, those new financial statements will replace any previous reporting.</p>

<p>Financial Markets Conduct (Derivatives Issuers—Responsibilities in Event of Shortfall) Exemption Notice 2015</p>	<p>Regulatory requirements for cash-based reconciliation are not wholly suitable for some types of derivatives-related activity. This exemption provided all derivatives issuers with a temporary alternative method of reconciliation and compliance with the FMC Regulations until 1 December 2015. This allowed time for the Government to determine whether amendments were required to provide for alternative methods of reconciliation for derivatives issuers.</p> <p>See the Financial Markets Conduct Amendment Regulations 2015 which provide clarification about reconciliation of derivatives investor money held in trust and a transition period for compliance.</p>
<p>Financial Markets Conduct (DIMS Providers—Reporting on Percentage-based Charges) Exemption Notice 2015</p>	<p>Temporary 12-month exemption from the requirement for DIMS licensees to report to investors on percentage-based charges for associated funds. The exemption provides time for DIMS licensees and their custodians to develop computer systems to comply with their reporting obligations under the FMC Regulations. The exemptions were granted on the condition that the DIMS provider reports to investors on a specified alternative basis.</p>
<p>Financial Markets Conduct (Disclosure of Relevant Interests by Directors and Senior Managers) Exemption Notice 2014</p>	<p>This exemption is carried over from the Securities Markets Act 1988 regime with modifications that take into account FMC Act concepts. The exemption exempts a director or a senior manager of a listed issuer from disclosing relevant interests in quoted financial products if the financial products are the managed investment products of a passive fund, or financial products of the listed issuer are approved for trading on a securities exchange in Australia or the United Kingdom.</p> <p>The exemption provides relief for relevant directors that would otherwise be subject to disclosure obligations that would raise significant practical compliance issues. Further, compliance with the disclosure regime in these circumstances is unlikely to provide information that furthers the market information or anti-insider trading purposes of the disclosure regime.</p>
<p>Financial Markets Conduct (Dual-listed FMC Reporting Entities) Exemption Notice 2015</p>	<p>This exemption applies to overseas-incorporated entities that have a primary listing in specified jurisdictions and a secondary listing in New Zealand. The exemption allows those entities to use their overseas financial reporting to comply with the main financial reporting requirements of the FMC Act. The exemption also allows overseas entities to use a specified overseas GAAP and their overseas auditor to meet their financial reporting obligations for their New Zealand business (if any).</p> <p>The specified jurisdictions are Australia, Ontario (Canada), Singapore, the UK, and the US.</p>
<p>Financial Markets Conduct (Financial Reporting: Balance Dates of Managers and Registered Schemes) Exemption Notice 2015</p>	<p>The FMC Act requires managers to register scheme financial statements within four months of their balance date. Where a manager's balance date is not the same as its various schemes' balance dates, this makes compliance difficult or impossible. This exemption permits managers to register scheme financial statements within four months of the balance date of the scheme.</p>

**Financial Markets Conduct
(Financial Reporting—DIMS
Licensees) Exemption Notice
2015**

The FMC Act regime requires discretionary investment management services (DIMS) providers to prepare, have audited and lodge financial statements. The value to investors of this (given the costs for a small DIMS provider that does not also provide other financial services) is questionable. This is because the DIMS licensees do not hold client assets and the purpose of minimum financial resources requirements is only to maintain the continuation of the business. Additionally, client assets are held by an independent custodian who is subject to an assurance engagement.

This exemption relieves small and medium-sized providers of DIMS from certain financial reporting obligations. The extent of the exemptions depend on the size of the licensees' business based on the retail funds under management (FUM). The exemptions do not apply if a DIMS licensee is a FMC reporting entity for any other reason, doesn't have an independent custodian, or the licensee has more than \$250 million in retail FUM.

**Financial Markets Conduct
(FMC Reporting Entities with
Higher Level of Public
Accountability) Notice 2014**

All FMC reporting entities have a designated level of public accountability. This influences which tier of the External Reporting Board Accounting Standards Framework the entity must report in, and, in turn, whether it must use full accounting standards (eg, NZ IFRS) or reduced accounting standards (eg, NZ RDR) when preparing its financial statements.

The FMC Act identifies classes of entities it deems to have higher public accountability — all other classes of entities have lower public accountability. These are default designations set out in the FMC Act. The Act also allows the FMA to vary designations for either individual FMC reporting entities, or classes of FMC reporting entities. Generally speaking entities to which investors have a direct investment in have higher public accountability than other entities.

This notice re-designates recipients of funds from conduit issuers and licensed derivative issuers to having higher public accountability under the FMC Act regime.

**Financial Markets Conduct
(NZCDC Settlement System)
Exemption Notice 2014**

The Securities Markets Act 1988 regime in respect of substantial security holders' disclosure is largely replicated in subpart 5 of Part 5 of the FMC Act. Disclosure of relevant interests is required if a person begins to have a substantial holding in a listed issuer or the number of financial products held by the substantial product holder changes by 1% or more.

The FMC Act specifies situations that do not give rise to relevant interests including operators of a designated settlement system acting in the ordinary course of that business. This relief for operators of the NZCDC settlement system was historically provided through a Securities Markets Act exemption. It is now incorporated into the FMC Act. However, the Act does not specifically exclude clearing participants and depository participants in NZCDC. This additional exemptive relief remains appropriate.

<p>Financial Markets Conduct (NZX–NXT Market) Exemption Notice 2014</p>	<p>The NXT market is NZX’s stepping stone growth market. The FMC Act regime enabled relief for participants listed on this market from standard continuous disclosure requirements to encourage growth companies to list on this market.</p> <p>This exemption provides issuers on the NXT market relief from various PDS and register entry requirements in the FMC Regulations. The main changes in respect of the PDS for an offer of shares by an NXT issuer are that a new warning statement about the risks of investing on the NXT market will be contained at the start of the PDS and prospective financial information will not have to be disclosed (but may be). Instead, key operating milestones have to be disclosed. The main change in respect of the register entry for an offer of shares by an NXT issuer is that prospective financial information will also not have to be included in the register entry.</p>
<p>Financial Markets Conduct (Offers of Financial Products Through Authorised Financial Advisers Supplying Personalised DIMS) Exemption Notice 2015</p>	<p>Schedule 1 provides a statutory exclusion from the standard disclosure regime for offers of financial products made through a DIMS licensee. The same principles apply to offers made through an AFA who is authorised to provide DIMS, but there is no relief in this case.</p> <p>This exemption provides relief for offers of financial products made through AFAs providing a personalised DIMS service under the Financial Advisers Act 2008. Under this exemption, such offers will no longer need to comply with the disclosure requirements in Part 3 of the FMC Act, and will be unregulated offers. The exemption puts offers made through AFAs providing personalised DIMS on the same footing as offers made through a FMC Act DIMS licensee.</p>
<p>Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2015</p>	<p>Registered banks and licensed insurers are FMC reporting entities and must lodge financial statements compliant with New Zealand GAAP that have been audited by a New Zealand licensed auditor. Many overseas banks and insurers operate in via a branch rather than an incorporated subsidiary. As a result the overseas entity as a whole is an FMC reporting entity even though its New Zealand operations may form a small portion of its business.</p> <p>This exemption allows certain overseas banks and insurers that are registered or licensed in New Zealand to use their overseas financial statements and audit regime to comply with the financial reporting requirements of the FMC Act (including New Zealand branch requirements). The exemption does not remove any obligation to prepare and have audited separate branch financial statements for their New Zealand business. The auditor for these branch financial statements may be an overseas auditor or a New Zealand auditor.</p>
<p>Financial Markets Conduct (US Futures Commission Merchants) Exemption Notice 2015</p>	<p>The FMC Regulations impose requirements relating to the holding of derivatives investor money and derivatives investor property on derivative participants. This exemption exempts US futures commission merchants who are participants on NZX’s derivatives market from these requirements on the basis that these merchants comply with equivalent requirements under US laws.</p>

Financial Advisers (NZX Brokers—Client Money and Client Property) Exemption Notice 2015

Amendments to the Financial Advisers Act 2008 prohibit brokers co-mingling client money with their own money. In some cases NZX brokers need to co-mingle money in a 'gateway account' to facilitate settlement of transactions through a settlement system or to maintain a buffer of their own funds to reduce the risk of a shortfall arising in the money held for a client.

The exemption provides relief for NZX brokers from the co-mingling prohibition where it is reasonably necessary for client money or property to be held together with firm money or property to facilitate the settlement of financial product transactions in a prudent and orderly fashion to reduce the risk of a shortfall arising in a client money trust account.

Securities Act (Revocation of Certain Futures Contracts Exemptions) Notice 2015

Revokes exemptions granted under the Securities Act 1978 that have been continued in force under the transitional provisions in the FMC Act and FMC Regulations. This clarifies that those exemptions can no longer be relied upon to make an offer of derivatives from 1 December 2015.

Table 2: Matters where support from FMA’s legislative tools not necessary or desirable

Subject	Summary of issue	Reason
Charities raising funds by debt securities	<p>Historically some exemption relief was given to charities issuing debt securities. The Securities Act (Charity Debt Securities) Exemption Notice 2013 exempts registered charities offering debt securities from standard offer document and governance requirements. There is no further ability to operate under the Securities Act after 30 November 2016 so this relief cannot be relied on after this date.</p> <p>In light of the comprehensive review of our financial markets law leading to the FMC Act, we considered the appropriateness of providing any continuing relief for charities issuing debt securities and its consistency with current New Zealand law.</p>	<p>The FMA has decided not to grant a general class exemption for charities offering debt securities to investors from the standard requirements in the FMC Act. In our view, the test required for us to exercise our exemption power to relieve charities from the standard regulatory requirements has not been met. The test requires us to consider the exemption necessary or desirable to promote the purposes of the FMC Act.</p> <p>This decision recognises the tailored approach the FMC Act takes in prescribing requirements for wholesale and retail investors. In doing this the FMC Act regime seeks to strike a balance between compliance costs, and providing appropriate disclosure, governance, supervision, and financial reporting requirements. FMA will produce a resource for charities wishing to raise funds outlining options available to them under the FMC Act regime.</p> <p>A transitional exemption has been agreed in principle for charities with existing debt securities on issue, to enable them to repay those debt securities within a prudent timeframe. We will work with those charities in to consider the appropriate exemption period.</p>
Commercial bill dealers	<p>We have historically provided an exemption from the standard governance and disclosure requirements of the Securities Act for offers of ‘commercial bills.’ Commercial bills are a negotiable debt security that is accepted or endorsed by a registered bank.</p> <p>The exemption requires the registered bank offering the commercial bills to prepare an investment statement. The original issuer of the bill is exempted from disclosure and governance requirements given the greater relevance of the registered bank’s liability in respect of the commercial bill.</p>	<p>We do not consider that any ongoing relief is required for offers of commercial bills under the FMC Act. There is no evidence of on-going reliance on the existing Securities Act exemption.</p> <p>We encourage any market participants who believe relief remains appropriate to contact us.</p>

Flexibility in timeframe for custodian audit	<p>Scheme custodians are required to get an assurance engagement completed within four months of the close of the custodian's accounting period related to both the custodian's systems and processes and scheme property. Similar obligations apply to DIMS custodians. Some custodians already have more frequent reporting aligned with client reporting periods or have other similar, but differently scheduled, reporting obligations. Custodians may need more flexibility so that they can align the assurance engagement with other obligations.</p>	<p>An exemption is not necessary. The recently released Financial Markets Conduct Amendment Regulations 2015 provide a scheme custodian more flexibility about when it must obtain an assurance engagement with a qualified auditor.</p>
NZX – share and unit purchase plan exemption	<p>We have historically granted NZX-listed issuers relief from the offer document requirements of the Securities Act when they are offering share or unit purchase plans.</p> <p>Share purchase plans offer existing share or unit holders the opportunity to purchase more share or units, usually at a discount to the current market price. The exemption was conditional on the share or unit purchase plan complying with certain requirements. The total price of securities issued under the exemption was limited to \$15,000 per security holder in any 12 month period.</p>	<p>Following targeted consultation we decided to let the exemption expire on 31 October 2015.</p> <p>We consider there is no requirement for an ongoing exemption. Issuers are able to rely on the 'same class' exclusion in Schedule 1 of the FMC Act to offer share and unit purchase plans. This exclusion is more flexible.</p> <p>Offers made under the 'same class' exclusion during the transitional period will not require the issuer to transition to the FMC Act before the end of the transition period.</p>
Risk indicator and description of managed fund	<p>The FMC Regulations require inclusion of a 'risk indicator' in the PDS, on the register and in fund updates for a managed fund.</p> <p>The FMC Regulations provide that the FMA may issue a framework or methodology for the calculation and presentation of risk indicators.</p>	<p>We recently issued a Guidance note on risk indicators and description of managed funds. The guidance note alleviates the need for a framework or methodology.</p> <p>The policy underpinning the New Zealand requirements for risk indicators is based on European standards and methodologies for calculating risk. Our guidance note focuses on how managers may use the European standards to assist them in meeting New Zealand requirements.</p> <p>We are continuing to work on a framework or methodology in the form of a fund update template. We expect this will be finalised in 2016 once FMC Regulations that address or affect fund update requirements are settled. (See the 'Fund update for managed funds' matter below for more information).</p>

Scrip offers in takeovers	<p>We have historically granted exemptions for equity securities offered in a 'scrip bid.' A 'scrip bid' is a takeover bid where securities are offered wholly or partly in place of cash.</p> <p>In a scrip bid, the issuer is required to prepare a takeovers notice. The exemption provided relief from disclosure requirements already addressed by the takeovers notice.</p> <p>The relief for quoted securities became redundant when the simplified disclosure prospectus for securities being offered that were of the same class as listed securities was introduced, and this aspect of the exemption was discontinued.</p>	<p>Following consultation, we reached the view that no exemption is necessary under the FMC Act.</p> <p>Issuers offering listed scrip can rely on the 'same class' exclusion in Schedule 1 of the FMC Act, and we do not consider there is a need for an on-going exemption for offers of unlisted scrip. These offers have not been a recent feature in the New Zealand market, and there has been no reliance on the existing Securities Act exemption. We can consider individual exemptions applications for these offers.</p>
Timing of requirement for 'wind-up' financial statements	<p>It was understood that the FMC Act regime requires audited financial statements for schemes both immediately prior to distribution of the assets on its winding up and also for the year ended in which the assets were distributed (essentially nil accounts). The value of the audit post-distribution is questionable when other procedures could be performed to ensure funds have been appropriately distributed.</p>	<p>No exemption is considered necessary following further, consultation, and discussion. Final audited financial statements are required as part of winding-up report for registered schemes, but we do not consider that there is a requirement for end of year financial statements for schemes that have been wound up because a scheme is not an FMC reporting entity.</p>
Two person Schedule 3 schemes	<p>There are a small number of retirement schemes that would otherwise transition to be Schedule 3 schemes except that the schemes have two persons involved, usually husband and wife and the stated purpose of Schedule 3 schemes is to provide for statutory recognition of single-person self-managed superannuation schemes.</p>	<p>Following targeted consultation with representatives of these schemes, our view is there is no need for a class exemption. These schemes have made a variety of arrangements to transition to the FMC regime that meet their circumstances.</p> <p>If there is a need for relief then we will consider individual exemption applications.</p>
Unsolicited offers to acquire shares for charitable gifting	<p>In the case of an offer to take shares for no consideration to facilitate charitable gifting, rather than to buy shares, some of the information and protections prescribed by the unsolicited offer disclosure requirements are redundant.</p>	<p>While we consider relief from redundant information requirements is appropriate where the offer is to take the shares for no consideration for charitable purposes, we do not consider a class exemption is required. We understand there is only one market participant who would currently benefit from an exemption and they are aware that they can make an individual exemption application if required.</p>

Venture capital schemes	Historically, the FMA has granted an exemption from the standard disclosure regime for small and medium-sized businesses seeking to raise growth capital through offers of equity and participatory securities. This applied where the offer was made through a venture capital investment scheme under the supervision of an independent scheme administrator. The role of the scheme administrator (typically a regional or industry-based economic development agency) was to oversee a responsible programme for matching interested investors with businesses seeking funds. There was a \$5 million limit on the total funds that a business could raise under the exemption.	Following targeted consultation, our view is there is no need for a class exemption under the FMC Act. The FMC Act provides a number of lighter compliance pathways for small and medium-sized entities seeking to raise capital (small offers and crowd funding). In light of these pathways, we do not consider an exemption for venture capital schemes to be either necessary or appropriate.
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Table 3: Update on legislative tool solutions currently being explored

Subject matter	Summary of issue	Update on solution being explored
Wholesale investor warning and acknowledgement	<p>Schedule 1 provides a statutory exclusion from the standard regulated offers regime for offers to wholesale investors if the minimum investment is at least \$750,000. To rely on this exclusion, offer documents must have a warning and an investor acknowledgement is required.</p> <p>Concerns have been raised that these requirements might adversely affect New Zealand’s debt capital markets as a result of compliance costs and the absence of a straightforward test for overseas issuers to identify New Zealand wholesale investors. It has been suggested that in some circumstances, these requirements may mean that the statutory exclusion is not relied upon and offers by overseas issuers are not extended to New Zealand.</p>	<p>We are working to get an exemption place as soon as possible. The policy for an exemption has been approved and we have consulted with submitters on a draft exemption notice. We are currently working with the New Zealand Bankers’ Association to ensure that one of the proposed conditions can be complied with on a practical basis. The notice will be finalised as soon as this has been completed.</p> <p>The policy is to provide relief from the requirement for investor warnings and acknowledgements for offers of Kauri bonds and unsubordinated debt securities. No conditions will apply for Kauri bond offers. A single investor warning on the principal terms sheet will be required for primary offers of unsubordinated debt securities. A warning will also be required for secondary sales of these financial products. This must be given in any principal terms sheet given to the investor and can be given on the Bloomberg webpage for the debt securities.</p>

<p>Employee share purchase schemes</p>	<p>Schedule 1 provides a statutory exclusion from the standard regulated offers regime for offers of shares under an employee share purchase scheme.</p> <p>Several elements of the FMC Act exclusion might create difficulties for market participants. These are:</p> <ul style="list-style-type: none"> • offers made to employee trusts and relatives • offers of savings scheme securities • the application of the 10% limit when a new class of non-voting securities is offered for the first time. <p>Questions have also been raised about requirements relating to ‘phantom shares’.</p>	<p>We have consulted on a class exemption to extend the benefit of the statutory exclusion to offers made to employee trusts and relatives, offers of savings scheme securities, and to ensure the 10% limit works where a new class of securities is offered for the first time.</p> <p>We have considered submissions on the consultation paper. These submissions broadly favoured the proposed exemption, but noted some technical issues for our consideration. We are currently working to finalise our policy decisions get exemptions in place in early 2016.</p> <p>We have also published guidance material on our website clarifying our view that phantom shares are not financial products.</p>
<p>Communal facilities offered with real property</p>	<p>Shares in a company, or memberships in a society, holding communal facilities offered with a lot in a real property development have historically been caught as ‘securities’.</p> <p>Under the FMC Act, memberships in a society are not caught as ‘financial products’ unless they are interests in a scheme within the meaning of the FMC Act. Usually the provision of interests in a society, which exists to hold communal land or facilities able to be used by residents of a subdivision, will not be a ‘scheme’.</p> <p>Shares in a company holding communal facilities however, remain caught as equity securities. The standard regime would apply.</p>	<p>We are currently considering submissions on our proposal for a possible designation, and an exemption for existing securities, on the basis that these equity securities are not financial products in substance.</p> <p>We are working to finalise our policy decisions in early 2016 and have any notices in effect by mid-2016.</p>

<p>Forestry schemes</p>	<p>Many forestry schemes will be managed investment schemes (MIS) under the FMC Act and will need to comply with obligations under the Act by 30 November 2016. These schemes should now be making their transition to become compliant with the Act.</p> <p>We have been asked how certain FMC Act obligations apply to forestry schemes, given the nature and structure of those schemes.</p>	<p>On 18 December 2016 we released a consultation paper that discusses how schemes will comply with some of their obligations, and some limited cases where exemptions may be appropriate.</p> <p>Submissions are due by 19 February 2016. We will finalise our policy decisions and work to have any notices in effect by mid-2016.</p> <p>Property schemes are also being considered (see our update below).</p>
<p>Existing property schemes <i>The particular issue highlighted in the March 2015 summary was independent custody for inactive legacy schemes</i></p>	<p>Most existing property syndicates will be managed investment schemes (MIS) under the FMC Act and will need to comply with obligations under the Act by 30 November 2016. These schemes should now be making their transition to become compliant with the Act.</p> <p>Some obligations will be new for some existing property schemes (particularly schemes that offered under the real property proportionate ownership schemes exemption). We recognise that when the investment offer was made by existing property schemes, and priced, these new compliance obligations and costs were not taken into account.</p>	<p>On 18 December 2016 we released a consultation paper that discusses some limited cases where exemptions may be appropriate.</p> <p>Submissions are due by 19 February 2016. After analysing submissions we will finalise our policy decisions and work to have any notices in effect by mid-2016.</p> <p>Forestry schemes are also being considered (see our update above).</p>
<p>Offers of equity that are in substance managed investment products</p>	<p>Companies are sometimes used as a structure for the offer of collective investments rather than MIS. We are considering whether we should put in place class designations which would treat certain types of shares as managed investment products (MIPs) in a managed investment scheme rather than as equity securities in a company.</p> <p>This would ensure these investments are subject to appropriate licensing, disclosure and governance requirements.</p>	<p>On 10 December 2016 we released a consultation paper on proposed designations which would result in certain types of shares in ‘investment companies’ being treated as managed investment products in a managed investment scheme, where this more closely reflects the economic substance of the financial products.</p> <p>Submissions are due on 19 February 2016. After analysing submissions we will make policy decisions and work to have any designations in effect by mid-2016.</p>

Recognition of overseas offer, governance, financial reporting and audit regimes	<p>We have historically granted overseas issuers relief from disclosure, governance and financial reporting requirements of the Securities Act and Financial Reporting regimes where:</p> <ul style="list-style-type: none"> the overseas issuer makes an offer from a jurisdiction that has a high quality regulatory regime, including disclosure requirements broadly equivalent to New Zealand; and New Zealand investors are not the primary target of the overseas offer. 	<p>On 18 December 2016 we released a consultation paper on our proposals for the recognition under the FMC Act of overseas disclosure, governance, financial reporting and audit regimes.</p> <p>In particular we are proposing exemptions from:</p> <ul style="list-style-type: none"> disclosure and governance requirements for ancillary or incidental offers made by issuers. These issuers would instead be required to comply with the requirements of their overseas jurisdiction offer document information requirements to allow certain classes of issuers to use their overseas financial information and auditor in a PDS financial reporting and audit requirements to allow overseas FMC reporting entities to use their overseas financial statements and auditor as an alternative to New Zealand compliant financial statements and auditors disclosure, governance, financial reporting and audit requirements for overseas issuers in relation to securities already issued in reliance on exemptions from the Securities Act 1978 and the Financial Reporting Act 1993 <p>Submissions are due on 26 February 2016. After analysing submissions we will make policy decisions and work to have any exemptions in effect by mid-2016.</p>
Minor technical amendment to Overseas Registered Banks and Licensed Insurers exemption	<p>A minor technical amendment to the Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2015 may be appropriate to enable effective use of this notice by issuers in some jurisdictions. The notice retains the standard requirement for directors to sign financial statements – but in some overseas jurisdictions, such as Japan and France, directors do not sign financial statements, other provision is made for the oversight of financial statements.</p>	<p>We are currently considering this issue. If we conclude this minor technical amendment is appropriate, we propose to progress it with our broader work on recognition of overseas regimes (see above). We will have any exemptions in effect by mid-2016.</p>

Independence for licensed independent trustees who act as directors of corporate trustee	<p>A restricted scheme must have a licensed independent trustee. Some schemes have a corporate trustee set up by the scheme. When a trustee that is otherwise independent is appointed a director of such a corporate trustee, it fails the independence test in section 131(3) of the FMC Act. This is because the corporate trustee is technically associated with the scheme provider and its group companies.</p>	<p>We understand that MBIE is intending to consult on this matter in 2016 as one of the matters that have been identified for potential legislative change through the Regulatory Systems Bill.</p> <p>We are considering an interim class exemption that would apply until an amendment is made to the FMC Act. We will work to have any exemption in effect by mid-2016</p>
Racing livestock ownership syndicates	<p>Historically the FMA has granted broad relief, from standard offer information and supervision requirements, for offers of interests in horse and greyhound racing syndicates where the syndicate operator is bound by the rules of a relevant racing industry body. This relief has been granted on the basis the entity is complying with industry codes.</p> <p>No specific relief is provided for racing syndicates under the FMC Act regime. In some cases however operators may be able to operate with minimal FMC Act compliance requirements under Schedule 1 exclusions.</p>	<p>We are currently preparing consultation proposals on this matter. We expect to consult early in 2016, and work to finalise policy decisions in order to have any exemptions in effect by mid-2016.</p>
Co-operatives	<p>The FMC Act regime provides tailored equity disclosure suitable for offers of co-operative shares. The disclosure can be tailored to focus on the benefits and risks of share ownership, which may (or may not) relate predominantly to the opportunity for financial returns earned by holding the shares.</p>	<p>We are currently preparing consultation proposals on this matter. We expect to consult early in 2016, and work to finalise policy decisions in order to have any exemptions in effect by mid-2016.</p>
Vehicles for managing costs	<p>In limited cases historically the FMA has granted some relief from standard offer information and supervision requirements for interests in a society, or shares in a company, used as a vehicle to manage communally-owned property beyond real property in a subdivision (eg, irrigation assets and marina berths).</p>	<p>We are currently exploring the policy issues around a possible designation, and an exemption for existing securities, in relation to equity securities that are in substance not financial products. We expect to consult on this matter before mid-2016.</p>

<p>Pre-payment facilities</p>	<p>In limited cases historically the FMA has granted some relief from standard offer information and supervision requirements for pre-payment facilities that are not investments in the conventional sense (eg, pre-payment bus cards, cards and vouchers redeemable at stores that are inadvertently captured by the definition of debt securities).</p>	<p>Relief may continue to be appropriate in limited cases where pre-payment type products continue to inadvertently be caught by the debt securities definition, but are not financial products in substance.</p> <p>MBIE is also considering whether this matter should be addressed by regulatory change. We will work with MBIE and consult further if these issues still require support from the FMA's legislative tools.</p>
<p>Fund update for managed funds</p>	<p>The FMC Act requires a manager of a managed fund to provide periodic fund updates. The FMC Regulations provide for the FMA to specify the format of the fund update in a template by a framework or methodology.</p> <p>Consultation on proposed fund update template and risk indicator guidance was undertaken in late 2014. Industry voiced strong support for FMA assistance by the issue of a framework or methodology.</p>	<p>We are working with MBIE to introduce more flexibility into the requirements for fund updates. This would enable the FMA to design a more effective fund update template to better cater to investor information needs.</p> <p>Once the fund update regulatory requirements are determined we will work to publish a framework or methodology for a fund update template.</p>