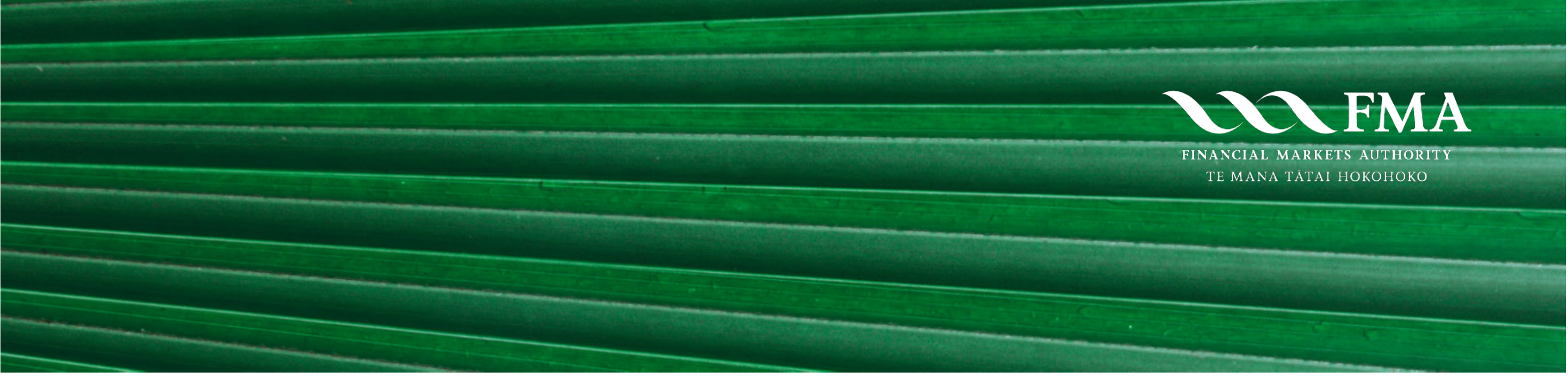

JUNE 2021

Filing of financial statements: review findings and guidance

This report is for all financial statement stakeholders including reporting entities and its directors, auditors and primary users of financial statements.

This document provides a summary of the key findings and insights from our monitoring review of financial reporting filing obligations. It also provides guidance and sets our expectations for future reporting periods.

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Overview

Introduction

This document provides a summary of the key findings and insights from our monitoring review of financial reporting filing obligations.[1] It also provides guidance and sets our expectations for future reporting periods.

One of our roles is to monitor compliance with financial reporting obligations, including the requirement that FMC reporting entities lodge financial statements with the Registrar[2] within the legislative timeframe.

Part 7 of the Financial Markets Conduct Act (FMC Act) requires regulated entities[3] to file audited financial statements with the Registrar within four months of the entity's balance date. In addition to these legislative obligations, FMC reporting entities may have additional legislative requirements with respect to their financial reporting obligations.

Furthermore, under NZX listing rules, listed issuers are required to release audited financial statements to the market within three months of their balance date.

Part 7 also requires FMC reporting entities to keep proper accounting records that, amongst other matters, ensure financial statements comply with the applicable accounting standards. FMC reporting entities are also required to keep all documentation and accounting records supporting its accounting position in such a way that the documentation is readily available for inspection at all reasonable times.

Why this is important

The primary purpose of financial statements is to provide investors and other stakeholders with useful information for decision-making purposes. For many FMC reporting entities financial statements are the only source of financial information available to investors and other stakeholders. It is therefore important that reliable and supportable financial statements are made available to the public in a timely manner.

[1] As set out in Part 7 of the FMC Act

[2] The Companies Office administers NZ's statutory registers, which include the Disclose Register for offers of financial products and managed investment schemes under the FMC Act.

[3] This includes FMC reporting entities and registered schemes as covered in section 461A of the FMC Act.

Financial Markets Conduct (Financial Reporting and Other relief – COVID-19) Exemption Notice

In April 2020, in response to the impact of COVID-19, the FMA issued the Financial Markets Conduct (Financial Reporting and Other relief – COVID 19) Exemption Notice (COVID financial reporting class exemption). The exemption gave regulated entities impacted by COVID-19 an additional two months beyond their legislative timeframe[4] to prepare and lodge their audited financial statements. The exemptions applied to regulated entities with balance dates between 31 December 2019 and 31 July 2020.

Covid financial reporting class exemption snapshot

We noted a significant uptake of the COVID financial reporting class exemption across various regulated entity types – as summarised in the table below.

COVID financial reporting class exemption utilisation (throughout the exemption period)

Reporting balance dates	FMC reporting entities and registered schemes*	Reporting population relying on the exemption	% of the population	Listed issuers	Registered bank	Building societies, credit unions and other societies	Licensed insurers	Other licensed entities	Registered schemes	Other
December 2019	159	36	23%	-	1	-	2	6	21	6
January 2020	5	1	20%	-	-	-	-	-	-	1
February 2020	70	68	97%	-	-	-	-	-	66	2
March 2020	621	96	15%	6	1	-	4	13	46	26
April 2020	1	-	0%	-	-	-	-	-	-	-
May 2020	14	3	21%	-	-	-	-	-	-	3
June 2020	148	11	7%	3	-	2	1	1	1	3
July 2020	10	-	0%	-	-	-	-	-	-	-
	1,028	**215**	**21%**	**9**	**2**	**2**	**7**	**20**	**134**	**41**

**approximate*

As shown in the table, 21% of regulated entities relied on the COVID financial reporting class exemption. The majority (93%) have reporting balance dates between December and March.

Almost two-thirds (63%) related to registered schemes, comprising, in particular a large portion of small forestry schemes and other funds managed by a licensed manager of investments schemes (MIS manager).

[4] Sections 460, 461, 461A of the FMC Act require financial statements to be prepared within four months of the balance date

Non-filing monitoring review

Overview

The FMA monitors compliance with financial reporting filing requirements on an ongoing basis.

For every balance date, the Registrar provides the FMA a list of regulated entities that have failed to file their financial statements within the legislative timeframe. The FMA reviews every entity referred by the Registrar for failure to lodge and, if required, engages with those entities and schemes to understand the facts and circumstances surrounding any failure to comply. Following that, the FMA considers the most appropriate next steps including assessment of the appropriate regulatory action, if relevant.

In general, the FMA has a broad range of regulatory tools (both formal statutory and informal non-statutory tools) to achieve our regulatory objectives.

The FMA's formal statutory tools include:

- Warnings (public or private)
- Modifying, suspending or cancelling a licence issued by the FMA
- Stop orders
- Direction orders
- Infringement notices, requiring payment of an infringement fee
- Civil or criminal proceedings

The FMA also has more flexible, informal non-statutory tools such as issuing feedback letters, compliance warning letters, and publishing general market guidance/monitoring reports. In certain circumstances, such as where there is insufficient evidence or where the contravention is immaterial and does not fall within the FMA's strategic priorities, the FMA may exercise its discretion to take 'no action' in relation to a breach.

An FMA 'no action' confirmation does not necessarily preclude third parties from taking legal action in relation to the same conduct or conduct of that kind.

For more, see our *Regulatory Response Guidelines*.

Non-filing of financial statements snapshot

The table below provides a comparative view of monitoring results for the key reporting dates of 2019 and 2020.

2020	FMC reporting entities and registered schemes*	Total number of referrals	% of the population	Listed issuers	Registered banks	Building societies, credit unions and other societies	Licensed insurers	Other licensed entities	Registered schemes	Other	In liquidation
December 2019	159	20	13%	3	-	1	7	1	-	4	4
March	621	80	13%	9	1	2	5	12	10	20	21
June	148	34	23%	17	1	2	2	2	-	10	-
Sept	11	2	18%	2	-	-	-	-	-	-	-
	939	**136**	**14%**	**31**	**2**	**5**	**14**	**15**	**10**	**34**	**25**
2019											
December 2018	159	18	11%	-	1	-	8	1	-	4	4
March	621	76	12%	6		5	1	8	10	23	23
June	148	17	11%	4	-	2	-	2	-	8	1
Sept	11	2	18%	1	-	-	-	-	-	1	-
	939	**113**	**12%**	**11**	**1**	**7**	**9**	**11**	**10**	**36**	**28**

**approximate*

Main reasons for failures

Overall, the main reasons for failure to lodge within the legislative timeframe are related to process and administration and, as such, are remedied within a short period of time. Examples:

- **Technical issues associated with filing with the Registrar** – Some entities prepare and have their financial statements audited within the legislative timeframe, but the statements are rejected by the Registrar as a result of issues such as unvalidated directors' electronic signatures, incorrect references to the relevant legislation, incomplete documents sent for lodgement, or similar. In general, these matters are remedied in a very short time period.

- **Compliance oversight** –NZX listing rules state that listed issuers must release their financial statements to the market within three months after their balance date. While these statements may be made available to the NZX as required, the entities may fail to lodge them with the Registrar due to administrative oversight. In general, remedial action is immediate, and entities are requested to appropriately update their processes to ensure compliance with their FMC Act obligations.

Other reasons

Other reasons for failure to lodge financial statements within the legislative timeframe, which generally require engagement with the FMA, include:

- **Issues with preparing financial statements** – Following our engagement, a number of referred entities note that late filing has been driven by delays associated with their preparation and compliance with financial reporting requirements. This includes matters identified by auditors as part of their audit that need resolution to ensure financial statements comply with accounting standards.
- **Staff changes** – Another driver of delayed lodgement relates to the ability to prepare financial statements when changes occur in the key staff responsible for their preparation at or near the end of the reporting period. This can hinder completion of a robust financial reporting process, resulting in delays in the timely preparation of financial statements, including having them ready to be audited.
- **Significant governance or compliance issues** – In some instances, the failure to lodge financial statements identifies more serious underlying issues which warrant detailed enquiries and investigations. These issues generally relate to an entity not being able to operate as a going concern, significant issues with the keeping of accounting records, and conduct and governance issues. These instances often warrant consideration of an appropriate regulatory approach.

FMA action due to non-compliance

In 2020, the FMA issued two infringement notices and one warning letter to reporting entities and their directors. The FMA also filed criminal charges against a director for alleged disclosure and financial record keeping breaches across multiple companies. This included alleged failure to file financial statements for a number of years.

Practical guidance and recommendations

Sound governance embedded in the financial reporting process is critical to ensuring timely preparation of high quality, reliable financial statements. Entities should consider the following principles to ensure they are able to comply with their reporting requirements.

Continuous review of financial reporting process

Good planning and execution, including effective management of financial reporting process, underpins adequate preparation of financial statements and subsequent audit processes. This includes applying learnings from past experiences as important inputs in the planning and monitoring of financial reporting processes.

Financial reporting is an ongoing process. It is wise to start planning for the next year's financial reporting process as soon as the current year's financial statements have been completed. This will help a reporting entity's finance team transfer learnings from one process into the next. Some key things to consider when reviewing past experiences:

- What practices and processes worked well and can these be replicated?
- What processes took longer than originally expected?
- Were the records and supporting financial statements adequate?
- Was additional documentation required?
- What did the Board and the Audit Committee focus on?
- What did the auditors focus on?
- Any audit findings, qualifications, recommendations or repeat issues, and what is their status?

Engage early with auditors and other stakeholders

Preparation of financial statements involves a number of stakeholders. There are also many information dependencies, where a finance team must receive information from, or give information to, another person, business area or stakeholder, to keep the process on track. It is therefore important to engage with each of these stakeholders early, to fully outline and understand expectations, requirements and timelines. Typical key stakeholders would include:

- Audit & Risk Committee and/or board
- Executive management
- Finance and legal team
- Key operational managers
- Auditors
- External experts, such as valuers or technical accounting experts

By engaging early with stakeholders, potential issues that may impact reporting and audit processes can be identified early and addressed within the required timeframes. Issues that may impact reporting deadlines include:

- Resource and capability limits, which may necessitate the engagement of external experts
- Technical accounting issues, including complex and new accounting standards and requirements
- Preparing and keeping proper accounting records supporting accounting decisions and treatment
- Complex transactions and their accounting treatment (e.g. acquisition of a business)
- New agreements or contracts that need to be considered for accounting purposes
- New regulatory or compliance matters
- Changes in key personnel and the impact on internal processes or systems
- New banking arrangements or facilities
- Internal or external valuations

It is also important that a detailed planning timetable is prepared and agreed with all stakeholders, to ensure key dependencies are effectively managed so high quality financial statements can be achieved within the required timeframes.

In light of the recent COVID related disruptions, it is also a good time to assess the ability of your current financial reporting process to withstand a range of possible future disruptions.

Proactive and timely engagement with the FMA and the Registrar is also important, primarily in circumstances when entities encounter difficulties in the preparation and finalisation of financial statements which may affect their ability to lodge them within the legislative timeframe. This includes timely and transparent communication of any financial reporting issues with investors and other financial statement users.

Maintain proper accounting records

The robustness and quality of accounting records kept and maintained throughout the period is a critical factor in ensuring quality financial reporting and audit processes. Accounting records are not limited to journals, bank statements, invoices and receipts; they also include technical accounting papers for areas of significant accounting estimates and judgements, and board papers where material accounting positions were discussed, challenged and agreed.

Without proper supporting documentation it is unclear whether an entity, including its directors, could have sufficiently reviewed, considered and understood the areas of significant judgement and critical accounting estimates, including reasonable and well considered inputs and assumptions. This includes timely, transparent and documented communication between management and the board.

Finally, entities should ensure adequate safeguards and contingency plans are in place for keeping and maintaining accounting records.

FMA expectations

Financial reporting and audit processes are key processes for reporting entities and fall under the liability of directors. As such, directors should have sufficient understanding of financial reporting processes to ensure all legislative requirements are complied with, and adequate knowledge to challenge and enquire about the accuracy and completeness of financial statements prepared by management before authorising those statements for issue.

The FMA's 2020 handbook titled *Audit quality – a director's guide* provides guidance for directors of FMC reporting entities on how to improve audit quality including the audit process.

It is critical for investors and stakeholders to have timely access to financial statements that are high quality and reliable, hence we continue to closely monitor FMC reporting entities' financial reporting obligations.

We will also consider the appropriate regulatory response in each of the instances where entities do not comply with their requirements.

Our efforts help ensure quality financial reporting statements are prepared and filed in a timely manner, which ultimately contributes to our goal of fair, efficient and transparent financial markets.