

Hon Dr David Clark

MP for Dunedin

Minister of Commerce and Consumer Affairs
Minister for the Digital Economy and Communications
Minister for State Owned Enterprises
Minister of Statistics
Minister Responsible for the Earthquake Commission



Mark Todd
Chair
Financial Markets Authority
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Dear Mark,

ANNUAL LETTER OF EXPECTATIONS FOR 2022/23

I am writing to convey my portfolio priorities and your role in achieving these priorities for the Financial Markets Authority (FMA) in relation to 2022/23.

I would like to take this opportunity to thank the Board for its work over the previous year to ensure the FMA strives to be a high-performing organisation, especially in light of additional regulatory functions given to the FMA. I also thank the FMA Board for its ongoing work to help mitigate the impact of the COVID-19 pandemic, which brings with it significant challenges for our economy, for businesses, and for New Zealanders.

Contributing to Government priorities

In addition to keeping New Zealanders safe from COVID-19, the Government's priorities this year include accelerating our economic recovery by building a productive, sustainable, and equitable economy. Wellbeing will continue to inform the Government's view of success as we focus on creating a fairer New Zealand through sustainable and inclusive growth.

The FMA continues to play an important role in achieving these strategic priorities through ensuring the continuity of markets and services in the financial sector in a way that is fair, transparent and efficient. Promoting the confident and informed participation of businesses, investors, and consumers in the financial markets will help to strengthen the integrity of our financial markets, while ensuring they remain resilient and accessible for all New Zealanders.

Priorities in the Commerce and Consumer Affairs portfolio that are relevant to the FMA

The Commerce and Consumer Affairs portfolio an important role in supporting a more competitive and productive business environment that delivers for all New Zealanders.

My priorities for this year in the financial sector are as follows:

- receiving advice on options for enhancing KiwiSaver so that more New Zealanders are better off financially prepared for retirement and more resilient to short-term financial shocks.
- implementing the climate-related disclosures (**CRD**) regime for climate-reporting entities and working closely with the External Reporting Board (**XRB**) as they develop the climate-related disclosures framework and climate standards
- progressing legislation to regulate the conduct of the banking and insurance sectors to ensure the fair treatment of consumers
- progressing reforms to New Zealand's insurance contract law to make insurance contracts easier to understand and fairer for consumers
- exploring further work on open banking and a consumer data right to increase competition, innovation and consumer welfare consistent with our overall goal of building a broad-based economy
- managing the ongoing impacts of COVID-19 on consumers, investors and the broader financial sector.

I expect the FMA to contribute to achieving results against these priorities, as appropriate.

I acknowledge that it continues to be a very busy time for your organisation, and I appreciate the hard work taking place adapting to and implementing the numerous ongoing regulatory changes. I am sure the FMA will continue to meet these challenges as well as carry out its core functions effectively.

This Government's priorities extend beyond agency boundaries. Many will involve you playing an effective role within an integrated and coherent system. I expect you to focus on working together with the range of agencies and parties that have a stake in achieving these priorities in the Financial Markets regulatory system including, but not limited to, the Ministry of Business, Innovation and Employment (**MBIE**), the Reserve Bank of New Zealand, the Treasury, Commerce Commission, and Te Ara Ahunga Ora Retirement Commission.

Specific expectations for FMA

My particular expectations for the FMA in 2022/23 are:

- effectively implementing and preparing for your role in monitoring and enforcing the climate-related financial disclosures regime, including working collaboratively with XRB
- continuing to work with MBIE on, and effectively preparing for, the regime regulating the conduct of financial institutions and the reform of insurance contract law
- establishing the FMA's approach to cyber and technology resilience, including enhancing the capability of the FMA, NZX and other licenced entities to effectively respond to cyber risk
- continuing to implement and prepare for your role in monitoring and enforcing the new financial advice regime
- effectively planning for and adapting to the significant organisational and regulatory challenges with recent and upcoming changes to the FMA's operating environment
- promoting the effectiveness and integrity of the KiwiSaver system in conjunction with other agencies and organisations, with a strong focus on provider transparency, value for money, and improving investor engagement and decision-making
- proactively monitoring conduct risks, including those affecting vulnerable investors and, where appropriate, vulnerable customers, particularly given the disruption and volatility in financial markets resulting from COVID-19
- anticipating and promoting innovation in financial markets, while also ensuring appropriate safeguards are in place and investors are adequately informed about any risks the innovation may pose, including through retail investment platforms
- maintaining focus on promoting confidence in the integrity and sustainable development of fair, efficient and transparent capital markets.

As co-chair of the Council of Financial Regulators, I also expect the FMA to continue to provide resource and effective leadership on issues that require cross-agency involvement.

General expectations and good governance

I am confident the FMA will work constructively with the Government to help realise these priorities. In doing so, please work closely with officials to continue to share information on the impacts of COVID-19 in the financial markets sector to ensure

policy settings give the best chance for delivering a revitalised New Zealand economy.

In addition, I expect you to follow the Enduring Letter of Expectations from the Minister of Finance and the Minister of State Services to Statutory Crown Entities in 2019, and the Ministry of Business, Innovation and Employment's *Monitoring Arrangements for MBIE-monitored Crown entities*.

As part of your role in governing a high performing FMA, I expect you to:

- maintain an effective board
- be the primary monitor of the entity's performance and maintain effective relationships with my advisors in MBIE
- operate a "no surprises" policy.

Further information regarding these expectations is included in the Annex to this letter.

Review of FMA conflict of interest management

As you know, I recently initiated a review by Kristy McDonald QC into the FMA's management of a conflict of interest in relation to its advice to the Government in the KiwiSaver default provider appointment process.

While the review concluded that FMA's management of the potential conflict of interest did not have any impact on its advice provided to the Government, the review did make a number of recommendations concerning the FMA's conflict management policy and practices. I expect the FMA to implement all of the review's recommendations, as well as engage with other Crown entities and relevant Government agencies to share the any lessons learnt as a result of this review.

Self-review

The last self-review of the board's performance was undertaken in 2020. I do not expect another self-review in 2022. However, given the changes in the board over the last few years, I anticipate that a further self-review might be warranted next year.

Strategy and performance information

All Crown entities must prepare and annual Statement of Performance Expectations (**SPE**) and have a Statement of Intent (**SOI**) in place. The annual SPE should provide a clear performance framework and support excellent reporting to Parliament and the public on results while the SOI should set the strategic direction for the organisation.

As the FMA produced an SOI in 2020, I do not expect the FMA to develop a new SOI for the 2022/23 financial year.

Response

Your advice by **16 April 2022** on how you propose to respond to the expectations set out in this letter and its Annex would be appreciated.

In particular, in your response please provide examples of how the FMA is monitoring the sector (e.g. the NZX) in relation to cyber and technology resilience.

I would be happy to consider approaches that best achieve our collective aims and work well for the FMA. In the first instance, please discuss your proposed response with MBIE.

I look forward to continuing our effective working relationship over the coming year.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'David Clark', written in a cursive style.

Hon Dr David Clark
Minister of Commerce and Consumer Affairs

Copy to: Samantha Barrass,
Chief Executive, Financial Markets Authority

Andrew Hume,
General Manager, Small Business, Commerce and Consumer, MBIE

Annex 1: General expectations and good governance

Effective board

Ensuring the board is, and remains, high-performing is essential and is a critical part of your role as Chair.

Deliver responsible governance with a broader measure of success

I ask you to be part of a public sector that builds a New Zealand we can all be proud of; a public sector that recognises the value of every New Zealander and backs all our people. To do this I expect you to think holistically about the impact of your organisation's plans and programmes prioritising interventions that make the biggest difference to lifting the current and future wellbeing of New Zealanders. In particular, I ask to you to continue to strengthen your efforts to partner with Māori organisations to improve services and outcomes for Māori.

I expect you to continue to actively promote and develop the diversity of your workforce for the long term to encompass a broad spread of experience, culture, perspective and lifestyle of those who live in New Zealand.

Effective monitoring of entity performance by boards and relationship with the MBIE

In addition to setting and driving a strategy that delivers on government priorities, your board is the most important monitor of entity performance. I expect the board to provide me with high quality information and analysis on entity performance against plan, implications for future performance, and risks and opportunities facing the entity.

I expect you to have a constructive working relationship with your monitor within MBIE. This relationship should include active participation and engagement with my officials in the process of setting your organisation's strategic direction and in any review of existing strategies, priorities and plans, and data systems.

I expect you to work with and across government to integrate work of your organisation with the role and work of other agencies, and to support the state sector stewardship of government departments.

No surprises

The Government has a 'no surprises' policy. No surprises means that the Government expects a board to:

- be aware of any possible implications of their decisions and actions for wider government policy issues
- advise the responsible Minister of issues that may be discussed in the public arena or that may require a ministerial response, preferably ahead of time or otherwise as soon as possible
- inform the Minister in advance of any major strategic initiatives.

I expect to hear about emerging issues and what major actions the board is considering. My reactions will be based on a range of factors, including the benefits of new initiatives and of taking different approaches to achieve our goals.