

# STATEMENT OF INTENT

## 2014-2018

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# STATEMENT OF RESPONSIBILITY

This Statement of Intent further develops our strategic direction for the coming four years from July 2014 to June 2018 and has been prepared in accordance with Part 4 of the Crown Entities Act 2004. It should be read in conjunction with the Statement of Performance Expectations for each year.

The Financial Markets Authority (FMA) is responsible for the preparation of this Statement of Intent and the Statement of Performance Expectations, which includes the forecast financial statements, the statement of forecast service performance and all judgments used in them.



**Simon Allen**

Chairman  
Financial Markets Authority

21 May 2014



**Murray Jack**

Chairman  
Audit and Risk Committee

21 May 2014

# CHAIRMAN'S FOREWORD

The Financial Markets Authority is entering what is effectively its second phase as a regulator. Initially, from the start-up in 2011, the organisation focused on establishing itself and on quickly building its initial reputation and credibility as a regulator and ensuring a strong presence in New Zealand's financial markets.

Our stakeholder surveys and broad market feedback indicate that these objectives have been achieved.

We are now entering the second wave of reform in financial markets regulation, as the Financial Markets Conduct Act 2013 (FMC Act) comes into effect. That statute brings a broader remit and new functions and new challenges for FMA, and it marks the steady growth in maturity of the organisation and the nature and quality of regulation in New Zealand.

I am confident that FMA and its staff are ready for what lies ahead, and that the Government, consumers, and industry professionals, can anticipate the successful implementation of the next wave of regulatory change in New Zealand.

The Board welcomed our new Chief Executive, Rob Everett in February 2014. I am confident that Rob is the right person to lead the comprehensive industry changes both in regulatory structure and culture that comprise our agenda over the next four to five years.



A handwritten signature in black ink that reads "S Allen". The signature is written in a cursive, flowing style.

**Simon Allen**

Chairman  
Financial Markets Authority

# CHIEF EXECUTIVE'S FOREWORD

It is a great honour for me to have taken over the role of Chief Executive of FMA at this critical stage in its existence. From before my arrival in New Zealand, it has been clear to me that my predecessor, the Board, staff and many other stakeholders deserve congratulations for establishing FMA as a respected and effective regulator.

The period of this Statement of Intent marks a critical transition in the regulation of financial services in New Zealand as we implement the Financial Markets Conduct Act 2013 (FMC Act) and help the transition of market participants to the new regulatory environment.

It is my role to continue to guide the next stage of FMA's development into a mature and confident regulatory body, and over the period of this Statement of Intent build the capability we need to achieve our objectives and embed the new legislation.

We will work closely with our government and industry stakeholders to ensure that the new regulatory environment promotes confidence and participation in our financial markets. In partnership with other regulatory and enforcement bodies, we seek to drive a culture within financial services in New Zealand that places the interests of customers and the integrity of our markets first at all times.

As an example of the new environment, some of the first parts of the FMC Act to come into force in April brought new frameworks where peer-to-peer lenders and crowd-funding facilities can operate, along with new exemptions designed to help early stage companies access capital. While posing some difficult policy questions, these new mechanisms help to ensure that the regulation of financial markets promotes capital-raising and economic growth.

The emergence of these and other new, more lightly regulated capital-raising opportunities makes FMA's work for and with investors all the more important. By focusing attention on how users of financial services interact with providers, and by supporting the work of the Commission for Financial Literacy and Retirement Income and the National Strategy for Financial Literacy, we want to help investors better understand the choices available to them and what protection they have in all parts of our market.

The increase in the scope of FMA's regulatory mandate means that more than ever, we need to ensure that we are delivering the best value for money in terms of our regulatory priorities and actions. This will involve FMA being upfront about what we can do and what we cannot do.

We continue to embrace the Government's better public service goals by delivering improved digital services for our customers, making interaction with FMA more efficient and cost-effective for market participants. In addition we are developing systems and capabilities that allow us to better assess behaviours, risks and threats in the market, so we can focus our efforts on those areas that are most likely to represent harm to fair, efficient and transparent markets.

We will also be strengthening further our collaboration with the Serious Fraud Office, Reserve Bank of New Zealand and Commerce Commission, as well as other regulators and government agencies, including exploring shared services to deliver better outcomes that are consistent with our statutory independence.

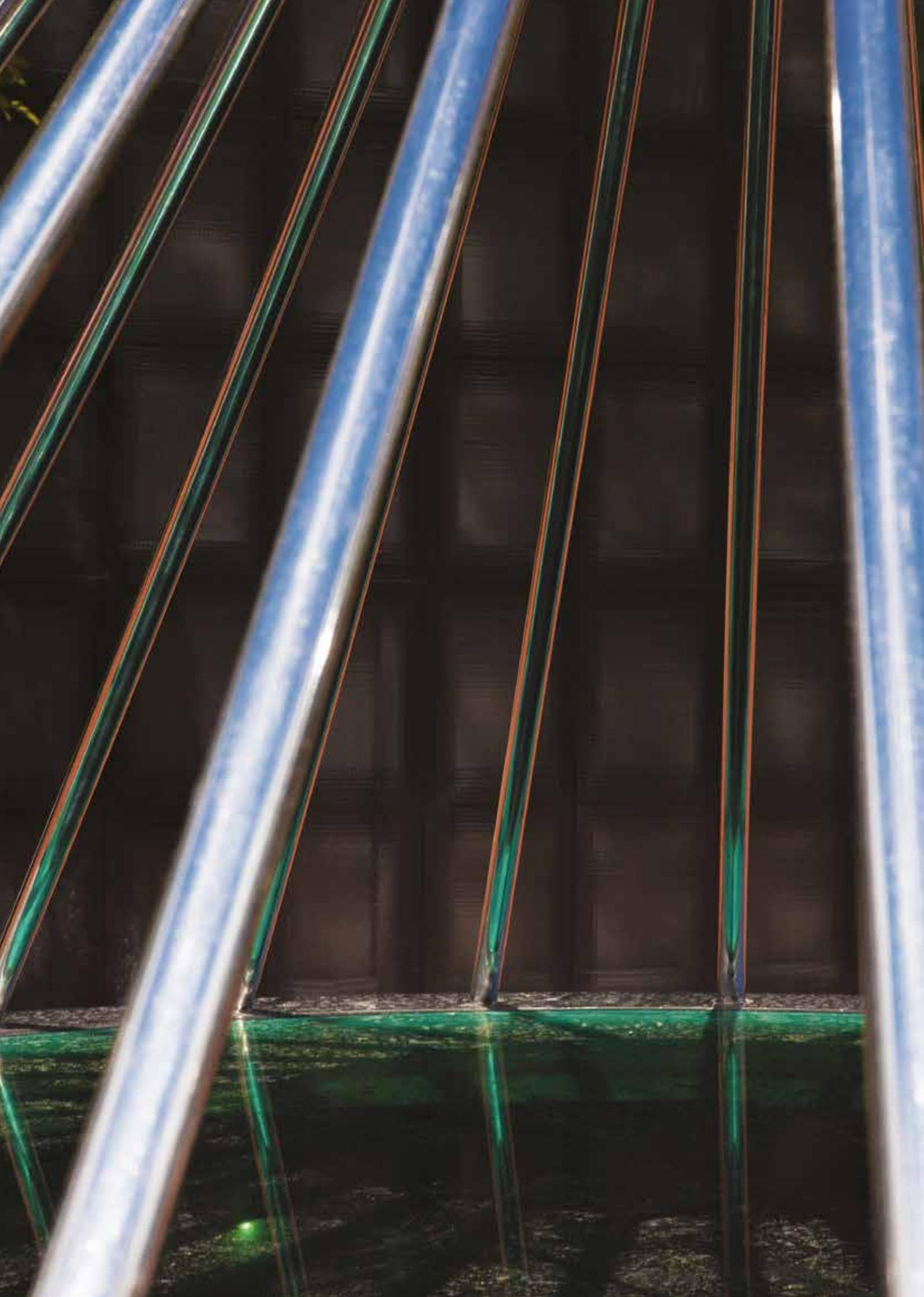
We relish the opportunity to contribute to New Zealand's economic growth and the well-being of our society as we go about performing our mandate. We will use everything at our disposal to meet the challenges before us.



**Rob Everett**

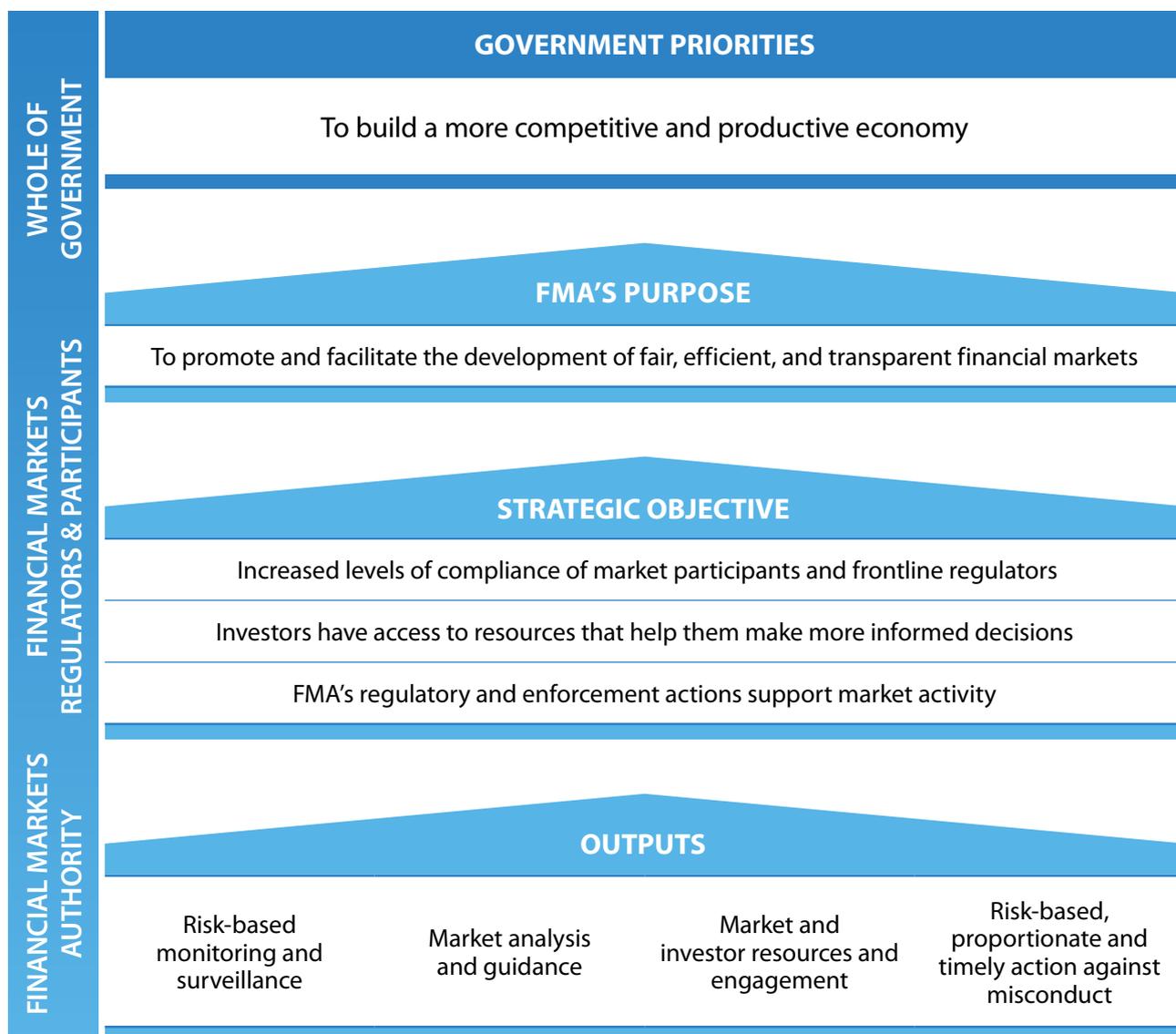
Chief Executive  
Financial Markets Authority





# ABOUT FMA AND OUR STRATEGIC INTENT

FIGURE ONE: FMA'S OUTCOME FRAMEWORK 2014-2018



This section provides an introduction to FMA, our operating environment and strategic direction.

FMA is an independent Crown entity established on 1 May 2011 with the mandate 'to promote and facilitate the development of fair, efficient, and transparent financial markets'.

Since our inception we have built a culture and an approach to financial market regulation in New Zealand based on proactive and extensive engagement with market participants and other stakeholders. We focus on communicating our role, functions and vision for increased confidence and participation in New Zealand's financial markets as an integral part of our regulatory framework.

This Statement of Intent (SOI) describes our strategy for the coming four years – a period of transition with a significant growth in the scope and depth of regulation of New Zealand financial markets. The cornerstone of this transition is the FMC Act which has recently come into effect. The FMC Act provides increased opportunity for FMA to work with market participants to achieve greater transparency, capability and integrity in New Zealand's financial markets. The widened scope and discretionary powers are both welcomed and challenging as we implement the new legislation while needing to maintain the current regimes until they are phased out.

## Our role and scope

New Zealand has an adapted 'twin peaks' approach to financial markets regulation; the Reserve Bank of New Zealand (RBNZ) is responsible principally for prudential regulation and FMA is responsible principally for conduct and disclosure regulation. To foster co-operation among financial and prudential regulators, the RBNZ and FMA have co-sponsored the development of a Council of Financial Regulators, of which the Ministry of Business, Innovation and Employment (MBIE) and Treasury are also members.

FMA's role is to strengthen the public's confidence in New Zealand's financial markets, promote innovation and support the growth of New Zealand's capital base, through effective regulation.

FMA regulates conduct across New Zealand's financial markets which are covered by more than 20 separate Acts. Given the breadth of our scope, FMA takes a risk-based approach to regulation, engaging with the markets to detect and act on threats to the operation of well-functioning markets.

Our role is not to remove risk from investing or from markets. No regulator can prevent all loss. We can, however, promote financial markets that are fair, efficient, and transparent and our robust enforcement record plays a strong role in this. Such markets can provide a foundation from which New Zealand can achieve its desired economic goals.

## What we mean by the term 'financial markets participant'

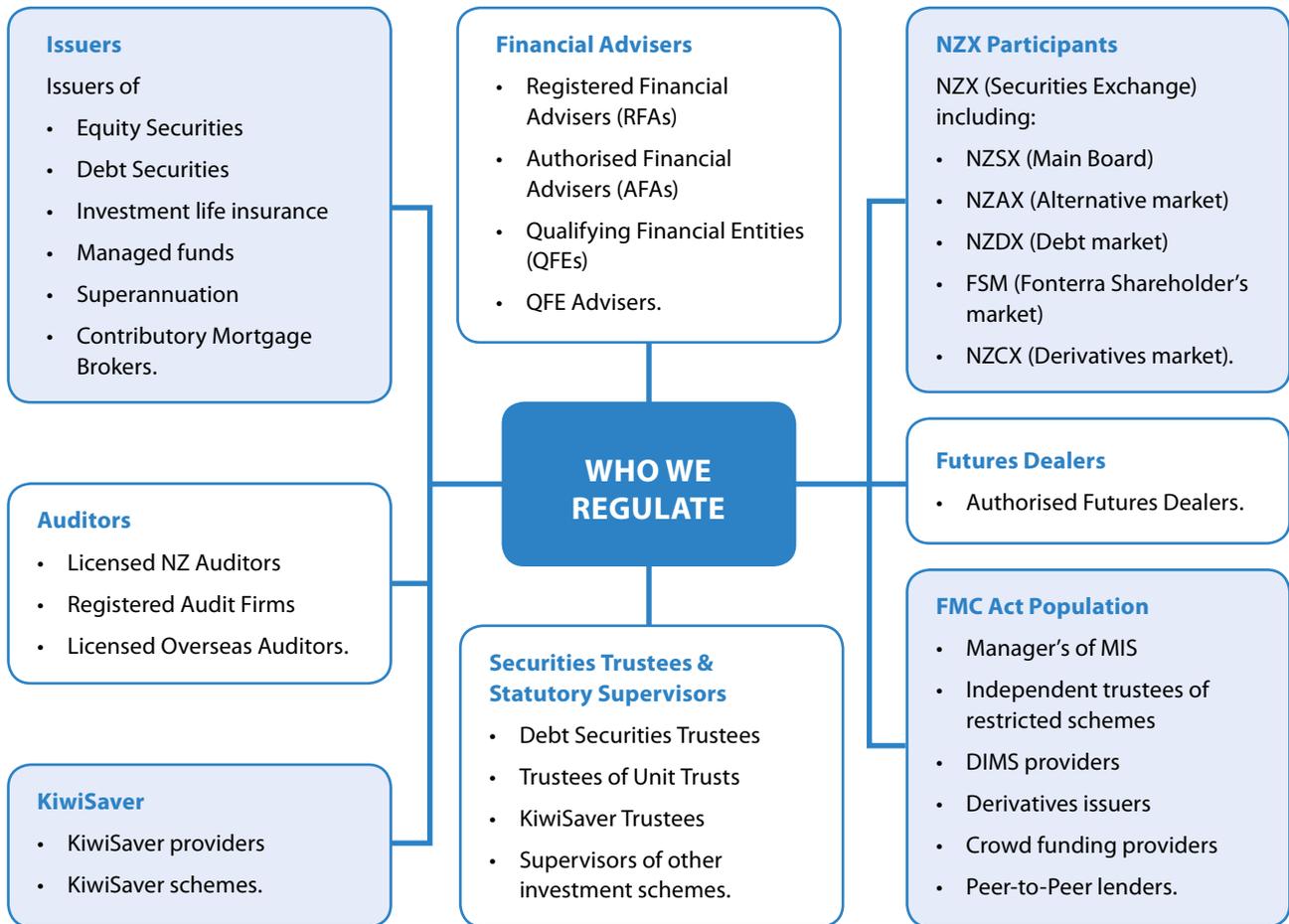
This term is used throughout our SOI in the same sense as that used in the Financial Markets Authority Act 2011. A financial markets participant is a person who is, or is required to be, registered, licensed, appointed, accredited, or authorised under any financial markets legislation (such as financial advisers, auditors of issuers and financial service providers). The term includes a person who participates in financial markets in the following ways:

- in the offer of securities to the public, acts as an issuer or a promoter
- in respect of securities offered to the public, acts as a trustee, a unit trustee, a superannuation trustee, a statutory supervisor, a manager, an expert or a qualified auditor
- acts as an issuer.

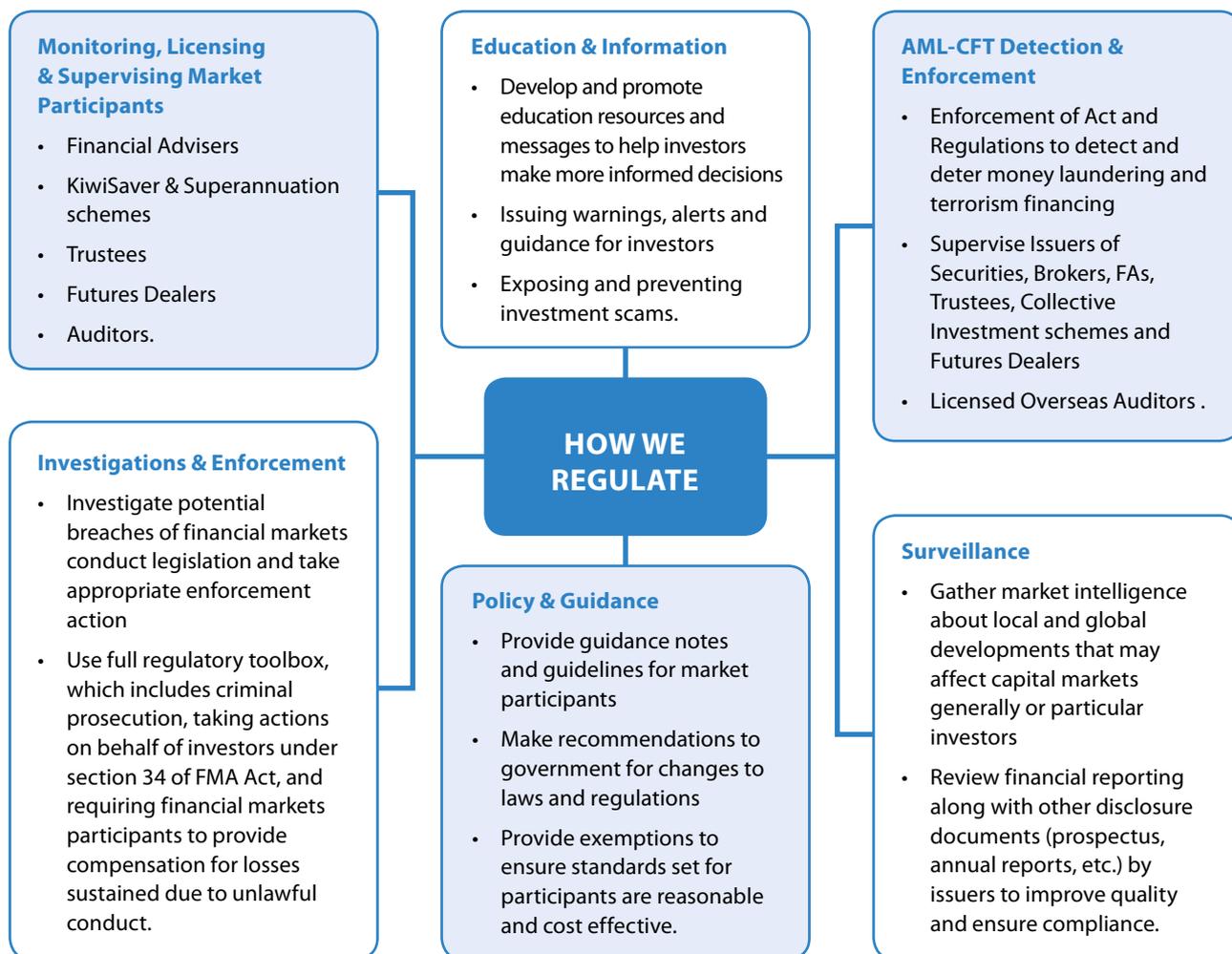
The term 'participant' also includes the associated organisations, directors or managers of these people, whether they are directly involved themselves as participants, or not.

An investor, while participating in financial markets, for the purposes of this document, is not included in the term 'participant' unless they also offer the services listed above. A full glossary is provided in Appendix 1.

## FMA'S REGULATED POPULATION AND KEY RESPONSIBILITIES



## FMA'S REGULATED POPULATION AND KEY RESPONSIBILITIES



# 2

## OUR OPERATING ENVIRONMENT

### Context for FMA's strategic direction

FMA oversees an increasing range of financial markets participants (refer Table One) and investments. This demands that we perform our functions in an enterprising, proactive and transparent way.

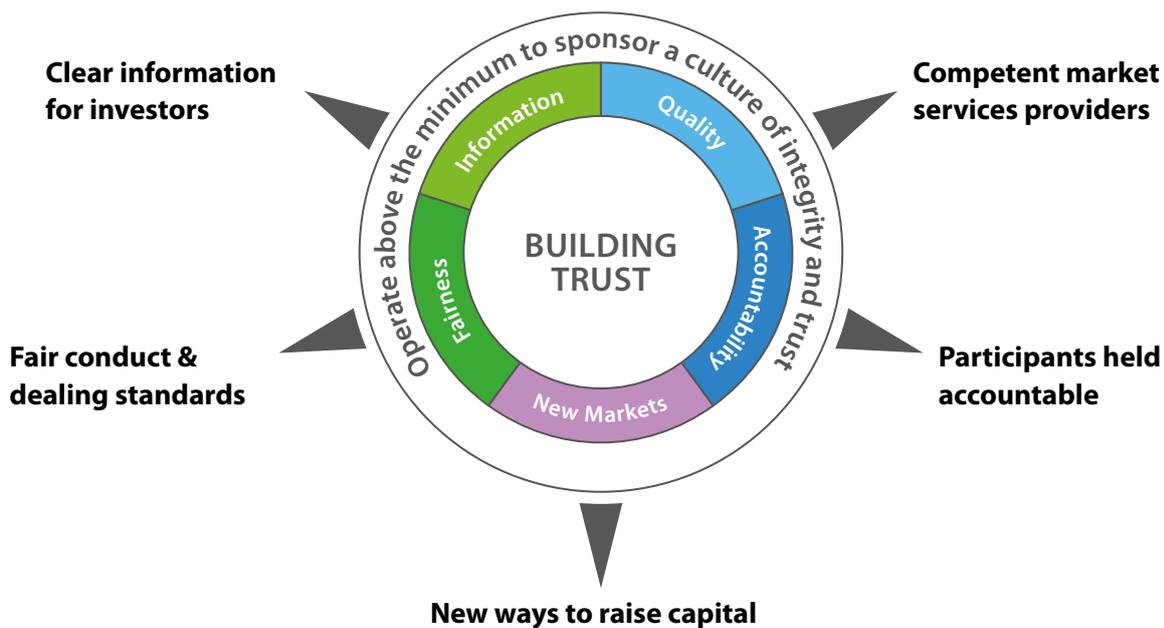
FMA's focus has been on establishing itself as an effective financial regulator and addressing legacy issues of the pre-FMA period. Over the period of this SOI, we will be focussing our efforts on implementing changes to deliver the outcomes sought from new financial markets legislation. Of particular note is the FMC Act which overhauls New Zealand's financial market legislation. These reforms mean many market participants are operating within a newly regulated environment.

### Key trends, drivers and risks

#### Financial Markets Conduct Act 2013 – the future of our financial markets

The successful implementation of the FMC Act will be a prime focus for FMA over the period of this SOI. The Act has two main purposes which underpin our work - to promote and facilitate the development of fair, efficient, and transparent financial markets; and to promote the confident and informed participation of businesses, investors, and consumers in the financial markets.

**Growing market confidence through fair, efficient, and transparent financial markets built on...**



The FMC Act replaces the Securities Act 1978, Securities Markets Act 1988 and Unit Trusts Act 1960, along with the Superannuation Schemes Act 1989 and parts of the KiwiSaver Act 2006. This legislation introduces new licensing requirements for some market participants and new standards of disclosure, governance and conduct.

At the same time FMA needs to maintain existing regimes, for example, those introduced by the Financial Advisers Act 2008, Financial Service Providers (Registration and Dispute Resolution) Act 2008, Securities Trustees and Statutory Supervisors Act 2011 (now renamed the Financial Markets Supervisors Act 2011) and Auditor Regulation Act 2011. This requires us to have an effective internal structure that facilitates the prioritisation of our work, greater agility and knowledge transfer within the organisation.

With FMA's increased mandate, it is vital that we successfully prioritise our work to address conduct that poses the greatest harm to the market. To achieve this, we have concentrated on accessing better information about market activities through regulatory reporting by participants, surveillance and monitoring activities, complaints and tip-offs. FMA is still reliant on hearing from market participants about potential misconduct and harm in the market. Lack of willingness to report misconduct poses a risk to our effectiveness and to the market.

We will continue to build relationships within the financial markets sector and ensure participants can approach FMA with increased ease and confidence.

## **Global and New Zealand Economy**

Global economies are showing more positive signs and the New Zealand economy is forecast to continue to achieve strong growth by OECD standards over the next few years. Interest rates remain low but are in a rising cycle with New Zealand in a leading position in this respect. Challenges inherent in the present economic environment include potential harm from:

- asset price bubbles, including in the real estate and equity markets
- mis-selling of investment products to investors seeking higher yields on their investments and/or exposure to rising equity prices
- the impact of higher interest rates.

In addition, with significant regulatory change under way, FMA will be sensitive to the costs of compliance for market participants, and will seek to take a proportionate approach to regulation.

## **KiwiSaver**

KiwiSaver continues to grow in importance and as of March 2014, had achieved a membership numbering more than two million with over \$18.5 billion in assets under management. For many, participating in KiwiSaver is their first experience of investing, and with an increasing number of New Zealanders relying on KiwiSaver as their prime source of retirement funds, confidence and more informed decision-making in this sector will remain a key area of focus for FMA.

## **Rebuilding of Christchurch**

The Christchurch rebuild continues, with many home owners receiving pay-outs from insurance claims. FMA expects market participants to deal appropriately with these investors. At the same time, FMA wants to support innovation in rebuilding the Canterbury economy through improved access to capital markets.

Along with other regulators, we will continue to give priority to the potential for fraud and mis-selling of investments to this vulnerable community.

## **Business Growth Agenda (BGA) – Building capital markets**

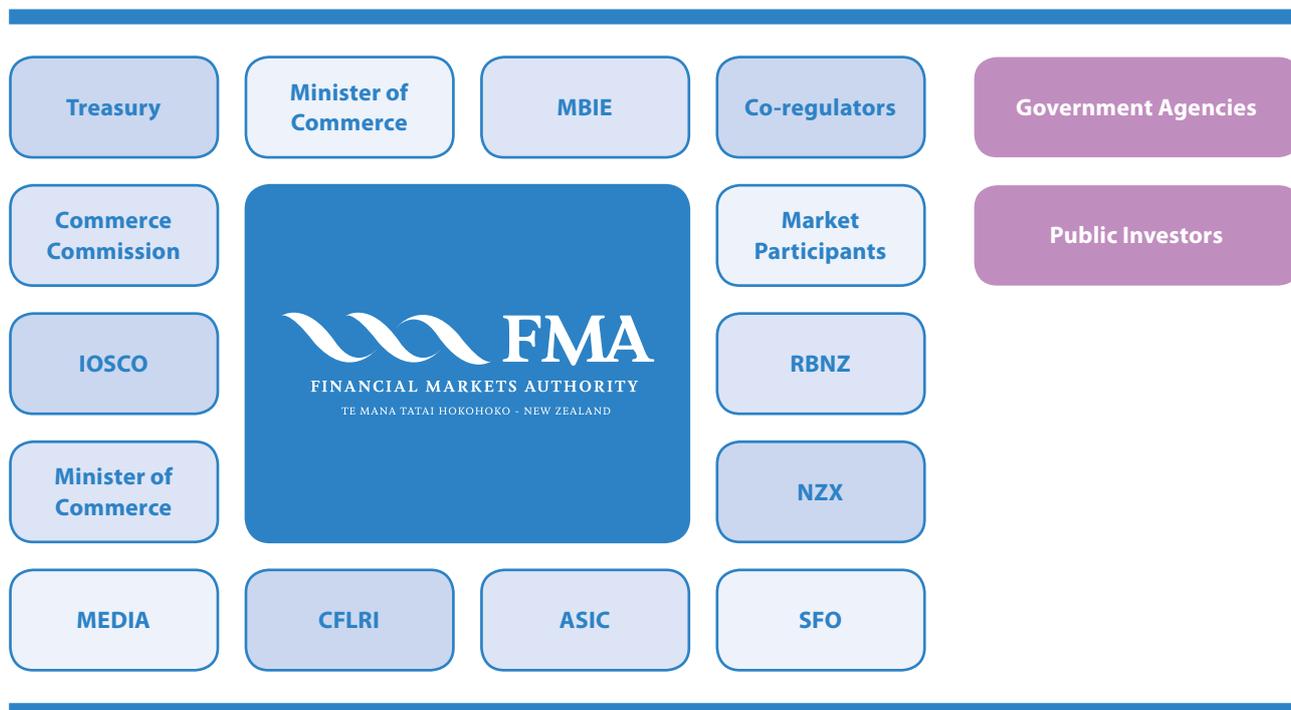
Building capital markets is one of six programmes of work centred on different elements of growth as part of the Government's Business Growth Agenda (BGA) initiative. Key to building capital markets is building investor confidence, reducing the cost of capital, encouraging saving and opening the way for international investment.

FMA's actions will support this government initiative by:

- working with market participants to raise market standards and integrity
- increasing transparency and accessibility of information to investors
- facilitating small-to-medium businesses to gain access to capital to grow
- supporting new forms of capital raising, such as the development of growth markets and crowd-funding facilities, and new opportunities for small-to-medium-sized businesses to access capital.

## Our stakeholders

### FMA'S KEY STAKEHOLDERS



Effective engagement with our stakeholders is central to our success. These stakeholders include:

- the Minister of Commerce and MBIE, to ensure FMA's strategy is aligned with the overarching goals of the Government
- market participants, to enhance co-operation and understanding of regulatory expectations
- frontline regulators and gatekeepers including NZX, New Zealand Institute of Chartered Accountants (NZICA), Certified Practising Accountants (CPA), and trustees and supervisors to ensure regulatory standards are maintained
- other New Zealand regulators and government agencies, particularly the RBNZ, Serious Fraud Office (SFO), Commerce Commission and Registrar of Companies, to ensure relevant market information is shared and monitoring and enforcement is comprehensive and complementary. Currently, FMA has a Memorandum of Understanding with:
  - › the Commerce Commission, to ensure clarity of regulations of fair dealing under financial markets legislation and the Fair Trading Act
  - › the SFO, to ensure collaboration and minimise duplication of effort and resources with enforcement actions
  - › the RBNZ, to ensure a sound and dynamic financial system and grow New Zealand's capital base.
- the Commission for Financial Literacy and Retirement Income (CFLRI), to promote and support investor education
- the Australian Securities and Investments Commission (ASIC) and other international regulators, to enhance cross border enforcement and appropriate co-ordination of financial markets regulation
- the Financial Advisers Disciplinary Committee (FADC) to ensure disciplinary proceedings arising from complaints about Authorised Financial Advisers (AFAs) are addressed
- the Code Committee, which sets the minimum standards of competence and training requirements for Financial Advisers
- the Consumer Advisory Panel, which provides on-the-ground advice to FMA, to help ensure 'investors have access to resources to help them make more informed decisions'

- the media, to promote public understanding of our work and keep the public informed of our significant regulatory actions
- investors, as their confident participation is vital to promoting fair, efficient, and transparent markets.

In June 2012, FMA first commissioned Colmar Brunton to conduct a survey of some of our stakeholders (this did not include members of the general public). FMA continues to conduct these surveys on a two-to-three-yearly basis. The survey explores views of FMA's stakeholder engagement, measures our performance as a regulator of New Zealand's financial markets and identifies areas where FMA might improve our regulation of New Zealand's financial markets in the future.

We also conduct more targeted annual surveys of market participants to obtain feedback on our performance. In addition, we participate in regular omnibus consumer surveys that enable us to gauge investor perceptions of the market and our work. Feedback from these surveys contributes to the measures that FMA uses in this document.

## TABLE ONE: MARKET PARTICIPANTS

MARKET PARTICIPANTS	NUMBER*
AML/CFT Reporting Entities	796
Registered Financial Advisers (RFAs)	6,426
Authorised Financial Advisers (AFAs)	1,941
Qualifying Financial Entities (QFEs)	58
QFE Advisers (estimated)	26,000
Registered Audit Firms	38
Licensed New Zealand Auditors	149
Licensed Overseas Auditors	21
Licensed Trustees and Statutory Supervisors	36
Issuers	2,214
Individually Authorised Futures Dealers	58
Authorised Futures Markets	4
NZX Participant Firms	19
Clearing Houses	2
Registered Securities Exchange (NZX)	1
Registered Superannuation schemes	517
Registered KiwiSaver schemes	46
Registered Banks	23

\*as at 28 January 2014

As the FMC Act is implemented, six new categories of market participants will be licensed and supervised by FMA including: fund managers; discretionary investment management service providers (DIMS); derivative issuers; firms that use crowd-funding platforms; those involved in peer-to-peer funding platforms; and independent trustees.

# 3

## THE GOVERNMENT'S GOALS

### Our strategic direction

FMA's strategic direction is aligned primarily with the Government's goal 'to build a more competitive and productive economy'.

The Government is committed to New Zealanders' enjoying greater prosperity and security through an increasingly competitive and productive economy. This requires well-functioning financial markets that support sustainable business growth and job creation. A reflection of well-functioning financial markets is an environment where risk is understood, innovation flourishes, integrity prevails and investors are confident and participate actively.

To this end, FMA will work with MBIE, co-regulators and other government agencies to contribute to the following outcome:

'Fair, efficient, and transparent financial markets'

### Fair, efficient, and transparent financial markets

This outcome requires financial markets participants to be both competent and compliant, and investors to be well informed and to understand the concepts of financial risk and return.

FMA's role in contributing to this outcome is focused on ensuring a regulatory environment in which investors can participate in the market with confidence.

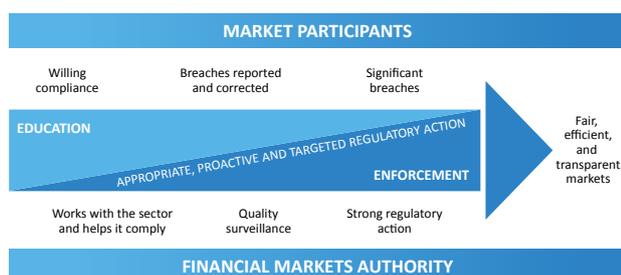
- work to minimise the regulatory burden for participants dealing with multiple regulators
- ensure our education, surveillance and enforcement functions work cohesively to ensure a strong deterrent effect.

### How we will monitor progress towards this outcome

A range of external factors and a number of organisations, including FMA, will influence this outcome. The following indicator will be surveyed on an annual basis to monitor progress towards this outcome.

INDICATOR	BASELINE
Percentage of investors surveyed who agree their confidence in New Zealand financial markets has increased	Of investors surveyed in March 2014, 61% were very or fairly confident in New Zealand's financial markets [59% 2013]. 24% stated their confidence had increased in the last year (2013/14)[20% 2012/13].
	[Source: Colmar Brunton OmniJet Survey of Investors]

### OUR RISK-BASED REGULATORY PHILOSOPHY



Together with other government agencies that co-regulate the financial markets, take enforcement action and support investor education, FMA will:

- support the financial markets sector to understand and willingly comply with our expectations
- encourage participants to report and correct errors or regulatory breaches promptly
- identify significant breaches and address these promptly with appropriate action

The following sections, entitled 'What we aim to achieve', 'How we will measure our success' and 'How we will develop and sustain our operations', describe FMA's impacts and initiatives and how they will contribute to fair, efficient, and transparent markets, and the measures we will use to assess our performance.

This section explains:

- how FMA will contribute to achieving fair, efficient, and transparent markets
- what impacts FMA needs to achieve
- how these impacts will be achieved
- how FMA will measure our success.

FMA will work to achieve three key impacts in order to contribute to the promotion and development of fair, efficient, and transparent financial markets. These are:

- increased levels of compliance of market participants and frontline regulators
- investors have access to resources that help them make more informed decisions
- FMA's regulatory and enforcement actions support market activity.

Central to achieving these impacts is the successful implementation of the FMC Act.

The Act has widened FMA's regulatory role. For example:

- FMA is now the primary regulator of unfair or misleading conduct in relation to financial products and financial services
- FMA is able to designate and re-define activities and products that fall within the remit of the FMC Act
- from December 2014, FMA will oversee new standards for the governance requirements of financial products
- FMA will license and monitor six new categories of participants.

## INCREASED LEVELS OF COMPLIANCE OF MARKET PARTICIPANTS AND FRONTLINE REGULATORS

### Why this impact is important

Investors depend on the integrity and effective performance of issuers, intermediaries and frontline regulators and supervisors. These include exchanges, trustees and statutory supervisors, and others whose functions support market integrity, such as auditors and credit rating agencies.

Similarly, businesses competing for access to capital rely on honest and transparent behaviour within the financial markets sector. Poor behaviour erodes trust and harms investors, the reputation of the markets and the overall ability of all firms to raise capital.

The role of FMA, therefore, is to ensure market participants and frontline regulators and supervisors understand their roles and responsibilities and can, and do, fulfil their regulatory and statutory obligations.

### What FMA will focus on to achieve this impact

The five key components of our approach to achieving this impact are:

- engaging with market participants
- issuing guidance to the market
- carrying out surveillance and monitoring
- taking appropriate and proportionate enforcement action
- communicating our regulatory messages to our wider participant groups as well as to the public.

FMA will continue to consult with market participants prior to introducing any significant change to our regulatory policy, and maintain our work with participants to help them understand and comply with their responsibilities. We will provide guidance where we believe important aspects of market participants' direct responsibilities are not well understood or where standards of market conduct could be improved. FMA will undertake a regulatory impact analysis prior to introducing significant new guidance which will consider the potential costs and benefits of that guidance.

FMA will be transparent and proactive in our approach when dealing with compliance issues, and prioritise those that present the greatest likelihood of harm to the functioning of fair, efficient, and transparent financial markets. Where we identify a possible breach of a participant's responsibilities, we will act in a timely, effective and proportionate manner.

We will embed the frontline regulatory/supervisory roles for NZX, accredited auditor bodies, supervisors and qualifying financial entities alongside those of other gatekeepers.

FMA will publish the outcomes of significant surveillance, monitoring and enforcement actions to deter misconduct and provide guidance to the market. In addition, we will be proactive in monitoring products and activities on the regulatory perimeter and will take action where these pose a significant risk of harm to market confidence.

## INVESTORS HAVE ACCESS TO RESOURCES TO HELP THEM MAKE MORE INFORMED DECISIONS

### Why this impact is important

In support of having well-informed investors, greater retail participation and increased market integrity, it is important to ensure that resources are available that enable investors to make informed decisions. The growth of KiwiSaver continues to bring new investors into New Zealand's financial markets. Our work on raising the standards of disclosure, advice and investor education will help these new investors to make more informed decisions about their investment choices.

### What FMA will focus on to achieve this impact

The key components of our approach to achieving this impact are:

- promoting clear and effective information about investment products
- promoting high-quality financial reporting
- developing investor education initiatives that support CFLRI to achieve the objectives of the National Consumer and Financial Literacy Framework
- helping investors and consumers understand their rights and responsibilities under the FMC Act.

We will perform risk-based reviews of offer documents and financial reports. These will receive particular scrutiny where potential harm of non-compliance is high.

FMA will continue to raise standards and the level of integrity in the marketplace. We will work with other agencies to improve the resources available to investors to help them make more informed decisions when investing. Our monitoring of adviser compliance with the Code of Professional Conduct for Authorised Financial Advisers will provide an important indicator of progress made in this area.

Our investor education will be targeted toward helping investors actively make financial decisions and take responsibility for those decisions.

## FMA'S REGULATORY AND ENFORCEMENT ACTIONS SUPPORT MARKET ACTIVITY

### Why this impact is important

Financial markets that operate with integrity are more attractive to international and domestic investors. At the same time, regulatory activity needs to be cost effective so that the costs imposed by regulation are proportionate to the harm caused and benefits sought.

### What FMA will focus on to achieve this impact

The five key components of our approach to achieving this impact are:

- taking appropriate and proportionate enforcement action
- using exemptions to relieve disproportionate regulatory burdens
- coordinating and collaborating with both local and international co-regulators
- identifying potential risks through market intelligence and analysis
- advising on and assisting with law reform.

FMA will make use of the full range of tools available to us, to ensure our responses to breaches are proportionate and communicate the right signals to market participants, while reassuring investors that serious misconduct will not be tolerated. This may include warnings, use of our administrative powers, licensing sanctions, or formal proceedings in the courts or before the FADC. Where appropriate, FMA will take on cases that will clarify the legislation and regulatory expectations.

Exemptions, especially class exemptions, will be used where required to facilitate market activity where the costs of compliance are not matched by improved outcomes for investors or participants.

We will collaborate at every level with other regulatory agencies and promptly refer any matters best investigated or enforced by those agencies. To this end, we will be updating our memorandum with the SFO, focused on working closely to ensure we best utilise our respective and complementary fields of expertise to optimise outcomes.

We will apply the principles in FMA's enforcement policy when deciding on enforcement action including civil proceedings, criminal prosecutions and referrals to the FADC. Where appropriate, FMA will take on cases that will clarify the legislation and regulatory expectations.

FMA will gather and analyse relevant information to ensure we stay abreast of market developments and innovations, and to identify significant emerging risks.

We will monitor international market and regulatory developments and assess their relevance to the New Zealand context. We will work with other relevant regulators to strengthen cross-border co-operation. Where we identify significant issues or gaps in New Zealand's regulatory framework, we will advise and assist the Government in addressing these matters.

FMA will work with the Code Committee to maintain and update the Code of Professional Conduct for Authorised Financial Advisers.

## 5

# HOW WE WILL MEASURE OUR SUCCESS

FMA collects annual operational metrics to measure our success against these impacts, in conjunction with results from our Stakeholder Survey, conducted every two to three years.

## INCREASED LEVELS OF COMPLIANCE OF MARKET PARTICIPANTS AND FRONTLINE REGULATORS

MEASURE	TARGET	BASELINE
Percentage of market participants who substantially meet expectations of significant new guidance	80%	93%
Percentage of market participants who are required to take corrective action as requested by FMA following compliance review	Decrease over time	15%
Percentage of frontline regulators and gatekeepers that take appropriate corrective action as requested by FMA following compliance review	100%	100%
Percentage of stakeholders surveyed who agree FMA has performed well over the past year in helping to lift levels of competency and compliance by market participants	Maintain baseline	73% [Stakeholder Survey 2012]
Percentage of stakeholders surveyed who agree that FMA's oversight of frontline regulators and gatekeepers has been effective	Improve on baseline	40% [Stakeholder Survey 2012]

## INVESTORS HAVE ACCESS TO RESOURCES TO HELP THEM MAKE MORE INFORMED DECISIONS

MEASURE	TARGET	BASELINE
Percentage of respondents to website and other questionnaires that agree that FMA's investor education materials are helpful and relevant	Maintain baseline	80%
Percentage of offer documents, market announcements and financial statements reviewed that substantially meet expectations in FMA guidance	Maintain baseline	92%
Percentage of investors surveyed who believe that investment disclosure documents that were given to them helped them to make an informed investment decision	Improve on baseline	52%

## FMA'S REGULATORY AND ENFORCEMENT ACTIONS SUPPORT MARKET ACTIVITY

MEASURE	TARGET	BASELINE
Percentage of stakeholders surveyed who believe FMA's regulatory actions are proportionate	Improve on baseline	34% (55% were neutral or did not have a view)
Percentage of stakeholders surveyed who believe FMA actions positively influence market behaviour	Improve on baseline	54% [Stakeholder Survey 2012]
FMA Regulatory Impact Statements consider the costs and the benefits of significant new guidance	Establish baseline	New measure

# 6

# HOW WE WILL DEVELOP AND SUSTAIN OUR OPERATIONS

This section describes:

FMA's operational goals and risks, and the strategies we will employ to ensure we continue to develop in a sustainable, effective and efficient way.

## Introduction

FMA's actions support the Government's priorities of providing better public services and value for money. We participate in 'All of Government' initiatives to improve efficiency and save public money. FMA is currently involved in several 'All of Government' procurement contracts and is committed to joining other contracts offering efficiencies as they become available.

## GOVERNMENT PRIORITIES

To manage Government's finances  
To deliver better public services

## FMA'S OPERATIONAL OBJECTIVES

Effective implementation of the FMC Act by well trained and supported staff

Full online access to improve customer service and ease of doing business with FMA

Systems and capability that support harms-based targeting of regulatory resources

Over the coming four years, FMA will contribute further to these goals by continuing to provide cost-effective, risk-based regulatory services to financial markets participants and the public. We have embraced a regulatory framework that is designed to maximise the use of our resources through:

- engendering trust and compliance
- prioritising our efforts to those areas that will give the greatest gain in achieving fair, efficient, and transparent financial markets

- complementing the roles of other regulators and government agencies through collaborative initiatives, to avoid duplication of effort and areas of omission.

Also, we are managing our budgets and resources to seek to accommodate our increasing mandate as we anticipate and implement new regulatory regimes, such as the FMC Act.

## Our operational objectives

The FMC Act has provided an opportunity to appraise our priorities and the way in which we work. We will focus on those areas where market confidence and integrity are at greatest risk of harm from misconduct and poor standards.

It is important that we:

- have the skills and capacity to accommodate our new roles while maintaining our current roles and profile in financial markets
- have appropriate systems and processes in place to:
  - › accommodate the requirements of new roles and legislation, particularly the FMC Act
  - › support markets' ease of doing business with FMA.
- further strengthen our brand and enhance our ability to be connected with market participants, investors, co-regulators, other government agencies and the wider public
- investigate and implement opportunities to share services to provide best value for money with as much of our appropriations as possible spent directly on frontline services.
- deliver to our mandate, on time and within budget.

## Operational risks

FMA has identified the following key risks that need to be actively managed:

- lack of capacity or capability to meet the demands of our increasing roles and responsibilities, particularly with the progressive implementation of the FMC Act
- systems and process development that do not keep pace with FMA's increasing roles and responsibilities
- FMA's legislative mandate increases with insufficient funds to support the activities required to implement the reforms effectively.

In order that FMA continues to be an effective regulator, it is important that our employees are well supported through the transition period of implementing the FMC Act and that our reputation remains credible with market participants, other regulators, the Government and the wider public. A problem with any one of these factors could result in our reputation being jeopardised and/or our effectiveness reduced.

### ***Our approach to meeting our goals and mitigating risks***

## **Our people, culture and performance – health and capability**

Ultimately the success of FMA will depend on the right capability, capacity and commitment of our staff to fulfil FMA's expanding regulatory mandate and have maximum impact on the financial markets sector.

As an organisation we will:

- support staff members to demonstrate the attributes we value: to be bold, proactive, respected, connected and agile
- attract, select and retain highly qualified staff
- continue to demonstrate our commitment to being a good and equal opportunity employer.

We strive to be an employer of choice for people who are aligned with FMA's values and commitment to public service, and we will support their continuing education and development.

FMA will continue to:

- develop our people and their leadership capabilities
- identify and foster the growth of our high performers and provide career development opportunities to retain their effectiveness to FMA and our financial markets
- ensure our values are reflected in our work policies and practices and in the way we reward and recognise performance
- enhance our work environment to support the flexibility required of staff to meet our changing service demands and the risks in the financial markets sector
- to monitor staff engagement through regular surveys.

## **Governance and leadership**

Effective governance and leadership are critical to FMA delivering on our mission. They cover every aspect of how an organisation works in order to assure alignment of decision-making.

## **Leadership**

Leadership through transition is critical over the period of this SOI. The widening of FMA's regulatory remit has meant that we have had to re-examine our thinking and be more strategic in our approach. This requires us to change the way we respond to market issues and concerns. Our focus will be on the risk and extent of harm to market integrity and confidence. This may require us to stop carrying out some activities and invest our time in others, for greater return.

Our senior leadership team and managers will drive this change in thinking and in the focus of response that is required.

## **The Board**

FMA engages with MBIE to ensure appropriate levels of skill, diversity and expertise at Board level. FMA maintains a non-executive Board of five to nine directors with up to an additional five associate board members. Currently there are 12 board members, three of whom are associates.

Appointments to the Board are made by the Governor-General on the recommendation of the Minister of Commerce.

To maintain the integrity of FMA's governance and leadership, the Board will:

- operate in accordance with FMA's Governance Manual
- provide opportunities for professional development
- undertake regular performance assessment
- ensure effective induction of new appointees to FMA's business.

## **Our systems and processes**

During the period of this SOI, we will continue to implement core systems to manage regulatory work-flow and case management. Our systems will be augmented to include online interactions with market participants to increase the ease and reduce the costs of doing business with FMA. This initiative will widen channels and opportunities to consult and gather information. These improvements will contribute directly to the Government's goal of better public services and value for money.

This will enhance FMA-wide productivity and ability to actively manage and monitor our performance. It will provide:

- improved intelligence on market participants and the ability to draw insights that will assist us with ongoing monitoring efforts
- better management of stakeholder interactions

- increased transparency of our responsibilities, business processes and decisions
- more efficient processing of requests and applications
- greater ease of doing business with FMA.

To complement our systems and best implement the FMC Act, we will continually review our processes to ensure these are streamlined and efficient to support in the best way, our regulatory work and engagement with market participants and other stakeholders. Using Performance Improvement Framework (PIF) self-review methodology we will look at all our processes from an organisational perspective and actively work with officials to prepare for the formal performance review of FMA scheduled for 2015.

## Our finances

The funding of FMA's activities over the period of this SOI no longer includes funding for transitional costs, which we had during the establishment period of FMA. There is no specific funding for FMA to implement new licensing and monitoring functions or to cover dual regulatory regimes resulting from the progressive implementation of the FMC Act. FMA expects to face increasing financial challenges due to the increasing scope of our operations.

Reflecting the significant burden of implementing the FMC Act (and providing guidance and education to both market participants and end-users of financial services), FMA is forecasting small deficits in each of the four years of this SOI. The establishment of reserves over the last SOI period and carrying forward into the next SOI period, are important to enable FMA to carry out our statutory functions and, in particular, to fund the continued build of systems to support FMA's data gathering, strategic intelligence and implementation of our expanded regulatory framework. This systems build will extend beyond the period of this SOI. We anticipate the volume and pace of change will continue to put pressure on FMA's resources and systems, with each requiring specific capability build.

FMA will carry out the strategies necessary to deliver our outputs, on time and within our budgets and resources, by the following means:

- **Crown appropriations** – we will work with MBIE and Treasury to ensure adequate resourcing to support the implementation of our strategies and any further expansion of our regulatory mandate
- **Fees and levies** – we will work with MBIE to monitor and manage the collection of fees and levies effectively
- **Fiscal accountability** – we will provide quarterly and annual reports to the Minister of Commerce and MBIE.

## Reporting and accountability

MBIE is the agency that monitors our performance on behalf of the Minister of Commerce. We will continue to work constructively with the Minister of Commerce and MBIE, in accordance with our output agreement, and continue to build and strengthen these relationships.

The Board will endeavour at all times to maintain a 'no surprises' policy with the Minister. In a manner consistent with FMA's obligations as an independent Crown entity, we will keep the Minister and MBIE informed, through regular meetings between the Chairman, the Minister, the Chief Executive and officials from MBIE, of:

- any key risks or matters that may impact FMA's ability to achieve our objectives and any other issues of relevance
- any matters likely to affect government interests or to attract political comment.

FMA will report to the Minister and MBIE, providing:

- an annual report as required by the Crown Entities Act 2004
- quarterly reports outlining performance against the SOI.

## Measures

- FMA has the necessary skills and complement of staff in place to fulfil new licensing and monitoring functions as they come into force.
- FMA has implemented a technology solution to support stakeholders' ease of doing business with us and to support new licensing and monitoring functions by 31 March 2015.
- FMA will deliver our outputs on time and within budget.



# APPENDIX 1: GLOSSARY

AFA	Authorised Financial Adviser - a financial adviser who is authorised in accordance with the Financial Advisers Act 2008
AML/CFT	Anti-Money Laundering and Countering Financing of Terrorism -controls required to prevent, detect and report money-laundering activities and financing of terrorist activities
ASIC	Australian Securities and Investments Commission
Auditor/Financial Auditor	A professionally qualified accountant who independently evaluates the accuracy and integrity of a company's financial statements
Director	An appointed member of a board or partnership who jointly oversees the activities and direction of an organisation and represents the interests of shareholders, or comparable role in any other body as defined in the Financial Markets Conduct Act 2013
FA Act	Financial Advisers Act 2008
Financial markets participant	A person who is, or is required to be, registered, licensed, appointed or authorised under any financial markets legislation, such as financial advisers, auditors of issuers, and financial service providers. (this term also includes their associated organisations, the directors and their managers)
Financial products	Products offered by banks, credit card companies, insurance companies, consumer finance companies, stock brokerages and some government-sponsored enterprises
FMA	Financial Markets Authority
FMC Act	Financial Markets Conduct Act 2013
Frontline regulator	A financial markets participant who has statutory obligations to ensure regulatory and professional standards of practice are met by other market participants (frontline regulators include NZX Limited, securities trustees, statutory supervisors, and qualifying financial entities)
Gatekeepers	Agents that monitor issuers' offers, disclosures and performance. gatekeepers include auditors, credit rating agencies and financial analysts
Impact	The contribution made by an organisation to an outcome through a specified set of outputs and/or activities of an organisation (Public Finance Act 1989)
Intermediary	An entity or person that provides financial advice or markets and promotes financial products and services to consumers
Investor	An investor includes: a person to whom an offer of financial products is made; a person who acquires, or may acquire, a financial product; a person who invests in assets, such as securities, property, or commodities with the intention of financial gain; or a person who receives, or may receive, a financial service (this may include experienced investors who regularly invest, retail investors, issuers and intermediaries) (Financial Markets Conduct Act 2013).
QFE	Qualifying Financial Entity – an entity that is registered as such by FMA in accordance with the Financial Advisers Act 2008
Issuer	A person or legal entity such as a Company, Trust, State-Owned Enterprise, Territorial Local Authority or Government that issues securities.
MBIE	Ministry of Business, Innovation and Employment
NZX	NZX Limited, New Zealand's only registered securities exchange operator
QFE	Qualifying Financial Entity – an entity that is registered as such by FMA in accordance with the Financial Advisers Act 2008
Outcome	The state or condition of society, the economy, or the environment. (Public Finance Act 1989)
Output	Goods or services that are supplied by a Department, Crown entity, Office of Parliament, or other person or body (Public Finance Act 1989)
Statutory Supervisor	A person appointed to look after investors' interests for participatory securities, such as syndicates and limited partnerships, and supervisor of s retirement village under the Retirement Villages Act 2003
Trustee or Securities Trustee	A securities trustee who is appointed to oversee a retail issue of debt securities or a supervisor of a managed investment scheme

# APPENDIX 2: FUNCTIONS OF FMA

FMA was established by the Financial Markets Authority Act 2011. The Act establishes FMA as an independent Crown entity, and sets out its function and powers. The Act says FMA is to:

- promote the confident and informed participation of businesses, investors, and consumers in the financial markets, (without limitation) by:
  - › collecting and disseminating information or research about any matter relating to those markets
  - › issuing warnings, reports, or guidelines, or making comments, about any matter relating to those markets, financial markets participants or other persons engaged in conduct relating to those markets (including in relation to one or more particular persons)
  - › providing information about its functions, powers and duties under this Act and other enactments (including promoting awareness by investors that all investments involve risks and that it is not the role of FMA to remove those risks)
  - › providing, or facilitating the provision of, public information and education about any matter relating to those markets.
- perform and exercise the functions, powers and duties conferred or imposed on it by or under financial markets legislation and any other enactments

- monitor compliance with, investigate conduct that constitutes or may constitute a contravention of, and enforce financial markets legislation
- monitor and conduct inquiries and investigations into any matter relating to financial markets or the activities of financial markets participants or of other persons engaged in conduct relating to those markets
- keep under review the law and practices relating to financial markets, financial markets participants, and other persons engaged in conduct relating to those markets
- co-operate with any other law enforcement or regulatory agency or overseas regulators.

In addition to its functions under the Financial Markets Authority Act 2011, FMA has specific regulatory functions under:

- Auditor Regulation Act 2011
- Securities Trustees and Statutory Supervisors Act 2011
- Anti-money Laundering and Countering Financing of Terrorism Act 2009
- Reserve Bank of New Zealand Act 1989 (designation of settlement systems – jointly with the Reserve Bank)

The Government continues to review securities legislation. We will continue to work closely with policy-makers to progress reviews and implement the changes arising from them.

FMA performs functions in respect of all persons	FMA performs functions in respect of financial markets participants
<ul style="list-style-type: none"> <li>• Financial Advisers Act 2008</li> <li>• Financial Markets Authority Act 2011</li> <li>• Financial Markets Conduct Act 2013</li> <li>• Financial Service Providers (Registration and Dispute Resolution) Act 2008</li> <li>• Parts 4 and 5 and Schedules 1 and 2 of the KiwiSaver Act 2006*</li> <li>• Securities Act 1978*</li> <li>• Securities Markets Act 1988*</li> <li>• Securities Transfer Act 1991</li> <li>• Superannuation Schemes Act 1989</li> <li>• Unit Trusts Act 1960</li> <li>• Auditor Regulation Act 2011</li> <li>• Financial Markets Supervisors Act 2011</li> </ul>	<ul style="list-style-type: none"> <li>• Anti-Money Laundering and Countering Financing of Terrorism Act 2009</li> <li>• Building Societies Act 1965</li> <li>• Companies Act 1993</li> <li>• Corporations (Investigation and Management) Act 1989</li> <li>• Sections 228, 229, 240, 242, and 256 to 260, of the Crimes Act 1961</li> <li>• Financial Reporting Act 2013</li> <li>• Friendly Societies and Credit Unions Act 1982</li> <li>• Industrial and Provident Societies Act 1908</li> <li>• Part 5C of the Reserve Bank of New Zealand Act 1989</li> <li>• Trustee Companies Act 1967</li> <li>• Co-operative Companies Act 1996</li> <li>• Limited Partnerships Act 2008</li> </ul>

\*Repealed by the Financial Markets Conduct Act 2013



