

JUNE 2023

# Statement of Performance Expectations 2023/24

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## Statement of Authorisation

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This Statement of Performance Expectations (SPE) is presented to the House of Representatives in accordance with Part 4 of the Crown Entities Act 2004.

This SPE sets out our financial forecast for the financial year 1 July 2023 to 30 June 2024. It is prepared in line with the Crown Entities Act 2004 and should be read together with the FMA's Statement of Intent 2021-2024.

The prospective financial statements, prepared in accordance with FBE FRS-42 for this SPE, have not been audited and should not be relied upon for any other purposes.

The FMA is responsible for the preparation of this SPE, including the forecast financial statements and the assumptions on which they are based, the non-financial measures and the judgments which used them.

**Mark Todd**

Chair

Financial Markets Authority

9 June 2023



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**Mark Weenink**

Chair

Audit and Risk Committee

9 June 2023



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# Purpose of the Statement of Performance Expectations

The Statement of Performance Expectations (SPE) is one of two documents that set out how we will measure our performance and report on the progress of that performance against our performance targets.

The other document is our SOI (Statement of Intent), which offers a medium-term view of the progress made towards achieving our strategic intentions. The FMA has been granted a one-year extension on the refresh of its SOI meaning the 2020 version will apply for the 2023/24 financial year.

The SPE covers one financial year. It describes how we intend to perform the services we receive funding for through our Government appropriation.

We regularly review our performance measures to ensure they are focused on the impact we want to have on financial service providers, investors and customers.

The SPE links to the strategic intentions set out in the Statement of Intent 2021-2024.

## Reporting on performance targets

We will report on how we have performed against these targets in the 2023/24 Annual Report.

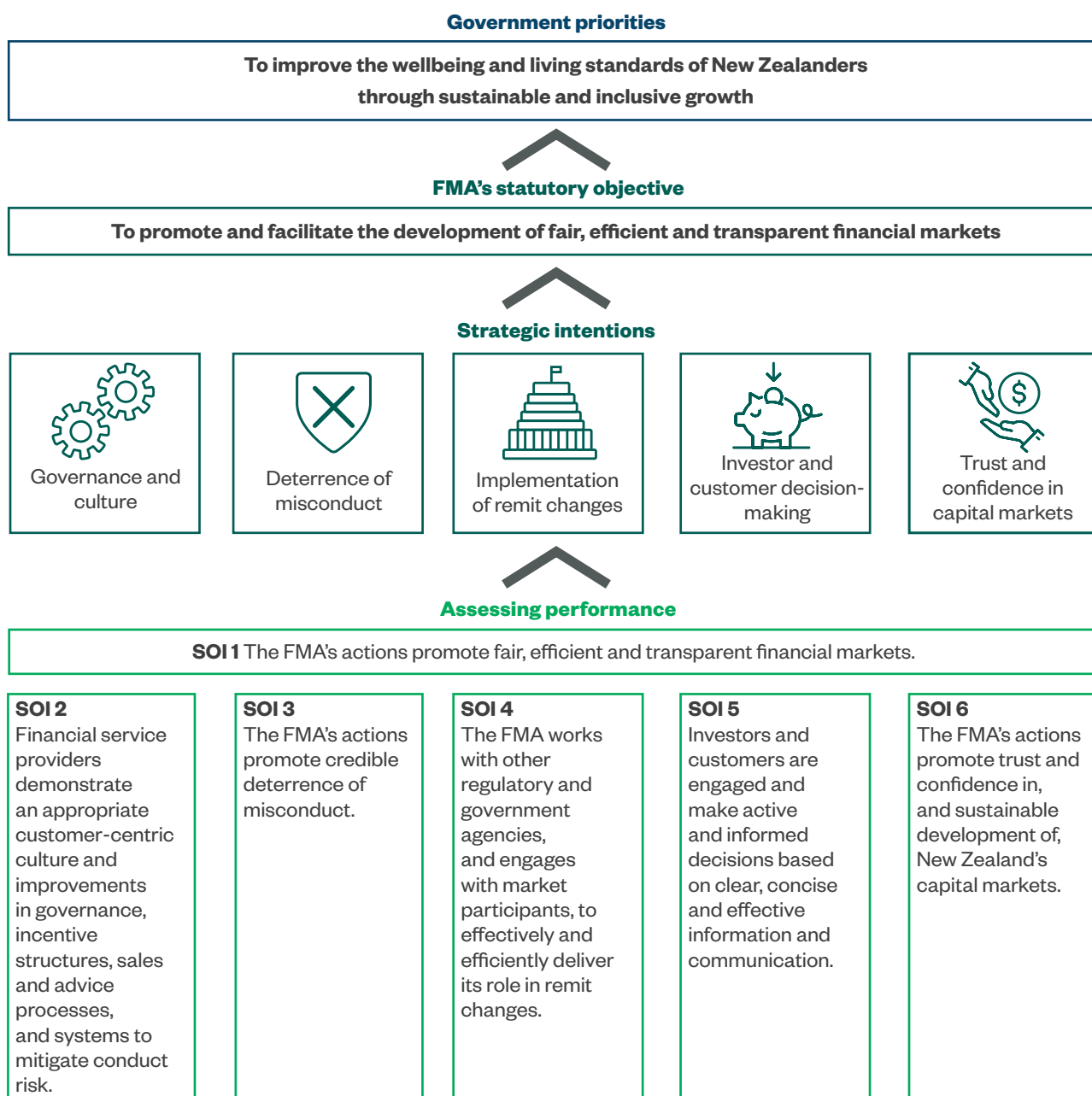
Assessment of our performance against the targets will be based on the following scaled rating system.

Criteria	Rating
On target or better	Achieved
Within 5% of the target	Substantially achieved
More than 5% below the target	Not achieved

## Our purpose and approach

### Why are we here?

The FMA is an independent Crown entity and New Zealand's principal conduct regulator of financial markets. Our overarching statutory purpose is to promote and facilitate the development of fair, efficient and transparent financial markets. Ultimately, it's about more New Zealanders than ever having justified confidence that the financial services sector is working well for them. To that end, well-regulated financial markets are a cornerstone of a successful economy and the financial wellbeing of its participants.



## What do we do?

As New Zealand's principal conduct regulator of financial markets, we focus on protecting investors, customers and the integrity of markets through influencing how participants behave towards their customers, investors and each other.

Our activities include:

- **Policy and guidance:** We engage and provide information and guidance that assists firms and professionals to comply with the law. We keep under review the law and practices relating to financial markets and participants.
- **Information and resources:** We provide information and resources to help investors and customers make better investment and financial decisions.
- **Licensing:** We license a range of firms and professionals that meet the requirements in law.
- **Monitoring and supervision:** We monitor and assess conduct, compliance and competency of market participants.
- **Investigations and enforcement:** Through our investigation and enforcement activities we aim to raise standards of behaviour, deter misconduct, and hold to account those whose conduct harms the operation of our financial markets.
- **Environmental scanning:** We scan the environment to identify the most significant risks to and opportunities for promoting our priorities.

In delivering our functions we work and engage closely with industry, investors and customers, the Government and other agencies.

The legislation underpinning our work includes:

- Financial Markets Authority Act 2011
- Financial Markets Conduct Act 2013
- Auditor Regulation Act 2011
- Financial Advisers Act 2008
- Financial Markets Supervisors Act 2011
- KiwiSaver Act 2006 (Part 4 and Schedule 1)
- Anti-Money Laundering and Countering Financing of Terrorism Act 2009



## How we approach our work

The following principles underpin our outcomes-focused regulatory approach and guide our regulatory decisions.

- **Open:** We are open about our intentions and actions. We are clear about what we expect from others and what they can expect from us. Communications are targeted, clear and concise, using straightforward language. We accept and respond to constructive feedback.
- **System-focused:** We work with others to improve New Zealand's financial system. Success needs contributions from other regulatory agencies, so we collaborate and share. We identify gaps in our remit and powers and try to mitigate them through relationships and ability to influence. We're willing to pilot or co-design new approaches.
- **Proportionate:** The expectations we set and how we enforce them are balanced, consistent, and fair. Our response to poor conduct is proportionate to its nature, the harm caused, and to changing market environments. We are conscious of unnecessary regulatory burden. We are agile, responsive and pragmatic.
- **Risk-based:** We identify and analyse patterns of risk, behaviour and capability within regulated populations, users, and the market to understand the most significant risks to our objectives and priorities. When we have determined our response, we are decisive.
- **Always improving:** We seek to be research-led and evidence-based to make better decisions. We learn about the behaviour of those we regulate (and their consumers and investors). We are flexible and respond to market innovations and changes. We seek to be innovative and forward-looking in our use of technology, and ways of working.
- **Accountable:** We communicate our regulatory approach, objectives and progress made. We continually assess whether we have the right tools and capabilities and seek to improve. We are accountable for the actions we take (and choose not to take).
- **Disciplined:** We act consistently with our remit and are prepared to make well-considered trade-offs, to ensure we focus on where we have the most ability to make a difference to participant behaviour, market vibrancy and innovation, and the wellbeing of New Zealand consumers.

## SPE non-financial measures

### Overarching measure

The SPE 1 overarching measure reflects the Multi-Category Appropriation 'Services and Advice to Support Well-functioning Financial Markets', which covers all three funding categories. The single overarching purpose of this appropriation is to support well-functioning financial markets through the activities of the Financial Markets Authority.

The measure reflects how well financial service providers and investors believe our regulatory activities are fulfilling our overall purpose of promoting the development of fair, efficient and transparent financial markets.

The consolidated SPE 1 measure is an index of two key sub-components:

- Stakeholders (ie market participants) agree that the FMA's actions help raise standards of market conduct and integrity
- Investors of financial services are confident in the quality of regulation of New Zealand's financial markets.

Measure	2023/24 target	2022/23 forecast (target)	2021/22 actual (target)	Source of data/information	Strategic intention links
<b>SPE 1 Index measure</b> Financial service providers and investors of New Zealand financial services believe that FMA's actions promote fair, efficient and transparent financial markets	Achieved*	Achieved (Achieved)	Achieved (Achieved)	<ul style="list-style-type: none"> <li>• Annual Ease of Doing Business survey of market participants and FMA stakeholders</li> <li>• Annual Investor Confidence survey</li> </ul>	<ul style="list-style-type: none"> <li>• Governance and culture</li> <li>• Deterrence of misconduct</li> <li>• Implementation of remit changes</li> <li>• Investor and customer decision-making</li> <li>• Trust and confidence in capital markets</li> </ul>
<b>Index measure sub-components</b>					
1.1: Stakeholders agree that the FMA's actions help raise standards of market conduct and integrity**	85%	85% (85%)	89.5% (85%)	Annual Ease of Doing Business survey of market participants and FMA stakeholders	
1.2: Investors are confident in the quality of regulation of New Zealand's financial markets	65%	65% (65%)	65% (65%)	Annual Investor Confidence survey	

\*The target for SPE 1 is based on an equal weighting between the stakeholders and investors survey sub-components. To achieve the index target will require meeting both sub-measure targets.

\*\*This sub-component is an average based on two survey questions relating to stakeholder perceptions of the FMA's actions to support market integrity, and the FMA helping to raise standards of market conduct.



## Category one: Investigation and enforcement activities

This category is about the work we do when we need to take action against financial market misconduct.

Our objective is for actions to be timely, proportionate, and subject to appropriate governance.

Measure	2023/24 target	2022/23 forecast (target)	2021/22 actual (target)	Source of data/ information	Strategic intention links
<b>SPE 2</b> Progress of all investigation cases is reported to the FMA Board every 40 working days	100%	100% (100%)	100% (100%)	Internal tracking of investigation and enforcement activity	Deterrence of misconduct
<b>SPE 3</b> Misconduct cases* are evaluated and decisions on follow-up actions are made within 9 working days of the information-received date	85%	83% (85%)	87.59% (85%)	Internal tracking of misconduct cases	Deterrence of misconduct

\*Misconduct cases involve an “allegation of financial markets conduct that could result in harm”, whereas an investigation requires formal trigger points, including reasonable grounds to suspect a breach of any financial markets legislation. “Reasonable grounds” requires more than mere suspicion or hunch; a basis on objective information is required.

## Category two: Licensing and compliance monitoring functions

This category is about risk-based monitoring and surveillance.

- We ensure licence applications, individual exemptions and other activities are processed efficiently and to an appropriate standard
- Our activities are based on and subject to an assessment of regulatory risks
- We use a range of monitoring activities to address conduct risks.

Measure	2023/24 target	2022/23 forecast (target)	2021/22 actual (target)	Source of data/ information	Strategic intention links
<b>SPE 4</b> Once received by the FMA, fully completed licence applications are processed within 60 working days	93%	99% (93%)	99.16% (93%)	Internal tracking of relevant documents and activity	<ul style="list-style-type: none"> <li>• Governance and culture</li> <li>• Trust and confidence in capital markets</li> </ul>
<b>SPE 5</b> Applications for individual exemptions are processed within 30 working days of receiving all relevant information or as communicated with reasons to the applicant	100%	100% (100%)	100% (100%)	Internal tracking of relevant documents and activity	<ul style="list-style-type: none"> <li>• Governance and culture</li> <li>• Trust and confidence in capital markets</li> </ul>
<b>SPE 6</b> The FMA undertakes a range of proactive, reactive and thematic monitoring activity to target risks identified in response to the regulatory risks identified	Achieved*	Achieved (Achieved)	Achieved (Achieved)	Internal tracking of relevant documents and activity	<ul style="list-style-type: none"> <li>• Governance and culture</li> <li>• Deterrence of misconduct</li> <li>• Investor and customer decision-making</li> <li>• Trust and confidence in capital markets</li> </ul>

\* To achieve this target the FMA must be able to demonstrate it has undertaken all three types of monitoring activity in response to the regulatory risks identified i.e., proactive (e.g. random or risk-based monitoring), reactive (e.g. responding to misconduct reports) and thematic (e.g. sector or issue based reviews) monitoring.

## Category three: Market analysis and guidance, investor awareness and regulatory engagement

This category is about engaging with the market and entities, and setting and communicating our expectations, as well as providing information to aid investors and customers of financial services.

It includes:

- Regular and meaningful engagement activities that bring positive results
- Maintaining an FMA website to provide information and guidance to investors and market participants on regulatory requirements, expectations and issues
- Meaningful direct engagement with larger market entities.

Measure	2023/24 target	2022/23 forecast (target)	2021/22 actual (target)	Source of data/ information	Strategic intention links
<b>SPE 7</b> The FMA undertakes a range of speeches and presentations (in-person and online) to inform and assist users and providers of financial services	35	41 (30)	41 (30)	Count of speeches and presentations that meet the aims of the measure	All
<b>SPE 8</b> Participants find FMA communication clear, concise and effective	75%	75% (75%)	72% (75%)	Annual Ease of Doing Business survey of market participants and FMA stakeholders	All
<b>SPE 9</b> Number of website page views of FMA's investor content	75,000 page views	75,000 page views (36,927 page views)	36,927 page views (31,968 page views*)	Google Analytics page view data from all pages within relevant investor sections of the FMA website	• Investor and customer decision-making

We have removed the former SPE 10: "Market participants within the stakeholder relationship management programme (SHRM), who responded to our survey, say they have benefited from the relationship", as the SHRM programme will wind up as of 1 July 2023, although engagement with market participants will continue in other forms as part of the FMA's overall monitoring and supervision of entities. We will consider if there is a suitable replacement measure as part of the development of the 2024/25 SPE. In the meantime, the FMA's relationship with stakeholders will continue to be measured by its Annual Ease of Doing Business survey (see SPE 1.1 and 8).

\*This measure is also included in the 2021/22 Vote Business, Science and Innovation Estimates of Appropriations; in that document the wording of the measure is "Number of website page-views of FMA's investor content have increased year to year" and the target is 'Achieved'.

## Forecast financial statements

### Expected revenue and proposed expenses

#### Vote Business, Science and Innovation

For the years ending 30 June	2022/23 forecast outturn \$000	2023/24 forecast \$000
<b>NON-DEPARTMENTAL OUTPUT EXPENSE APPROPRIATION</b>		
Performance of investigation and enforcement functions		
Crown revenue	17,888	18,434
Other revenue	-	-
<b>Total revenue</b>	<b>17,888</b>	<b>18,434</b>
<b>Expenditure</b>	<b>17,310</b>	<b>18,879</b>
<b>Operating surplus/ (deficit)</b>	<b>578</b>	<b>(445)</b>
Performance of licensing and compliance monitoring functions		
Crown revenue	24,957	25,718
Interest	600	300
Other revenue	1,245	444
<b>Total revenue</b>	<b>26,802</b>	<b>26,462</b>
<b>Expenditure</b>	<b>24,150</b>	<b>26,337</b>
<b>Operating surplus/ (deficit)</b>	<b>2,652</b>	<b>125</b>
Performance of market analysis and guidance, investor awareness and regulatory engagement functions		
Crown revenue	24,773	25,531
<b>Total revenue</b>	<b>24,773</b>	<b>25,531</b>
<b>Expenditure</b>	<b>23,975</b>	<b>26,145</b>
<b>Operating surplus/ (deficit)</b>	<b>798</b>	<b>(614)</b>
<b>Total</b>	<b>4,028</b>	<b>(934)</b>
<b>NON-DEPARTMENTAL OTHER EXPENSES APPROPRIATION</b>		
FMA litigation fund		
Crown and interest revenue	3,395	3,024
Expenditure	3,395	3,024
<b>Litigation surplus/ (deficit)</b>	<b>-</b>	<b>-</b>

## Statement of forecast comprehensive revenue and expense

For the years ending 30 June	2022/23 forecast outturn \$000	2023/24 forecast \$000
<b>REVENUE</b>		
Crown revenue	67,618	69,683
Interest	600	300
Other revenue	1,245	444
Litigation fund income - Crown revenue and bank interest	3,395	3,024
<b>Total revenue</b>	<b>72,858</b>	<b>73,451</b>
<b>EXPENSES</b>		
Personnel expenses	46,578	51,311
Occupancy expenses	3,733	3,776
Depreciation	2,884	2,470
Other operating expenses	12,240	13,804
Litigation fund expenses	3,395	3,024
<b>Total expenses</b>	<b>68,830</b>	<b>74,385</b>
<b>Surplus/(deficit)</b>	<b>4,028</b>	<b>(934)</b>
<b>Total comprehensive revenue and expense for the year</b>	<b>4,028</b>	<b>(934)</b>
<b>COMPRISING</b>		
Operating surplus/(deficit)	4,028	(934)
Litigation surplus/(deficit)	-	-
<b>Surplus/(deficit)</b>	<b>4,028</b>	<b>(934)</b>
<b>Total comprehensive revenue and expense for the year</b>	<b>4,028</b>	<b>(934)</b>

## Statement of forecast financial position

As at 30 June	2022/23 forecast outturn \$000	2023/24 forecast \$000
<b>EQUITY</b>		
Accumulated funds	710	(224)
Capital contributions	13,062	14,051
<b>Total equity</b>	<b>13,772</b>	<b>13,827</b>
<b>ASSETS</b>		
Current assets	14,098	14,225
Non-current assets	7,597	7,634
<b>Total assets</b>	<b>21,695</b>	<b>21,859</b>
<b>LIABILITIES</b>		
Current liabilities	4,867	4,962
Non-current liabilities	3,056	3,070
<b>Total liabilities</b>	<b>7,923</b>	<b>8,032</b>
<b>Net assets</b>	<b>13,772</b>	<b>13,827</b>



## Statement of forecast changes in equity

For the years ending 30 June	2022/23 forecast outturn \$000	2023/24 forecast \$000
<b>Opening balance</b>		
Accumulated funds	(3,320)	710
Capital contributions	12,577	13,062
<b>Total opening balances</b>	<b>9,257</b>	<b>13,772</b>
<b>COMPREHENSIVE REVENUE AND EXPENSE</b>		
Forecast net operating surplus / (deficit)	4,030	(934)
Forecast net litigation surplus / (deficit)	-	-
<b>Total comprehensive revenue and expense</b>	<b>4,030</b>	<b>(934)</b>
<b>OWNER TRANSACTIONS</b>		
Capital contribution	485	989
<b>Total owner transactions</b>	<b>485</b>	<b>989</b>
<b>Closing Balance</b>		
Accumulated funds	710	(224)
Capital contributions	13,062	14,051
<b>Total closing balances</b>	<b>13,772</b>	<b>13,827</b>

## Statement of forecast cashflows

For the years ending 30 June	2022/23 forecast outturn \$000	2023/24 forecast \$000
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>		
Cash was provided from:		
- Crown revenue	67,618	69,683
- Crown revenue - litigation fund	2,000	3,000
- Interest	597	324
- Other income	1,379	444
Cash was applied to:	-	-
- MBIE fees and levies (net)	(247)	-
- Litigation cost award paid to MBIE	(490)	-
- Suppliers	(25,112)	(25,201)
- Employees	(41,845)	(46,606)
- Net GST	15	20
<b>Net cash flows from operating activities</b>	<b>3,915</b>	<b>1,664</b>
<b>CASH FLOW FROM INVESTING ACTIVITIES</b>		
Cash was provided from:		
- Net decrease in term deposits	-	2,000
Cash was applied to:		
- Purchase of fixed assets	(2,712)	(2,508)
- Net increase in term deposit	(2,000)	-
<b>Net cash flows from investing activities</b>	<b>(4,712)</b>	<b>(508)</b>
<b>CASHFLOW FROM FINANCING ACTIVITIES</b>		
Cash was provided from:		
- Capital contributions	485	989
<b>Net cash flows from financing activities</b>	<b>485</b>	<b>989</b>
<b>Net increase (decrease) in cash balance</b>	<b>(312)</b>	<b>2,145</b>
Add opening cash and cash equivalents balance	8,582	8,270
<b>Closing cash and cash equivalents balance carried forward</b>	<b>8,270</b>	<b>10,415</b>
<b>COMPRISING</b>		
Current account cash and cash equivalents	8,052	10,225
Litigation fund cash and cash equivalents	218	190
	<b>8,270</b>	<b>10,415</b>

## Statement of significant assumptions

The following significant assumptions were used to prepare the forecast information:

### Crown revenue

The approved Crown appropriation for 2023/24 is \$69.7 million.

### Other income

We have determined the level of income from fees and the recovery of costs under current regulations from the information available as at the date of preparation of these statements.

### Litigation fund and expenditure

Based on our most likely litigation portfolio, arising from anticipated cases being investigated or set down for litigation, the 2023/24 litigation spend is estimated at \$3 million. We note the volatility inherent in predicting litigation activity. Actual litigation activity and expenditure may be materially different from forecast.

### Capital expenditure

As part of Budget 2020, the FMA has approved capital expenditure funding of \$3.8 million to fit out additional space in its Auckland office, explore opening a Christchurch office, develop a new website and begin an IT system build for Conduct of Financial Institutions (CoFI) regime. Of the \$3.8 million, \$0.5 million was earmarked for the Christchurch office. This fund was sought prior to the

significant change in working practices post COVID-19. The FMA has determined at this stage not to proceed with the Christchurch office with funds returned to Treasury. As for the remaining funding, \$1.55 million was spent in 2020/21, \$0.49 million will be spent by the end of 2022/23 and the balance is planned to be spent in 2023/24 and 2024/25.

As part of Budget 2022, additional capital expenditure funding of \$2.1 million was approved. This funding will complete the IT system build for both CoFI and the Climate Related Disclosures (CRD) regimes. Of the \$2.1 million, \$0.3 million is for CRD and is forecast to be spent in 2023/24 and 2024/25. The rest of the funding is for CoFI and will be utilised once the capital funding allocated in Budget 2020 is exhausted. The timelines for spend has been delayed to ensure the IT systems align with the legislation and regulations for the Conduct of Financial Institutions regime.

### Change programme

The FMA is currently undergoing a change programme. The change programme involves planning and implementing changes that will position the FMA to oversee a broader remit and become a more outcomes-focused regulator. The estimated cost of the change programme is included in the Statement of forecast comprehensive revenue and expense on page 13.

## Statement of accounting policies

### Reporting entity

The FMA is an independent Crown entity as defined by the Crown Entities Act 2004. The FMA was established on 1 May 2011 by the Financial Markets Authority Act 2011, is domiciled in New Zealand and its ultimate parent is the New Zealand Crown.

The FMA is responsible for ensuring public confidence in New Zealand's financial markets, promoting innovation and supporting the growth of New Zealand's capital base through effective regulation.

The FMA is a public sector public benefit entity (PBE) for the Accounting Standards Framework issued by the New Zealand External Reporting Board, because we are a public entity as defined in the Public Audit Act 2001.

These forecast financial statements were authorised for issue by the FMA on xx June 2023.

These forecast financial statements have been prepared for the special purpose of the FMA's Statement of Performance Expectations 2023/24 for the Minister of Commerce and Consumer Affairs. They should not be relied on for any other purpose.

### Measurement base and statement of compliance

The FMA's prospective financial statements have been prepared in line with New Zealand Generally Accepted Accounting Practice (NZ GAAP) and the accounting policies expected to be used in the future for reporting historical general purpose financial statements. They

comply with PBE Accounting Standards and other pronouncements that have authoritative support and are applicable to entities that apply PBE Standards. As a Tier 1 public sector PBE, we are required to report in accordance with Tier 1 PBE Accounting Standards.

The prospective financial statements also comply with PBE FRS 42 – Prospective Financial Statements and they have been prepared based on the best estimates and assumptions about future events that we expect to occur. Actual financial results achieved for the period covered are likely to vary from the information presented. All material variations will be disclosed and explained in the subsequent Annual Report.

### *Functional and presentational currency*

These financial statements are presented in New Zealand dollars (\$), which is the entity's functional currency. All financial information presented has been rounded to the nearest thousand dollars (\$000).

## Other significant accounting policies

### Revenue from the Crown

The FMA receives funding via appropriations from the Crown. It is non-exchange revenue. Revenue from the Crown is recognised as revenue when earned and is reported in the financial period when the funding becomes receivable by the FMA. Revenue is measured at the fair value of consideration received or receivable.

The FMA has been provided with funding from the Crown for specific purposes as set out in its founding legislation and the scope of the relevant Government appropriations. Apart from these general restrictions, there are no unfulfilled conditions or contingencies attached to Government funding.

### Revenue - litigation fund

The FMA receives litigation funding via appropriations from the Crown. It is non-exchange revenue.

The approved litigation funding for the 2023/24 financial year is \$5 million. Under the new funding agreement, the FMA can retain up to \$3 million in the litigation fund account on its balance sheet at any point in time. As and when the amount held in the litigation fund account falls below \$2 million, the FMA can request a top up to an amount not exceeding \$3 million. In addition, FMA can retain any underspend in the litigation fund appropriation across financial years.

Amounts received are accounted for as litigation revenue received in advance and the revenue is recognised as the

expenditure is incurred. Any unspent or unapplied funds not exceeding \$3 million at balance date are retained by the FMA and disclosed as litigation revenue received in advance. The fund is restricted for approved litigation purposes only as per criteria set out in the litigation funding agreement.

### Revenue – other

Other revenue is measured at the fair value of the consideration received or receivable. Other revenue is received from providing specific services to market participants and court cost award recoveries.

### Cash and cash equivalents

Cash and cash equivalents comprise cash on hand, deposits held at call with banks and other short-term highly liquid investments with original maturities of three months or less.

### Term deposits

This category includes only term deposits with maturities greater than three months.

### Goods and services tax

All items in the financial statements are exclusive of goods and services tax (GST), except for receivables and payables which are presented on a GST-inclusive basis. The net amount of GST recoverable from, or payable to,

the Inland Revenue Department is included as part of current assets or current liabilities in the statement of financial position. Commitments and contingencies are disclosed exclusive of GST.

### **Income tax**

The FMA is a public authority, and consequently is exempt from the payment of income tax under the Income Tax Act 2007. Accordingly, no provision has been made for income tax.

### **Cost allocation policy**

The FMA determines the cost of outputs using the cost allocation system outlined below.

- Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner with a specific output.
- Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity or usage information. Personnel costs are charged on the basis of actual time incurred. Other indirect costs are assigned to outputs based on the proportion of direct staff time for each output.

### **Equity**

The FMA's equity comprises the following reserves:

- Accumulated funds / (deficit) arising from normal operating activities, funded by a government appropriation and other revenue.
- Capital contribution reserve comprising closing accumulated funds transfers from the Securities Commission and capital contributions made to fund specific capital investment.





