Guidance note
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FINANCIAL MARKETS AUTHORITY
TE MANA TATAI HOKOHOKO - NEW ZEALAND

Guidance on the exemption from the market index requirement

This guidance note aims to:

- clarify what we expect of MIS managers in relation to the market index requirement for quarterly fund updates, and the Financial Markets Conduct (Market Index) Exemption Notice 2018
- provide guidance in areas of possible confusion about how the Financial Markets Conduct Act 2013 (FMC Act), Financial Markets Conduct Regulations 2014 (FMC Regulations) and the exemption notice are applied
- inform market participants about the exemption notice, the reasons for granting it, and why it was preferred to alternative options
- confirm that we have discussed with the Ministry of Business, Innovation and Employment (MBIE) that the policy behind the market index requirement, and the way it operates, could be usefully reviewed.

If you have a question about this guidance or the notice you can email us at questions@fma.govt.nz

About this guidance note

This guidance is for:	It aims to:
• Fund management firms and their employees • Other interested parties	Assist MIS managers in understanding their obligations in respect of the market index requirement for quarterly fund updates

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About the exemption

Issue

The FMC Regulations require managers to disclose information on the past performance of their funds in quarterly fund updates. The performance of an appropriate market index must be included alongside that information. If there is no appropriate market index for a fund, a manager cannot in practice comply with these requirements.

Application

We have granted a class exemption that applies to managers with funds that invest, in whole or in part, in assets that do not have an appropriate market index ('relevant assets'). An 'appropriate market index' is defined in the FMC Regulations[1] (and in the appendix to this guidance note).

The exemption allows MIS managers to take alternative approaches. For example:

Where a fund has...	The manager may...
Relevant assets with different peer group indices	Use a composite index that reflects the different peer group indices
Both relevant assets and assets that do have an appropriate market index	Use a composite index that reflects both the peer group index (or indices) and the appropriate market index (or indices)[2]
Assets that do have an appropriate market index and no relevant assets with a peer group index	Use the appropriate market index (or indices) if it is likely to be useful to investors when assessing the performance of the fund as a whole

If there is no peer group index that is likely to be useful to investors when assessing the performance of the relevant assets and the fund as a whole, then there is a complete exemption from the market index requirement in respect of those assets. See further below under 'What if there is no peer group index?' and 'Can you rely on the exemption?' on how to apply the exemption in this scenario.

Purpose

The purpose of requiring the return on an appropriate market index is to provide a benchmark that is independent and representative of the assets and markets the fund invests in, so investors can evaluate the performance of the fund. The terms and conditions of the exemption are to be applied in a manner that is consistent with this purpose.

1 See clause 61(3) of schedule 4 of the FMC Regulations.
2 Under the FMC Regulations, managers are able to disclose the return on a composite index composed of more than one 'appropriate market index'.

The exemption will improve the disclosure made to investors in respect of exempt funds, and also improve comparability across funds over time. Reducing the difficulties in comparing the performance of different funds should improve market efficiency.

The exemption therefore promotes the confident and informed participation of businesses, investors, and consumers in the financial markets and avoids unnecessary compliance costs.

Complying with the exemption

When to use a peer group index

The exemption requires the manager of an exempt fund to identify a peer group index for the relevant assets of the fund.[3] A peer group index is required where one is available and:

- likely to be useful to investors when assessing the performance of both the relevant assets and the exempt fund as a whole; and
- either or both:
  - widely recognised and widely used in the financial markets
  - recognised as being sufficiently objective or independent.

A peer group index does not have to be based on assets that are identical to the relevant assets of the exempt fund in order to be 'likely to be useful' to investors. For the peer group index to be helpful to investors, we expect that information relating to the index and its construction should be:

- accessible, transparent and measurable on a reasonably frequent basis
- relevant to investors in deciding whether to invest in the exempt fund
- useful to investors in assessing and monitoring performance of the relevant assets.

When to use a composite index

A fund may have different types of relevant assets with different peer group indices. In this case the manager may create a composite index based on those different peer group indices, and use the return on that composite index in the fund update.

A fund may also be composed of both relevant assets and assets for which there is an appropriate market index. In this case the manager may create a composite index based on both the appropriate market index and the relevant peer group index or indices, and use the return on that composite index in the fund update.

Composite indices should be weighted according to the fund's asset allocation.

What if there is no suitable peer group index?

If there is no suitable peer group index for a relevant asset, then there is a complete exemption from the market index requirement in respect of that asset. If, as a result:

[3] Clause 6 of the Financial Conduct (Market Index) Exemption Notice 2018.

- a fund is made up of relevant assets only, and there is no suitable peer group index for any of the relevant assets, the manager should publish the fund update without any index to benchmark the performance of the fund.[4]
- a fund is made up of:
    - some relevant assets with no identified peer group index and
    - some relevant assets with an identified peer group index or indices,

  the manager should use the return on the peer group index, or composite index that reflects the identified peer group indices, **only if** this would be useful to investors in assessing the performance of the fund as a whole.
- a fund is made up of:
    - relevant assets with no identified peer group index and
    - assets with an appropriate market index,

  the manager should use the return on the appropriate market index, or composite market index, **only if** this would be useful to investors in assessing the performance of the fund as a whole.[5]
- a fund is made up of:
    - some relevant assets with no identified peer group index and both:
        - some relevant assets with an identified peer group index or indices and
        - assets with an appropriate market index,

  the manager should use the return on the composite index that reflects the identified peer group index, or indices, and the appropriate market index, **only if** this would be useful to investors in assessing the performance of the fund as a whole.[6]

Note that it may be possible to identify a peer group index that is useful in assessing the performance of a specific relevant asset, but not the performance of the fund as a whole. In that case the peer group index is not suitable under the terms of the exemption and should not be used.

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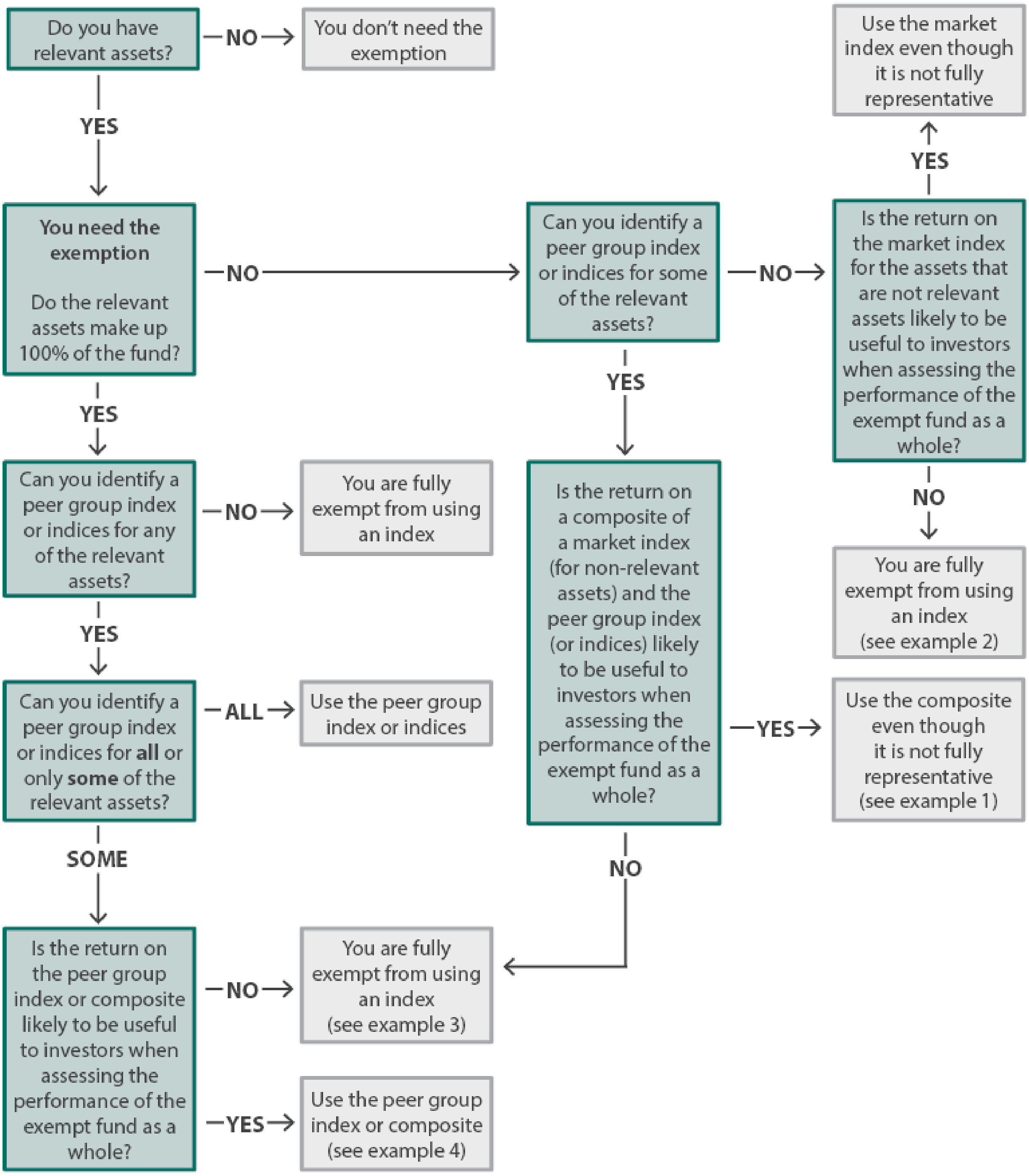
[4] See the conditions in clause 9 of the Financial Conduct (Market Index) Exemption Notice 2018.
[5] Clause 7(2) of the Financial Conduct (Market Index) Exemption Notice 2018.
[6] Clause 7(2) of the Financial Conduct (Market Index) Exemption Notice 2018.

Can you rely on the exemption?

Use this flowchart to help determine how to rely on the exemption. Please ensure you read and understand the [full exemption notice] before relying on the exemption. See the following page for examples.



Examples

1	50% of a fund's assets are listed securities and 50% are relevant assets (eg investments in hedge funds with no appropriate market index). The manager can identify an appropriate market index for the listed securities and a suitable peer group index for the relevant assets. In the fund update, the manager should disclose the return on a composite index that reflects the 50/50 weighting of the different assets.
2	50% of a fund's assets are listed securities and 50% are relevant assets. There is no identified peer group index for any of the relevant assets, so the manager should not use the return on any kind of index for the relevant assets. The manager then considers whether publishing the performance of an appropriate market index for the listed securities is likely to be helpful to investors when assessing the performance of the exempt fund as a whole. The manager decides it would be helpful. The manager should disclose the return on the appropriate market index.
3	100% of a fund's assets are relevant assets. The manager identifies a peer group index for 50% of the relevant assets. The manager then considers whether publishing the performance of the identified peer group index is likely to be useful to investors when assessing the performance of the exempt fund as a whole. The manager decides it would be helpful. The manager should disclose the return on the identified peer group index.
4	95% of a fund's investments are in relevant assets that have an identified peer group index, and 5% are relevant assets with no identified peer group index. The manager then considers whether publishing the performance of the identified peer group index is likely to be useful to investors when assessing the performance of the exempt fund as a whole. The manager decides it would be helpful. The manager should disclose the return on the identified peer group index.

Fair dealing

When deciding whether an appropriate market index or suitable peer group index is helpful to investors in assessing the performance of the fund as a whole, managers should consider the prohibitions in the FMC Act in relation to misleading or deceptive conduct, false or misleading representations, and unsubstantiated representations.

Absolute return indices are not permitted

Consistent with the current policy of the market index requirement, the exemption does not allow managers to use the return on absolute or total return indices in their fund updates.

These types of index typically do not provide contextual information about the performance of the assets or markets the fund invests in. An absolute return benchmark does not reflect movements in the markets or assets the fund invests in. Absolute return indices also have a discretionary element set by the manager, and are therefore not independent.

Conditions in the exemption notice

Managers should refer to the exemption notice for the full details of the conditions to the exemption in terms of additional disclosure, the risk indicator and performance fees.

Additional disclosure

The conditions in the exemption require additional disclosure, including that:

- the register entry for the exempt fund must contain a description, and other specified information, about any peer group index used in a fund update;
- the fund update must include an explanatory note that, among other things:
    - explains that the annual return on a peer group index or a composite index has been used;
    - explains that a peer group index or a composite index may be a less reliable indicator of performance than an appropriate market index;
    - if the exempt fund has relevant assets that have no identified peer group index, explains that the annual return on the peer group or composite index used is not directly relevant for all of the relevant assets of the exempt fund; and
    - states whether the return on the peer group index is net of fund charges, trading expenses and tax.

The fund update must include the return on a peer group index or a composite index presented in the table set out in the exemption notice. We have based this on the approach in the FMC Regulations for appropriate market indices, with additional labelling regarding deductions for charges and tax.

The exemption notice specifies that the return on a peer group index or a composite index for a period is the percentage change in the index over the period. The return on the peer group index or composite index must be adjusted to take account of reasonable assumptions (that are not already accounted for) that reflect the operation of the fund.

Where a manager thinks it is appropriate to provide more detailed information about the construction of the index used, this information can be disclosed on the register. Managers retain the ability under the FMC Regulations to modify any prescribed wording to ensure it accurately reflects the circumstances of a particular fund[7].

Risk indicator

A 'risk indicator' must be included in the product disclosure statement (PDS) for a fund, and in each fund update. Under the FMC Regulations the return on an appropriate market index may be used to calculate and fill in the risk indicator for a fund – for example, if the fund has not been in existence for five years and therefore does not have all of the data necessary to calculate the risk indicator.

The exemption provides for the use of the return on a peer group index or composite index instead of an appropriate market index in these circumstances, unless this would be likely to deceive or mislead in which case the risk indicator must be calculated and filled in using the alternative methodology provided for in clause 8(2) of schedule 4 of the FMC Regulations.

If there is no suitable peer group index or composite index for a fund, the risk indicator must be calculated and filled in using the alternative methodology provided for in clause 8(2) of schedule 4 of the FMC Regulations.

[7] Regulation 9 of the FMC Regulations.

If a peer group index or composite index is used to calculate and fill in the risk indicator, the fund update must include, in the explanatory note, an explanation that the risk indicator may provide a less reliable indicator of the potential future volatility of the fund. That explanation should be included in the PDS at the next available opportunity.

Performance fees

The FMC Regulations provide that if a performance-based fee may be paid to a manager even if the fund does not achieve the return of the market index (after fees but before tax), the PDS for the fund must include a statement to this effect.

The exemption provides that if the return on a peer group index or composite index is used in the fund update, and if a performance-based fee may be paid to the manager even if the fund does not achieve the return on the index used, the PDS for the fund must include a statement to this effect.

If a performance-based fee may be paid, and there is no appropriate market index and no suitable peer group index or composite index for a fund, the PDS for the fund must include a statement to that effect.

Updates to the PDS

Where a PDS needs to be updated as a result of the manager relying on the exemption in respect of the risk indicator and/or the statement about performance fees, we expect the PDS to be updated within a reasonable timeframe. This may be the next scheduled update of the PDS. Our view is that it is unlikely that a PDS for an exempt fund will become misleading simply as a result of a manager complying with the exemption. For example, if the methodology for calculating and filling in the risk indicator changes but the risk rating is the same we would not expect the manager to have to update the PDS immediately.

Managers must not offer, or continue to offer, interests in a fund if the PDS's information has become false or misleading, or is likely to mislead. For completeness, we refer to the Guidance note on risk indicators and description of managed funds (November 2015) for our guidance on when a PDS should be updated.

Background: Regulatory requirements

Quarterly fund update requirements

The FMC Regulations require managers to disclose information on the past performance of their funds. This information must be made available in quarterly fund updates under the heading '*How has the fund performed?*'.

The performance of a market index must be included alongside that information. A market index is a standard against which the performance of a fund can be measured.

Past performance of the fund

The past performance of a fund over a prescribed number of periods must be disclosed, in both a table and a graph:

- The table sets out the performance of the fund over both the past year and the average of the past 5 years[8]
- The graph sets out the performance of the fund in each of the past 10 years, as well as the average of the past 10 years[9].

The FMC Regulations specify the approach a manager should take if the fund has not been in existence for all or part of one of these prescribed periods.

The fund's returns must be presented in the graph on a net basis (ie after deductions for charges and trading expenses) and after tax[10]. In the table, returns are also presented on a net basis, both before and after tax.

Market index

The table and graph must also include the past performance of an appropriate market index. To be appropriate the market index must meet certain criteria. The market index must be a 'broad-based securities index' that is[11]:

- widely recognised and widely used in the financial markets; or
- administered by a person other than the MIS manager or their associated persons.

In selecting a market index, the manager must ensure the market index is 'appropriate in terms of assessing the movements in the market in relation to the returns from the assets in which the specified fund directly or indirectly invests'[12].

The market index must also take into account the following assumptions[13]:

- All income is reinvested
- There are no charges
- Any other reasonable assumptions that reflect the operation of the specified fund.

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[8] Clause 59 of schedule 4 of the FMC Regulations
[9] Clause 62 of schedule 4 of the FMC Regulations
[10] Clause 59 of schedule 4 of the FMC Regulations
[11] Clause 61(3)(a) of schedule 4 of the FMC Regulations
[12] Clause 61(3)(b) of schedule 4 of the FMC Regulations
[13] Clause 61(2) of schedule 4 of the FMC Regulations

Problem definition

Managers who cannot comply with the FMC Regulations

If there is no readily identifiable market index for a fund, a manager cannot in practice comply with the FMC Regulations. We do not think this is an appropriate outcome for either managers or investors. It also potentially undermines confidence in financial market regulation in New Zealand.

This problem arises in the context of alternative funds, multi-sector funds and restricted schemes, as described further below.

The exemption aims to provide relief for those MIS managers that cannot comply with the market index requirement.

We acknowledge that a broad range of issues have been raised by managers on this topic, both during the transition to the FMC Act and in response to our consultation on the exemption. To the extent there are broader policy issues with the market index requirement, we are of the view that these would be best addressed through law reform. Fundamental changes to current settings are outside the scope of our exemption powers. As a result, we have discussed with MBIE that the policy behind the market index requirement, and the way it operates, could be usefully reviewed.

Alternative funds

The challenges have been most acute for funds with an allocation to alternative asset classes, or that follow an alternative investment strategy ('alternative funds'). Alternative asset classes include real estate, infrastructure and hedge funds.

The difficulties faced by managers in selecting appropriate benchmarks for alternative funds are well-known, and have been acknowledged by both regulators and the industry[14]. There may be no available index or indices that reflect the risk characteristics and investment strategy of the fund. This may be because the fund:

- invests in asset classes with no identifiable index available, for example because the underlying assets are illiquid and have no readily available market price
- does not invest in particular assets or markets, but instead follows a particular strategy or style; or
- uses investment strategies or structures (such as derivative instruments) that materially alter the return profile of the underlying assets.

Industry practice has been for managers to work around these difficulties by disclosing other forms of benchmark as a substitute for a market index. The most common are:

- peer groups: a peer group index provides a return based on the performance of a universe of funds following a similar approach or investment style
- absolute returns: an absolute return is most commonly expressed as an index and a spread (for example OCR + 500bps). This approach is predominantly associated with funds seeking to provide performance not closely correlated to broader market conditions.

[14] See for example 2.5.3 of the CFA Institute's, *Global Investment Performance Standards: Guidance Statement on Alternative Investment Strategies and Structures*, 18 May 2012 (available here).

We understand the rationale behind these approaches. We do not favour the use of absolute returns because they:

- are often based on a non-securities index, such as a cash rate or CPI, and will not qualify as a 'broad-based securities index'
- often have a discretionary component determined by the manager and therefore lack sufficient independence from the manager
- are unlikely to reflect movements in the market(s) the fund invests in.

Peer group indices may also not reflect movement in the exact market the fund invests in. For example, a peer group index that tracks a strategy such as 'global macro' may comprise a group of funds that have divergent asset holdings. Additionally, peer group indices are typically prepared net of fees.

However, our view is that a peer group index can relate to movements in assets the fund invests in, and generally meet the requirements for independence or market recognition. Our view is that the use of a peer group index is more appropriate than an absolute return benchmark in terms of the requirements in the FMC Regulations and the policy rationale.

The exemption allows managers to use a peer group index that:

- is either or both:
  - widely recognised and widely used in the financial markets;
  - administered by a person who is suitably independent[15]; and
- is likely to be useful to investors when assessing the performance of the relevant assets and the fund as a whole.

Multi-sector funds

Managers of multi-sector funds (funds that invest into a number of different asset classes or geographies) have also expressed concern about their ability to comply with the market index requirement.

However, our view is that managers of these funds should be able to comply with the market index requirements. The FMC Regulations allow a 'composite' market index to be used for funds investing in more than one asset class or geography. For multi-sector funds, a market index can be constructed using a series of individual, appropriate market indices. For example, a fund with a 50% allocation of New Zealand-listed equities and a 50% allocation of Australian-listed equities could use a composite of the NZX50G and the ASX200 accumulation index.

If there is an appropriate market index for some of a fund's assets and not others, the exemption allows managers to create a composite index consisting of the appropriate market index (or indices) and a peer group index (or indices).

Where a composite market index appropriately reflects the neutral asset weighting of a fund, a manager cannot be said to be 'administering' the market index. Indices constructed in this way are consistent with the policy intent: that the information provided to investors is both representative and independent.

Restricted schemes

Due to their operating model, restricted schemes have faced particular difficulties complying with the market index requirement. Restricted schemes commonly outsource their investment management function to a single wholesale

[15] The peer group index cannot be administered by the manager, or an investment manager, (or an associated person of either the manager or the investment manager), of the registered scheme to which the fund relates.

manager. A wholesale manager may select an index that is not an appropriate market index, and report on that basis, because there are no specific requirements for performance reporting in the wholesale space. This creates difficulties when the fund updates subsequently have to be provided in compliance with the FMC Regulations.

Our view is that these schemes should not be exempt merely because they outsource management to an administrative or wholesale manager. If managers of these schemes can comply, then they should.

Consultation

Consultation

We consulted on a class exemption that would address the problem of MIS managers not being able to comply with the market index requirement. In the consultation paper we presented four options, including our preferred option to grant an exemption that allows the use of a peer group index.

We also reviewed the Disclose Register to establish how many funds invested in "other assets" (defined in schedule 4 of the FMC Regulations to mean assets other than cash, fixed income, equities, listed and unlisted property and commodities). In October 2017 we estimated that there were over 180 funds with an aggregate of approximately $23 billion of other assets under management. Therefore, the exemption is relevant to a significant and diverse population of funds and schemes.

Responses to consultation

We received 19 submissions responding to the consultation. These came from a broad cross-section of the MIS population, including managers, administration managers, supervisors, legal advisers and auditors. The submissions were supportive of our preferred approach.

A significant number of submitters suggested that the proposed approach did not go far enough, and that we should allow the use of absolute or target returns because:

- some funds follow a target return strategy and the fund is marketed to investors on that basis
- there may be no appropriate peer group index, or the peer group index selected will not be representative of the fund's underlying assets because it is based on different geography, objectives, risk tolerances and investment classes.

We acknowledge that these are relevant issues. However, our view is that:

- a securities-based index, or peer group index, can be appropriate without exactly matching the geography, objectives, risk tolerance or investment mix of the fund
- the policy intent of the FMC Regulations is to enable investors to assess performance against movements in the market for assets in which the fund directly or indirectly invests, not performance against a target return
- because target returns are set by managers, they are not independent and do not promote a minimum level of comparability in the fund market for investors.

We are of the view that the merits and weaknesses of using a target benchmark to report performance against is a policy matter that should be a law reform consideration. The basis for granting an exemption should be consistent with current policy positions that are embedded in the legislation.

No additional issues were brought to our attention in respect of restricted schemes.

Costs were not widely raised as an issue in the responses to consultation.

Peer group indices

What is a peer group index?

A peer group index is an index based on the performance of a group of funds that invest in a particular sector or sectors. For a peer group index to be suitable under the terms of the exemption it must be:

- either or both:
  - widely recognised and widely used in the financial markets;
  - administered by a person who is suitably independent[16]; and
- likely to be useful to investors when assessing the performance of the relevant assets and the fund as a whole.

For example, a peer group index may represent the performance of a collection of hedge funds that invest in asset classes with no recognised market index (eg real estate, private equity or venture capital). This information may be useful to investors in a fund when assessing performance, because the peer group index represents actual results achieved by managers.

Peer group indices are most useful as a performance benchmark in situations where the fund invests in asset classes with no recognised, appropriate market index. We view a peer group as a second order benchmark, and managers should only rely on the exemption after making reasonable efforts to find an appropriate market index.

Peer group indices have weaknesses when compared to broad-based securities indices. They:

- may not be available in real time
- may reflect survivorship or self-reporting bias
- reflect deductions for charges and tax (contrary to the requirements in the FMC Regulations for an appropriate market index).

While we acknowledge these limitations, we do not think they outweigh the benefits of providing useful benchmark information to investors.

Broad-based securities indices can themselves be imperfect, and may not always precisely capture the assets or markets in which the fund invests.

We consider that, where appropriately and carefully selected, market indices and peer groups are consistent with the underlying policy rationale of the current requirement in the FMC Regulations: they provide investors with a benchmark that is independent and representative of the assets (and investment strategy) of the fund. Differences in the calculation of returns (ie net of charges and tax) can be disclosed to investors.

We think a pragmatic and proportionate use of our exemption powers is to allow the use of peer group indices. We are aware that a majority of managers impacted by the market index issue have already adopted peer group indices, or indicated that they would be prepared to do so. Therefore, the exemption addresses the issue faced by managers in a relatively efficient manner.

[16] The peer group index cannot be administered by the manager, or an investment manager, (or an associated person of either the manager or the investment manager), of the registered scheme to which the fund relates.

In order to allow the use of peer group indices, we have relaxed the requirement that the peer group index chosen by the manager is ‘appropriate in assessing the movements in the market in relation to the returns from the assets in which the specified fund directly or indirectly invests’. Instead, the peer group index must be ‘likely to be useful to investors when assessing the performance of the relevant assets and the exempt fund as a whole’.

Alternative options considered

Alternative options

We considered three other options for the exemption – allowing managers to:

- use an absolute return benchmark
- opt out of the market index requirement where no appropriate market index is available; and/or
- have the flexibility to provide more than one benchmark.

Allow for the use of an absolute return

While we acknowledge that absolute returns are used by some managers, we do not think they are an appropriate alternative to the market index requirement. While an absolute return provides information on performance against an objective, it does not provide contextual information about the performance of the assets or markets in which a fund invests, or the performance of similar strategies.

Similarly, an absolute return based on a cash rate or CPI is unlikely to reflect the risk characteristics of alternative funds. Absolute returns rely on a discretionary component set by the manager. This raises questions about the independence of these benchmarks, and increases the risk that managers select an arbitrarily low market index that overstates comparative fund performance.

Opting out of market index requirement

Another option we considered was whether to allow managers to 'opt out' of providing a market index if they think an appropriate market index is not available. This approach would be similar to the ability of equity issuers to opt out of providing prospective financial information for an IPO[17], for example.

This was not our preferred approach. Our view is that if there is a peer group index that is likely to be useful to investors in respect of both the relevant assets and the fund as a whole, then the manager should use the peer group index in its fund updates. The exemption gives managers the flexibility to create a composite index where both an appropriate market index and a peer group index are available.

However, where there is neither an appropriate market index nor a suitable peer group index, our view is that managers should be completely exempt from the market index requirement.

Provide for multiple benchmarks

We do not think it is desirable to allow managers to disclose multiple benchmarks in their fund updates.

Our view is that, in the context of a fund update, it could be unhelpful to allow the disclosure of multiple benchmarks. This would not encourage comparability across the market and would be potentially confusing for investors.

The United States is to allow the use of additional benchmarks relevant to the broader risks and returns of a fund relative to the market. This practice has developed in an environment where the disclosure regime is based on lengthy prospectuses, rather than the FMC Regulations' more tightly prescribed focus on the performance of the assets of the fund.

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[17] Clause 39(c) of schedule 3 of the FMC Regulations.

Glossary

Term	Definition
Appropriate market index (as defined in clause 61(3) of schedule 4 of the FMC Regulations)	A broad-based securities index or indices that – (a) are – (i) widely recognised and widely used in the financial markets; or (ii) administered by a person who is not: a. the manager, or an investment manager, of the registered scheme to which the fund relates; or b. a person who is an associated person of the manager, or of an investment manager, of the registered scheme to which the fund relates; and (b) are appropriate in terms of assessing movements in the market in relation to the returns from the assets in which the specified fund directly or indirectly invests
Exempt fund	A fund that invests, directly or indirectly, in whole or in part, in relevant assets
Exemption notice	The Financial Markets Conduct (Market Index) Exemption Notice 2018
Peer group index	An index that is – (a) based on the performance of a group of funds that invest in a particular sector or sectors; and (b) either or both: (i) widely recognised and widely used in the financial markets; (ii) administered by a person who is not: a. the manager, or an investment manager, of the registered scheme to which the fund relates; or b. a person who is an associated person of the manager, or of an investment manager, of the registered scheme to which the fund relates; and (c) likely to be useful to investors when assessing the performance of the relevant assets and the exempt fund as a whole for all relevant periods
Relevant assets	Assets for which there is no appropriate market index