Version
as at 1 July 2025

Financial Markets Conduct Regulations 2014

(LI 2014/326)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 3rd day of November 2014

Present:
His Excellency the Governor-General in Council

Pursuant to subpart 1 of Part 9, sections 344, 382, 448, 576, and 581, and clause 29 of Schedule 1 of the Financial Markets Conduct Act 2013, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Commerce and Consumer Affairs made in accordance with sections 344(3), 382(3), 448(2), 547(2), 549, 550, 576(2), and 581(2) and clause 29(3) of Schedule 1 of that Act, makes the following regulations.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Financial Markets Conduct Regulations 2014.

2 Commencement

These regulations come into force on 1 December 2014.

Part 1
Preliminary provisions

3 Overview

In these regulations,—

(a) this Part provides for preliminary matters, including prescribing certain matters relating to interpretation for the purposes of Part 1 of the Act:

(b) Part 2 declares, for the purposes of Part 2 of the Act (fair dealing), that the service of being a creditor under a credit contract is not a financial service:

(c) Part 3 and Schedules 2 to 9A prescribe matters for the purposes of Part 3 of the Act (disclosure of offers of financial products), including—

(i) regulating product disclosure statements and register entries; and

(ii) providing for limited disclosure and other requirements and conditions for offers made in reliance upon the exclusions in Schedule 1 of the Act; and

(iii) providing for ongoing disclosure; and

(iv) prescribing matters in connection with money relating to financial products that is held in trust:

(d) Part 4 and Schedules 10 to 13 prescribe matters for the purposes of Part 4 of the Act (governance of financial products), including matters relating to—

(i) governing documents; and

(ii) meetings of product holders; and

(iii) superannuation scheme rules; and

(iv) the custodianship of scheme property; and

(v) limit breaks, pricing errors, and related party transactions; and

(vi) registers of regulated products:

(e) Part 5 and Schedules 14 to 20 prescribe matters for the purposes of Part 5 of the Act (dealing in financial products on markets), including matters relating to—

(i) market manipulation; and

(ii) substantial holding disclosure; and

(iii) directors' and senior managers' disclosure obligations; and

(iv) the transfer of financial products; and

(v) unsolicited offers:

(f) Part 6, Schedule 21, and Schedule 21A prescribe matters for the purposes of Part 6 of the Act (licensing and other regulation of market services), including matters relating to—

(i) exemptions from the DIMS licensing requirement; and

(ii) intermediary services, licensing criteria, conditions, and other matters to facilitate the issue of licences for market services under that Part of the Act; and

(iii) disclosure obligations of certain licensees; and

(iv) client agreements; and

(iva) additional regulation of financial advice and financial advice services; and

(ivb) additional regulation of regulated client money or client property services; and

(v) additional regulation of DIMS:

(g) Part 7 prescribes matters for the purposes of Part 7 of the Act (financial reporting), including providing for entities that rely on the small offer exclusion to be FMC reporting entities:

(h) Part 8 and Schedules 22 to 24 provide for enforcement matters for the purposes of Part 8 of the Act, including prescribing infringement fees, an infringement notice, and a reminder notice:

(i) Part 9 and Schedule 25 contain miscellaneous provisions, including provisions relating to the mutual recognition of financial product offerings (in respect of Australia).

Regulation 3(c): amended, on 28 July 2022, by regulation 4 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 3(f): amended, on 15 March 2021, by regulation 4(1) of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Regulation 3(f)(iva): inserted, on 15 March 2021, by regulation 4(2) of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Regulation 3(f)(ivb): inserted, on 15 March 2021, by regulation 4 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

5 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Financial Markets Conduct Act 2013

address, of a person (**A**), means—

(a) the address (including an electronic address) specified by A for the relevant purpose; or

(b) the actual or last known address (including an electronic address) for A, if—

(i) paragraph (a) does not apply; or

(ii) the sender knows that the address referred to in paragraph (a) is not correct

applicable framework or methodology, in relation to a requirement or any other matter, means a framework or methodology specified in a notice issued by the FMA under subpart 4 of Part 9 of the Act that applies to the requirement or matter (if any)

average net asset value has the meaning given to it by clause 1(2) of Schedule 4

bank notice product has the meaning set out in clause 44(3) of Schedule 8

bank perpetual preference share means an equity security—

(a) in respect of which a registered bank is the issuer; and

(b) that, when issued, will be additional tier 1 capital for the purposes of the capital adequacy requirements set out in a condition of registration imposed under section 74 of the Banking (Prudential Supervision) Act 1989; and

(c) that is not a financial product that the registered bank, in the ordinary course of its business, continuously offers

board, in relation to an issuer, means—

(a) the board or any other governing body of the issuer; or

(b) the issuer, if the issuer does not have a governing body

bonus bond has the meaning set out in clause 46A(2) of Schedule 8

borrowing group, in relation to an NBDT, has the same meaning as in section 4 of the Non-bank Deposit Takers Act 2013

call building society share has the meaning set out in clause 46A(2) of Schedule 8

call credit union share has the meaning set out in clause 46A(2) of Schedule 8

call debt security means a debt security under which—

(a) the product holder has a right to demand repayment of the principal sum in full at any time; and

(b) the issuer has an obligation to repay the principal sum in full not later than 1 working day after the demand is made; and

(c) the rate of interest payable or any other benefit provided does not alter as a result of the demand being made; and

(d) no fee or other amount is payable as a result of the principal sum not having been held by the issuer for a particular period of time

climate-related disclosures register means the register of climate-related disclosures kept under clause 8 of Schedule 2 of the Act

closed for applications status, in relation to a PDS, means that the PDS has, or should have, a closed for applications status under regulation 280

closed to all investment status, in relation to a specified fund, multi-fund investment option, or life cycle investment option, means that the fund or option has, or should have, a closed to all investment status under clause 51(1)(ea), (ga)(iv), or (h)(iv) and (2) of Schedule 4

closed to new investors status, in relation to a specified fund, multi-fund investment option, or life cycle investment option, means that the fund or option has, or should have, a closed to new investors status under clause 51(1)(ea), (ga)(iv), or (h)(iv) and (2) of Schedule 4

continuous issue PDS means a PDS that relates to financial products that the issuer, in the ordinary course of its business, continuously offers

convertible means a financial product that will be converted, or is or may become convertible, into another financial product

co-operative shares means—

(a) nominal value shares in a co-operative company that are offered only to persons who are, or immediately after the issue or sale will be, transacting shareholders of the co-operative company; or

(b) shares in an industrial and provident society

credit contract has the same meaning as in section 4 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008

credit union fixed term deposit product means a share referred to in section 107 of the Friendly Societies and Credit Unions Act 1982, and issued by a credit union, under which—

(a) the member has a right to demand repayment of the value of the share in full at any time; and

(b) the credit union has an obligation to repay the value of the share in full in accordance with section 107(4) of the Friendly Societies and Credit Unions Act 1982; and

(c) a fixed rate of dividend or interest is payable if the principal sum is held by the credit union for a fixed period of time of up to 5 years (but the rate of dividend or interest payable may alter as a result of a demand being made before that fixed period ends); and

(d) no fee or other amount is payable as a result of the principal sum not having been held by the credit union for a particular period of time

credit union products means debt securities issued by a credit union

credit union savings account product means a share referred to in section 107 of the Friendly Societies and Credit Unions Act 1982, and issued by a credit union under a savings account, under which—

(a) the member has a right to demand repayment of the value of the share in full at any time; and

(b) the credit union has an obligation to repay the value of the share in full in accordance with section 107(4) of the Friendly Societies and Credit Unions Act 1982; and

(c) the rate of dividend or interest payable or any other benefit provided does not alter as a result of the demand being made; and

(d) a fee or other amount may be payable as a result of the principal sum not having been held by the credit union for a particular period of time; and

(e) the fee or other amount referred to in paragraph (d) does not exceed $50

creditor has the same meaning as in section 4 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008

crime involving dishonesty—

(a) has the same meaning as in section 2(1) of the Crimes Act 1961; and

(b) includes an offence committed in an overseas jurisdiction that, if committed in New Zealand, would be a crime involving dishonesty within the meaning of that section

crowd funding service has the meaning set out in regulation 185

Crown-related entity means—

(a) a Crown entity under section 7 of the Crown Entities Act 2004, other than Public Trust:

(b) a department within the meaning of section 5 of the Public Service Act 2020:

(c) a government-related organisation as defined in section 4 of the Crown Organisations (Criminal Liability) Act 2002:

(d) the Reserve Bank

custodial fee means a fee paid to a custodian for the safe keeping of an asset

date of the PDS means the date on which the board of the issuer consents to the lodgement of the PDS with the Registrar (being no more than 5 working days before that lodgement)

depositor compensation scheme has the same meaning as in section 6 of the Deposit Takers Act 2023

disclosure year means,—

(a) in the case of a managed investment product (other than a product referred to in paragraph (ab)), a period starting on 1 April in a year and ending on 31 March in the following year:

(ab) in the case of a managed investment product in a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme under which benefits payable from the scheme are based on the investment return of scheme property at the end of the scheme's accounting period (but excluding a scheme that is operated on a unitised basis), a 12-month period ending on the scheme's balance date:

(b) in the case of a DIMS provided to an investor, a 12-month period starting on 1 April or any other date in each year that is determined by the provider in respect of the investor, and if, as a result of a change of that date, the period ending on that date is longer or shorter than 12 months, that longer or shorter period is a disclosure year (*see* subclause (5))

dividend means,—

(a) in relation to equity securities in a company within the meaning of section 2(1) of the Companies Act 1993, a dividend within the meaning of section 53 of that Act; and

(b) in relation to any other equity securities, a distribution of the income or gains of the issuer to a holder of the equity securities that is comparable to a dividend referred to in paragraph (a)

exemption means an exemption granted under subpart 2 of Part 9 of the Act

existence,—

(a) in relation to a fund or scheme, has the meaning set out in subclause (4)(b):

(b) in relation to a multi-fund investment option or life cycle stage, has the meaning set out in clause 8C(a) of Schedule 4

facility, in relation to a crowd funding service or a peer-to-peer lending service, means the facility referred to in regulation 185

financial covenant includes any agreement or undertaking to—

(a) maintain a minimum capital ratio, liquidity ratio, or other financial ratio; or

(b) comply with any other restriction or prohibition that relates to the issuer's, or the issuing group's, or the borrowing group's financial position or performance

financial service provider number, in relation to a person, is the number given to the person on the person's registration under the Financial Service Providers (Registration and Dispute Resolution) Act 2008

fixed term redeemable building society share has the same meaning as in clause 46A(2) of Schedule 8

foreign passport fund has the same meaning as in regulation 3 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019

FRS-42 means the financial reporting standard known as Financial Reporting Standard No 42 (Prospective Financial Statements) that is in effect under the Financial Reporting Act 2013

fund means a defined pool of assets that are held for the benefit of a group of investors and that are managed together under a single investment mandate

fund charges has the meaning set out in clause 2(1) of Schedule 4

fund update means a fund update prepared under regulations 56 to 61

generally accepted accounting practice or **GAAP** has the meaning set out in regulation 7(1)

generally available to the market has the meaning set out in section 232 of the Act

group financial statements—

(a) has the same meaning as in section 6(1) of the Act; but

(b) in the case of an issuing group that consists of only an issuer, means financial statements for that issuer

guarantee, in relation to debt securities, means a guarantee given by a guarantor in respect of those securities

guarantor, in relation to debt securities, means a person that guarantees the repayment of the securities offered (in whole or in part) or the payment of any interest or other money to holders of the securities

holding company has the same meaning as in section 5 of the Companies Act 1993

host economy has the same meaning as in section 55 of the passport rules

investor money, in relation to a crowd funding service or a peer-to-peer lending service, means money to which the following apply:

(a) the money is received under that service; and

(b) the money is received from, or on account of, an investor by a person (**A**) (and not on A's own account)

investor's portfolio, in respect of a DIMS provided to an investor, means the financial products that the DIMS provider is managing on behalf of the investor

issuing group has the meaning set out in regulation 6

KIS means a key information summary

licensed derivatives issuer—

(a) means a person who holds, or is treated as holding, a licence that covers the service referred to in section 388(d) of the Act; and

(b) includes an authorised body in respect of that licence

life cycle investment option has the meaning set out in clause 1(1) of Schedule 4

life cycle stage has the meaning set out in clause 1(1) of Schedule 4

limit break has the meaning set out in section 167 or 438 of the Act (as the case may be)

managed fund—

(a) means a managed investment scheme the managed investment products of which are or were—

(i) offered on the basis that, in the ordinary course of business, the products will be continuously offered and redeemed on a basis calculated wholly or mainly on the value of the scheme property; or

(ii) offered on a basis that the scheme will invest, in the ordinary course of business, at least 80% of its assets in 1 or more of the following ways:

(A) in debt securities issued by a specified bank or NBDT where the money invested is available for withdrawal immediately on request during the specified bank's or NBDT's normal business hours or at the end of a fixed-term period that does not exceed 3 months:

(B) in managed investment products that are redeemable on request, or within a period not exceeding 10 working days, on a basis calculated wholly or mainly on the value of the scheme property of the scheme to which those products relate:

(C) in assets where the manager can reasonably expect to realise the investment, at the market value of the assets, within 10 working days; and

(b) includes a KiwiSaver scheme, superannuation scheme, or workplace savings scheme

material information has the same meaning as in section 59 of the Act

memorandum of cooperation has the same meaning as memorandum has in regulation 3 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019 (*see* Schedule 2 of those regulations, which sets out the text of the memorandum)

moratorium means a variation of the terms or conditions of a debt security that extends the time for payment of the principal or interest, or reduces or cancels the principal or interest, under the debt security

multi-fund investment option has the meaning set out in clause 1(1) of Schedule 4

net asset value means,—

(a) in relation to a fund, the residual value of the fund's assets after all liabilities, other than net assets attributable to investors, have been deducted; and

(b) in relation to information required by these regulations to be included in a fund update, the net asset value at the date to which the fund update relates (unless otherwise provided in these regulations)

new product, in relation to a convertible, means the financial product into which the convertible is or may be converted

New Zealand Business Number means the number allocated to an entity under the New Zealand Business Number Act 2016

NZ IAS 34 means the financial reporting standard known as the New Zealand Equivalent to International Accounting Standard 34 (Interim Financial Reporting) that is in effect under the Financial Reporting Act 2013

offer register means the register of offers of financial products kept under Schedule 2 of the Act

open for applications status, in relation to a PDS, means that the PDS has, or should have, an open for applications status under regulation 280

open status, in relation to a specified fund, multi-fund investment option, or life cycle investment option, means that the fund or option has, or should have, an open status under clause 51(1)(ea), (ga)(iv), or (h)(iv) and (2) of Schedule 4

overseas market means a financial product market that is authorised to operate in an overseas jurisdiction

passport fund means a scheme that is registered on the scheme register as a passport fund

passport rules means the rules in Annex 3 of the memorandum of cooperation (*see* Schedule 2 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019)

peer-to-peer lending service has the meaning set out in regulation 185

PIE or **portfolio investment entity** means a portfolio investment entity within the meaning of section YA 1 of the Income Tax Act 2007

PIE call fund unit has the same meaning as in clause 44(3) of Schedule 8

PIE term fund unit has the same meaning as in clause 44(3) of Schedule 8

prescribed investor rate has the same meaning as in section YA 1 of the Income Tax Act 2007

proposed director, in relation to an issuer, means a person who has consented to act as a director of the issuer

proposed senior manager, in relation to an issuer, means a person who has been appointed as a senior manager of the issuer

protected deposit has the same meaning as in section 192 of the Deposit Takers Act 2023

public security means any security issued under section 63 of the Public Finance Act 1989, and includes any loan or credit agreement, guarantee, indemnity, bond, note, debenture, bill of exchange, Treasury bill, Government stock, and any other security representing part of the public debt of New Zealand

publicly available has the meaning set out in subclause (3)

quarter,—

(a) in the case of regulations 56, 57, and 220 and Schedule 4, means each of the 4 quarters of a year ending on 30 June, 30 September, 31 December, and 31 March:

(b) in any other case, means each 3-month period of a 12-month period (where each quarter ends on the date that the manager, any other issuer, or the provider determines)

register kept by the Registrar—

(a) means a register kept or maintained by the Registrar (or the Registrar of Companies); but

(b) does not include the register of financial service providers

related underlying fund means, in relation to a fund (**fund A**),—

(a) an underlying fund managed by the manager of fund A or by an associated person of the manager of fund A; and

(b) if fund A's assets are managed as a whole by a person other than the manager, an underlying fund managed by that person or that person's associated persons

Example

A KiwiSaver scheme is managed by ABC Investment Limited and provides an option for members to select XYZ Balanced Fund, a fund the assets of which are managed by XYZ Investment Limited. All underlying funds managed by ABC Investment Limited, XYZ Investment Limited, an associated person of ABC Investment Limited, or an associated person of XYZ Investment Limited are related underlying funds.

relevant party has the meaning set out in subclause (4)(c)

relevant proceeding or action means—

(a) a civil or criminal proceeding or regulatory action (whether in New Zealand or overseas) in relation to the contravention, or involvement in the contravention, of any—

(i) financial markets legislation; or

(ii) overseas law that regulates the supply of any financial service, any dealing in financial products, or the management of an entity; or

(b) a regulatory or disciplinary action for a breach of a professional or industry code of conduct or the rules of a financial product market (whether in New Zealand or overseas)

retail investor, in relation to an offer of financial products, financial products that have previously been offered, or the supply of a DIMS, means a person who is not a wholesale investor (as defined in subclause (5A)) in relation to the offer, financial products, or service

returns means capital, earnings, or other financial returns

scheme participant's accumulation has the meaning set out in regulation 82(5)

scheme register means the register of managed investment schemes

SDS or **service disclosure statement**, in relation to a service, means a disclosure statement under section 423 of the Act for the service

security interest means an interest in property created or provided for by a transaction that, in substance, secures payment or performance of an obligation, without regard to—

(a) the form of the transaction; and

(b) the identity of the person who has title to the property that is subject to the security interest

simple NBDT debt security means a debt security issued by an NBDT that is—

(a) a call debt security; or

(b) a call building society share; or

(c) a call credit union share; or

(d) a credit union fixed term deposit product; or

(e) a credit union savings account product

simplified disclosure offer has the meaning set out in regulation 49G(2)

simplified disclosure PDS means a PDS of a class that is declared to be a class of simplified disclosure PDSs under regulation 22(4) or 23(3)

SIPO means a statement of investment policy and objectives

specified bank means—

(a) a registered bank; or

(b) a bank that is authorised to accept deposits under the law of Australia, Canada, Hong Kong, Ireland, Singapore, the United Kingdom, or the United States of America; or

(c) any other overseas bank within the meaning of regulation 229ZE

specified fund means a fund that may be, or previously has been, selected as an investment option by holders of a managed investment product

specified life cycle stage means a life cycle stage for a life cycle investment option that may be, or previously has been, selected as an investment option by holders of a managed investment product

specified multi-fund investment option means a multi-fund investment option that may be, or previously has been, selected as an investment option by holders of a managed investment product

subsidiary—

(a) has the meaning set out in section 5 of the Companies Act 1993; and

(b) includes any entity that is classified as a subsidiary in any applicable financial reporting standard

successful has the meaning set out in subclause (4)(a)

superannuation scheme rules means the provisions implied into the governing document for a superannuation scheme under regulation 81 and Schedule 12

supervisor includes a representative of the supervisor

trading expense has the meaning set out in clause 2(1) of Schedule 4 (but *see* clause 37 of Schedule 21)

unconditional guarantor, in relation to an offer of debt securities, means a person that—

(a) is unconditionally liable (whether or not jointly or severally with the issuer or any other person) to repay the securities; or

(b) is liable to repay the securities subject only to the condition that the issuer or any other person has failed to do so

underlying fund means, in relation to a managed investment scheme or a fund of that scheme (a **specified fund**), a fund in which the specified fund, or any part of that specified fund, is invested, whether directly or indirectly, through a number of layers of funds

unique identifying information, in relation to an issuer or any other person or a scheme, means a statement of—

(a) its name; and

(b) its legal form (for example, partnership); and

(ba) in the case of a trust or a partnership (other than a limited partnership), the names of the trustees or partners; and

(c) its balance date; and

(d) the jurisdiction in which it is incorporated, formed, established, or resident, and the number (if any) under which it is so incorporated, formed, or established; and

(e) its address for service in New Zealand

URL means a World Wide Web uniform resource locator.

(2) Section 13(1) of the Act applies (with all necessary modifications) to a reference in these regulations to a statement or other information that is false, misleading, deceptive, or confusing.

(3) In these regulations, unless the context otherwise requires, a document or any other information relating to financial products is **publicly available** if the document or information is available, free of charge,—

(a) on an Internet site maintained by, or on behalf of, the issuer of the financial products in a way that ensures—

(i) that the document or information, or a link to the document or information, is prominently displayed on the site either on the home page or on an investor or a scheme section of the site; and

(ii) that the home page prominently displays a link to the investor or scheme section of the site (if the document or information is displayed on that section of the site); and

(iii) that members of the public (or members of the section of the public to which the document or information is applicable) can easily access the document or information at all reasonable times; and

(b) in hard copy, on request to the issuer of the financial products.

(4) In these regulations, unless the context otherwise requires,—

(a) a civil or criminal proceeding, regulatory action, or disciplinary action is **successful** in relation to the person that is the subject of the proceeding or action if 1 or more of the following apply:

(i) a penalty or an order is imposed or made against the person:

(ii) any licence, registration, or other authorisation of the person is cancelled, revoked, or suspended:

(iii) the person is found guilty or liable:

(iv) the person is censured:

(b) a fund or scheme is in **existence** from the date on which the manager started accepting contributions to the fund or scheme (whether before or after the registration of the scheme under subpart 2 of Part 4 of the Act):

(c) a person (**R**) is a **relevant party** in relation to another person (**A**) if—

(i) A is a body corporate and R has the power, directly or indirectly, to exercise, or control the exercise of, the rights to vote attaching to 25% or more of the voting products of A; or

(ii) A and R are acting jointly or in concert; or

(iii) A acts, or is accustomed to act, in accordance with the wishes of R; or

(iv) R is able, directly or indirectly, to exert a substantial degree of influence over the activities of A; or

(v) R is a director or senior manager of A or of a relevant party of A under subparagraphs (i) to (iv).

(5) For the purposes of paragraph (b) of the definition of **disclosure year** in subclause (1), if the provider changes the date on which a disclosure year starts, the period between any 2 starting dates of disclosure years must not exceed 15 months.

(5A) For the purposes of the definition of **retail investor** in subclause (1) and regulation 65, **wholesale investor**,—

(a) in relation to an offer of financial products, has the same meaning as in clause 36(a) of Schedule 1 of the Act and includes an entity that is controlled (within the meaning of clause 48 of Schedule 1 of the Act) by—

(i) a wholesale investor in relation to the offer; or

(ii) a close business associate of the offeror (within the meaning of clause 4 of Schedule 1 of the Act); or

(iii) a relative of the offeror or of a director of the offeror (within the meaning of clause 5 of Schedule 1 of the Act):

(b) in relation to financial products that have previously been offered, means a person who, if the previous offer had been made to the person, would have been a wholesale investor in relation to the offer under paragraph (a):

(c) in relation to the supply of a DIMS, has the same meaning as in clause 36(b) of Schedule 1 of the Act and includes an entity that is controlled (within the meaning of clause 48 of Schedule 1 of the Act) by a wholesale investor in relation to the DIMS.

(6) Terms defined in other provisions of these regulations have the meanings given unless the context otherwise requires.

Regulation 5(1) **bank notice product**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **bank perpetual preference share**: inserted, on 28 July 2022, by regulation 5 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 5(1) **bonus bond**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **call building society share**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **call credit union share**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **call debt security**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **climate-related disclosures register**: inserted, on 1 January 2024, by regulation 4 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

Regulation 5(1) **closed for applications status**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **closed to all investment status**: replaced, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **closed to new investors status**: replaced, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **convertible**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **credit union fixed term deposit product**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **credit union savings account product**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **Crown-related entity**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **depositor compensation scheme**: inserted, on 1 July 2025, by regulation 4 of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Regulation 5(1) **DIMS**: revoked, on 15 March 2021, by regulation 5(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **disclosure year** paragraph (a): replaced, on 1 December 2015, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **disclosure year** paragraph (ab): inserted, on 1 December 2015, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **existence**: inserted, on 17 December 2015, by regulation 4(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **fixed term redeemable building society share**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **foreign passport fund**: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 5(1) **host economy**: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 5(1) **life cycle investment option**: inserted, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **life cycle stage**: inserted, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **memorandum of cooperation**: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 5(1) **multi-fund investment option**: inserted, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **NBDT category 2 debt securities**: revoked, on 15 March 2021, by regulation 5(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **new product**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **New Zealand Business Number**: inserted, on 31 December 2017, by regulation 4 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

Regulation 5(1) **New Zealand Business Number**: amended, on 2 September 2019, by regulation 4 of the Financial Markets Conduct (New Zealand Business Numbers) Amendment Regulations 2019 (LI 2019/171).

Regulation 5(1) **open status**: replaced, on 9 August 2017, by regulation 4(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **passport fund**: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 5(1) **passport rules**: inserted, on 14 June 2019, by regulation 4 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 5(1) **personalised DIMS**: revoked, on 15 March 2021, by regulation 5(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **PIE call fund unit**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **PIE term fund unit**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **protected deposit**: inserted, on 1 July 2025, by regulation 4 of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Regulation 5(1) **quarter**: replaced, on 1 December 2015, by regulation 4(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **quarter** paragraph (b): amended, on 28 October 2016, by regulation 4 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 5(1) **retail investor**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **simple NBDT debt security**: inserted, on 15 March 2021, by regulation 5(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **simplified disclosure offer**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **simplified disclosure PDS**: inserted, on 1 December 2015, by regulation 4(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **specified bank** paragraph (c): amended, on 15 March 2021, by regulation 5(3) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 5(1) **specified life cycle stage**: inserted, on 17 December 2015, by regulation 4(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **specified life cycle stage**: amended, on 9 August 2017, by regulation 4(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **specified multi-fund investment option**: inserted, on 17 December 2015, by regulation 4(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **specified multi-fund investment option**: amended, on 9 August 2017, by regulation 4(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 5(1) **trading expense**: inserted, on 12 June 2025, by regulation 4 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 5(1) **unique identifying information** paragraph (ba): inserted, on 1 June 2016, by regulation 4(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(1) **unique identifying information** paragraph (d): replaced, on 1 June 2016, by regulation 4(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 5(5A): inserted, on 1 December 2015, by regulation 4(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

6 Meaning of issuing group

(1) In these regulations, **issuing group**, in relation to an offer of debt securities or equity securities, means the issuer of the securities and all subsidiaries of the issuer at the date of the PDS (subject to subclauses (2) to (4)).

(2) In the case of an offer of debt securities, the **issuing group** is the holding company of the issuer and all subsidiaries of the holding company at the date of the PDS if the holding company is an unconditional guarantor of those securities.

(3) Subclause (4) applies to an offer of debt securities if—

(a) the PDS states that an intended use of the money raised under the offer is to provide money to either or both of the following:

(i) the holding company of the issuer:

(ii) 1 or more subsidiaries of the holding company of the issuer; and

(b) the issuer reasonably considers that information about the financial position and financial performance of the holding company and its subsidiaries would be more useful to investors (in terms of deciding whether or not to acquire the securities) than information about the financial position and financial performance of the issuer and its subsidiaries.

(4) If this subclause applies, the **issuing group** is the holding company and all subsidiaries of the holding company at the date of the PDS.

7 Matters relating to GAAP

(1) In these regulations, **generally accepted accounting practice** or **GAAP**—

(a) has the same meaning as generally accepted accounting practice in section 6(1) of the Act; and

(b) includes, if the Financial Reporting Act 1993 applies in respect of the entity, generally accepted accounting practice within the meaning of that Act.

(2) In these regulations, an amount or information is **determined in accordance with GAAP** or **prepared in accordance with GAAP** if—

(a) it is taken or derived from interim financial statements, prospective financial statements, financial statements, or group financial statements that are prepared in accordance with GAAP; or

(b) the amount or information would have appeared in interim financial statements, prospective financial statements, financial statements, or group financial statements prepared in accordance with GAAP if those statements had included the amount or information.

(3) For the purposes of subclause (2), **GAAP** means,—

(a) in the case of information for accounting periods that have ended before the relevant date,—

(i) GAAP as in effect on the relevant date; or

(ii) GAAP as in effect during those accounting periods:

(b) in any other case, GAAP as in effect on the relevant date.

(4) For the purposes of subclause (2), a requirement in a schedule of these regulations for an amount or information to be prepared or determined in accordance with GAAP is subject to any provision of these regulations that requires or permits pro forma financial information to be substituted for other financial information.

(5) In subclause (3), **relevant date** means—

(a) the date of lodgement of the relevant disclosure document or information for the register entry; or

(b) if the information is not lodged, the date of the information.

8 Status of examples

(1) An example used in these regulations is only illustrative of the provisions to which it relates. It does not limit those provisions.

(2) If an example and a provision to which it relates are inconsistent, the provision prevails.

9 General provision relating to statements in particular form, warning statements, etc

(1) This regulation applies if a provision of these regulations requires—

(a) a statement to be included in a PDS, any other disclosure document, or a register entry in a specified form or using prescribed wording; or

(b) a warning statement to be provided.

(2) A statement included, or a warning statement provided, for the purpose referred to in subclause (1) is not invalid just because it contains differences from the requirements prescribed by these regulations if—

(a) the differences are necessary—

(i) because particular information required by these regulations is inapplicable to the particular offer or service; or

(ii) because additional or modified information that relates to the offer, the financial products, or the service needs to be included

to ensure that the statement is not false, misleading, deceptive, or confusing; or

(iii) to ensure that the statement is grammatically correct; and

(b) the issuer or provider reasonably considers that the differences are not broader than is reasonably necessary to address the matters referred to in paragraph (a)(i) to (iii).

(3) Nothing in this regulation limits any other provision of these regulations that requires or permits a statement referred to in subclause (1) to be modified.

Regulation 9(3): inserted, on 1 December 2015, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

10 Name of financial products or services

(1) This regulation applies if—

(a) these regulations require a statement to be included in a PDS, an SDS, or any other disclosure document using a specified form or using prescribed wording; and

(b) the form or wording requires the name of financial products or services to be specified (for example, [*name of financial products*]).

(2) The issuer or provider may insert any name of the financial products or services that clearly identifies those products or services, which may be—

(a) a generic label (for example, unsecured bonds); or

(b) a name that is particular to the issuer or provider (for example, ABC bonds).

11 Section numbers may be renumbered

If a section of a PDS or other disclosure document is not included because it is not applicable, the section heading numbers of the PDS or document may be renumbered and any references to those numbers may be consequentially amended.

12 PDS, other disclosure document, or register entry not required to refer to matter that is not applicable

(1) If a matter that is required by these regulations to be contained in a disclosure document or register entry is not applicable to the offer, the financial products, or the service for which the disclosure document or register entry is required, the disclosure document or register entry is not required to refer to that matter and, in particular, is not required to state that the matter is not applicable.

(2) If the name or contact details of an offeror are required by—

(a) these regulations to be contained in a disclosure document but that information is not known by the issuer at the date of the disclosure document, the disclosure document is not required to contain that information:

(b) any of regulations 37 to 41 and 43 to be contained in a register entry but that information is not known by the issuer at the date on which the information is required to be lodged on the register entry, the register entry is not required to contain that information under those regulations.

Regulation 12(2): inserted, on 1 December 2015, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

13 Derivative definition prescribed times

(1) For the purposes of section 8(4)(a)(ii) of the Act, the prescribed time is,—

(a) for a foreign exchange agreement, 3 working days; and

(b) in any other case, 1 working day.

(2) In this regulation, **working day**, in relation to a derivative,—

(a) has the same meaning as in section 29 of the Interpretation Act 1999; but

(b) if a payment or delivery under the derivative is made or received in an overseas jurisdiction, does not include a day that, under the law of that jurisdiction, is a public holiday or a bank holiday in that jurisdiction.

Part 2
Fair dealing

14 Financial service does not include being creditor under credit contract

For the purposes of paragraph (c) of the definition of financial service in section 6(1) of the Act, the service of being a creditor under a credit contract is declared not to be a financial service for the purposes of any provision of Part 2 of the Act.

14A Financial product includes contract of insurance

For the purposes of paragraph (b)(i) of the definition of financial product in section 18 of the Act, a contract of insurance is declared to be a financial product for the purposes of every provision of Part 2 of the Act.

Regulation 14A: inserted, on 31 March 2025, by regulation 4 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Part 3
Disclosure of offers of financial products

Subpart 1—Procedure for making regulated offers

When PDS does not have to be given

15 PDS does not have to be given if investor already holds products and has received, or has access to, same information

(1) For the purposes of section 51(1)(c) of the Act, an offeror does not have to comply with section 50 of the Act in respect of an offer of financial products to a person (**A**) if—

(a) A already holds a financial product of the same class as those that are offered; and

(b) the offeror has reasonable grounds for believing that A has already been given (or has access and knows that they have access to) all of the information that the PDS referred to in section 50 of the Act would be required to contain through 1 or more of the following:

(i) a PDS (for the same or a different offer):

(ii) information provided to A under subpart 4 of Part 3 of the Act:

(iii) in the case of products issued by a listed issuer, information notified to a licensed market operator for the purpose of that information being made available to participants in the licensed market (for example, under a continuous disclosure obligation).

(2) For the purposes of subclause (1)(b), immaterial differences in the information that is contained in the PDS referred to in section 50 of the Act and the documents or information referred to in subclause (1)(b)(i) to (iii) may be disregarded.

16 Offeror treated as having reasonable grounds

(1) An offeror must be treated as having reasonable grounds for believing that A has already been given (or has access and knows that they have access to) 1 or more documents or the information referred to in regulation 15(1)(b)(i) to (iii) if—

(a) the offeror has previously provided to A a written notice that—

(i) identifies the documents or information; and

(ii) includes a statement to the effect that the identified documents or information may help the investor to make decisions about whether or not to acquire the relevant financial products; and

(b) the notice was provided by giving it to A or delivering or sending it to A's address; and

(c) the notice—

(i) includes or attaches the documents or information; or

(ii) includes a statement as to how the investor may obtain a copy of, or access to, the documents or information by electronic means (for example, from a specified Internet site address); and

(d) in the case of paragraph (c)(ii), the documents or information is available by that means.

(2) This regulation does not limit the circumstances in which the offeror may have reasonable grounds for the belief referred to in subclause (1).

17 PDS does not have to be given before application if investment in certain products is made urgently and PDS is later provided

For the purposes of section 51(1)(c) of the Act, an offeror does not have to comply with section 50 of the Act in respect of an offer of financial products to a person (**A**) if—

(a) the products are—

(i) call building society shares; or

(ii) call credit union shares; or

(iii) call debt securities; or

(iv) co-operative shares; or

(v) credit union fixed term deposit products; or

(vi) credit union savings account products; and

(b) A expressly requests that the products are issued or transferred urgently or by a specified time, and it is not reasonably practicable to comply with section 50 of the Act and still comply with the request; and

(c) the offeror provides to A, not later than 10 working days after the date on which the products are issued or transferred to A,—

(i) a PDS for the offer; and

(ii) a written notice of the right under paragraph (e) and how the right may be exercised; and

(d) the PDS and written notice are provided to A by giving them to A or delivering or sending them to A's address; and

(e) the terms of the offer include a right for A to withdraw from holding the financial products and to have the relevant money repaid, and that right is exercisable up until the expiry of at least 20 working days after the PDS is provided under paragraph (c).

Regulation 17 heading: amended, on 15 March 2021, by regulation 6(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 17(a): replaced, on 15 March 2021, by regulation 6(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

18 PDS does not have to be given for certain products issued by NBDT that are debt securities

For the purposes of section 51(1)(c) of the Act, an offeror does not have to comply with section 50 of the Act in respect of an offer of simple NBDT debt securities to a person (**A**) if—

(a) the PDS for the offer is publicly available; and

(b) the offeror complies with regulation 19 in respect of A (if applicable).

Regulation 18 heading: amended, on 15 March 2021, by regulation 7(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 18: amended, on 15 March 2021, by regulation 7(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

19 NBDT must give credit risk statement to investors if it does not have investment-grade credit rating

(1) This regulation applies for the purposes of regulation 18(b) if, at the time of the offer to A, the NBDT does not have an investment-grade credit rating.

(2) The offeror must make available to A a credit risk statement before the offeror accepts an application for the simple NBDT debt securities that is made by A or the offeror issues or transfers the simple NBDT debt securities to A (whichever is earlier).

(3) The credit risk statement must be made available by—

(a) including the statement in an application form for the simple NBDT debt securities that includes a confirmation from A that A has received the statement (being a confirmation that must be completed before the offeror accepts the application); or

(b) giving it to A.

(4) The credit risk statement must—

(a) be headed "What is [*name of NBDT*]'s credit risk?"; and

(b) include a statement in the following form:

"Deposits have risks. A key risk is that [*name of NBDT*] does not meet its commitment to repay you or to pay you any interest that is due (credit risk)."; and

(c) include whichever of the statements specified in clause 5(2) and (5) of Schedule 7 that better applies (and clause 5(3) of that schedule applies with any necessary modifications for the purposes of clause 5(2), including the requirement to include a diagram in the credit risk statement); and

(d) include a statement—

(i) to the effect that further information about the credit risk of the NBDT is provided in the PDS and the offer register; and

(ii) that describes how an investor may obtain this information.

(5) If the credit risk statement is included in an application form or other document, the statement must be reasonably prominent in that document.

(6) An NBDT has an **investment-grade credit rating** if the NBDT has a current rating of its creditworthiness or, if required by regulations made under the Non-bank Deposit Takers Act 2013, the creditworthiness of its borrowing group that is—

(a) BBB– or better by any of the following:

(i) Standard & Poor's:

(ii) Fitch Ratings:

(iii) Equifax Australasia Credit Ratings Pty Limited; or

(b) Baa3 or better by Moody's Investors Service.

Regulation 19(2): amended, on 15 March 2021, by regulation 8 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 19(3)(a): amended, on 15 March 2021, by regulation 8 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 19(6)(a): replaced, on 9 August 2017, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Information at start of product disclosure statement

20 Information at start of PDS

(1) Every PDS must, at the start of the PDS,—

(a) include, in a prominent position, the words "Product Disclosure Statement"; and

(b) identify the offer of financial products to which the PDS relates; and

Example

Initial public offering of ordinary shares in ABC Limited

(c) identify the issuer; and

(d) state the date of the PDS; and

(e) contain a statement in the following form:

"This document gives you important information about this investment to help you decide whether you want to invest. There is other useful information about this offer on [*specify Internet site address of offer register*]. [*Name of issuer*] has prepared this document in accordance with the Financial Markets Conduct Act 2013. You can also seek advice from a financial advice provider to help you to make an investment decision."

(2) The PDS may also, at the start of the PDS, do any or all of the following:

(a) identify the lead manager or managers (for example, a bank that is organising the offer):

(b) identify the offeror (if the offeror is not the issuer):

(c) identify 1 or more underwriters:

(d) identify the investment manager or managers:

(e) identify the issuing group if regulation 6(1) or (2) applies:

(f) include 1 or more brands or logos customarily used by the issuer or any person referred to in paragraphs (a) to (e).

(3) In the case of derivatives, the statement under subclause (1)(e) must be in the following form:

"This document provides important information about [*name of financial product or products or offer*] to help you decide whether you want to enter into [*it or any of these derivatives*]. There is other useful information about this offer at [*specify Internet site address of the offer register*].

*Many derivatives are complex and high-risk financial products that are not suitable for most retail investors. If you do not fully understand a derivative described in this document and the risks associated with it, you should not enter into it. You can also seek advice from a financial advice provider to help you make your decision. You should ask if that provider has experience with these types of derivatives.

[*Name of issuer*] has prepared this document in accordance with the Financial Markets Conduct Act 2013."

*Omit this sentence if the PDS covers only currency forwards.

Regulation 20(1)(e): amended, on 15 March 2021, by regulation 9(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 20(3): amended, on 15 March 2021, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

21 Information at front may be on separate cover page or before key information summary

(1) The information required or permitted by regulation 20 must be—

(a) on a separate cover page; or

(b) on the same page as, and before, the start of the KIS.

(2) If the cover page contains no information other than the information required or permitted by regulation 20 or an exemption, the cover page must be disregarded when determining whether the PDS complies with the length restrictions that apply under regulations 22 to 29.

Content of product disclosure statements

22 Content of PDS for offer of debt securities

(1) Every PDS for an offer of debt securities must contain all of the information specified in Part 1 of Schedule 2 that is applicable.

(2) However,—

(a) in the case of an offer of simple NBDT debt securities, the PDS must—

(i) contain all of the information specified in Schedule 7 that is applicable (in which case subclause (1) does not apply); or

(ii) comply with subclause (1):

(b) in the case of a simplified disclosure offer of debt securities, the PDS must—

(i) contain all of the information specified in Part 1 of Schedule 2 that is applicable (as modified in accordance with Part 1A of Schedule 2); or

(ii) comply with subclause (1).

(3) The PDS under subclause (1) or (2) must comply with at least 1 of the following length limits:

(a) 30 A4 pages when printed:

(b) 15 000 words.

(4) PDSs that comply with subclause (2)(b)(i) are declared to be a class of simplified disclosure PDSs for the purposes of section 470 of the Act.

Regulation 22(2): replaced, on 1 December 2015, by regulation 7(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 22(2)(a): amended, on 15 March 2021, by regulation 10 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 22(4): inserted, on 1 December 2015, by regulation 7(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

23 Content of PDS for offer of equity securities

(1) Every PDS for an offer of equity securities must contain all of the information specified in Part 1 of Schedule 3 that is applicable.

(1A) However, in the case of a simplified disclosure offer of equity securities, the PDS must—

(a) contain all of the information specified in Part 1 of Schedule 3 that is applicable (as modified in accordance with Part 1A of Schedule 3); or

(b) comply with subclause (1).

(2) The PDS under subclause (1) or (1A) must comply with at least 1 of the following length limits:

(a) 60 A4 pages when printed:

(b) 30 000 words.

(3) PDSs that comply with subclause (1A)(a) are declared to be a class of simplified disclosure PDSs for the purposes of section 470 of the Act.

Regulation 23(1A): inserted, on 1 December 2015, by regulation 8(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 23(2): amended, on 1 December 2015, by regulation 8(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 23(3): inserted, on 1 December 2015, by regulation 8(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

24 Content of PDS for offer of managed investment products

(1) Every PDS for an offer of managed investment products in a managed fund must contain all of the information specified in Part 1 of Schedule 4 that is applicable.

(1A) However, in the case of interests in a foreign passport fund that are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, the following apply (regardless of whether the fund is a managed fund):

(a) the PDS must contain all of the information specified in Part 1 of Schedule 4 that is applicable (as modified in accordance with Part 6 of Schedule 4); and

(b) the PDS must be accompanied by a statement in the form set out in Schedule 26.

(2) The PDS under subclause (1) or (1A) must comply with at least 1 of the following length limits:

(a) 12 A4 pages when printed:

(b) 6 000 words.

(3) Every PDS for an offer of managed investment products in any other managed investment scheme must contain all of the information specified in Part 1 of Schedule 5 that is applicable.

(4) The PDS under subclause (3) must comply with at least 1 of the following length limits:

(a) 60 A4 pages when printed:

(b) 30 000 words.

(5) If a foreign passport fund referred to in subclause (1A) is not a managed fund, this regulation and the rest of these regulations apply with all necessary modifications as if—

(a) the foreign passport fund were a managed fund; and

(b) the interests in the foreign passport fund were managed investment products.

Example

Regulation 29(2) sets length restrictions for the key information summary. Regulation 29(2)(c), which is the length restriction for managed funds, applies to an offer of interests in a foreign passport fund.

Regulation 24(1A): inserted, on 14 June 2019, by regulation 5(1) of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 24(2): amended, on 14 June 2019, by regulation 5(2) of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 24(5): inserted, on 14 June 2019, by regulation 5(3) of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

25 Content of PDS for offer of derivatives

(1) Every PDS for an offer of derivatives must contain all of the information specified in Part 1 of Schedule 6 that is applicable.

(2) The PDS must comply with at least 1 of the following length limits:

(a) 30 A4 pages when printed:

(b) 15 000 words.

Key information summary

26 Key information summary

(1) Every PDS must contain a key information summary (**KIS**).

(2) However, subclause (1) does not apply to an offer of simple NBDT debt securities if the PDS contains all of the information specified in Schedule 7 that is applicable.

Regulation 26(2): amended, on 15 March 2021, by regulation 11 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

27 Purpose of key information summary

(1) The purpose of a KIS is to provide the issuer's assessment of the most significant aspects of the offer of the financial products that are relevant to a prudent but non-expert person's decision as to whether or not to acquire the financial products.

(2) The issuer must have regard to that purpose when preparing the KIS.

28 Key information summary must be identified

Every KIS must, at the start of the KIS, include, in a prominent position, the words "Key Information Summary".

29 Key information summary requirements

(1) Every KIS must comply with the following requirements:

(a) the KIS must comply with the length limits under subclause (2); and

(b) the KIS must contain all of the information for a KIS that is set out in the schedule of these regulations that applies to the PDS; and

(c) no information, other than the required or permitted information, may be included in the KIS.

(2) The KIS must comply with,—

(a) in the case of an offer of debt securities, at least 1 of the following length limits:

(i) 3 A4 pages when printed:

(ii) 1 500 words:

(b) in the case of an offer of equity securities, at least 1 of the following length limits:

(i) 4 A4 pages when printed:

(ii) 2 000 words:

(c) in the case of an offer of managed investment products in a managed fund, at least 1 of the following length limits:

(i) 2 A4 pages when printed:

(ii) 1 000 words:

(d) in the case of an offer of managed investment products in a scheme other than a managed fund, at least 1 of the following length limits:

(i) 4 A4 pages when printed:

(ii) 2 000 words:

(e) in the case of an offer of derivatives, at least 1 of the following length limits:

(i) 2 A4 pages when printed:

(ii) 1 000 words.

(3) A KIS does not fail to comply with subclause (1)(c) merely because the KIS contains additional information that is necessary—

(a) to clarify the required or permitted information; or

(b) to put the required or permitted information in context to ensure that the information that is disclosed is not false or misleading.

(4) A KIS does not fail to comply with subclause (1)(c) merely because it includes—

(a) 1 or more brands or logos customarily used by the issuer or any person referred to in regulation 20(2)(a) to (e) (provided that the brand or logo is not distracting); or

(b) a warning required to be contained in the PDS under an order made under section 49 of the Financial Markets Authority Act 2011.

(5) A warning referred to in subclause (4)(b) must be disregarded when determining whether the KIS or PDS complies with the length restrictions that apply under subclause (2) or regulations 22 to 25.

(6) In this regulation, **required or permitted information** means the information that is required or permitted to be contained in the KIS by these regulations or an exemption.

Presentation requirements

30 PDS must be easily readable

(1) The format, font, and font size of the PDS must be easily readable.

(2) *See also* section 61 of the Act (PDS must be worded and presented in a clear, concise, and effective manner).

Miscellaneous matters relating to PDSs

31 Blank pages

Blank pages must be disregarded when determining whether the KIS or PDS complies with the length restrictions that apply under regulations 22 to 29.

32 PDS may relate to more than 1 class of products, etc

(1) A PDS may—

(a) relate to more than 1 class of financial products if those financial products are of the same kind (for example, the PDS may relate to 2 or more classes of debt securities):

(b) in the case of a managed fund, relate to more than 1 registered scheme:

(c) in the case of derivatives, relate to more than 1 type of derivatives (for example, the PDS may relate to currency forwards and currency options).

(2) However, subclause (1) applies only if the issuer reasonably considers that disclosing information about those classes, registered schemes, or types in 1 document is useful to investors.

(3) In the case of an offer referred to in section 44 of the Act (convertible financial products), the PDS may, in accordance with regulations 49A to 49F, relate to the convertibles and the new products.

Regulation 32(3): inserted, on 1 December 2015, by regulation 9 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

33 Incorporation by reference

(1) If these regulations require information to be contained or included in a PDS or register entry,—

(a) the information may be incorporated by reference only if incorporation by reference is authorised by these regulations (*see* section 13 of the Act); and

(b) the requirements in subclause (2) apply.

(2) The requirements are that the PDS or register entry must—

(a) include a brief description of the information; and

(b) include a link to or URL for the page or section of the Internet site where the information is located (if the reference is to information on an Internet site); and

(c) identify the document that contains the information and state how the information may be obtained (if paragraph (b) does not apply).

(3) If a document that is lodged with the Registrar contains information that is incorporated by reference in the PDS,—

(a) the information must be placed in the document under the relevant PDS heading; and

(b) if there is more than 1 item of such information, each item must be presented in the same order as it would otherwise appear in the PDS; and

(c) the document must identify the PDS and state that the information forms part of that PDS.

34 Additional information

(1) A PDS must not contain any information in addition to the required or permitted information unless—

(a) the PDS meets the length restrictions that apply under regulations 22 to 29; and

(b) either—

(i) the additional information is included after the relevant section of the PDS; or

(ii) the additional information does not detract from the prominence of the information that is required to be included in the PDS by the Act, these regulations, or an exemption.

(2) *See* also section 61 of the Act (which requires the information in the PDS to be worded and presented in a clear, concise, and effective manner).

(3) This regulation does not limit any other permission to include additional information in the PDS.

(4) In this regulation,—

relevant section means, in relation to a PDS for an offer of—

(a) debt securities, section 9 of the PDS (unless paragraph (f) or (g) applies):

(b) equity securities, section 9 of the PDS:

(c) managed investment products in a managed fund, section 6 of the PDS:

(d) managed investment products in a scheme other than a managed fund, section 9 of the PDS:

(e) derivatives, section 6 of the PDS:

(f) simple NBDT debt securities (in the case of a PDS under regulation 22(2)(a)), section 6 of the PDS:

(g) convertibles to which regulation 49D applies, section 7 of the PDS

required or permitted information means the information that is required or permitted to be contained in the PDS by—

(a) the Act, these regulations, or an exemption; or

(b) any other Act; or

(c) standards made under section 88 of the Deposit Takers Act 2023.

Regulation 34(3): amended, on 1 December 2015, by regulation 10(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 34(4) **relevant section** paragraph (a): amended, on 1 December 2015, by regulation 10(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 34(4) **relevant section** paragraph (f): amended, on 15 March 2021, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 34(4) **relevant section** paragraph (g): inserted, on 1 December 2015, by regulation 10(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 34(4) **required or permitted information** paragraph (c): inserted, on 1 July 2025, by section 495(2) of the Deposit Takers Act 2023 (2023 No 35).

35 Information that must be included in PDS where regulations do not otherwise provide for placement

(1) This regulation applies if—

(a) the Act requires particular information to be included in a PDS, but these regulations do not otherwise provide for where that information must be included; or

Example

A PDS contains a statement made by John Smith as an expert. Section 60(1)(a) of the Act requires Mr Smith to consent to the statement being contained in the PDS. Section 60(1)(b) of the Act requires the PDS to state that Mr Smith has given his consent, but these regulations do not otherwise indicate where the statement should be included.

(b) any other enactment requires a PDS to include particular information and neither that enactment nor these regulations otherwise provide for where that information must be included (for example, section 129 of the KiwiSaver Act 2006).

(2) The information must be included in the PDS in the place that the issuer considers is most appropriate in terms of the PDS being presented in a clear, concise, and effective manner.

36 Application form

(1) A PDS may include an application form if that form is included in an unnumbered section at the end of the PDS.

(2) The application form must be disregarded when determining whether the PDS complies with the length restrictions that apply under regulations 22 to 25.

(3) Subclause (2) does not apply if the application form contains information that is not directly related to an application for the financial products (for example, information that promotes the offer).

(4) In this regulation, **application form** means an application form for the financial products that are offered under the PDS (or, in the case of derivatives, an application form to enter into a client agreement with a derivatives issuer).

Content of register entries when PDS is lodged

37 Content of register entries when PDS is lodged

(1) Regulations 38 to 41 and 43 specify the information that the register entry (if any) is required to contain for the purposes of—

(a) section 48(1)(c) of the Act (which requires the issuer to supply the information before making the regulated offer and before distributing application forms); and

(b) section 57(1)(b)(i) and (iii) of the Act (content of register entry as at the date on which the PDS is lodged).

(2) *See* regulations 50 and 51 (which provide for the updating of register entries).

38 Content of register entry for offer of debt securities

Every register entry for an offer of debt securities must contain all of the information specified in Part 2 of Schedule 2 that is applicable.

39 Content of register entry for offer of equity securities

Every register entry for an offer of equity securities must contain all of the information specified in Part 2 of Schedule 3 that is applicable.

40 Content of register entry for offer of managed investment products

(1) Every register entry for an offer of managed investment products in a managed fund must contain all of the information specified in Part 2 of Schedule 4 that is applicable.

(1A) However, in the case of interests in a foreign passport fund that are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, the register entry must contain all of the information specified in Part 2 of Schedule 4 that is applicable (as modified in accordance with Part 6 of Schedule 4).

(2) Every register entry for an offer of managed investment products in any other managed investment scheme must contain all of the information specified in Part 2 of Schedule 5 that is applicable.

Regulation 40(1A): inserted, on 14 June 2019, by regulation 6 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

41 Content of register entry for offer of derivatives

Every register entry for an offer of derivatives must contain all of the information specified in Part 2 of Schedule 6 that is applicable.

42 Register entry must contain material information and may contain other lodged information

Regulations 37 to 41 do not limit—

(a) section 57(1)(b)(ii) and (iv) of the Act (which require the register entry to contain all material information relating to the regulated offer that is not contained in the PDS and to contain information concerning consents for expert statements or endorsements):

(b) other provisions of these regulations or any other enactment that require information to be lodged with the Registrar.

42A Requirement to include all material information does not apply to simplified disclosure offers

Section 57(1)(b)(ii) of the Act does not apply to a simplified disclosure offer.

Regulation 42A: inserted, on 1 December 2015, by regulation 11 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

42B Requirement to include all material information does not apply to information in supplement for multiple-participant scheme

(1) This regulation applies to an offer of interests in a multiple-participant scheme.

(2) Section 57(1)(b)(ii) of the Act does not apply to information contained in relevant supplements that are given to investors under clause 8B of Schedule 4.

(3) In this clause, **multiple-participant scheme** and **relevant supplement** have the same meanings as in clause 8B of Schedule 4.

Regulation 42B: inserted, on 28 October 2016, by regulation 5 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

42C Requirement to include all material information does not apply to information about depositor compensation scheme

(1) Section 57(1)(b)(ii) of the Act does not apply to information about the depositor compensation scheme.

(2) This regulation is revoked on 1 July 2026.

Regulation 42C: inserted, on 1 July 2025, by regulation 5 of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

43 Register entry must contain information referred to in PDS

If any of Schedules 2 to 7 require a PDS to refer to information contained on the offer register, the register entry must contain that information.

44 Lodging or giving information for register entry

Information for a register entry that is lodged with or given to the Registrar must be lodged or given in the manner specified by the Registrar in accordance with clause 13(1) of Schedule 2 of the Act.

Example

The identification of the industry in which the issuer operates is selected from a drop-down list of options specified by the Registrar on the offer register Internet site maintained by the Registrar.

Other provisions relating to lodging of PDS and other documents

45 Lodgement of PDS

(1) For the purposes of section 63 of the Act, an issuer that lodges a PDS must, when the PDS is lodged, supply to the Registrar evidence of the board's consent—

(a) to the lodgement of the PDS; and

(b) to the supply to the Registrar of information under section 48(1)(c) of the Act (which relates to information for the register entry).

(2) Evidence of the board's consent may include a statement of the board's consent to the lodgement and supply that is signed on behalf of the board—

(a) by 2 directors of the issuer; or

(b) if the issuer has only 1 director, by that director.

(3) Subclause (2) does not limit the form that the evidence may take.

46 When supplementary document may not be lodged

For the purposes of section 71(2) of the Act, a supplementary document must not be lodged with the Registrar if—

(a) the document purports to supplement a PDS for an offer of managed investment products in a managed fund; or

(b) the document purports to supplement any part of the key information summary (unless the document covers the whole key information summary).

Dealing with applications where condition referred to in PDS not met or disclosure defective

47 How offeror must act under section 80 of Act

An offeror must, when acting under section 80 of the Act, comply with the following requirements:

(a) the offeror must act as soon as practicable under section 80(1)(a), (b), or (c) of the Act:

(b) in the case of section 80(1)(b) or (c) of the Act,—

(i) the offeror must, by way of a written notice (the **notice**), give the applicant 1 month to confirm under that paragraph; and

(ii) the notice must state how the applicant may confirm under that paragraph; and

(iii) the notice must state the reason why section 80 of the Act applies; and

(iv) if a replacement PDS is given, the notice must state how the replacement PDS is materially different from the PDS that it replaces; and

(v) if the register entry has been amended, the notice must state how the register entry has been amended; and

(vi) the notice must state that, if the applicant does not confirm to the issuer that the applicant still wants to acquire the financial products by a date specified in the notice (that is 1 month after the notice is given), no issue or transfer of financial products will be made and the applicant's money will be repaid.

Expiry

48 How offeror must deal with applications on expiry

(1) This regulation applies if a PDS specifies an expiry date for the PDS.

(2) An offeror must, when acting under section 85 of the Act, comply with the following requirements:

(a) the offeror must act as soon as practicable under section 85(3)(a) or (b) of the Act; and

(b) in the case of section 85(3)(b) of the Act,—

(i) the offeror must, by way of a written notice (the **notice**), give the applicant 1 month to confirm under that paragraph; and

(ii) the notice must state how the applicant may confirm under that paragraph; and

(iii) the notice must state the reason why section 85 of the Act applies; and

(iv) the notice must state that if the applicant does not confirm to the offeror that the applicant still wants to acquire the financial products by a date specified in the notice (that is 1 month after the notice is given), no issue or transfer of financial products will be made and the applicant's money will be repaid.

Money for financial products must be held in trust

49 Dealing with money while it is held in trust

(1) For the purposes of section 87 of the Act, an issuer or offeror—

(a) must ensure that the money is paid promptly into a specified bank to a trust account; and

(b) must ensure that the money is held separate from money held by or for the issuer or offeror on its own account; and

(c) must keep, or ensure that there are kept, trust account records that disclose clearly the position of the money in the trust account; and

(d) must ensure that the trust account records are kept in a manner that enables those records to be conveniently and properly audited, reviewed, or inspected; and

(e) must ensure that the bank and any other interested parties are put on notice that the money in the trust account is trust money.

(2) In this regulation,—

money means the money held in trust under section 87 of the Act

trust account means any account at a bank—

(a) in the name of the issuer, offeror, supervisor, or custodian; and

(b) that is designated as a trust account.

Provisions relating to convertibles

Heading: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

49A Offers of convertible financial products

Regulations 49B to 49F apply to offers referred to in section 44 of the Act (convertible financial products) if—

(a) the convertible is—

(i) a debt security; or

(ii) an equity security; or

(iii) a managed investment product in a managed investment scheme other than a managed fund; and

(b) the issuer of the convertible is—

(i) the issuer of the new product; or

(ii) a related body corporate of the issuer of the new product.

Regulation 49A: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 49A: amended, on 28 October 2016, by regulation 6 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

49B Requirements that apply to convertibles

The requirements in regulations 49C to 49E apply instead of the requirements that would otherwise apply to the offers of the convertible and the new product.

Example

XYZ Limited makes an offer of debt securities that will convert into ordinary shares. XYZ Limited is not a registered bank (*see* regulation 49D).

The convertibles are debt securities, while the new products are equity securities.

The PDS will comply with the requirements for a PDS for debt securities (in Schedule 2) rather than those that apply to equity securities (in Schedule 3). The PDS must include the additional information about the new products that is required by Schedule 2.

The register entry will comply with the requirements for debt securities (in Part 2 of Schedule 2) rather than those that apply to equity securities (in Part 2 of Schedule 3).

Regulation 49B: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 49B: amended, on 28 October 2016, by regulation 7(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 49B example: replaced, on 28 October 2016, by regulation 7(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

49C PDS and register entry requirements

(1) The PDS must comply with—

(a) regulation 22 if the convertibles are debt securities:

(b) regulation 23 if the convertibles are equity securities:

(c) regulation 24(3) and (4) if the convertibles are managed investment products.

(2) The KIS must comply with—

(a) regulation 29(2)(a) if the convertibles are debt securities:

(b) regulation 29(2)(b) if the convertibles are equity securities:

(c) regulation 29(2)(d) if the convertibles are managed investment products.

(3) Despite subclauses (1)(a) and (2)(a), if the convertibles are debt securities and the new products are equity securities or managed investment products,—

(a) regulations 22(3) and 29(2)(a) do not apply; and

(b) the PDS must instead comply with—

(i) regulation 23(2) if the new products are equity securities:

(ii) regulation 24(4) if the new products are managed investment products; and

(c) the KIS must instead comply with—

(i) regulation 29(2)(b) if the new products are equity securities:

(ii) regulation 29(2)(d) if the new products are managed investment products.

(4) The register entry must comply with—

(a) regulation 38 if the convertibles are debt securities:

(b) regulation 39 if the convertibles are equity securities:

(c) regulation 40(2) if the convertibles are managed investment products.

(5) For the purposes of this regulation, unless the context otherwise requires, each reference to the debt securities in Schedule 2, the equity securities in Schedule 3, or the managed investment products in Schedule 5 (as the case may be) is a reference to the convertibles (rather than to the new products).

(6) This regulation does not apply if regulation 49D applies.

Regulation 49C: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

49D Convertible debt securities issued by registered banks

(1) This regulation applies if—

(a) the convertible is a debt security issued by a registered bank; and

(b) the new product is an equity security.

(2) The disclosure document must—

(a) contain all of the information specified in Schedule 9 that is applicable; and

(b) comply with regulation 23(2).

(3) The KIS must comply with regulation 29(2)(b).

(4) The register entry must comply with regulation 38.

(5) Subclause (4) is subject to clause 26 of Schedule 8 (which applies to the register entry with all necessary modifications).

(6) *[Revoked]*

(7) For the purposes of this regulation, unless the context otherwise requires, each reference to the debt securities in Schedule 2 or 9 is a reference to the convertibles (rather than to the new products).

(8) Nothing in regulation 49B or this regulation limits the application of regulation 72 in relation to the offer of the convertible.

Example

ABC Limited (a registered bank) makes an offer of debt securities that will convert into ordinary shares.

The convertibles are debt securities, while the new products are equity securities.

An offer of the debt securities issued by a registered bank does not require disclosure under Part 3 of the Act (*see* clause 21 of Schedule 1 of the Act). Instead, a limited disclosure document (**LDD**) that complies with Schedule 9 is required. However, the offer of the equity securities requires disclosure under Part 3 of the Act.

The disclosure document (which is a PDS for the offer of the equity securities and an LDD for the offer of the debt securities) must comply with the requirements in Schedule 9. Most of the disclosure required by Schedule 9 relates to the debt securities, but that schedule does require some additional information to be included relating to the equity securities.

The register entry for the offer of equity securities must comply with the requirements for debt securities (in Part 2 of Schedule 2) rather than those that apply to equity securities (in Part 2 of Schedule 3).

Regulation 49D: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 49D(2): replaced, on 28 October 2016, by regulation 8(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 49D(5): replaced, on 28 October 2016, by regulation 8(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 49D(6): revoked, on 28 October 2016, by regulation 8(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 49D(8): inserted, on 28 October 2016, by regulation 8(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 49D example: inserted, on 28 October 2016, by regulation 8(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

49E Modification of statement at start of PDS

If the convertibles will be converted into new products in connection with an event or a circumstance relating to the insolvency or a financial difficulty of the issuer, the statement under regulation 20(1)(e) must be in the following form:

"This document gives you important information about this investment to help you decide whether you want to invest. There is other useful information about this offer on [*specify Internet site address of offer register*].

This investment is riskier than a bank deposit.* These [*name of convertibles*] are complex financial products that are not suitable for many investors. If you do not fully understand how they work or the risks associated with them, you should not invest in them. You can seek advice from a financial advice provider to help you make an investment decision.

[*Name of issuer*] has prepared this document in accordance with the Financial Markets Conduct Act 2013."

*Include this sentence if the issuer is a registered bank.

Regulation 49E: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 49E: amended, on 15 March 2021, by regulation 13 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

49F Additional information

(1) The PDS may include additional information if that information is of a kind that would be required or permitted to be disclosed in a PDS if the offer related only to the new products (for example, information about the issuing group of the new products).

(2) The additional information under this regulation may be included in any section of the PDS where the issuer reasonably considers the information is useful to investors.

(3) However, the additional information may be included in the KIS only if it is of a kind that would be required or permitted to be disclosed in a KIS if the offer related only to the new products.

Regulation 49F: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Simplified disclosure offers for listed issuers

Heading: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

49G Simplified disclosure offers for listed issuers

(1) The purpose of this regulation is to define the offers for which—

(a) a simplified disclosure PDS may be used (*see* regulations 22(4) and 23(3)); and

(b) all material information in the register entry is not required (*see* regulation 42A).

(2) An offer of financial products is a **simplified disclosure offer** if—

(a) the offer is an offer—

(i) of debt securities or equity securities that rank equally with, or in priority to, existing quoted products of the issuer; or

(ii) of options referred to in section 43 of the Act where the underlying financial products are equity securities that rank equally with, or in priority to, existing quoted products of the issuer; or

(iii) referred to in section 44 of the Act where—

(A) the convertibles are debt securities or equity securities that rank equally with, or in priority to, existing quoted products of the issuer; and

(B) the new products are debt securities, equity securities, or managed investment products that rank equally with, or in priority to, existing quoted products of the issuer; and

(b) the existing quoted products have been quoted on a licensed market (the **licensed market**) at all times during the 3-month period before the time of the offer; and

(c) trading in the existing quoted products on the licensed market was not suspended for more than a total of 5 trading days during the 3-month period referred to in paragraph (b); and

(d) the market rules of the licensed market contain continuous disclosure provisions; and

(e) the issuer has, at a relevant time, provided a notice that complies with regulation 49H to the licensed market operator that operates the licensed market for the purpose of that notice being notified to the market.

(3) In this regulation,—

existing quoted products means the financial products that are quoted at the time of the offer

relevant time, in relation to an offer of financial products, means—

(a) a time within the 24-hour period before the offer is made; or

(b) an earlier time required by the licensed market operator; or

(c) if a similar notice is also being given for the purposes of an offer of the financial products in Australia, an earlier time required by ASX Limited (a company incorporated in Australia) for giving the similar notice.

(4) In this regulation, a financial product ranks equally with, or in priority to, another financial product if—

(a) it has that ranking on a liquidation of the issuer; and

(b) in the case of equity securities in relation to other equity securities, it has that ranking on a liquidation of the issuer and on the payment of dividends.

Regulation 49G: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

49H Cleansing notice

(1) This regulation applies to a notice under regulation 49G(2)(e).

(2) The notice must—

(a) state that an offer for issue or sale is being made using short-form disclosure; and

(b) state that the notice is provided under regulation 49G(2)(e); and

(c) state that, as at the date of the notice, the issuer is in compliance with the continuous disclosure obligations that apply to it in relation to the existing quoted products; and

(d) state that, as at the date of the notice, the issuer is in compliance with its financial reporting obligations; and

(e) set out the information (if any) that is excluded information as at the date of the notice; and

(f) in the case of an offer involving equity securities, describe—

(i) the potential effect that the offer will have on the control of the issuer; and

(ii) the consequences of that effect.

(3) If the offer is an offer referred to in section 44 of the Act and the convertibles are equity securities, subclause (2)(f) applies to the convertibles and, if the new products are equity securities, subclause (2)(f) also applies to those securities.

(4) The notice must contain information under subclause (2)(e) and (f) only to the extent to which it is material information.

(5) *[Revoked]*

(6) *See* regulation 54A (which provides for the correction of a defect in a notice under this regulation).

(7) In this regulation,—

control has the same meaning as in clause 48 of Schedule 1 of the Act

excluded information means information to which a continuous disclosure obligation would apply but which has not been disclosed under such an obligation as a result of an exclusion in, or a waiver given under, the listing rules for the licensed market upon which the existing quoted products are quoted

existing quoted products means the quoted financial products referred to in regulation 49G(2)

financial reporting obligations, in relation to an issuer, means requirements imposed under—

(a) the Act or another enactment to prepare financial statements or group financial statements in relation to the issuer, its group, or (if it is a manager) a scheme of which it is a manager for the most recently completed accounting period, to have those statements audited, and to lodge or register those statements; and

(b) any listing rules of the licensed market that provide for financial statements to be released to the market for a more recent interim accounting period than the period referred to in paragraph (a).

Regulation 49H: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 49H(5): revoked, on 28 July 2022, by regulation 6(1) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 49H(7) **NXT market**: revoked, on 28 July 2022, by regulation 6(2) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

49I Cleansing notice may not be provided in certain circumstances

(1) A notice under regulation 49H may not be provided under regulation 49G(2)(e) (and, accordingly, the requirements of regulation 49G(2) are not satisfied) if—

(a) the offer is made within 3 months after a change to the essential nature of the issuer's business; or

(b) the offer is made within 3 months after a transaction for which the issuer has provided disclosure to the licensed market as if it were listing on that market; or

(c) the offer is made in connection with enabling—

(i) a change to the essential nature of the issuer's business; or

(ii) a transaction for which the issuer will be required to provide disclosure to the licensed market as if it were listing on that market; or

(d) the FMA has, in the 12-month period before the offer is made, made an order under section 474 of the Act in respect of the issuer.

(2) Regulation 49G is subject to this regulation.

Regulation 49I: inserted, on 1 December 2015, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Subpart 2—Ongoing disclosure and updating of registers

Updating register entry

50 Duty to notify changes to Registrar

(1) For the purposes of section 95 of the Act, the following are prescribed changes:

(a) if, at the time of the change, the PDS for the regulated offer has an open for applications status,—

(i) a change relating to the information disclosed under a relevant clause that makes that information in the register entry incorrect:

(ii) a change of circumstances that has arisen that would have required different information to have been disclosed under a relevant clause had it arisen before the date of the PDS:

(b) a change to an address for communications that is specified in the register entry for the issuer or any other person.

(2) In this regulation, **relevant clause** means,—

(a) in relation to debt securities, clause 63 of Schedule 2:

(b) in relation to equity securities, clause 52 of Schedule 3:

(c) in relation to managed investment products in a managed fund, clause 51 of Schedule 4:

(d) in relation to other managed investment products, clause 47 of Schedule 5:

(e) in relation to derivatives, clause 28 of Schedule 6.

Regulation 50(1)(a)(ii) example: revoked, on 1 December 2015, by regulation 13 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51 Information to be lodged with Registrar for updating register

For the purposes of section 96 of the Act, an issuer of—

(a) debt securities must lodge with the Registrar the information specified in clause 67 of Schedule 2 within the time specified in that clause:

(b) equity securities must lodge with the Registrar the information specified in clause 55 of Schedule 3 within the time specified in that clause:

(c) managed investment products in a managed fund must lodge with the Registrar the information specified in clause 54 of Schedule 4 within the time specified in that clause.

52 Confirmation notice

(1) For the purposes of section 97 of the Act, an issuer of regulated products must, at the times referred to in regulations 52A and 52B, lodge with the Registrar—

(a) a confirmation notice; and

(b) evidence of the board's consent to the lodgement of the confirmation notice (being consent that is given no more than 5 working days before that lodgement).

(2) The confirmation notice must confirm that, as at the date of the board's consent to the lodgement of the notice, an offeror is not prohibited under section 82(1) of the Act from offering, or continuing to offer, financial products under the regulated offer.

(3) Evidence of the board's consent under this regulation may include a statement of the board's consent to the lodgement that is signed on behalf of the board—

(a) by 2 directors of the issuer; or

(b) if the issuer has only 1 director, by that director.

(4) Subclause (3) does not limit the form that the evidence may take.

Regulation 52: replaced, on 1 June 2016, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

52A Annual confirmation notice

(1) A confirmation notice and evidence under regulation 52 must be lodged with the Registrar in each year not later than 1 month after the confirmation date.

(2) However, this regulation applies only if, at the confirmation date, at least 1 PDS on the register entry has an open for applications status.

(3) In this regulation and regulation 52B, **confirmation date**, in relation to an issuer and a register entry, means—

(a) the anniversary in each year of the date of lodgement of the PDS on the register entry (or, if more than 1 PDS has been lodged, the anniversary in each year of the date of lodgement of the first PDS); or

(b) any other date that the issuer adopts as the confirmation date (*see* subclause (4)).

(4) A date that is adopted under subclause (3)(b) is effective only if—

(a) the date is notified to the Registrar; and

(b) in the case of a date that is adopted as the first confirmation date for the register entry, the period between the date of lodgement of the PDS referred to in subclause (3)(a) and the date that is adopted does not exceed 13 months; and

(c) the period between any 2 confirmation dates does not exceed 13 months.

Regulation 52A: inserted, on 1 June 2016, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

52B Supplementary confirmation notice if PDS, fund, or option opens after being closed

(1) This regulation applies if—

(a) a PDS—

(i) has a closed for applications status; and

(ii) at the most recent confirmation date, had a closed for applications status; or

(b) a specified fund in a managed fund, a multi-fund investment option, or a life cycle investment option that is covered by a PDS—

(i) has a closed to all investment status; and

(ii) at the most recent confirmation date, had a closed to all investment status.

(2) A confirmation notice and evidence under regulation 52 must be lodged with the Registrar before—

(a) the status of the PDS changes to an open for applications status; or

(b) the status of the specified fund or option changes to an open status or a closed to new investors status.

Regulation 52B: inserted, on 1 June 2016, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 52B heading: amended, on 9 August 2017, by regulation 6(1) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 52B(1): replaced, on 9 August 2017, by regulation 6(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 52B(2)(b): amended, on 9 August 2017, by regulation 6(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Request disclosure

53 Issuer must make information available on request

(1) This regulation applies if a disclosure document, a register entry, or an entry in the scheme register contains a statement to the effect that a document or other information is available from an issuer on a request that is made by a particular person or a person of a particular class (**A**).

(2) For the purposes of section 96 of the Act, the issuer must, after receiving a request from A, provide the document or other information to A as soon as practicable but, in any event, within 5 working days after the issuer receives the request.

(3) The document or other information must be provided by giving it to A or delivering or sending it to A's address.

(4) The document or other information must be provided free of charge (unless a charge is otherwise expressly permitted by these regulations).

53A Certain members of defined benefit schemes may request information

(1) This regulation applies if a member of a defined benefit scheme to whom contributions are not allocated on a defined basis (**A**) requests from the issuer 1 or more of the following:

(a) an estimate of A's benefits:

(b) a copy of a report of an actuary required under section 169 of the Act:

(c) a statement of the specific interest, mortality, and other assumptions and bases of calculation applied in determining the value of the assets and liabilities of the scheme for the purposes of the actuarial report:

(d) if A is considering a proposed change to A's benefits,—

(i) a statement of the specific interest, mortality, and other assumptions and bases of calculation applied in determining the benefits under consideration; and

(ii) if different assumptions and bases of calculation have been applied in the last 12 months in determining similar benefits to those under consideration, a statement of the reason why different bases and assumptions applied.

(2) For the purposes of section 96 of the Act, the issuer must, after receiving a request from A, provide the document or other information to A as soon as practicable but, in any event, within 5 working days after the issuer receives the request.

(3) The document or other information must be provided by giving it to A or delivering or sending it to A's address.

(4) The document or other information must be provided free of charge.

(5) In this regulation, **proposed change** includes (without limitation)—

(a) an election to convert any benefit into a lump sum:

(b) an election to defer receipt of a benefit:

(c) a change to a benefit regardless of whether or not the benefit is specified in the governing document of the scheme of which A is a member:

(d) an election to convert all or part of a benefit into a benefit to be provided to some other person:

(e) an election to transfer a benefit to another scheme or from one section of a scheme to another section of the same scheme.

Regulation 53A: inserted, on 17 December 2015, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Convertible financial products

54 Disclosure for unquoted convertible financial products where holder has option to convert

(1) This regulation applies in respect of a specified convertible if—

(a) the new product is not quoted at any time at which a product holder may exercise the option to convert; and

(b) the issuer becomes aware—

(i) that a statement in the PDS, any application form that accompanies the PDS, or the register entry is false or misleading or is likely to mislead; or

(ii) that there is an omission from the PDS, or the register entry, of information that is required to be contained in the PDS, or the register entry, by the Act or these regulations; or

(iii) of a circumstance that has arisen since the PDS was lodged with the Registrar that would have been required by the Act or these regulations to be disclosed or otherwise contained in the PDS, or the register entry, if it had arisen before the PDS was lodged, and the circumstance is not so disclosed or otherwise contained in the PDS or the register entry; and

(c) the matter referred to in paragraph (b) is materially adverse from the point of view of an investor.

(2) For the purposes of section 96 of the Act, the issuer must, as soon as practicable after becoming aware of the matter in subclause (1)(b), send a copy of a correcting document (or a notice of how to obtain a copy of a correcting document) to all product holders of the specified convertible.

(3) For the purposes of section 97 of the Act, the issuer must, as soon as practicable after becoming aware of the matter in subclause (1)(b), make publicly available a correcting document.

(4) *See* regulation 5(3) (which defines publicly available).

(5) In this regulation,—

correcting document, in relation to a deficiency referred to in subclause (1)(b), means a document that—

(a) corrects the deficiency; and

(b) states the reason why this regulation applies

option to convert means the option of the product holder referred to in the definition of specified convertible

PDS means the PDS for the offer of the specified convertible

register entry means the register entry for the offer of the specified convertible

specified convertible means a convertible that will be converted, or is or may become convertible, into another financial product at the option of the product holder (whether or not the financial product will be converted, or is or may become convertible, in any other circumstances).

Regulation 54(1): amended, on 1 December 2015, by regulation 16(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 54(2): amended, on 1 December 2015, by regulation 16(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 54(5): replaced, on 1 December 2015, by regulation 16(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Correcting defective cleansing notice

Heading: inserted, on 1 December 2015, by regulation 17 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

54A Correcting defective cleansing notice

(1) This regulation applies if—

(a) a notice to which regulation 49H applies is defective; and

(b) the issuer becomes aware of the defect in the notice before the close of the offer to which the notice relates.

(2) For the purposes of section 97 of the Act, the issuer must, within a reasonable time after becoming aware of the defect, provide a notice to the licensed market operator that sets out the information necessary to correct the defect

(for the purpose of the licensed market operator notifying that information to the market).

(3) For the purposes of section 98(2)(b) of the Act, section 98(1) of the Act does not apply to information provided under this regulation.

(4) In this regulation, a notice is **defective** if—

(a) there is—

(i) a statement in the notice that is false or misleading or that is likely to mislead; or

(ii) an omission from the notice of information that is required to be contained in the notice by regulation 49H; or

(iii) a circumstance that has arisen since the notice was provided to the licensed market operator that would have been required by regulation 49H to be contained in the notice if it had arisen before the notice was provided, and the circumstance is not so contained in the notice; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

Regulation 54A: inserted, on 1 December 2015, by regulation 17 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Event disclosures

55 Event disclosures to be made publicly available

(1) For the purposes of section 97 of the Act, an issuer of—

(a) debt securities must make the information specified in clause 68 of Schedule 2 publicly available within the time specified in that clause:

(b) equity securities must make the information specified in clause 56 of Schedule 3 publicly available within the time specified in that clause:

(c) managed investment products in a scheme (other than a managed fund) must make the information specified in clause 52 of Schedule 5 publicly available within the time specified in clause 51 of that schedule.

(2) *See* regulation 5(3) (which defines publicly available).

Fund updates for managed funds

56 Duty to make fund update publicly available

(1) Every manager of a registered scheme that is a managed fund must make publicly available, within 20 working days after the last day of each quarter of each disclosure year,—

(a) a fund update for each specified fund in the registered scheme; and

(b) a fund update for each specified multi-fund investment option in the registered scheme; and

(c) a fund update for each specified life cycle stage in a life cycle investment option in the registered scheme.

(2) However, if the managed fund is a restricted scheme or a closed scheme or the managed fund has a closed section,—

(a) subclause (1) does not apply to the restricted scheme, closed scheme, or closed section; and

(b) the manager must make a fund update for each specified fund, specified multi-fund investment option, and specified life cycle stage in that scheme or section publicly available within 3 months after—

(i) the last day of each disclosure year; or

(ii) the balance date of the scheme in each year.

(2A) If a managed fund is a defined benefit scheme, subclause (1) or (2) applies if, and only if, contributions are allocated on a defined basis to any member.

(2B) If a specified fund, specified multi-fund investment option, or specified life cycle stage relates to both a closed section and an open section of a superannuation scheme or workplace savings scheme, the manager must,—

(a) for the purposes of the open section, make the fund update for the fund, option, or stage publicly available in accordance with subclause (1); and

(b) for the purposes of the closed section, make the fund update for the fund, option, or stage publicly available in accordance with subclause (2)(b).

(2C) This regulation does not apply to a registered scheme referred to in regulation 63AA(1).

(3) This regulation and regulations 57 to 61 apply for the purposes of section 97 of the Act.

(4) *See* regulation 5(3) (which defines publicly available).

(5) In this regulation,—

closed scheme means a superannuation scheme, or workplace savings scheme, that—

(a) was closed to new members on its registration as a registered scheme; and

(b) remains closed to new members

closed section means a section of a superannuation scheme, or workplace savings scheme, that—

(a) was closed to new members on the scheme's registration as a registered scheme; and

(b) remains closed to new members

open section means a section of a superannuation scheme, or workplace savings scheme, that is not a closed section

working day means a day that is not—

(a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, or Waitangi Day; or

(b) a day in the period commencing on 25 December in one year and ending on 15 January in the next year; or

(c) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.

Regulation 56(1): replaced, on 17 December 2015, by regulation 18(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 56(2): replaced, on 28 October 2016, by regulation 9(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 56(2A): inserted, on 17 December 2015, by regulation 18(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 56(2B): inserted, on 28 October 2016, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 56(2C): inserted, on 12 June 2025, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 56(5): replaced, on 28 October 2016, by regulation 9(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 56(5) **working day** paragraph (a): amended, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

57 Information at start of fund update

Every fund update must, at the start of the fund update,—

(a) include, in a prominent position, the words "Fund Update" (or, in the case of a specified multi-fund investment option or life cycle stage, the words "Investment update"); and

(b) identify the fund, investment option, or stage to which the fund update relates; and

(c) identify the registered scheme to which that fund, investment option, or stage relates; and

(d) identify, in the case of—

(i) regulation 56(1), the last day of the quarter as at which the fund update is prepared (being the most recently completed quarter):

(ii) regulation 56(2), the last day of the disclosure year or the balance date of the scheme as at which the fund update is prepared (being the last day of the most recently completed disclosure year or the most recent balance date); and

(e) state the date on which the fund update is first made publicly available.

Regulation 57(a): amended, on 17 December 2015, by regulation 19(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 57(b): amended, on 17 December 2015, by regulation 19(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 57(c): amended, on 17 December 2015, by regulation 19(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

58 Content of fund update for funds

Every fund update for a fund must contain all of the information specified in Part 4 of Schedule 4 that is applicable.

Regulation 58: replaced, on 17 December 2015, by regulation 20 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

58A Content of fund update for specified multi-fund investment option or specified life cycle stage

(1) Every fund update for a specified multi-fund investment option or specified life cycle stage must contain all of the information specified in Part 4 of Schedule 4 that is applicable (applied with all necessary modifications as if the investment option or stage were a fund).

(2) However, if the manager reasonably considers that it is likely to be useful to investors, the information in clauses 67 to 72 of Schedule 4 may (instead of being provided as would otherwise be required by subclause (1)) be—

(a) set out on a per-fund basis (that is, on a basis relating to the funds to which the specified multi-fund investment option or specified life cycle stage relates); or

(b) incorporated by reference to a relevant fund update for each fund to which the specified multi-fund investment option or specified life cycle stage relates.

(3) In this regulation, **relevant fund update** means a fund update that is publicly available and is prepared as at the same date as the fund update for the specified multi-fund investment option or specified life cycle stage.

Regulation 58A: inserted, on 17 December 2015, by regulation 20 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

59 Templates

(1) A fund update must disclose the required or permitted information in the same format as in the templates for that fund update that are set out in an applicable framework or methodology (if any).

(2) A fund update must—

(a) round figures to 2 decimal places, or more if additional decimal places are necessary to ensure that the fund update is not misleading or are necessary to provide the required or permitted information; and

(b) present the required or permitted information in the same order as in the relevant template; and

(c) contain no information other than the required or permitted information.

(3) A fund update does not fail to comply with subclause (2)(c) merely because the fund update contains additional information that is necessary—

(a) to clarify the required or permitted information; or

(b) to put the required or permitted information in context to ensure that the information that is disclosed is not false or misleading.

(4) A fund update does not fail to comply with subclause (1) merely because the fund update deviates from a template in the following ways:

(a) uses a different font and size, as long as it is easily readable:

(b) uses different borders, shading, colours, and other minor formatting variations:

(c) includes 1 or more of the following:

(i) the registered scheme's or issuer's brand or logo, provided that it is not distracting:

(ii) contact information for the registered scheme, provided that it is not distracting:

(iii) a reference or a link, or both, to the PDS or other relevant documents:

(d) presents information side by side, uses columns, or uses more of the page than the template:

(e) contains minor variations from the format in the template if this is necessary to ensure that the fund update is not false or misleading.

(5) In this regulation, **required or permitted information** means the information that is required or permitted to be contained in the fund update by these regulations or an exemption.

60 How long fund updates must be publicly available

The manager of a registered scheme must—

(a) ensure that each fund update is publicly available for a period of not less than 2 years; and

(b) after the fund update ceases to be publicly available under paragraph (a), ensure that the Internet site maintained by, or on behalf of, the manager prominently displays a link to the place on the offer register where previous fund updates can be obtained.

61 Revised fund update to be made publicly available in certain circumstances

(1) This regulation applies if—

(a) there is—

(i) a statement in a fund update that is false or misleading or is likely to mislead; or

(ii) an omission from a fund update of information that is required to be contained in the fund update by these regulations; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

(2) For the purposes of this regulation, a statement about a future matter (including the doing of, or the refusal to do, an act) must be taken to be misleading if the person making the statement does not have reasonable grounds for making it.

(3) The manager of the registered scheme must, as soon as practicable after the manager becomes aware of the deficiency,—

(a) remove the fund update from the Internet site maintained by, or on behalf of, the manager; and

(b) prepare a replacement fund update that corrects the deficiency; and

(c) make the replacement fund update publicly available; and

(d) ensure that, at the beginning of a replacement fund update, there is—

(i) a statement that it is a replacement fund update; and

(ii) an identification of the 1 or more fund updates that it replaces; and

(iii) a summary of the changes that have been made.

61A Fund update must be given if PDS incorporates it by reference

(1) This regulation applies if a PDS for an offer of managed investment products in a managed fund incorporates by reference a relevant fund update for a fund or other investment option (the **fund or option**) as referred to in clause 8A of Schedule 4.

(2) For the purposes of section 96 of the Act, the manager of the managed fund must, before accepting contributions to, or investments in, the fund or option in respect of a retail investor, give the relevant fund update to the retail investor.

(3) In this regulation, a **relevant fund update** means a fund update for the fund or option that—

(a) is one of the 4 fund updates most recently made publicly available or (if regulation 56(2) applies) the fund update most recently made publicly available; and

(b) includes the information required in the PDS by clauses 28, 33, and 37 of Schedule 4 for the fund or option (to the extent that the information is not contained in the PDS).

Regulation 61A: inserted, on 17 December 2015, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

61AA Fund update requirements apply to foreign passport funds

If interests in a foreign passport fund are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, regulations 56 to 61A of these regulations apply with all necessary modifications as if the fund were a registered scheme that is a managed fund.

Regulation 61AA: inserted, on 14 June 2019, by regulation 7 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Annual reports to be made available by e-reporting entities

Heading: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

61B Interpretation

In this regulation and regulations 61C to 61F,—

annual report has the same meaning as in section 209C of the Companies Act 1993

e-reporting entity has the meaning set out in regulation 61C

shareholder has the same meaning as in section 96 of the Companies Act 1993.

Regulation 61B: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

61C What is an e-reporting entity

(1) An FMC reporting entity is an **e-reporting entity** for an accounting period if the entity—

(a) is a company that is required by section 208 of the Companies Act 1993 to prepare an annual report for that period; and

(b) is an issuer of equity securities that are regulated products.

(2) Any other FMC reporting entity is an **e-reporting entity** for an accounting period if the entity—

(a) is a company that is required by section 208 of the Companies Act 1993 to prepare an annual report for that period; and

(b) has elected under section 209C(3) of the Companies Act 1993 to comply with regulations 61D to 61F in relation to that annual report.

Regulation 61C: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

61D Annual report to be publicly available

(1) An e-reporting entity for an accounting period must make its annual report for that period available in accordance with this regulation.

(2) The report must be available, free of charge, on an Internet site maintained by, or on behalf of, the entity in a way that ensures that—

(a) the report is prominently displayed on the site; and

(b) members of the public can easily access the report at all reasonable times.

(3) The report must—

(a) be made available on the site as soon as practicable after it is prepared, but in any event—

(i) not less than 20 working days before the date fixed for the entity's annual meeting of shareholders for the accounting period; or

(ii) if the entity is not required to hold an annual meeting of shareholders for that period, not more than 20 working days after the annual report for the period is prepared; and

(b) remain available for at least 5 years after it is first made available.

(4) This regulation applies for the purposes of section 97 of the Act.

Regulation 61D: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 61D(3)(a): replaced, on 7 June 2018, by regulation 4 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

61E Notice to shareholders

(1) An e-reporting entity for an accounting period must send a notice to every notifiable shareholder of the entity.

(2) A person is a **notifiable shareholder** for an accounting period if—

(a) the person is a shareholder of the entity on—

(i) a date fixed by the board of the entity for the purpose (being a date that is no more than 20 working days before the last date by which the notice for that period must be sent under subclause (4)); or

(ii) the working day before the last date by which the notice for that period must be sent under subclause (4) (if the board of the entity has not fixed a date under subparagraph (i)); and

(b) either—

(i) the entity has not previously sent the shareholder a notice under this regulation; or

(ii) the entity was not an e-reporting entity for 1 or more accounting periods since the shareholder was last sent a notice under this regulation.

(3) The notice must set out the following:

(a) a statement to the effect that the entity's annual report for the accounting period is or will be publicly available on an Internet site maintained by, or on behalf of, the entity:

(b) the URL of that site:

(c) a statement to the effect that the entity's annual reports for all future accounting periods for which it is an e-reporting entity will be publicly available on that site as required by regulation 61D:

(d) a statement to the effect that the shareholder may, at any time, request a free copy (as a hard copy or an electronic copy) of the most recent and future annual reports.

(4) The notice must be sent—

(a) not less than 20 working days before the date fixed for the entity's annual meeting of shareholders for the accounting period; or

(b) if the entity is not required to hold an annual meeting of shareholders for that period, not more than 20 working days after the annual report for the period is prepared.

(5) The notice may be—

(a) sent on behalf of the entity by another person (such as the person who maintains the entity's share register); and

(b) combined with a notice given under this regulation by 1 or more other e-reporting entities.

(6) The notice may be sent electronically if section 391(3A) of the Companies Act 1993 allows the entity to send notices to the shareholder by electronic means.

(7) This regulation applies for the purposes of section 96 of the Act.

Regulation 61E: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 61E(2)(a): replaced, on 7 June 2018, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

61F Copies of annual report to be provided to shareholders on request

(1) If a shareholder of an e-reporting entity requests an annual report from the entity, the entity must—

(a) send its most recent annual report to the shareholder as soon as practicable after receiving the request; and

(b) send its annual report for each future accounting period to the shareholder as soon as practicable after the report is prepared.

(2) The annual reports must be sent to the shareholder as a hard copy or an electronic copy as requested by the shareholder.

(3) Subclause (1)(b) ceases to apply if any of the following occurs:

(a) the shareholder revokes the request:

(b) the person ceases to be a shareholder:

(c) the entity is not an e-reporting entity for 1 or more accounting periods.

(4) This regulation applies for the purposes of section 96 of the Act.

Regulation 61F: inserted, on 9 August 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Annual report for registered scheme

62 Annual report

(1) For the purposes of section 96 of the Act, every manager of a registered scheme must,—

(a) within 4 months after each balance date of the scheme, prepare an annual report on the affairs of the scheme during the accounting period ending on that date; and

(b) within 28 days after the annual report is prepared, send to every scheme participant—

(i) a copy of the annual report; or

(ii) a notice containing the statements specified in subclause (2).

(2) The notice referred to in subclause (1)(b)(ii) must contain—

(a) a statement to the effect that the scheme participant has a right to receive from the manager, free of charge, a copy of the annual report if the scheme participant, within 15 working days of receiving the notice, makes a request to the manager to receive a copy of the annual report; and

(b) a statement to the effect that the scheme participant may obtain a copy of the annual report by electronic means; and

(c) a statement as to how the scheme participant may obtain a copy of the annual report by electronic means (for example, from the address of the offer register).

(3) For the purposes of section 97 of the Act, a manager of a registered scheme must lodge with the Registrar each annual report prepared in respect of the scheme under this regulation (and that report must be so lodged within 28 days after it is prepared).

63 Content of annual report

Every annual report under regulation 62 must contain,—

(a) in the case of a managed fund, all of the information specified in Part 5 of Schedule 4 that is applicable:

(b) in the case of any other scheme, all of the information specified in Part 4 of Schedule 5 that is applicable.

63AA Additional information for certain defined benefit schemes

(1) This regulation applies to a restricted scheme in respect of a period if—

(a) the scheme is a defined benefit scheme; and

(b) contributions are allocated on a defined basis to any member; and

(c) the scheme has either or both of the following characteristics:

(i) it provides for members to receive an interest-based withdrawal benefit:

(ii) it provides for members to have voluntary contribution accounts; and

(d) at any time during the period, 1 or more members of the scheme are entitled to receive an interest-based withdrawal benefit or have a voluntary contribution account.

(2) If, as at the end of the period, 1 or more members of the scheme are entitled to receive an interest-based withdrawal benefit or have a voluntary contribution account, the manager must—

(a) include a statement in or with the annual report to the effect that—

(i) the manager is not required to provide a fund update under regulation 56(2)(b); and

(ii) the manager will instead supply alternative information to each member who is entitled to receive an interest-based withdrawal benefit or has a voluntary contribution account; and

(b) include the following additional information in or with the annual report that is sent to each of those members:

(i) the annual net return credited to the member's account for the accounting period to which the annual report relates; and

(ii) a pie graph or table showing, as at the balance date of that accounting period, the target asset mix of the scheme according to the asset categories specified in clause 1(4) of Schedule 4.

(3) This regulation applies for the purposes of section 96 of the Act.

(4) In this regulation,—

annual report means the annual report required by regulation 62

net return means the rate of interest actually allocated to the member's account after deductions for fund charges, trading expenses, and accrued tax

period means a 12-month period ending on the last day of a disclosure year or the balance date of the scheme.

Regulation 63AA: inserted, on 12 June 2025, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Passport funds

Heading: inserted, on 14 June 2019, by regulation 8 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

63A Annual report requirements apply to foreign passport funds

(1) If interests in a foreign passport fund are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, regulation 62(1) and (2) applies with all necessary modifications as if the fund were a registered scheme that is a managed fund.

(2) However, the documents referred to in regulation 62(1)(b) are only required to be sent to a scheme participant if the participant is—

(a) resident in New Zealand (in the case of a natural person); or

(b) incorporated in, or established under the laws of, New Zealand.

(3) The annual report of the foreign passport fund must contain all of the information specified in Part 5 of Schedule 4 that is applicable (as modified in accordance with Part 6 of Schedule 4).

(4) For the purposes of section 97 of the Act, a manager of a foreign passport fund must ensure that each annual report prepared in respect of the fund under regulation 62 is available on the register entry for the offer on and after the date that is 28 days after it is prepared.

Regulation 63A: inserted, on 14 June 2019, by regulation 8 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

63B Manager of passport fund must lodge certain information

(1) For the purposes of section 97 of the Act, if a registered scheme becomes registered as a passport fund (*see* regulations 82A and 82B), the manager must, as soon as practicable, lodge with the Registrar the following (for inclusion on the scheme register):

(a) an indication of the scheme's status as a passport fund:

(b) the information referred to in section 7 of Annex 2 of the memorandum of cooperation, including the Part A information set out in Schedule 27 of these regulations, subject to the exceptions referred to in section 7(1)(a) of Annex 2 (*see* section 3(2)(a) of Annex 2).

(2) If regulation 82B(3) applies, the Part A information set out in Schedule 27 must be provided under subclause (1)(b) in relation to each relevant fund instead of in relation to the scheme (and, for that purpose, Schedule 27 applies with all necessary modifications as if each relevant fund were a scheme).

Regulation 63B: inserted, on 14 June 2019, by regulation 8 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

63C Manager of passport fund must lodge information for updating scheme register

(1) This regulation applies if—

(a) the information referred to in section 7 of Annex 2 of the memorandum of cooperation that is recorded in the scheme register in relation to a passport fund has changed; or

(b) a change of circumstances has arisen that would have required different information to have been lodged under regulation 63B had it arisen before the information was lodged.

(2) For the purposes of section 97 of the Act, the manager of the passport fund must, within 5 working days after becoming aware of the matter referred to in subclause (1), lodge with the Registrar information to update the information recorded in the scheme register.

Example

Regulation 63B and section 7 of Annex 2 of the memorandum of cooperation provide for the scheme register to include a list of the host economies in which the passport fund has completed the entry process under the memorandum.

After becoming registered as a passport fund, ABC Fund has completed the entry process in Japan. The manager of ABC Fund must lodge information with the Registrar to update the list on the scheme register.

Regulation 63C: inserted, on 14 June 2019, by regulation 8 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Annual report for issuer of equity securities

64 Annual report for issuer of equity securities must compare prospective financial information with actual results

(1) This regulation applies to an issuer of equity securities that includes in a PDS for an offer of the securities prospective financial information under clause 35 or 39A of Schedule 3.

(2) For the purposes of section 96 of the Act, the issuer must include, in its annual report that is made available to its shareholders for a relevant period (if any), a restatement of the prospective financial information referred to in subclause (1) for the relevant period together with a comparison with the corresponding actual financial information for that period.

(3) In the case of prospective financial information included under clause 35 of Schedule 3, the actual financial information must be stated in the same form as is required for the table under that clause and must comply with the requirements that apply to the information that is included under that clause.

(3A) In the case of prospective financial information included under clause 39A of Schedule 3, the actual financial information must be prepared on the same

basis as, and presented in a comparable form to, the prospective financial information included under that clause.

(4) In this regulation, **relevant period** means a period in respect of which prospective financial information is included in the PDS referred to in subclause (1).

Regulation 64(1): amended, on 12 June 2025, by regulation 7(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 64(2): amended, on 12 June 2025, by regulation 7(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 64(3): replaced, on 12 June 2025, by regulation 7(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 64(3A): inserted, on 12 June 2025, by regulation 7(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

KiwiSaver fees information

Heading: inserted, on 21 April 2017, by regulation 4 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

64A Information relating to KiwiSaver fees to be published

For the purposes of section 97 of the Act, the manager of a KiwiSaver scheme must, on or before the date on which the confirmation information described in regulation 70(2) is provided to scheme participants, publish on an Internet site maintained by or on behalf of the manager—

(a) the method used for calculating the approximate total sum of fees referred to in regulation 70(2)(c); and

(b) a description of the information and assumptions used to estimate any fee or charge in accordance with regulation 70A(2); and

(c) if any information relating to fund charges is omitted under regulation 70A(3)(b) from the confirmation information provided to 1 or more scheme participants, a statement—

(i) specifying the underlying funds for which information is omitted and, if available, the proportion of the specified fund's net asset value that those underlying funds represent; and

(ii) if known, specifying which types of fund charges are omitted.

Regulation 64A: inserted, on 21 April 2017, by regulation 4 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

Confirmation

65 When confirmation information is provided

(1) For the purposes of section 100(1) of the Act, the prescribed circumstances are—

(a) when a regulated product is issued to a person (other than a wholesale investor); or

(b) when a regulated product is transferred to a person (other than a wholesale investor); or

(c) when a regulated product held by a person (other than a wholesale investor) is redeemed.

(2) *See* the definition of wholesale investor in regulation 5(5A).

(3) Regulations 66 to 68 apply for the purposes of confirmation in the circumstances specified in subclause (1).

(4) This regulation and regulations 66 to 68—

(a) do not apply to KiwiSaver schemes, superannuation schemes, or workplace savings schemes:

(b) apply to a regulated product that is a derivative only when the derivative is issued.

Regulation 65(2): replaced, on 1 December 2015, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

66 Who provides confirmation information

(1) The issuer of the regulated product must provide the confirmation information to the product holder.

(2) However, if a transfer referred to in regulation 65(1)(b) is under an offer referred to in section 40 of the Act (sale offers that need disclosure), the offeror of the regulated product (rather than the issuer) must provide the confirmation information to the product holder.

67 Confirmation information

(1) The confirmation information that must be provided is, in relation to a transaction referred to in regulation 65(1)(a) to (c), the information that the issuer (or offeror) reasonably believes the product holder needs in order to have a reasonable understanding of the nature of the transaction (having regard to the information the product holder has received before the transaction).

(2) The confirmation information must—

(a) include a brief description of the transaction and the parties to the transaction (and of the issuer if the issuer is not a party); and

(b) identify the financial products involved; and

(c) state the price per financial product if known at the relevant time (and if the transaction relates to more than 1 financial product); and

(d) state the number or amount of financial products; and

(e) state any fees or costs deducted if known at the relevant time; and

(f) state the total amount paid or payable for the transaction if known at the relevant time; and

(g) state the date of the transaction.

(3) In this regulation and regulation 68,—

relevant time means the time when the confirmation information is first made available

transaction means a transaction involving the issue, transfer, or redemption of regulated products.

68 How confirmation information is provided

(1) The confirmation information must be provided to the product holder—

(a) by making it available through an electronic facility on a substantially continuous basis (but only if the product holder has agreed to this method); or

(b) by giving it to the product holder or delivering or sending it to the product holder's address not later than 20 working days after the last day of each reporting period in each year (but only if the products were issued under a continuous issue PDS and the product holder has agreed to this method); or

(c) by giving it to the product holder or delivering or sending it to the product holder's address not later than 5 working days after a financial product is issued or transferred or redeemed.

(2) In the case of a transfer from one investor (**A**) to another investor (**B**), **product holder** means—

(a) both A and B; or

(b) in the case of regulation 66(2), B.

(3) For the purposes of subclause (1)(a), the information must cover the transactions entered into in the period starting when regulation 65 first applies to the issuer or offeror of the regulated product in respect of the product holder and ending at a stated time that is not earlier than 48 hours before the information is made available.

(4) For the purposes of subclause (1)(b), the following apply:

(a) the information must cover the transactions entered into in the last reporting period:

(b) the information must state the reporting period that it covers:

(c) no information is required to be made available under that paragraph for a reporting period if no transactions are entered into in that period:

(d) the requirement in that paragraph for the product holder to agree to the method does not apply if, before 1 December 2014 or during the transition period, the issuer provided similar information to the product holder on a periodic basis in accordance with the former enactments (for example, under the Securities Act (Unit Trust Certificates) Exemption Notice 2012).

(4A) In subclause (4)(d), **former enactments** and **transition period** have the same meanings as in clause 16(1) of Schedule 4 of the Act.

(5) In this regulation, **reporting period** means each 6-month period of a year (where each period ends on the date that the issuer determines).

Regulation 68(1)(a): amended, on 1 December 2015, by regulation 23(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 68(1)(b): amended, on 12 June 2025, by regulation 8 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 68(4)(d): replaced, on 1 December 2015, by regulation 23(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 68(4A): inserted, on 1 December 2015, by regulation 23(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

69 Confirmation for KiwiSaver schemes, superannuation schemes, and workplace savings schemes

(1) This regulation applies to KiwiSaver schemes, superannuation schemes, and workplace savings schemes.

(2) For the purposes of section 100(1) of the Act, a prescribed circumstance is the expiry of an accounting period of the KiwiSaver scheme, superannuation scheme, or workplace savings scheme.

(3) Regulations 70 to 71 apply for the purposes of confirmation in the circumstance specified in subclause (2).

Regulation 69(3): amended, on 21 April 2017, by regulation 5 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

70 Confirmation information for KiwiSaver schemes

(1) This regulation applies to KiwiSaver schemes.

(2) The confirmation information that must be provided is, in relation to the accounting period that has expired and a particular scheme participant (**A**),—

(a) A's balance in the scheme at the relevant date and at the end of the period; and

(b) the difference, expressed as a dollar amount, between A's balance in the scheme at the relevant date and at the end of the period (but *see* subclause (3)); and

(c) the approximate total sum, expressed as a dollar amount, of the fees charged to A for the period; and

(d) the approximate total sum, expressed as a dollar amount (whether positive or negative), of each type of transaction that occurred during the period; and

(e) if, in accordance with regulation 70A(2)E, an estimate is used to calculate fees charged to A,—

(i) a statement of the fees or costs that are estimated; and

(ii) an explanatory note stating that an estimate has been used; and

(f) if, in accordance with regulation 70A(3)(b), fund charges charged in respect of underlying funds have been omitted, a statement recording that the manager is unable to determine those fund charges.

(3) For the purposes of subclause (2)(b),—

(a) the confirmation information must identify the relevant date; and

(b) if there is no difference between A's balance in the scheme at the relevant date and at the end of the accounting period, the confirmation information must include a statement to that effect.

(4) For the purposes of subclause (2)(c), fees must be calculated—

(a) net of rebates that are paid or payable to the fund; and

(b) in accordance with an applicable framework or methodology (if any).

(5) In this regulation,—

fees means—

(a) fund charges; and

(b) individual action fees (as defined in clause 2(1) of Schedule 4); and

(c) other charges (as defined in clause 2(1) of Schedule 4)

relevant date means—

(a) the date on which the accounting period started; or

(b) if A became a member of the scheme during the accounting period, the date on which A became a member

type of transaction

(a) means—

(i) contributions to the scheme in respect of A; and

(ii) returns; and

(iii) tax withdrawals or credits; and

(iv) permitted withdrawals (as defined in section 4(1) of the KiwiSaver Act 2006); and

(v) transfers of money into the scheme from another retirement scheme; and

(vi) any other movement of money that results in an increase or decrease to A's balance in the scheme; but

(b) excludes fees charged to A.

Regulation 70: replaced, on 21 April 2017, by regulation 6 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

70A Requirements if fees required as confirmation information cannot be determined

(1) For the purposes of calculating the fund charges, individual action fees, and other charges referred to in regulation 70, the actual figures for fees and costs in the accounting period must be used or, if actual figures are not available (for example, if underlying fund charges are not available), the best estimate of those figures must be used.

(2) If estimates are used, the estimates must be made by the manager on the basis of the information available after the manager has made reasonable endeavours to obtain all relevant information.

(3) If, after the manager has made reasonable endeavours to obtain all relevant information, the manager cannot make a reasonable estimate of the fund charges charged in respect of 1 or more underlying funds because of a lack of information,—

(a) all known fund charges must be included in the confirmation information; and

(b) other fund charges charged in respect of the underlying funds may be omitted from the confirmation information.

Regulation 70A: inserted, on 21 April 2017, by regulation 6 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

70B Confirmation information for superannuation schemes and workplace savings schemes

(1) Subclause (2) applies to superannuation schemes and workplace savings schemes other than defined benefit schemes that are restricted schemes.

(2) The confirmation information that must be provided is, in relation to the accounting period that has expired and a particular scheme participant (**A**),—

(a) A's balance in the scheme at the start and at the end of the period; and

(b) the amount of each type of contribution received by the manager in respect of A during the period.

(3) Subclause (4) applies to superannuation schemes and workplace savings schemes that are both of the following:

(a) a defined benefit scheme:

(b) a restricted scheme.

(4) The confirmation information that must be provided is, in relation to the accounting period that has expired and a particular member (**A**), the following to the extent that it is applicable:

(a) A's voluntary contribution account balance at the start and at the end of the period:

(b) the amount of contributions credited to that account during the period:

(c) if A has not yet reached the retirement benefit qualification age, A's interest-based withdrawal benefit as at the end of the period as calculated under the governing document for the scheme:

(d) if A has reached the retirement benefit qualification age but is not receiving a retirement benefit, A's retirement benefit as at the end of the accounting period as calculated under the governing document for the scheme:

(e) if A is receiving a retirement benefit,—

(i) the total retirement benefit payments made to A during the accounting period; and

(ii) A's retirement benefit entitlement for each payment period as at the end of the accounting period.

(5) In this regulation,—

interest-based withdrawal benefit means an interest-based withdrawal benefit that a member receives on leaving the service of an employer before the member reaches the retirement benefit qualification age

retirement benefit qualification age means the age at which a member would ordinarily be entitled to receive a retirement benefit under a restricted scheme if they retired from service.

Regulation 70B: inserted, on 21 April 2017, by regulation 6 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

Regulation 70B(1): replaced, on 12 June 2025, by regulation 9(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 70B(3): inserted, on 12 June 2025, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 70B(4): inserted, on 12 June 2025, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 70B(5): inserted, on 12 June 2025, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

71 How confirmation information for KiwiSaver schemes, superannuation schemes, and workplace savings schemes is provided

(1) The confirmation information must, not later than 3 months after the expiry of the scheme's accounting period, be provided to the scheme participant (**A**)—

(a) by making it available through an electronic facility (but only if A has agreed to this method); or

(b) by giving it to A or delivering or sending it to A's address.

(2) However, if the scheme is a restricted scheme, the confirmation information must be provided in accordance with subclause (1) no later than 4 months after the expiry of the scheme's accounting period.

Regulation 71(1)(a): amended, on 1 December 2015, by regulation 24 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 71(2): inserted, on 12 June 2025, by regulation 10 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

71AA Additional information to accompany KiwiSaver confirmation information

(1) This regulation—

(a) applies to KiwiSaver Schemes; and

(b) prescribes information that must be made available under section 96 of the Act.

(2) The following information must be made available to scheme participant A (as defined in regulation 70) in relation to an accounting period in relation to which confirmation information is required to be provided to A under regulation 70:

(a) A's retirement savings and income projections in accordance with clause 1 of Schedule 7A; and

(b) a "Consider your choices" statement in accordance with clause 2 of Schedule 7A.

(3) However,—

(a) if A was not a participant in the scheme for the whole of the accounting period, subclause (2)(a) does not apply:

(b) if A was under 18 years of age at the end of the accounting period,—

(i) subclause (2)(a) and (b) does not apply; but

(ii) the information made available to A must instead include a statement in accordance with clause 3 of Schedule 7A:

(c) if A was 65 years of age or over at the end of the accounting period, subclause (2) does not apply.

(4) The information required to be made available under this clause—

(a) must be made available to A at the same time and in the same manner as the confirmation information is provided under regulation 70; and

(b) must be included in the same document as the confirmation information.

Regulation 71AA: inserted, on 13 June 2019, by regulation 4 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Ongoing confirmation for derivatives investor money or property

Heading: inserted, on 17 December 2015, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

71A Ongoing confirmation for derivatives

(1) This regulation and regulations 71B and 71C—

(a) apply to regulated products that are derivatives; and

(b) do not limit the application of regulations 65 to 68 to derivatives.

(2) For the purposes of section 100(1) of the Act, a prescribed circumstance is the expiry of a reporting period.

(3) Regulations 71B and 71C apply for the purposes of confirmation in the circumstance specified in subclause (2).

(4) If there is no information that is required to be provided under regulation 71B in relation to a reporting period, confirmation information does not need to be provided under this regulation for that period.

(5) In this regulation and regulations 71B and 71C,—

derivatives investor money has the same meaning as in regulation 238

derivatives investor property has the same meaning as in regulation 238

reporting period means—

(a) each 6-month period of a year (where each period ends on the date that the derivatives issuer determines); or

(b) each shorter period agreed with the investor.

Example

The derivatives issuer and an investor agree on a daily reporting period (with the confirmation information being made available through an electronic facility).

Regulation 71A: inserted, on 17 December 2015, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

71B Ongoing confirmation information for derivatives

(1) The confirmation information that must be provided is, in relation to an investor, the following (as at the end of the reporting period to which the information relates):

(a) a list of the investor's derivatives issued by the derivatives issuer:

(b) in the case of a derivative that can be terminated or closed out by the investor at any time, the value of the derivative:

(c) the total amount of derivatives investor money held by the derivatives issuer on behalf of the investor:

(d) the total amount that is allocated to margins (if any).

(2) In this regulation, **investor** means—

(a) a retail investor on behalf of whom derivatives investor money is held at the end of the reporting period; or

(b) a retail investor who, at the end of the reporting period, holds a derivative with the derivatives issuer that can, under the terms of the derivative, be terminated or closed out by the investor at any time.

(3) For the purposes of subclause (1)(b), the **value** is the amount the investor will receive if the investor chooses to terminate or close out the derivative.

Regulation 71B: inserted, on 17 December 2015, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

71C How ongoing confirmation information for derivatives is provided

The confirmation information must, not later than 10 working days after the expiry of the reporting period, be provided to the investor (**A**)—

(a) by making it available through an electronic facility (but only if A has agreed to this method); or

(b) by giving it to A or delivering or sending it to A's address.

Regulation 71C: inserted, on 17 December 2015, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Subpart 3—Provisions relating to exclusions and other Schedule 1 of Act matters

72 Provisions relating to exclusions and other Schedule 1 of Act matters

(1) The provisions in Schedule 8 of these regulations have effect for the purposes of prescribing—

(a) limited disclosure and other requirements and conditions for the purposes of clause 26 of Schedule 1 of the Act; and

(b) other matters for the purposes of Schedule 1 of the Act.

(2) The provisions in Schedule 9 have effect for the purpose of prescribing matters for the purposes of clauses 25 and 31 of Schedule 8.

(3) The provisions in Schedule 9A have effect for the purpose of prescribing matters for the purposes of clause 26C of Schedule 8.

Regulation 72(3): inserted, on 28 July 2022, by regulation 7 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

72AA Civil liability for contravention of certain provisions in Schedule 8

(1) The following provisions in Schedule 8 of these regulations are prescribed to be Part 3 offer provisions and to give rise to civil liability under section 101(3)(l) of the Act:

(a) clause 7 (offeror must not breach $2 million aggregate limit):

(b) clause 20 (issuer must give notice to licensed market operator and be in compliance with continuous disclosure and financial reporting obligations):

(c) clause 21 (obligation to correct defective notice):

(d) clause 22 (further requirements for offers of debt securities):

(e) clause 24(1) and (3)(a) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(f) clause 25(1)(a) and (2) (limited disclosure document must comply with Schedule 9 and requirements that apply to equivalent PDS):

(fa) clause 26B(1) and (3)(a) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(fb) clause 26C(1)(a) and (2) (limited disclosure document must comply with Schedule 9A and requirements that apply to equivalent PDS):

(g) clause 30(1) and (3)(a) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(h) clause 31(1)(a) and (2) (limited disclosure document and register entry):

(i) clause 33 (offeror must provide limited disclosure document for variations):

(j) clause 34(2)(a) and (b)(i) (content of limited disclosure document for moratorium or change of issuer):

(k) clause 35 (content of limited disclosure document for other variations):

(l) clause 36 (supplementary disclosure to correct deficiency for renewal offers):

(m) clause 38 (limited disclosure document and register entry requirements):

(n) clause 42 (offeror must comply with section 80 of Act).

(2) The following provisions in Schedule 8 of these regulations are prescribed to be Part 3 offer provisions and to give rise to civil liability under section 101(4)(ga) of the Act:

(a) clause 4 (offeror must provide warning statement):

(b) clause 5 (offeror must obtain acknowledgement):

(c) clause 10 (offeror must provide description of scheme, warning, and access to annual report and financial statements):

(d) clause 14 (offeror must provide description of plan and access to annual report and financial statements):

(e) clause 18 (small offer warning):

(f) clause 24(3)(b) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(g) clause 25(1)(b) (limited disclosure document must comply with Schedule 9 and requirements that apply to equivalent PDS):

(ga) clause 26B(3)(b) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(gb) clause 26C(1)(b) (limited disclosure document must comply with Schedule 9A and requirements that apply to equivalent PDS):

(h) clause 30(3)(b) (offeror must provide limited disclosure document and comply with ongoing disclosure duties):

(i) clause 31(1)(b) (limited disclosure document and register entry):

(j) clause 34(2)(b)(ii) (content of limited disclosure document for moratorium or change of issuer):

(k) clause 43 (limited disclosure document must be provided on request).

Regulation 72AA: inserted, on 9 August 2017, by regulation 8 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Regulation 72AA(1)(fa): inserted, on 28 July 2022, by regulation 8(1) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 72AA(1)(fb): inserted, on 28 July 2022, by regulation 8(1) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 72AA(2)(ga): inserted, on 28 July 2022, by regulation 8(2) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Regulation 72AA(2)(gb): inserted, on 28 July 2022, by regulation 8(2) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

72A Wholesale offer exclusion does not apply to certain offers of Crown debt securities

For the purposes of clause 29 of Schedule 1 of the Act, the exclusion in clause 3 of Schedule 1 of the Act (offer to wholesale investor) does not apply to an offer of debt securities that are continuously offered by the Crown by way of issue if—

(a) the offer is made by the Crown to 1 or more wholesale investors; and

(b) the offer is made in reliance on clause 22(1)(a) of Schedule 1 of the Act (and in compliance with clauses 30 and 31 of Schedule 8); and

(c) the limited disclosure document that is provided under clause 30 of Schedule 8 includes a statement to the effect that this regulation applies in relation to the offer.

Regulation 72A: inserted, on 28 October 2016, by regulation 10 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Part 4
Governance of financial products

Subpart 1—Governance of debt securities

73 References to trust deeds and debt securities

A reference in this Part to—

(a) a trust deed is a reference to the trust deed required by section 103(1) of the Act; and

(b) a debt security is a reference to a debt security offered under a regulated offer.

Requirements for governing document for debt security

74 Trust deed for debt security must provide for certain matters

A trust deed for a debt security must provide adequately for all of the following matters:

(a) the financial covenants (if any) that the issuer has given in favour of the holders of the debt security or the supervisor:

(b) the prohibitions or restrictions (if any) on the issuer entering into transactions with—

(i) any of its related parties within the meaning of section 6 of the Non-bank Deposit Takers Act 2013 (in the case of an issuer that is an NBDT); or

(ii) any of its associated persons (in any other case):

(c) reporting by the issuer to the supervisor (other than reporting required by the Act or these regulations), where the details relating to the frequency or content of the reports (or both) are set out in the trust deed or in a separate written agreement between the issuer and the supervisor:

(d) the appointment and removal of the supervisor:

(e) any additions or changes to the meeting procedures set by Schedule 11:

(f) any other matters that materially affect—

(i) the rights and duties of holders of the debt security:

(ii) the powers, rights, and duties of the issuer and the supervisor.

75 Terms implied into trust deed for debt security

(1) Clauses 1 to 3 of Schedule 10 are implied into a trust deed for a debt security.

(2) Clauses 4 and 5 of Schedule 10 are implied into a trust deed for a debt security if the issuer is an NBDT (in addition to the provisions implied by subclause (1)).

(3) However, subclause (2) does not apply to a building society, a credit union, or a co-operative company.

Reports by NBDT

76 Duty of NBDT to provide reports to supervisor

(1) This regulation applies to an issuer of a debt security if the issuer is an NBDT.

(2) However, this regulation does not apply to a building society, a credit union, or a co-operative company.

(3) For the purposes of section 114 of the Act, the issuer must provide to the supervisor,—

(a) within 30 days after the end of each month, a report for that month that is a copy of the monthly management report prepared for the directors of the issuer; and

(b) a monthly report, in a form required by the supervisor and within 30 days after the end of each month, on—

(i) the capital of the issuer; and

(ii) the liquidity of the issuer; and

(iii) the asset quality of the issuer (including arrears reports, and restructured, impaired, past due, and bad debts); and

(iv) reinvestment rates; and

(v) any breaches by members of the borrowing group of financial covenants in financing arrangements with third parties; and

(c) at least once in every 3 months, a report confirming whether,—

(i) at any time since the last confirmation under this paragraph, the issuer was prohibited under section 82(1) of the Act from offering, or continuing to offer, debt securities; and

(ii) at all times during the period since the last confirmation under this paragraph, the issuer has complied with all provisions of the trust deed; and

(d) a report to advise the supervisor, in advance or as soon as it is known, of—

(i) every transaction that would require the consent of the Reserve Bank under section 43 of the Non-bank Deposit Takers Act 2013 (Bank's consent for change of ownership); and

(ii) every change of directors of the issuer; and

(iii) every change in the senior managers of the issuer; and

(e) a report to notify the supervisor, in advance, of any major transaction (as defined in the Companies Act 1993), or any related series of transactions that have the effect of a major transaction, entered into or to be entered into by the issuer.

(4) The report that is given under subclause (3)(a) does not need to contain particular information in the monthly management report prepared for the directors of the issuer if the supervisor has waived the requirement for the report to contain information of that kind.

(5) Subclause (3)(c)(i) applies to a period only if the PDS has an open for applications status.

(6) Each report must be signed by at least 2 directors on behalf of the board of the issuer or, if the issuer has only 1 director, by that director.

Meetings of product holders

77 Proceedings at meetings of holders of debt security

(1) Schedule 11 governs meetings of a class of holders of a debt security and proceedings at those meetings except to the extent that the trust deed expressly provides otherwise.

(2) However, a trust deed may not disapply or modify clauses 2 and 5 of Schedule 11 in relation to a meeting of a class of holders of a debt security to approve a special resolution of those holders (except to the extent that those clauses are expressly subject to, or allow matters to be set by, the trust deed).

(3) In subclause (2) and Schedule 11, **special resolution** means—

(a) a resolution relating to a matter that is required by the Act or these regulations to be done by way of a special resolution; and

(b) a resolution relating to a matter that is required by the trust deed to be done by way of a special resolution (by whatever name called).

78 Resolution in lieu of meeting

(1) A written resolution is as valid as if it had been passed at a meeting of a class of holders of a debt security if, in the case of—

(a) credit union products, it is signed by no less than 75% of the number of members of the credit union who are entitled to vote:

(b) any other debt securities, it is signed by product holders who hold debt securities with a combined nominal value of no less than 75% of the nominal value of the debt securities held by those persons who are entitled to vote.

(2) In this regulation, **entitled to vote** means entitled to vote on the resolution at a meeting of the class of holders of a debt security.

(3) A written resolution that is signed by the persons specified in subclause (1) is as effective for the purposes of the Act and the trust deed as it would be if passed by resolution at a meeting of the class of the product holders.

(4) A written resolution under this regulation may consist of 1 or more documents in similar form (including letters, electronic mail, or other similar means of communication) each signed by or on behalf of 1 or more of the persons specified in subclause (1).

(5) The issuer must ensure—

(a) that a proposed resolution under this regulation is dated with the date on which the proposed resolution is first sent to a person entitled to vote for the purpose of signing (the **circulation date**); and

(b) that the proposed resolution is sent to every person entitled to vote; and

(c) as far as is reasonably practicable, that the proposed resolution is sent under paragraph (b) on the circulation date; and

(d) that a proposed resolution sent under paragraph (b) is accompanied by a statement of the effect of subclause (6).

(6) A proposed resolution lapses if it is not passed under this regulation within 3 months (or any shorter period provided in the trust deed) after the circulation date.

(7) The accidental omission to send a proposed resolution or statement under subclause (5) to a person entitled to vote does not invalidate a resolution passed under this regulation.

(8) The issuer must, within 5 working days after a resolution is passed under this regulation, send a copy of the resolution to every person entitled to vote who did not sign the resolution and on whose behalf the resolution was not signed.

(9) This regulation does not apply (or does not apply to resolutions of a particular kind) if the trust deed expressly states that this regulation does not apply (or does not apply to resolutions of that kind).

Subpart 2—Governance of managed investment products

Registration

79 Application for registration

(1) An application for registration of a managed investment scheme must be made on an Internet site maintained by or on behalf of the Registrar for the purpose of the register of managed investment schemes.

(2) The application must include the following information in respect of the scheme (in addition to the information required by section 126 of the Act):

(a) the name of the scheme:

(b) an identification of the type or types of scheme:

(c) if the scheme is a default KiwiSaver scheme, confirmation of that fact:

(d) the name of each of the following (as selected from another register kept by the Registrar) or, if the person does not have an entry on such a register, the unique identifying information of the person:

(i) the manager:

(ii) the supervisor:

(iii) each custodian that is not the supervisor (other than a sub-custodian):

(e) the financial service provider number (if any) for each person referred to in paragraph (d):

(f) the address for communications from the Registrar to the manager:

(g) the address for communications from the Registrar to the supervisor:

(h) if the manager is relying, or intends to rely, on an exemption granted under subpart 2 of Part 9 of the Act in relation to the registration of the scheme, confirmation of that fact and the name of the exemption notice:

(i) the balance date of the scheme:

(j) the financial statements for the scheme (if any) for the most recently completed accounting period before the date of the application that are prepared in accordance with GAAP, and a copy of a qualified FMC auditor's report on those statements:

(k) the annual report for the scheme for that accounting period (if any):

(l) if the assets of any fund in the scheme are available to be applied to meet the liabilities of any other fund in the scheme, confirmation of that fact.

Regulation 79(2)(j): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

80 Lodging or giving information for scheme register

Information for the scheme register that is lodged with or given to the Registrar must be lodged or given in the manner specified by the Registrar in accordance with clause 13(1) of Schedule 2 of the Act.

Example

The identification of the type of scheme may be selected from a drop-down list of options specified by the Registrar on the scheme register Internet site maintained by the Registrar.

81 Superannuation scheme rules

(1) The provisions set out in Schedule 12 are to be known as the superannuation scheme rules.

(2) The superannuation scheme rules—

(a) apply for the purposes of section 129(1)(c) of the Act (rules relating to permitted redemptions, withdrawals, and the provision of benefits); and

(b) must be treated as implied into a governing document for a superannuation scheme (or, if a scheme is registered as a superannuation scheme in respect of only a section of the scheme, into a governing document in respect of that section only).

(3) This regulation does not apply to a scheme, or a section of a scheme, that is closed to new members at the time of its registration (a legacy scheme).

82 Additional initial and ongoing registration requirement for workplace savings schemes

(1) Every workplace savings scheme must meet the registration requirement specified in subclause (2) (in addition to the requirements in sections 127 and 130(1)(a) to (e) and (g) of the Act).

(2) The requirement is that the governing document has the effect that each scheme participant who satisfies the requirements for withdrawal of the scheme participant's accumulation set out in the governing document, and who elects to withdraw from membership of the scheme, may transfer the accumulation to any of the following types of schemes (to the extent that transfers are available to that other scheme):

(a) another workplace savings scheme:

(b) a superannuation scheme:

(c) a KiwiSaver scheme:

(d) an equivalent overseas retirement scheme.

(3) In subclause (2)(d), **equivalent overseas retirement scheme** means any trust or other arrangement established in a country other than New Zealand that—

(a) has the purpose of providing retirement benefits directly or indirectly to individuals; or

(b) has the purposes of providing—

(i) retirement benefits directly or indirectly to individuals; and

(ii) benefits to eligible individuals on ceasing employment or engagement with a contributor or a related body corporate of a contributor (whether immediately on ceasing that employment or engagement, or subsequently).

(4) For the purposes of that definition, a scheme may be considered to be for the purpose of providing retirement benefits even if it permits redemptions, withdrawals, and the provision of benefits in limited circumstances (provided that those permitted redemptions, withdrawals, and benefits are incidental or secondary to the purpose of providing retirement benefits).

(5) In this regulation,—

net value means the value once any appropriate debits and credits have been made to account for things like fees, permitted withdrawals, and positive and negative returns

scheme participant's accumulation, in relation to a scheme participant,—

(a) means, in the case of a defined benefit scheme, the amount of the benefit that the scheme participant is entitled to receive on ceasing to be a member of the scheme:

(b) means, in any other case, the net value of the total of—

(i) the scheme participant's contributions; and

(ii) any other vested contributions in respect of the scheme participant.

82A Passport funds are type of registered scheme

A passport fund is prescribed as a type of registered scheme.

Regulation 82A: inserted, on 14 June 2019, by regulation 9 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

82B Additional initial and ongoing registration requirements for passport funds

(1) Every passport fund must meet the registration requirements specified in subclause (2) and, if applicable, subclause (3) (in addition to the requirements in section 127 of the Act).

(2) The requirements are as follows:

(a) the scheme is constituted or governed by a trust deed or other governing document that is interpreted and administered in accordance with New Zealand law:

(b) the scheme must already be registered as a registered scheme:

(c) a request under section 134(3) of the Act for a direction that the scheme be registered as a passport fund is made and is accompanied by the Part A information set out in Schedule 27 in relation to—

(i) the scheme; or

(ii) if subclause (3) applies, each relevant fund (and, for that purpose, Schedule 27 applies with all necessary modifications as if each relevant fund were a scheme):

(d) that request is accompanied by all other information that is reasonably necessary to assess whether the scheme or, if subclause (3) applies, each relevant fund is likely to be operated in compliance with the passport rules and with financial markets legislation:

(e) at the time of that request, the manager of the scheme is an eligible entity under section 3(4) of Annex 2 of the memorandum of cooperation:

(f) the scheme is operating, and is likely to continue to be operated, in compliance with financial markets legislation:

(g) the scheme,—

(i) if it is not yet operating in a host economy, is likely to be operated in compliance with the passport rules; and

(ii) if it is operating in a host economy, is operated in compliance with the passport rules and the relevant laws and regulations:

(h) no request has been made to the FMA under section 14(1)(b) of Annex 2 of the memorandum of cooperation.

(3) If, when interests in the scheme are offered in a host economy, the investment options that may be selected by investors in the host economy are or will be limited to options that involve 1 or more (but not all) specified funds in the scheme, subclause (1)(g) does not apply. Instead, the following requirements must be met:

(a) each relevant fund,—

(i) if the scheme is not yet operating in the host economy, is likely to be operated in compliance with the passport rules; and

(ii) if the scheme is operating in a host economy, is operated in compliance with the passport rules and the relevant laws and regulations:

(b) the manager's licence is or will be subject to a condition imposed under regulation 199A.

(4) In considering whether a relevant fund is likely to operate or is operating in compliance with the passport rules and the relevant laws and regulations, those rules, laws, and regulations apply with all necessary modifications as if the relevant fund were a scheme.

(5) In this regulation and regulation 63B,—

relevant fund means a specified fund referred to in subclause (3) in respect of which an investment option may be selected by investors in a host economy

relevant laws and regulations means the laws and regulations (as defined in paragraph 4.1(f) of the memorandum of cooperation) of each host economy in which interests in the scheme are or will be offered.

Regulation 82B: inserted, on 14 June 2019, by regulation 9 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Requirements for governing document for registered scheme

83 Governing document for registered scheme must provide for certain additional matters

(1) The governing document for a registered scheme must provide adequately for all of the following matters under the scheme (in addition to the matters in section 135(1)(a) to (i) and (k) of the Act):

(a) reporting by the manager to the supervisor (other than reports required by the Act and these regulations), where the details relating to the fre-

quency or content of the reports (or both) are set out in the governing document or in a separate written agreement between the manager and the supervisor; and

(b) any additions or changes to the meeting procedures set by Schedule 11.

(2) Subclause (1)(a) does not apply to a restricted scheme.

84 Terms implied into governing document for registered scheme

(1) Clauses 1 to 3 of Schedule 13 are implied into a governing document for a registered scheme (other than a restricted scheme).

(2) Clause 4 of Schedule 13 is implied into a governing document for a restricted scheme.

Custodianship of scheme property

85 Custodian's records of scheme property

Regulations 86 to 88 prescribe requirements for the purposes of section 158 of the Act.

86 Procedures for reconciling records

(1) For the purpose of ensuring that the custodian's records accurately state its holdings of scheme property, the scheme property relating to each fund, and all transactions relating to that property, the custodian must—

(a) take adequate steps, or ensure adequate steps are taken, to reconcile records of scheme property kept by or on behalf of the custodian with records kept by sub-custodians and third parties; and

(b) ensure adequate procedures are in place for promptly identifying discrepancies in those records and determining the cause of those discrepancies; and

(c) promptly and fully rectify any discrepancies referred to in paragraph (b) or ensure that those discrepancies are promptly and fully rectified.

(2) The frequency of the reconciliation must be appropriate to—

(a) the type of scheme property to which the records relate; and

(b) the frequency with which scheme property is traded; and

(c) the timing of any custody reports provided.

(3) However, all records of money must be reconciled daily.

87 Custodian must obtain assurance engagement

(1) A custodian must obtain, within 4 months after the relevant date, an assurance engagement with a qualified FMC auditor (including obtaining the assurance report within that period).

(1A) The assurance engagement must be done in accordance with applicable auditing and assurance standards.

(2) The custodian must, within 20 working days after obtaining an assurance report, provide a copy of the assurance report to each of the relevant persons.

(2A) But *see* regulation 88B (which provides for a circumstance where subclauses (1) to (2) do not apply).

(3) This regulation does not apply to a sub-custodian (**A**) if the custodian that appointed A has complied with this regulation in respect of the scheme property held by A.

(4) In this regulation and regulation 88,—

relevant date, in relation to a custodian, means—

(a) the custodian's balance date; or

(b) a date in each calendar year that is—

(i) determined by the custodian; and

(ii) notified in writing, within 10 working days after the determination is made, to each of the relevant persons

relevant persons means,—

(a) in the case of a restricted scheme, the FMA and (unless the manager is the custodian) the manager of the scheme:

(b) in the case of any other scheme, the manager of the scheme and (unless the supervisor is the custodian) the supervisor of the scheme.

(5) The following apply for the purposes of the date under paragraph (b) of the definition of **relevant date** in subclause (4):

(a) in the case of a date that is adopted as the first relevant date, the date must be within the first 12 months of this regulation applying to the custodian in respect of the scheme; and

(b) the custodian may change the date if—

(i) the period between any 2 dates does not exceed 15 months; and

(ii) the change is notified in writing, within 10 working days after the custodian decides to make the change, to each of the relevant persons; and

(c) if the custodian adopts a date in accordance with paragraph (a) or changes the date in accordance with paragraph (b), it need not have a date in a particular calendar year.

Regulation 87(1): replaced, on 15 March 2021, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 87(1): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Regulation 87(1A): inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 87(2): replaced, on 1 December 2015, by regulation 26(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 87(2A): inserted, on 12 June 2025, by regulation 11 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 87(4): inserted, on 1 December 2015, by regulation 26(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 87(5): inserted, on 1 December 2015, by regulation 26(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

88 Requirements of assurance engagement

(1) An assurance engagement referred to in regulation 87(1) must determine whether, in the auditor's opinion, there is reasonable assurance that—

(a) the custodian's processes, procedures, and controls were suitably designed to meet the objectives in subclause (3) throughout the most recently completed relevant period; and

(b) the custodian's processes, procedures, and controls operated effectively throughout that relevant period.

(2) Subclause (1)(a) applies in respect of—

(a) scheme property held by the custodian; and

(b) scheme property held by a sub-custodian appointed by the custodian.

(3) The objectives are as follows:

(a) transactions are authorised, processed, and recorded in an appropriate, accurate, and timely manner:

(b) scheme property is held in accordance with the Act, these regulations, and the governing document:

(c) records and changes to records relating to the service are accurate and kept—

(i) in an appropriate and timely manner; and

(ii) in accordance with the Act, these regulations, and the governing document:

(d) there are adequate safeguards against the loss, misappropriation, and unauthorised use of scheme property:

(e) sub-custodians are appropriately approved and managed, and are adequately monitored:

(f) reports in respect of holdings of scheme property are—

(i) complete and accurate; and

(ii) provided within the time frames specified in the Act, these regulations, and the governing document:

(g) information technology systems and processes are appropriate to allow the custodian to accurately and reliably meet the objectives in paragraphs (a) to (f).

(4) In this regulation, **relevant period**, in relation to a custodian, means a 12-month period ending on the relevant date of the custodian, and if, as a result of the date on which it became a custodian or a change of the relevant date of the custodian, the period ending on that date is longer or shorter than 12 months, that longer or shorter period is a relevant period.

Regulation 88(1)(a): amended, on 1 December 2015, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 88(1)(b): amended, on 1 December 2015, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 88(4): inserted, on 1 December 2015, by regulation 27(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

88A Definitions in regulations 88A to 88D

(1) In this regulation and regulations 88B to 88D,—

administration period, in relation to a restricted scheme, means a relevant period, or a part of a relevant period, for which—

(a) all administration of the scheme with respect to holding scheme property is contracted to an administration manager under section 146 of the Act; and

(b) all keeping of scheme property records under section 158(1) of the Act is also contracted to that administration manager

eligible scheme has the meaning set out in subclause (2)

relevant date has the same meaning as in regulation 87(4)

relevant period has the same meaning as in regulation 88(4)

relevant persons has the same meaning as in regulation 87(4)

scheme bank account, in relation to an eligible scheme, means a bank account of the scheme other than an investment account

standard asset means—

(a) a call debt security issued by a registered bank; or

(b) a term deposit held at a registered bank; or

(c) an interest in a registered scheme; or

(d) an interest in a registered scheme within the meaning of section 9 of the Corporations Act 2001 (Aust); or

(e) an interest in a wholesale managed investment scheme the custodian of which—

(i) is resident or incorporated in, or established under the laws of, New Zealand or Australia; and

(ii) has a place of business in New Zealand or Australia; or

(f) a New Zealand Government bond; or

(g) an interest in a UCITS fund

UCITS fund means an investment fund—

(a) established in a member state of the European Union or another member state of the European Economic Area; and

(b) authorised in that state under legislation implementing Directive 2009/65/EC of the European Parliament and of the Council of the European Union

wholesale managed investment scheme means a managed investment scheme in which interests are offered to wholesale investors only.

(2) In this regulation and regulation 88B to 88D, a restricted scheme is an **eligible scheme** if—

(a) all of the scheme property is held directly by a single custodian that is a body corporate and that—

(i) is a trustee of the scheme; or

(ii) has, as its directors, only persons who are trustees of the scheme; and

(b) all administration of the scheme with respect to holding scheme property is contracted to a single administration manager under section 146 of the Act; and

(c) all keeping of scheme property records under section 158(1) of the Act is also contracted to that administration manager; and

(d) the administration manager—

(i) is resident or incorporated in, or established under the laws of, New Zealand; and

(ii) has a place of business in New Zealand; and

(e) no more than 5% of the scheme property, as valued in accordance with generally accepted accounting practice, consists of investments other than direct investments in standard assets.

Regulation 88A: inserted, on 12 June 2025, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

88B Exception to assurance engagement requirement

Regulation 87(1) to (2) does not apply to a custodian of a restricted scheme in relation to a relevant period if—

(a) the restricted scheme was an eligible scheme throughout the period; and

(b) both conditions in regulations 88C and 88D are met.

Regulation 88B: inserted, on 12 June 2025, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

88C Condition that administration manager provided reports, obtains assurance engagement, and prepares certificate

(1) This regulation applies for the purposes of regulation 88B(b).

(2) It is a condition that, for each administration period within the relevant period,—

(a) the administration manager who administered the eligible scheme with respect to holding scheme property provided the custodian with quarterly or more frequent reports (together covering the whole of the administration period) on—

(i) scheme contributions, withdrawals, and other transactions during the administration period; and

(ii) changes made to scheme records during the administration period; and

(b) the administration manager—

(i) obtains an assurance engagement in accordance with subclause (3); and

(ii) prepares a certificate in accordance with subclauses (4) to (6); and

(c) copies of the assurance report and certificate are provided to the custodian within 4 months of the relevant date; and

(d) within 20 working days after the custodian receives the copies,—

(i) the custodian advises the FMA in writing that the custodian is relying on the report and certificate in connection with the exception in regulation 88B; and

(ii) copies of the report and certificate are provided to the relevant persons.

(3) An assurance engagement referred to in subclause (2)(b)(i) must—

(a) be with a qualified auditor; and

(b) be done in accordance with applicable auditing and assurance standards; and

(c) expressly cover the administration period and the scheme property; and

(d) determine whether, in the auditor's opinion, there is reasonable assurance that throughout the administration period the administration manager's processes, procedures, and controls—

(i) were suitably designed to meet the objectives in regulation 88(3); and

(ii) operated effectively.

(4) A certificate referred to in subclause (2)(b)(ii) must specify the dates of the administration period and certify that throughout that period—

(a) all administration of the scheme with respect to holding scheme property, in addition to all keeping of scheme property records under section 158(1) of the Act, was contracted to the administration manager; and

(b) all contributions made to the scheme were paid into, and all benefits paid from the scheme were paid from, a scheme bank account; and

(c) no one other than the administration manager—

(i) was authorised by the custodian to operate a scheme bank account; or

(ii) operated a scheme bank account; and

(d) the scheme property was invested in compliance with regulation 88A(2)(e).

(5) The certificate must also certify that the administration manager provided the custodian with the reports referred to in subclause (2)(a).

(6) The certificate must be in writing and addressed to the FMA.

Regulation 88C: inserted, on 12 June 2025, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

88D Condition regarding previous assurance reports

(1) This regulation applies for the purposes of regulation 88B(b).

(2) It is a condition that—

(a) no previous assurance report in relation to the restricted scheme was qualified; or

(b) if a previous assurance report obtained by an administration manager in relation to the scheme was qualified,—

(i) the FMA was notified in writing of the steps taken by the administration manager to resolve the reasons for the qualification, and the auditor who prepared the report confirmed in writing to the FMA that those steps were satisfactory; or

(ii) the custodian complied with regulation 87(1) to (2) in relation to the scheme for a subsequent relevant period.

(3) In this regulation,—

(a) **previous assurance report** means an assurance report referred to in regulation 88C(2)(c), clause 6(c) of the Financial Markets Conduct (Restricted Schemes—Custodian Assurance Engagement) Exemption Notice 2024 (the **2024 notice**), or clause 6(c) of the Financial Markets Conduct (Restricted Schemes—Custodian Assurance Engagement) Exemption Notice 2020 (the **2020 notice**) that—

(i) relates to a previous administration period; and

(ii) was relied on by the custodian in connection with the exception in regulation 88B or the exemption in clause 5 of the 2024 notice or clause 5 of the 2020 notice:

(b) an assurance report is **qualified** if it does not state that, in the opinion of the auditor who prepared it, there is reasonable assurance as mentioned in regulation 88C(3)(d), clause 7(d) of the 2024 notice, or clause 7(d) of the 2020 notice.

Regulation 88D: inserted, on 12 June 2025, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Meetings of scheme participants

89 Proceedings at meetings of scheme participants

(1) Schedule 11 governs meetings of a class of scheme participants and proceedings at those meetings except to the extent that the governing document expressly provides otherwise.

(2) However, a governing document may not disapply or modify any of clauses 2, 3, or 5 of Schedule 11 in relation to a meeting of a class of scheme participants to approve a special resolution of those scheme participants (except to the extent that those clauses are expressly subject to, or allow matters to be set by, the governing document).

(3) In subclause (2) and Schedule 11, **special resolution** means—

(a) a resolution relating to a matter that is required by the Act or these regulations to be done by way of a special resolution; and

(b) a resolution relating to a matter that is required by the governing document to be done by way of a special resolution (by whatever name called).

90 Resolution in lieu of meeting

(1) A written resolution is as valid as if it had been passed at a meeting of a class of scheme participants if, in the case of—

(a) managed investment products in a superannuation scheme, a KiwiSaver scheme, or a workplace savings scheme, it is signed by no less than 75% of the number of scheme participants who are entitled to vote:

(b) any other managed investment products, it is signed by the scheme participants who hold managed investment products with a combined value of no less than 75% of the value of the managed investment products held by those persons who are entitled to vote.

(2) In this regulation, **entitled to vote** means entitled to vote on the resolution at a meeting of the class of scheme participants.

(3) A written resolution that is signed by the persons specified in subclause (1) is as effective for the purposes of the Act and the governing document as it would be if passed by resolution at a meeting of the class of scheme participants.

(4) A written resolution under this regulation may consist of 1 or more documents in similar form (including letters, electronic mail, or other similar means of communication) each signed by or on behalf of 1 or more of the persons specified in subclause (1).

(5) The manager must ensure—

(a) that a proposed resolution under this regulation is dated with the date on which the proposed resolution is first sent to a person entitled to vote for the purpose of signing (the **circulation date**); and

(b) that the proposed resolution is sent to every person entitled to vote; and

(c) as far as is reasonably practicable, that the proposed resolution is sent under paragraph (b) on the circulation date; and

(d) that a proposed resolution sent under paragraph (b) is accompanied by a statement of the effect of subclause (6).

(6) A proposed resolution lapses if it is not passed under this regulation within 3 months (or any shorter period provided in the governing document) after the circulation date.

(7) The accidental omission to send a proposed resolution or statement under subclause (5) to a person entitled to vote does not invalidate a resolution passed under this regulation.

(8) The manager must, within 5 working days after a resolution is passed under this regulation, send a copy of the resolution to every person entitled to vote who did not sign the resolution and on whose behalf the resolution was not signed.

(9) This regulation does not apply (or does not apply to resolutions of a particular kind) if the governing document expressly states that this regulation does not apply (or does not apply to resolutions of that kind).

91 Manager and associated persons may vote if interested in resolution to remove and replace manager in certain circumstances

Section 163(1) of the Act does not apply in relation to a resolution to remove the manager and appoint a new manager of a registered scheme if—

(a) there has been no regulated offer of managed investment products in the scheme; and

(b) none of the scheme participants are retail investors; and

(c) the governing document expressly permits the relevant person to vote their interest on the resolution; and

(d) the manager certifies, before voting, that the manager considers that the manager (and, if applicable, its associated persons) is voting in the best interests of the scheme participants.

92 Annual meeting of closed-ended schemes

(1) The manager of a registered scheme that is closed-ended must call an annual meeting of scheme participants to be held—

(a) not later than 6 months after the balance date of the scheme; and

(b) not later than 15 months after the previous annual meeting.

(2) The manager must hold the meeting on the date on which it is called to be held.

(3) A registered scheme (other than a scheme to which clause 22(1)(a) of Schedule 4 of the Act applies) that is closed-ended does not have to hold its first annual meeting in the calendar year of its registration under subpart 2 of Part 4 of the Act, but must hold that meeting within 18 months of that registration.

(4) However, *see* regulation 92A (when manager is not required to call meeting of closed-ended scheme).

(5) *[Revoked]*

(6) In this regulation and regulation 92A, a scheme is **closed-ended** unless—

(a) the managed investment products in the scheme were offered on the basis that, in the ordinary course of business, the products would be continuously offered and redeemed on a basis calculated wholly or mainly on the value of the scheme property; or

(b) the scheme is a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme.

Regulation 92(4): replaced, on 12 June 2025, by regulation 13(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 92(5): revoked, on 12 June 2025, by regulation 13(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 92(6): amended, on 12 June 2025, by regulation 13(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

92A When manager is not required to call annual meeting of closed-ended scheme

(1) Despite regulation 92, the manager of a registered scheme that is closed-ended is not required to call a meeting to be held in a calendar year if, before the date that a meeting in the calendar year would otherwise be required to be held,—

(a) the scheme participants, by a written unanimous resolution, agree that an annual meeting need not be called; or

(b) the manager seeks the supervisor's consent to not call the annual meeting and the supervisor consents.

(2) A written resolution under subclause (1)(a) may consist of 1 or more documents in similar form (including letters, electronic mail, or other similar means of communication) each signed by or on behalf of the scheme participants.

(3) The manager may seek the supervisor's consent under subclause (1)(b) if—

(a) the manager is reasonably satisfied that—

(i) the meeting is not needed; and

(ii) it is consistent with the interests of the scheme to not have the meeting; and

(b) the manager has sent a notice to every scheme participant that—

(i) notifies of the manager's proposal to seek the supervisor's consent to not call a meeting and the reasons for the proposal; and

(ii) invites comments on the proposal; and

(iii) specifies a date by which any comments must be provided, which must not be earlier than 15 working days after the date of the notice.

(4) If the manager seeks the supervisor's consent to not call the annual meeting, the manager must provide to the supervisor—

(a) the reasons why the manager is reasonably satisfied of the matters referred to in subclause (3)(a)(i) and (ii); and

(b) a summary of any objections raised by scheme participants to not calling an annual meeting that are received by the date specified in accordance with subclause (3)(b)(iii).

(5) After subclauses (3) and (4) have been complied with, the supervisor may consent to the manger not calling an annual meeting if—

(a) the supervisor is reasonably satisfied of the matters referred to in subclause (3)(a)(i) and (ii); and

(b) at least 28 days have passed since the manager sent scheme participants the documents referred to in regulation 62(1)(b) for the period to which the meeting relates.

(6) If a resolution under subclause (1)(a) is passed or the supervisor gives consent under subclause (1)(b), an annual meeting must be treated as having been held on the date of the resolution or consent for the purposes of regulation 92(1)(b).

Regulation 92A: inserted, on 12 June 2025, by regulation 14 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

When statement of investment policy and objectives or change does not need to be lodged

93 Statement of investment policy and objectives or change does not need to be lodged in certain circumstances

(1) This regulation prescribes circumstances in which a SIPO, and changes to a SIPO, do not need to be lodged for the purpose of section 166(1) of the Act.

(2) A SIPO need not be lodged under section 166(1)(a) of the Act if all of the following circumstances apply:

- (a) there has been no regulated offer of managed investment products in the registered scheme (and no interests in the scheme have been offered to the public in New Zealand under the Securities Act 1978); and
- (b) the manager lodges with the Registrar a notice that states that—
  - (i) the scheme register does not contain the SIPO because no regulated offer of managed investment products in the registered scheme has been made; and
  - (ii) a copy of the SIPO is available, on request and free of charge, to scheme participants and the FMA; and
- (c) the notice under paragraph (b) is lodged—
  - (i) before any managed investment product is issued; or
  - (ii) at the time the scheme is registered (if the scheme is registered after any managed investment product is issued).

(3) A change to the SIPO need not be lodged under section 166(1)(b) of the Act if all of the following circumstances apply:

- (a) there has been no regulated offer of managed investment products in the registered scheme (and no interests in the scheme have been offered to the public in New Zealand under the Securities Act 1978); and
- (b) the manager lodges with the Registrar a notice that states that—
  - (i) the scheme register does not contain a change to the SIPO because no regulated offer of managed investment products in the registered scheme has been made; and
  - (ii) a copy of any change to the SIPO is available, on request and free of charge, to scheme participants and the FMA; and
- (c) the notice under paragraph (b) is lodged within 5 working days after the change takes effect.

Limit breaks

94 Manager must provide immediate report to supervisor (or FMA) in event of uncorrected limit break

(1) The manager of a registered scheme must provide to the supervisor (or, in the case of a restricted scheme, the FMA) a report in accordance with this regulation and regulation 96 if—

(a) section 167 of the Act applies; and

(b) the limit break is not corrected within 5 working days after the date that the manager becomes aware of the limit break.

(2) The report must be provided as soon as practicable after the expiry of the 5-working-day period referred to in subclause (1)(b).

(3) The report must contain the information specified in regulation 96.

95 Manager must provide quarterly reports to supervisor about limit breaks

(1) For the purposes of section 147 of the Act, the manager of a registered scheme other than a restricted scheme must provide to the supervisor a report in accordance with this regulation and regulation 96 within 10 working days after the expiry of each quarter of each year.

(2) The report must—

(a) state whether there have been any limit breaks in the previous quarter to which section 167 of the Act applies; and

(b) if so, contain the information specified in regulation 96.

(3) The report may be combined with any other report that is provided by the manager to the supervisor.

Regulation 95 heading: amended, on 12 June 2025, by regulation 15(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 95(1): amended, on 12 June 2025, by regulation 15(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 95(1): amended, on 12 June 2025, by regulation 15(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 95(3): amended, on 12 June 2025, by regulation 15(4) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

95A Manager of restricted scheme must provide reports to FMA about limit breaks

(1) For the purposes of section 147 of the Act, the manager of a restricted scheme must provide to the FMA,—

(a) if there have been any limit breaks in a quarter, a report that contains the information specified in regulation 96 within 15 working days after the expiry of the quarter; and

(b) a report within 15 working days after each balance date of the scheme that—

(i) states whether there have been any limit breaks during the accounting period ending on that date; and

(ii) if so, contains the information specified in regulation 96.

(2) A report under this regulation may be combined with any other report that is provided by the manager to the FMA.

Regulation 95A: inserted, on 12 June 2025, by regulation 16 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

96 Contents of reports about limit breaks

(1) This regulation applies to—

(a) a report under regulation 94:

(b) a report under regulation 95 if regulation 95(2)(b) applies:

(c) a report under regulation 95A(1)(a):

(d) a report under regulation 95A(1)(b) if regulation 95A(1)(b)(ii) applies.

(2) The report must disclose—

(a) the date that the manager became aware of the limit break; and

(b) the name of the registered scheme affected and the name of any fund within that scheme to which the limit break relates; and

(c) the nature and cause of the limit break (the **type** of limit break); and

(d) the net asset value of the scheme property in the registered scheme as a whole and in respect of any fund within that scheme to which the limit break relates (as at the date the limit break first occurred); and

(e) the reasons why the limit break is material (as determined in accordance with an applicable framework or methodology (if any)); and

(f) the date on which the limit break first occurred and the period for which the limit break continued before it was corrected (or whether the limit break remains uncorrected at the time of the report); and

(g) the steps taken, or to be taken, by the manager to correct the limit break; and

(h) what steps (if any) have been taken, or will be taken, to minimise risk of a recurrence of this type of limit break or to ensure early notification and correction of limit breaks of this type; and

(i) the time frame within which the manager intends to take any steps not already taken under paragraph (g) or (h).

(3) If any information referred to in subclause (2)(d) to (i) is not reasonably ascertainable as at the date of the report,—

(a) the report is not required to include that information; but

(b) the manager must make a further report containing that information to the supervisor (or, if there is no supervisor, to the FMA) as soon as is reasonably practicable after the information becomes reasonably ascertainable.

(4) A report under regulation 95 or 95A(1)(b) (**report A**) is not required to include any information referred to in subclause (2)(d) to (i) if—

(a) the information has previously been provided to the supervisor (or, in the case of a restricted scheme, the FMA) in a report provided under regulation 94 or 95A or in any other report that the manager is required to provide to the supervisor (or, in the case of a restricted scheme, the FMA); and

(b) report A states the date of the report in which the information was previously provided; and

(c) as at the date of report A, the information remains correct.

Regulation 96(1)(c): inserted, on 12 June 2025, by regulation 17(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 96(1)(d): inserted, on 12 June 2025, by regulation 17(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 96(4): replaced, on 12 June 2025, by regulation 17(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Pricing error or failure to comply with pricing methodologies

97 Manager must report to supervisor (or FMA) about pricing error or failure to comply with pricing methodologies

(1) If section 168 of the Act applies, the manager must ensure that the pricing error or non-compliance is reported to the supervisor (or, if there is no supervisor, to the FMA) as soon as is reasonably practicable after the manager becomes aware of the pricing error or non-compliance.

(2) In this regulation and regulations 98 and 99,—

non-compliance means a failure to comply with the methodology for pricing the managed investment products as set out in the governing document or a notice issued by the FMA under subpart 4 of Part 9 of the Act

pricing error means an error in the calculation of the price at which managed investment products are transferred or redeemed.

98 Contents of reports about pricing error or failure to comply with pricing methodologies

(1) The report under regulation 97 must disclose—

(a) the name of the registered scheme affected and the name of any fund within that scheme to which the pricing error or non-compliance relates; and

(b) the nature and cause of the pricing error or non-compliance; and

(c) the amount of the pricing error or the cost of the non-compliance as a percentage of the price of the relevant managed investment product or of the net asset value of the fund; and

(d) the number and classes of current and former scheme participants affected by the pricing error or non-compliance; and

(e) the date on which the pricing error or non-compliance was corrected and the period of time before which the manager became aware of the pricing error or non-compliance; and

(f) if applicable, the steps taken, or to be taken, to correct, reimburse for, and compensate for the pricing error or non-compliance (including how reimbursement will be made and compensation will be paid) and the time frame within which the manager intends to take any steps not already taken; and

(g) what steps (if any) have been taken, or will be taken, to minimise risk of a recurrence of the pricing error or non-compliance and the time frame within which the manager intends to take any steps not already taken.

(2) If any information referred to in subclause (1)(c) to (g) is not reasonably ascertainable as at the date of the report under regulation 97,—

(a) the report is not required to include that information; but

(b) the manager must make a further report containing that information to the supervisor (or, if there is no supervisor, to the FMA) as soon as is reasonably practicable after the information becomes reasonably ascertainable.

99 Other action that must be taken on pricing errors and failure to comply with pricing methodologies

(1) This regulation applies if section 168 of the Act applies.

(2) The manager must, as soon as is reasonably practicable, take all reasonable steps (in consultation with the supervisor or, if there is no supervisor, the FMA) to—

(a) ensure that every disadvantaged current scheme participant is reimbursed, and every disadvantaged former scheme participant is compensated, so as to restore that person as near as possible to the position the person would be in (in relation to the scheme) had the pricing error or non-compliance not occurred; and

(b) notify each of those current or former scheme participants of—

(i) the pricing error or non-compliance; and

(ii) any action that has been or will be taken to compensate or reimburse them; and

(c) ensure that the manager and its associated persons do not retain any benefit from the pricing error or non-compliance.

(3) Subclause (2) does not require a payment for the purposes of reimbursement or compensation to a current or former scheme participant if the amount of reimbursement or compensation is less than the minimum level specified in, or determined in accordance with, the governing document.

(4) For the purposes of subclause (2),—

(a) a disadvantaged current or former scheme participant includes a current or former scheme participant who is disadvantaged by the pricing error or non-compliance on the issue or transfer of a managed investment product:

(b) the reimbursement may be made—

(i) by issuing more managed investment products to a current scheme participant or otherwise adjusting a current scheme participant's holdings of managed investment products, by adjusting the price of managed investment products, or by otherwise adjusting a current scheme participant's accumulation; or

(ii) by direct credit to a bank account or by cheque (if reimbursement under subparagraph (i) is impracticable):

(c) compensation may be made to a former scheme participant—

(i) by direct credit to a bank account or by cheque; or

(ii) if the pricing error or non-compliance relates to a KiwiSaver scheme, by making a contribution to the scheme participant's current KiwiSaver scheme:

(d) a notice to a current or former scheme participant (**A**) under subclause (2)(b) must be provided by giving it to A or delivering or sending it to A's address.

Related party transactions

100 Manager must provide quarterly report to supervisor on related party transaction certificates

(1) For the purposes of section 147 of the Act, the manager of a registered scheme other than a restricted scheme must provide to the supervisor a report in accordance with this regulation within 10 working days after the expiry of each quarter of each year.

(2) The report must state whether any certificates have been given under section 173(2)(b) or (4) of the Act in the previous quarter and, if so, include a copy of those certificates.

(3) The report may be combined with any other report that is provided by the manager to the supervisor.

Regulation 100 heading: amended, on 12 June 2025, by regulation 18(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 100(1): amended, on 12 June 2025, by regulation 18(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 100(1): amended, on 12 June 2025, by regulation 18(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Regulation 100(3): amended, on 12 June 2025, by regulation 18(4) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

100A Manager of restricted scheme must provide reports to FMA on related party transaction certificates

(1) For the purposes of section 147 of the Act, the manager of a restricted scheme must provide to the FMA,—

(a) if a certificate is given under section 173(4) of the Act, a report within 15 working days after the expiry of the quarter in which the certificate was given that—

(i) states that a certificate was given; and

(ii) includes a copy of the certificate; and

(b) a report (**report A**) within 15 working days after each balance date of the scheme that—

(i) states whether any certificates have been given under section 173(4) of the Act during the accounting period ending on that date; and

(ii) includes a copy of those certificates (if any).

(2) Report A is not required to include a copy of a certificate given under section 173(4) of the Act if—

(a) a copy of the certificate has previously been provided to the FMA in a report that the manager is required to provide to the FMA; and

(b) report A states the date of the report in which a copy of the certificate was previously provided; and

(c) as at the date of report A, the information in the certificate remains correct.

(3) A report under this regulation may be combined with any other report that is provided by the manager to the FMA.

Regulation 100A: inserted, on 12 June 2025, by regulation 19 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

101 Investments in Australian registered managed investment scheme is permitted related party benefit transaction

For the purposes of section 174(b) of the Act, an interest in a registered scheme (within the meaning of section 9 of the Corporations Act 2001 (Aust)) is a prescribed interest in a prescribed overseas scheme.

102 Investment in Government securities is permitted related party benefit transaction

A transaction is prescribed for the purposes of section 174(d) of the Act if the transaction is the acquisition or disposal of any public security in the ordinary course of business.

103 Transaction to acquire first property is permitted related party benefit transaction

(1) A transaction is prescribed for the purposes of section 174(d) of the Act if—

(a) the transaction is the acquisition of a first property; and

(b) an estimate of the value of the first property is specified in the first PDS; and

(c) that estimate is based on,—

(i) in the case where the first property is quoted financial products, the market price of those products as at the close of a trading day not earlier than 5 trading days before the lodgement of the first PDS:

(ii) in the case where the first property is real property, a valuation from an independent registered valuer (within the meaning of the Valuers Act 1948) that complies with the requirements in subclause (2):

(iii) in any other case, a valuation from a suitably qualified independent valuer.

(2) For the purposes of subclause (1)(c)(ii), the valuation must—

(a) be signed by the registered valuer; and

(b) be dated not more than 4 months before the date of the first PDS; and

(c) be contained on the offer register or the scheme register.

(3) Subclause (1)(b) and (c) does not apply if the first property has an estimated value of $100 or less (and for that purpose, if the first property is quoted financial products, those products must be valued in aggregate rather than per product).

(4) The valuer referred to in subclause (1)(c) is not independent if the valuer is a related party of the scheme.

(5) In this regulation,—

first PDS, in relation to a registered scheme,—

(a) means the first PDS for a regulated offer of managed investment products in the scheme; but

(b) does not include a PDS if interests in the scheme have previously been offered to the public in New Zealand under the Securities Act 1978

first property, in relation to a registered scheme, means property identified in the first PDS as being property the purchase price of which is to be met (in whole or in part) out of the proceeds of the offer to which the first PDS relates.

104 Listed manager transaction is permitted related party transaction

(1) A transaction, in relation to a registered scheme, is prescribed for the purposes of section 174(d) of the Act if—

(a) the managed investment products in the scheme are quoted; and

(b) the transaction is entered into by the manager; and

(c) the listing rules of the licensed market on which those products are quoted contain related party provisions.

(2) In this regulation, **related party provisions** means provisions that—

(a) apply to the manager as a listed issuer; and

(b) prohibit or restrict the ability of listed issuers to enter into transactions with 1 or more types of associated persons.

105 Requirements for certificates as to related party benefits

For the purpose of section 175(1)(b) of the Act, a certificate under section 173 of the Act—

(a) must,—

(i) if the monetary value of the related party benefit or benefits to which the certificate relates can be quantified, state the nature and monetary value of that benefit or those benefits; or

(ii) if the monetary value of the related party benefit or benefits to which the certificate relates cannot be quantified, state the nature and extent of that benefit or those benefits; and

(b) must provide, or have attached to it, reasonable evidence supporting—

(i) the statement under paragraph (a); and

(ii) the stated basis for relying on a ground in section 173 of the Act and (if relevant) section 174 of the Act.

106 Restriction on acquisitions of in-house assets does not apply to public securities

Section 176 of the Act does not apply to an acquisition of a new in-house asset if—

(a) the asset is a public security; and

(b) the public security is acquired in the ordinary course of business of the restricted scheme.

Regulation 106 heading: replaced, on 30 June 2016, by regulation 4 of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

106A Restriction on acquisitions of in-house assets does not apply to restricted schemes that invest in certain unregistered schemes

(1) Section 176 of the Act does not apply to an investment in an unregistered scheme that is made by a restricted scheme if—

(a) the requirements of section 173(4) of the Act are met in relation to the transaction or series of transactions by which the investment is made; and

(b) the unregistered scheme is a trust that is used for the purpose of facilitating investment and reporting for registered schemes; and

(c) the manager of the unregistered scheme is an investment business (as defined in clause 37 of Schedule 1 of the Act); and

(d) the manager of the unregistered scheme has in place ongoing arrangements that can reasonably be expected to ensure that, in exercising any powers or performing any duties as a manager, it exercises the care, diligence, and skill that a prudent person engaged in the business of managing a registered scheme would exercise in the same circumstances; and

(e) the manager of the unregistered scheme has in place ongoing arrangements that can reasonably be expected to ensure that section 174 of the Act applies to the relevant transactions or all related party benefits to be given under those transactions; and

(f) in the case of a scheme that is identified on the scheme register as an employer-related scheme, the requirement specified in regulation 106B is satisfied.

(2) For the purposes of subclause (1)(e),—

related party benefit, in relation to the unregistered scheme,—

(a) is a benefit—

(i) that either is given out of scheme property of the unregistered scheme or creates an exposure to loss for scheme property of the unregistered scheme; and

(ii) that is given to, or received by, a related party of the unregistered scheme; but

(b) does not include fees or expenses that are paid or reimbursed to the manager in accordance with the governing document of the unregistered scheme

relevant transactions means transactions entered into for or on behalf of the unregistered scheme that provide for 1 or more related party benefits to be given (as defined in this subclause).

(3) Any term or expression that is defined in section 172 or 176(3) of the Act and used, but not defined, in this regulation or regulation 106B has the same meaning as in those provisions.

Regulation 106A: inserted, on 30 June 2016, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Regulation 106A(1)(e): replaced, on 1 December 2017, by regulation 6(1) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Regulation 106A(1)(f): inserted, on 1 December 2017, by regulation 6(1) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Regulation 106A(3): amended, on 1 December 2017, by regulation 6(2) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

106B Additional requirement for employer-related scheme

(1) The requirement for the purposes of regulation 106A(1)(f) is that, immediately after the investment referred to in regulation 106A is made, the restricted scheme must not have an in-house assets ratio of 5% or more (where the ratio is calculated in accordance with section 176(2) and (4) of the Act (applied with all necessary modifications)).

(2) Subclause (3) applies if the unregistered scheme has or acquires an asset that—

(a) is a loan to, or an investment in,—

(i) a contributor to the restricted scheme who is not a scheme participant (other than the Crown); or

(ii) an associated person of a contributor referred to in subparagraph (i); or

(b) is subject to a lease or lease arrangement with a person referred to in paragraph (a)(i) or (ii).

(3) For the purposes of subclause (1), the restricted scheme must be treated as having or acquiring that asset in proportion to the restricted scheme's interest in the unregistered scheme.

(4) For the purposes of subclause (1), the restricted scheme's investment in the unregistered scheme must not be treated as an in-house asset (but this subclause does not limit subclause (3)).

Example

ABC scheme (**ABC**) makes regular investments into an unregistered scheme called XYZ scheme (**XYZ**).

ABC currently has in-house assets that are valued at $200,000.

ABC is preparing to make another investment in XYZ and intends to rely on regulation 106A. To rely on that regulation, the requirement in this regulation must be satisfied.

After the investment is made, ABC will own 20% of XYZ's units.

Employer Limited is a contributor to ABC on behalf of its employees. It is a related party of ABC.

XYZ currently holds shares in Employer Limited that have a value of $10 million. Under subclause (3), 20% of this asset is attributed to ABC as if ABC holds the shares (that is, $2 million worth of shares). This asset is treated as an in-house asset because it is an investment in ABC's related party.

The sum of the in-house assets directly held by ABC and the assets it is treated as holding is $2,200,000 ($200,000 plus $2 million).

The net asset value of ABC's scheme property is $20 million.

Applying section 176(2) of the Act, the in-house assets ratio of ABC would be 11% (the ratio of $2.2 million to $20 million).

ABC does not satisfy the requirement in this regulation and cannot make a further investment in XYZ in reliance on regulation 106A. (Investments may resume once XYZ divests itself of enough shares in Employer Limited to reduce ABC's in-house assets ratio below 5%.)

Regulation 106B: inserted, on 1 December 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Application of Trusts Act 2019 to PIE fund units

Heading: inserted, on 30 January 2021, by regulation 17 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

106C Application of Trusts Act 2019 to PIE fund units

(1) This regulation applies to a managed investment scheme constituted (or to be constituted) as 1 or more trusts or as including 1 or more trusts (or both) if the interests in the scheme—

(a) are—

(i) PIE call fund units; or

(ii) PIE term fund units; and

(b) are or will be offered in reliance upon clause 21(a) or (c) of Schedule 1 of the Act.

(2) The following provisions of the Trusts Act 2019 do not apply to any trust referred to in subclause (1):

(a) section 39 (adviser must alert settlor to modification or exclusion of default duty):

(b) sections 40 to 42 (exemption and indemnity clauses):

(c) section 43 (adviser must alert settlor to liability exclusion or indemnity clause):

(d) section 44 (court consideration of gross negligence):

(e) sections 60 and 61 (power to determine treatment of returns and accounts):

(f) sections 67 to 73 (exercise or performance of trustee powers and functions by others):

(g) sections 74 to 76 (special trust advisers):

(h) sections 81(2) and (3) and 82 to 85 (trustees' indemnities):

(i) section 96 (who may be appointed as trustee):

(j) sections 121 to 123 (termination and variation of trusts).

(3) *See* clause 28 of Schedule 8, which imposes governance requirements for offers made in reliance upon clause 21(a) or (c) of Schedule 1 of the Act.

Section 106C: inserted, on 30 January 2021, by regulation 17 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Subpart 3—Registers and keeping copies of documents

Registers of regulated products

107 Circumstances in which duty for issuer to keep register does not apply

Section 215 of the Act does not apply to—

(a) bearer securities; or

(b) call building society shares; or

(c) call credit union shares; or

(d) call debt securities; or

(e) credit union fixed term deposit products; or

(f) credit union savings account products.

Regulation 107(b): replaced, on 15 March 2021, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 107(c): inserted, on 15 March 2021, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 107(d): inserted, on 15 March 2021, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 107(e): inserted, on 15 March 2021, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 107(f): inserted, on 15 March 2021, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

108 Audit of registers

Every issuer of regulated products must ensure that registers kept by, or on behalf of, the issuer under subpart 4 of Part 4 of the Act are audited in accordance with regulation 109 or 110 (which are alternative means of compliance with this regulation).

109 Audit of particular register

(1) An audit of a register of regulated products must,—

(a) in the case of managed investment products, be carried out every year within 4 months after the balance date of the registered scheme:

(b) in any other case, be carried out every year within 4 months after the issuer's balance date.

(2) The audit must be carried out in accordance with applicable auditing and assurance standards.

(3) The audit must determine whether, in the auditor's opinion, there is reasonable assurance that the register, in all material respects, correctly contains the information referred to in section 217 of the Act.

Regulation 109(1): replaced, on 1 December 2015, by regulation 28 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

110 Collective audit of registers kept by registrar entity

(1) This regulation applies to the registers of regulated products kept on behalf of 1 or more issuers by a registrar entity.

(2) The registers kept by the registrar entity on behalf of 1 or more issuers must be collectively audited at least once a year.

(3) The audit must be carried out in accordance with applicable auditing and assurance standards.

(4) The audit must determine whether, in the auditor's opinion, there is reasonable assurance that the registers kept by the registrar entity, in all material respects, correctly contain the information referred to in section 217 of the Act.

(5) An issuer referred to in subclause (1) may elect that 1 or more of its registers be audited under regulation 109 rather than this regulation.

(6) In this regulation, **registrar entity** means an entity that carries on a business of maintaining registers of regulated products on behalf of issuers (whether or not the business is the entity's only business or the entity's principal business).

111 Public inspection of register not required in certain circumstances

Section 221(1) of the Act does not apply in respect of a register of regulated products if—

(a) the regulated products are debt securities issued by a continuous issuer of those debt securities; and

(b) it is a term of the offer of those debt securities that—

(i) the part of the register that concerns the debt securities of a particular product holder (**A**) is available for inspection by A in the manner referred to in section 222 of the Act if A serves written notice on the issuer of intention to inspect; and

(ii) A may require a copy of, or an extract from, that part of the register to be sent to A within 5 working days after A has made a written request for the copy or extract to the issuer (free of charge).

112 Inspection and copies of documents

(1) For the purposes of section 227(1)(b) of the Act, the issuer of a regulated product, the offeror under a regulated offer, or the manager of a registered scheme must—

(a) keep a document that is relevant to a person (**A**) available for inspection in the manner prescribed in subclause (2) by A, or by a person authorised in writing by A for the purpose, who serves written notice of intention to inspect on the issuer, offeror, or manager; and

(b) provide, on request and on payment of the relevant fee, to a person (**A**) a copy of, or an extract from, a document that is relevant to A (and must provide the copy or extract within 20 working days after receiving the request).

(2) The documents must be available for inspection at the place at which the issuer's, offeror's, or manager's records are kept between the hours of 9 am and 5 pm on each working day during the inspection period.

(3) In this regulation, a document is **relevant** to a person if the person has or had a right to access or obtain a copy of the document under the Act, these regulations, a governing document, or the terms of the offer of a financial product.

(4) In this regulation,—

inspection period means the period commencing on the third working day after the day on which notice of intention to inspect is served on the issuer, offeror, or manager by the person concerned and ending with the eighth working day after the day of service

relevant fee means a reasonable printing and administration fee set by the issuer, offeror, or manager.

Subpart 4—Schedule 3 schemes

113 Reporting obligations for Schedule 3 schemes

(1) The trustees of a Schedule 3 scheme must,—

(a) within 5 months after the balance date of the scheme, prepare an annual report on the affairs of the scheme during the accounting period ending on that date; and

(b) within 28 days after the completion of that report, send a copy of the completed report to the FMA.

(2) The annual report must, in respect of the accounting period to which it relates, include the following matters:

(a) the financial statements of the scheme:

(b) a copy of the auditor's report (if any) on those financial statements:

(c) a statement by the trustees as to whether all the contributions required to be made to the scheme in accordance with the terms of the trust deed have been made:

(d) a statement by the trustees as to whether all the benefits required to be paid from the scheme in accordance with the terms of the trust deed have been paid:

(e) a statement by the trustees as to whether the scheme has been operated in accordance with the terms of the trust deed and the Act:

(f) a notification by the trustees if the assets of the scheme at any time during the accounting period were invested directly or indirectly (in a way in which it was reasonable for the trustees to be aware) in the scheme participant or in any associated person of the scheme participant and if so, details of all such investments held during the accounting period.

(3) In this regulation and in the provisions implied into a trust deed under regulation 114, the **balance date** of a scheme is the close of 31 March or any other date that the trustees adopt as the scheme's balance date (and, for that purpose, section 42 of the Financial Reporting Act 2013 (other than subsection (3)(b) of that section) applies with any necessary modifications).

114 Terms implied into trust deed of Schedule 3 schemes

The following provisions are implied into the trust deed of a Schedule 3 scheme:

1 Trustees must keep proper accounting records

(1) The trustees must ensure that there are kept at all times accounting records that—

(a) correctly record the transactions of the scheme; and

(b) will enable the trustees to ensure that the financial statements of the scheme comply with generally accepted accounting practice; and

(c) will enable the financial statements of the scheme to be readily and properly audited (if an audit is required by any enactment).

(2) The trustees must establish and maintain a satisfactory system of control of those accounting records.

(3) In this clause and clause 2, **financial statements** and **generally accepted accounting practice** have the same meanings as in the Financial Reporting Act 2013.

2 Financial statements must be prepared

The trustees must ensure that, within 5 months after the balance date of the scheme, financial statements that comply with generally accepted accounting practice are—

(a) completed in relation to the scheme and that balance date; and

(b) dated and signed on behalf of the trustees by 2 trustees or, if the scheme has only 1 trustee, by that trustee.

3 Prohibition on transactions giving related party benefits

(1) The trustees must not, unless permitted under subclause (3), enter into a transaction that provides for a related party benefit to be given.

(2) A **related party benefit** is a benefit that is given out of, or creates an exposure to loss for, scheme property and that is given to, or received by, the scheme participant or any associated person of the scheme participant (for example, benefits from the personal use of scheme property by the scheme participant or indirect financial advantages derived by the scheme participant).

(3) Subclause (1) does not apply to—

(a) withdrawals permitted by the trust deed; or

(b) a transaction entered into on terms that—

(i) would be reasonable in the circumstances if the parties were connected or related only by the transaction in question, each acting independently, and each acting in its own best interests; or

(ii) are less favourable to the scheme participant or associated person than the terms referred to in subparagraph (i).

(4) This clause does not affect the validity of any transaction entered into before the scheme is approved as a Schedule 3 scheme.

(5) In this clause, **associated person** has the same meaning as in section 12 of the Financial Markets Conduct Act 2013.

114AA Criterion for withdrawal of Schedule 3 scheme approval on trustee's application

For the purposes of clause 2(1)(b)(iv) of Schedule 3 of the Act, the FMA must be satisfied that the scheme participant is entitled under the terms of the trust deed to receive, before the approval is withdrawn, a lump sum benefit that is equal to the total value of the scheme property after the payment of taxes and fees.

Section 114AA: inserted, on 15 March 2021, by regulation 16 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Part 5
Dealing in financial products on markets

Subpart 1AA—Insider trading

Part 5 subpart 1AA: inserted, on 1 December 2016, by regulation 11 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

114A Exemption involving acquiring certain products by way of issue

(1) Conduct by a person, to the extent that it is conduct falling within section 241(1) of the Act, is exempt from being insider conduct if—

(a) the conduct is a trade in a quoted debt security, equity security, or managed investment product; and

(b) the trade is an acquisition of the debt security, equity security, or managed investment product by way of issue.

(2) Conduct by a person (**A**), to the extent that it is conduct falling within section 242(1) of the Act, is exempt from being insider conduct if—

(a) the conduct is directly or indirectly disclosing inside information to another person (**B**) where A knows or ought reasonably to know or believes that B will, or is likely to,—

(i) trade in a quoted debt security, equity security, or managed investment product; or

(ii) advise or encourage another person (**C**) to trade in a quoted debt security, equity security, or managed investment product; and

(b) the trade would be an acquisition of the debt security, equity security, or managed investment product by way of issue.

(3) Conduct by a person (**A**), to the extent that it is conduct falling within section 243(1) of the Act, is exempt from being insider conduct if—

(a) the conduct is—

(i) advising or encouraging another person (**B**) to trade a quoted debt security, equity security, or managed investment product; or

(ii) advising or encouraging B to advise or encourage another person (**C**) to trade a quoted debt security, equity security, or managed investment product; and

(b) the trade would be an acquisition of the debt security, equity security, or managed investment product by way of issue.

(4) Despite subclauses (1) to (3), this regulation does not apply if—

(a) the trade referred to in any of those subclauses is an acquisition of a quoted managed investment product; and

(b) the manager of the scheme to which the product relates continuously offers those managed investment products in the ordinary course of its business.

(5) For the purposes of subclause (4)(b), managed investment products are not continuously offered merely because they are offered under a dividend reinvestment plan of a kind referred to in clause 10 of Schedule 1 of the Act.

Regulation 114A: inserted, on 7 June 2018, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

114A Exemption involving acquiring certain products by way of issue

[Revoked]

Regulation 114A: revoked, on the close of 30 November 2017, by regulation 114A(5).

Subpart 1—Market manipulation

115 Interpretation

In this subpart, unless the context otherwise requires,—

independent bid means a bid by a buyer who is not—

(a) the stabilisation manager; or

(b) any person acting on behalf of, or in association with, the stabilisation manager

IPO means an offer of debt securities, equity securities, or managed investment products if, immediately before the offer, financial products of the same class are not quoted

licensed market means the licensed market on which the financial products are quoted

market stabilisation means the process of stabilising the market for financial products offered under an IPO

offer document—

(a) means the PDS for the IPO; and

(b) if an exemption has been granted under the Act from the requirement for a PDS, means the principal offer document for the IPO that complies with the exemption; and

(c) includes a document that contains the IPO offer of financial products and by which an offer of those financial products is permitted by law to be made

offer price means the price of the financial products set under the IPO

offeror means the offeror of the financial products

over-allocation means the issue or transfer of additional financial products by the offeror at the option of the stabilisation manager

stabilisation agreement means the agreement referred to in regulation 121

stabilisation bid means a bid by the stabilisation manager for the purpose of the market stabilisation

stabilisation manager means the person appointed in accordance with regulation 122

stabilisation trade means a trade resulting from a stabilisation bid

trade means a completed buy and sell transaction.

Compare: SR 2007/373 r 3

116 Exemption

(1) Market stabilisation that complies with each of the requirements set out in regulations 117 to 130 does not contravene section 262 or 265 of the Act.

(2) For this exemption to apply, the market stabilisation must comply with each of the requirements set out in regulations 117 to 130 for the whole of the period of the market stabilisation.

Compare: SR 2007/373 r 4

117 Prohibited purpose

The market stabilisation must not—

(a) have the purpose of raising the price of the financial products, except for the objective of stabilising the market in the products; or

(b) be undertaken with the intention of creating a false or misleading appearance—

(i) with respect to the extent of active trading in quoted financial products; or

(ii) with respect to the supply of, demand for, price for trading in, or value of those financial products.

Compare: SR 2007/373 r 5

118 Size of IPO

(1) At the close of the IPO, the total value of the IPO must not be less than $30 million.

(2) In subclause (1), **total value**—

(a) means the total value of the IPO when all payments, including any payments on instalment, are received by the offeror; but

(b) does not include payment under any over-allocation.

Compare: SR 2007/373 r 6

119 Period of market stabilisation

The market stabilisation is limited to the period of 30 days beginning with the first day on which the financial products are available for trading on the licensed market.

Compare: SR 2007/373 r 7

120 Disclosure by offeror

The offeror must comply with the following before market stabilisation begins:

(a) the offeror must disclose in each offer document—

(i) the name of the stabilisation manager; and

(ii) the nature and anticipated effect of the market stabilisation; and

(iii) whether over-allocation has been agreed and, if so, the limit of the over-allocation; and

(b) the offeror must include in each offer document a statement—

(i) to the effect that the investor—

(A) has a right to receive from the offeror, free of charge and on request, a copy of the stabilisation agreement; and

(B) may obtain a copy of the stabilisation agreement by electronic means; and

(ii) as to how the investor may obtain that copy by electronic means; and

(c) if there is a register entry for the IPO, the offeror must lodge with the Registrar a copy of the stabilisation agreement.

Compare: SR 2007/373 r 8

121 Stabilisation agreement

(1) Before the IPO opens, the offeror must enter into a stabilisation agreement with the licensed market operator and with the stabilisation manager.

(2) The terms of the agreement must include the following:

(a) the terms and conditions stipulated by the licensed market operator for the technical conduct of the market stabilisation; and

(b) an undertaking by the offeror to comply with those terms and conditions.

(3) The offeror must not breach the undertaking referred to in subclause (2)(b).

Compare: SR 2007/373 r 9

122 Appointment of stabilisation manager

(1) The offeror must appoint a stabilisation manager, and must notify the stabilisation manager's name and contact details to the licensed market operator.

(2) A person (**A**) may be appointed the stabilisation manager only if, before the appointment is made,—

(a) A has in place a Chinese wall to the satisfaction of the FMA; and

(b) the FMA has notified the offeror and the licensed market operator that it is so satisfied.

(3) In subclause (2), **Chinese wall** means an internal information barrier and other necessary procedures to—

(a) confine confidential information relating to the market stabilisation and the financial products to those of A's officers, employees, or agents (including any broker) who are engaged in the market stabilisation; and

(b) prevent that information passing to any other of A's officers, employees, or agents (including any broker).

Compare: SR 2007/373 r 10

123 Stabilisation manager must notify licensed market operator and FMA that market stabilisation to begin

(1) The stabilisation manager must notify the licensed market operator and the FMA that the market stabilisation is to begin.

(2) The notice must be given in writing and must be given,—

(a) if the market stabilisation begins at the start of a trading day, before the market closes on the previous trading day; or

(b) not less than 3 trading hours before the market stabilisation begins.

(3) The licensed market operator must ensure that the notice is notified in accordance with its arrangements for notifying disclosures made to it (*see* section 314(b)(i) of the Act).

Compare: SR 2007/373 r 11

124 Duties and responsibilities of stabilisation manager

The stabilisation manager must—

(a) ensure that the market stabilisation complies with this subpart and the terms and conditions of the stabilisation agreement; and

(b) do everything that is required of the stabilisation manager by this subpart.

Compare: SR 2007/373 r 12

125 Stabilisation bids

(1) A stabilisation bid must be made in the ordinary course of trading on a licensed market.

(2) The stabilisation manager must notify each stabilisation bid to the licensed market operator for release to the market at the same time as the bid is made.

(3) A stabilisation bid must be prioritised behind the current highest independent bid.

Compare: SR 2007/373 r 13

126 Price of stabilisation bids: before any trades

If there have been no trades in the financial products, and there are no current independent bids, a stabilisation bid must not be higher than the offer price.

Compare: SR 2007/373 r 14

127 Price of stabilisation bids: after trades

(1) If there has been a trade in the financial products, and there are 1 or more current independent bids, a stabilisation bid must be the lower of the highest current independent bid and the offer price.

(2) If there has been a trade in the financial products but there are no independent bids, the stabilisation bid must not be higher than the lower of the last trade and the offer price.

Compare: SR 2007/373 r 15

128 Stabilisation manager must keep daily record of trading

The stabilisation manager must keep a record for each day of trading during market stabilisation that records the following information:

(a) in respect of each stabilisation trade for that day, the quantity, price, and time of the transaction:

(b) for the period of market stabilisation to date, the cumulative total of financial products acquired under the market stabilisation.

Compare: SR 2007/373 r 16

129 Stabilisation manager's report to licensed market operator

After the close of each trading day during the market stabilisation, and before the start of trading on the next trading day,—

(a) the stabilisation manager must report in writing to the licensed market operator the information that is specified in regulation 128 for the day ended; and

(b) the licensed market operator must ensure that the information referred to in paragraph (a) is notified in accordance with its arrangements for notifying disclosures made to it (*see* section 314(b)(i) of the Act).

Compare: SR 2007/373 r 17

130 Over-allocation

(1) The payments made under an over-allocation must not exceed 15% of the total value of the IPO.

(2) For the purposes of subclause (1), the amount of the over-allocation must not be subsequently increased, even if it is less than 15% of the total value of the IPO.

(3) In this regulation, **total value** has the same meaning as in regulation 118(2).

Compare: SR 2007/373 r 18

Subpart 2—Disclosure of interests of substantial product holders in listed issuers

131 Interpretation

In this subpart, unless the context otherwise requires,—

attach, in relation to an event disclosure, includes send to a person (on or about the same time as the event disclosure is sent to the person) by a delivery method permitted for that person under these regulations

delivery does not include delivery by post

event disclosure means a disclosure under section 276, 277, 278, or 279 of the Act

relevant agreement has the meaning set out in regulation 139(1)

relevant agreement document has the meaning set out in regulation 139(3).

Compare: SR 2007/372 r 3

132 Person treated as holding financial products where person has relevant interest in certain derivatives

(1) A person (**A**) that has a relevant interest in a derivative for which the underlying is a quoted voting product of a listed issuer must be treated, at a particular date, as having a relevant interest in the following number of those quoted voting products for the purposes of section 275 of the Act:

(a) if the derivative gives A, in economic substance, the financial benefits of holding an ascertainable number of the quoted voting products for a period determined under the derivative and the derivative is a cash-settled derivative, that number of quoted voting products:

(b) if the derivative is a cash-settled option to buy or sell an ascertainable number of quoted voting products at an agreed price on, or on or before, an agreed date and the derivative gives A a long position on those products, the number that is equal to the ascertainable number of products multiplied by the delta of the derivative at the end of the most recent trading day:

(c) in any other case for which there is an applicable framework or methodology, the number calculated in accordance with that framework or methodology.

(2) In subclause (1),—

ascertainable number, in relation to the particular date referred to in subclause (1), means a number that is specified in, determined in accordance with, or can be ascertained on that date under the terms of the derivative

financial benefit means capital, earnings, or other financial returns.

(3) For the purposes of subclause (1)(b),—

(a) A will have a **long position** if, under the terms of the derivative, A may benefit if the price of the underlying quoted voting products increases (rather than decreases); and

(b) the delta of the derivative must be calculated in accordance with accepted market practice for applying a delta calculation to determine how many quoted voting products a counterparty should hold at the end of the most recent trading day to hedge the counterparty's obligations under the derivative (whether or not the counterparty chooses to hedge this way in practice).

Form and delivery method for event disclosures

133 How to make event disclosures to licensed market operator

(1) An event disclosure to a licensed market operator must be made using the operator's form (for that type of event disclosure) and delivery method set under regulation 147 unless—

(a) doing so would delay making the disclosure; or

(b) the operator has not set a form or delivery method under regulation 147.

(2) If subclause (1)(a) or (b) applies, an event disclosure to a licensed market operator must be made in the default form (for that type of event disclosure) set out in Schedule 14 and sent to the licensed market operator's address,—

(a) if reasonably possible, by email in the electronic format required by the operator for dissemination; or

(b) otherwise by email in another electronic format, another electronic method consented to by the operator, or (if none of these is reasonably possible) delivery.

Compare: SR 2007/372 r 4

134 How to make event disclosures to listed issuer

(1) An event disclosure to a listed issuer must be made using—

(a) the relevant licensed market operator's form (for that type of event disclosure) set under regulation 147; or

(b) the default form (for that type of event disclosure) set out in Schedule 14.

(2) The event disclosure must be sent to the listed issuer at the listed issuer's address by email or another electronic method consented to by the listed issuer, or delivery.

Compare: SR 2007/372 r 5

When event disclosures may be combined

135 How to disclose more than 1 type of event disclosure

(1) A person may disclose, in 1 event disclosure, both a movement of 1% or more in a substantial holding and a change in the nature of any relevant interest in the same substantial holding.

(2) In all other cases, a person may disclose only 1 type of event disclosure in an event disclosure.

(3) A person who ceases to have a substantial holding need make only that type of event disclosure, and not also the following types of event disclosures for the same transactions or events:

(a) a movement of 1% or more in the substantial holding; or

(b) a change in the nature of any relevant interest in the substantial holding.

Compare: SR 2007/372 r 7

136 How to disclose more than 1 substantial holding

A person who has a substantial holding in more than 1 class of quoted voting products must make a separate event disclosure for each substantial holding.

Compare: SR 2007/372 r 8

137 How to disclose for more than 1 connected holder with similar or related substantial holding

More than 1 person may disclose together, in 1 event disclosure, if—

(a) they have a similar or related substantial holding in the same listed issuer; and

(b) they are disclosing the same type of event disclosure; and

(c) they are associated persons or connected in the ways set out in section 237(a) to (e) of the Act (and this association or connection is set out in the event disclosure); and

(d) it is clear which information relates to which person or persons in the event disclosure, and the disclosure is not confusing in any other way as a consequence.

Compare: SR 2007/372 r 9

What disclosure required for event disclosures

138 What information must be disclosed in event disclosures

An event disclosure must contain the information required by—

(a) the form in which it is made, in accordance with these regulations; and

(b) the instructions to that form.

Compare: SR 2007/372 r 10

139 When relevant agreement documents must be attached to event disclosures

(1) A **relevant agreement** is an agreement or a deed under which, or by virtue of which,—

(a) a relevant interest arises; or

(b) a qualification arises on a person's relevant interest power to exercise, or control the exercise of, a right to vote, acquire, or dispose of a financial product.

(2) If there is a relevant agreement for a relevant interest or qualification required to be disclosed in an event disclosure, the event disclosure must have attached to it a copy of—

(a) the relevant agreement (if in writing); or

(b) if the relevant agreement is not in writing, a document setting out the material terms of the relevant agreement.

(3) That written relevant agreement or document is the **relevant agreement document**.

(4) This regulation is subject to regulations 140 to 142.

Compare: SR 2007/372 r 11

140 Previously attached relevant agreement documents need not be attached again

A relevant agreement document need not be attached to an event disclosure if—

(a) it has been attached to a previous event disclosure; and

(b) the present event disclosure states this fact and gives the date of that previous event disclosure.

Compare: SR 2007/372 r 12

141 Relevant agreement documents need not be attached for ownership relevant interests

(1) A relevant agreement document need not be attached to an event disclosure for a relevant interest if the substantial product holder has the relevant interest only because the holder—

(a) is a registered holder of the financial products; or

(b) is the beneficial owner of the financial products; or

(c) is both the registered holder and beneficial owner of the financial products.

(2) However, subclause (1) does not exempt the substantial product holder from the requirement to attach a relevant agreement document for any qualification

on the substantial product holder's relevant interest power to exercise, or control the exercise of, a right to vote, dispose of, or acquire a financial product.

Compare: SR 2007/372 r 13

142 Relevant agreement documents need not be attached in case of investment management contracts

(1) A person (**A**) need not attach a relevant agreement document to an event disclosure for a relevant interest or qualification on a relevant interest if—

(a) A's ordinary business consists of, or includes, the investment of some or all of the funds of another person; and

(b) the relevant agreement document (the **investment management contract**) gives A powers to buy and sell financial products for the benefit of the client and to manage investments held for the client (which may include the powers to hold those financial products and exercise the voting rights attached to the financial products, and may be qualified or unqualified powers); and

(c) the relevant interest, or qualification on a relevant interest, arising under the investment management contract arises only because A has those powers; and

(d) the client has the beneficial ownership of the quoted voting products bought or sold by A for the client, or has a beneficial interest in the fund that includes those quoted voting products; and

(e) the event disclosure—

(i) states that the relevant interest or interests, or qualifications on relevant interests, arising under the investment management contract arise only from the powers of investment contained in the investment management contract; and

(ii) describes the nature of the investment management contract.

(2) The exemption in this regulation also applies to a related body corporate of A that exercises some or all of the powers of, or performs some or all of the obligations of, A under the relevant agreement document (and, for that purpose, a reference to A in subclause (1) includes that related body corporate).

Compare: SR 2007/372 r 14

Acknowledgements of event disclosure

143 How listed issuer must give acknowledgement of event disclosure

If a person requests an acknowledgement of an event disclosure under section 282 of the Act, the listed issuer must send that acknowledgement to the person by delivery, post, or (if the disclosure was given by email or another electronic means) email or that other electronic means.

Compare: SR 2007/372 r 15

Exemptions from event disclosure obligations

144 Exemption for substantial holdings in overseas issuer with only secondary listing on domestic licensed markets

(1) A person need not comply with any of sections 276 to 279 of the Act in relation to a substantial holding in a listed issuer if—

(a) the class of quoted voting products in which the person has the substantial holding is also approved for trading on a financial product market in an overseas jurisdiction set out in Schedule 15; and

(b) no financial product market that is licensed under section 316 of the Act has primary jurisdiction for the listing requirements for the listed issuer and the quotation of its financial products; and

(c) the listed issuer is not incorporated in New Zealand or established under New Zealand law; and

(d) the person is subject to overseas substantial holding disclosure requirements in connection with the substantial holding.

(2) In this regulation, **overseas substantial holding disclosure requirements**, in relation to a financial product market in an overseas jurisdiction, means requirements (whether under the market's rules or under the law of the overseas jurisdiction) for persons who have significant holdings of financial products approved for trading on the market to disclose those holdings to the market.

Compare: SR 2007/372 r 16

145 Exemption for substantial holdings held for hedging by derivatives issuer acting in client-serving capacity

(1) This regulation applies to a person that is a derivatives issuer (**A**).

(2) A need not comply with any of sections 276 to 279 of the Act in relation to a substantial holding to the extent that—

(a) the substantial holding arises as a result of the application of section 275 of the Act to derivatives entered into in the ordinary course of A's derivatives-issuing business for the purpose of hedging A's obligations under other derivatives entered into with 1 or more investors in a client-serving capacity; and

(b) A and the investor or investors are not associated persons; and

(c) A has opted into this exemption by written notice to the FMA (and not withdrawn the notice by further written notice to the FMA); and

(d) the FMA has given a written notice to A confirming that the FMA is satisfied that A's reliance on this regulation would not have the effect of circumventing, evading, or defeating any of the purposes specified in

section 273 of the Act (and the FMA has not withdrawn the confirmation by further written notice to A).

(3) A derivatives issuer acts in a **client-serving capacity** when it deals in derivatives by fulfilling orders received from an investor or responding to an investor's request to trade (rather than dealing on its own behalf).

146 Exemption from disclosing derivative where relevant interest to acquire or dispose of underlying is disclosed

(1) This regulation applies if—

(a) a person (**D**) has a relevant interest in a derivative; and

(b) the underlying of the derivative is the quoted voting products of a listed issuer; and

(c) a relevant interest to acquire or dispose of those underlying quoted voting products arises under, or by virtue of, the derivative; and

(d) D makes a disclosure under section 276, 277, or 279 of the Act in respect of the relevant interest referred to in paragraph (c).

(2) D need not comply with the provision referred to in subclause (1)(d) under which the disclosure is made to the extent that the provision would require (by virtue of section 275 of the Act) additional disclosure of the relevant interest in the derivative itself.

Setting of licensed market operator's form and delivery method for event disclosure

147 Setting of licensed market operator's form and delivery method for event disclosure

(1) A licensed market operator may set or change 1 or more forms and delivery methods for event disclosures.

(2) The licensed market operator must, before setting or changing a form or delivery method for event disclosures, be satisfied that—

(a) the form requires the disclosure of the same information and documents as the default form (for the same type of event disclosure) in Schedule 14 (although different words and format may be used); and

(b) the form has sufficient instructions for its use; and

(c) the form can also be used for disclosure to the listed issuer (either by the person making the disclosure or by the operator on that person's behalf); and

(d) the form generates a disclosure in a form that may be notified by the licensed market operator, and may continue to be made available, as referred to in section 314(b)(i) of the Act; and

(e) the form requires a person making the disclosure to confirm that it is correct to the best of the person's knowledge and belief and that the person is duly authorised to make the disclosure by all persons for whom it is made; and

(f) using the form or delivery method will not generally delay the making of event disclosures in comparison with the default form (for the same type of event disclosure) in Schedule 14 or the delivery methods permitted under the regulations; and

(g) using the form or delivery method will not impose unreasonable compliance costs on persons making event disclosures.

(3) For the purposes of subclause (2)(a), immaterial differences in the information that is required in the default form and the information required by the operator's form must be disregarded.

(4) The licensed market operator must ensure that its approved form or forms and delivery method are accessible at all reasonable times on an Internet site maintained by, or on behalf of, the licensed market operator.

Compare: SR 2007/372 r 17

Forms for tracing and disclosure of interests in listed issuers

148 Forms for tracing and disclosure of interests in listed issuers

(1) A listed issuer must use form 1 in Schedule 16 to require a person to disclose relevant interests to it under section 290 of the Act.

(2) A listed issuer must use form 2 in Schedule 16 to require a person to disclose information to it under section 291 of the Act.

Compare: SR 2007/372 r 18

Subpart 3—Disclosure of relevant interests in quoted financial products or specified derivatives by directors and senior managers of listed issuers

149 Interpretation

In this subpart and in Schedule 17, unless the context otherwise requires,—

disclosure notice means a notice in a form referred to in regulation 150

disclosure on appointment or listing means the disclosure required under section 297(1) or 298(1) of the Act

financial product—

(a) means a quoted financial product of a listed issuer or a related body corporate; and

(b) includes a specified derivative as defined in section 298(3) of the Act

transaction means the agreement pursuant to which, or the circumstances in which, the acquisition or disposal of the financial product to which the relevant interest relates or related took place, and includes (without limitation)—

(a) an on-market trade:

(b) an off-market trade:

(c) an exercise of options:

(d) an issue of financial products under a dividend reinvestment plan:

(e) participation in a buy-back scheme

transaction disclosure means the disclosure required under section 297(2) or 298(2) of the Act.

Compare: SR 2003/382 r 3

Form and delivery method for disclosure

150 Directors and senior managers must complete disclosure

(1) A director or senior manager of a listed issuer who must make a disclosure on appointment or listing must do so using—

(a) the relevant licensed market operator's form (for disclosure on appointment or listing) set under regulation 156; or

(b) the default form (for disclosure on appointment or listing) set out in Schedule 17.

(2) A director or senior manager of a listed issuer who must make a transaction disclosure must do so using—

(a) the relevant licensed market operator's form (for transaction disclosure) set under regulation 156; or

(b) the default form (for transaction disclosure) set out in Schedule 17.

Compare: SR 2003/382 r 5

151 What information must be disclosed

A disclosure on appointment or listing or a transaction disclosure must contain the information required by—

(a) the form in which it is made, in accordance with these regulations; and

(b) the instructions to that form.

Compare: SR 2007/372 r 10

152 Aggregation of multiple transactions in transaction disclosure notice

(1) Multiple acquisitions and multiple disposals of relevant interests in financial products may be disclosed in 1 disclosure notice for transaction disclosure, provided that all the acquisitions and disposals disclosed in the notice took place within the 20-working-day or 5-trading-day period (as the case may be) referred to in section 297(2) or 298(2) of the Act.

(2) A director or senior manager who discloses multiple acquisitions or multiple disposals of relevant interests in financial products in accordance with subclause (1) must state, in the transaction disclosure notice, the number of transactions that the disclosure notice relates to.

Compare: SR 2003/382 r 12

153 Method by which disclosure notice must be given

(1) Every disclosure notice must be—

(a) delivered to the address of the person to whom the notice is given; or

(b) given by other electronic means to which the licensed market operator has given its consent (in the case of a notice given to a licensed market operator); or

(c) given by other electronic means to which the listed issuer has given its consent (in the case of a notice given to a listed issuer).

(2) In subclause (1)(a), **delivered** does not include delivered by post.

Compare: SR 2003/382 r 16

Exemptions from disclosure obligations

154 Exemption relating to overseas-regulated markets

(1) A director or senior manager of an overseas listed issuer who has, or who acquires or disposes of, a relevant interest in a quoted financial product of the overseas listed issuer does not have to disclose that fact under section 297 of the Act.

(2) A director or senior manager of an overseas listed issuer who has, or who acquires or disposes of, a relevant interest in a specified derivative does not have to disclose that fact under section 298 of the Act if the underlying is a financial product of the overseas listed issuer.

(3) A director or senior manager of an overseas listed issuer who has, or who acquires or disposes of, a relevant interest in a quoted financial product of a related body corporate of that overseas listed issuer does not have to disclose that fact under section 297 of the Act unless—

(a) the director or senior manager is also a director or senior manager of the related body corporate; and

(b) the related body corporate is a listed issuer, but not an overseas listed issuer.

(4) A director or senior manager of an overseas listed issuer who has, or who acquires or disposes of, a relevant interest in a specified derivative does not have to disclose that fact under section 298 of the Act if the underlying is a financial product of a related body corporate of the overseas listed issuer unless—

(a) the director or senior manager is also a director or senior manager of the related body corporate; and

(b) the related body corporate is a listed issuer, but not an overseas listed issuer.

(5) In this regulation, **overseas listed issuer** means a listed issuer—

(a) whose financial products are approved for trading on a market that—

(i) is licensed under section 317 of the Act (the **overseas-regulated market**); and

(ii) has primary jurisdiction for the listing requirements for the listed issuer and the quotation of its financial products; and

(b) in relation to which no licensed market (other than the overseas-regulated market) has primary jurisdiction for the listing requirements for the listed issuer and the quotation of its financial products.

Compare: SR 2004/105 cl 12

155 Exemption from disclosing derivative where relevant interest to acquire or dispose of underlying is disclosed

(1) This regulation applies if—

(a) a person (**A**) has a relevant interest in a derivative; and

(b) the underlying of the derivative is the quoted voting products of a listed issuer; and

(c) A makes a disclosure under section 297(2) of the Act in respect of an acquisition or a disposal of a relevant interest in those underlying quoted voting products (or relies on section 302 of the Act in respect of the acquisition or disposal of that relevant interest).

(2) A need not comply with section 298 of the Act to the extent that it requires disclosure of the relevant interest in the derivative.

Setting of licensed market operator's form for disclosure

156 Setting of licensed market operator's form for disclosure

(1) A licensed market operator may set or change 1 or more forms for disclosure on appointment or listing or transaction disclosure.

(2) The licensed market operator must, before setting or changing a form, be satisfied that—

(a) the form requires the disclosure of the same information and documents as the default form (for the same type of disclosure) in Schedule 17 (although different words and format may be used); and

(b) the form has sufficient instructions for its use; and

(c) the form can also be used for disclosure to the listed issuer (either by the person making the disclosure or by the operator on that person's behalf); and

(d) the form generates a disclosure in a form that may be notified by the licensed market operator, and may continue to be made available, as referred to in section 314(b)(i) of the Act; and

(e) the form requires a person making the disclosure to confirm that it is correct to the best of the person's knowledge and belief and that the person is duly authorised to make the disclosure by all persons for whom it is made; and

(f) using the form will not generally delay the making of disclosures in comparison with the default forms in Schedule 17; and

(g) using the form will not impose unreasonable compliance costs on persons making disclosures.

(3) For the purposes of subclause (2)(a), immaterial differences in the information that is required in the default form and the information required by the operator's form must be disregarded.

(4) The licensed market operator must ensure that its approved form or forms are accessible at all reasonable times on an Internet site maintained by, or on behalf of, the licensed market operator.

Compare: SR 2007/372 r 17

Subpart 4—Transfer of transferable financial products

157 Products transfer

A products transfer for the purposes of sections 372 and 373(1)(a) of the Act must be in form 1 in Schedule 18.

158 Brokers transfer

A brokers transfer for the purposes of section 373(1)(b) of the Act must be in form 2 in Schedule 18.

Subpart 5—Unsolicited offers to purchase financial products off-market

159 Interpretation

(1) In this subpart, unless the context otherwise requires,—

agreement means the agreement that results from the acceptance of an unsolicited offer

disclosure document means the document referred to in regulation 165

financial products register means—

(a) a register kept under subpart 4 of Part 4 of the Act; or

(b) a register of financial products kept under any other enactment or overseas law

issuer, in relation to an unsolicited offer, means the listed issuer or issuer of the financial products to which the offer relates

offeree means a person to whom an unsolicited offer is made

offeror means a person who makes an unsolicited offer

same, or substantially similar, terms includes terms that have, in substance, the same, or substantially similar, effect.

(2) *See* section 381 of the Act (which defines **unsolicited offer**).

Compare: SR 2012/331 r 3

160 Application of subpart

(1) This subpart applies to an unsolicited offer made by a person (**A**) to another person (**B**) if—

(a) the financial products are—

(i) quoted financial products or approved for trading on a financial product market; or

(ii) financial products of a class that has previously been offered under a regulated offer or in reliance on clause 6 of Schedule 1 of the Act; or

(iii) financial products of a class that has previously been offered to the public in New Zealand under the Securities Act 1978 (whether before its repeal or under Part 1 of Schedule 4 of the Act); and

(b) A or an associated person of A or both have made, are making, or intend to make (in aggregate) unsolicited offers on the same, or substantially similar, terms to 20 or more other persons in the period that begins 6 months before the date of the offer to B and ends 6 months after that date; and

(c) the offer is received by B in New Zealand (regardless of where any resulting transfer occurs or where A is resident, incorporated, or carries on business).

Example

A makes an unsolicited offer to purchase the shares of B. Those shares are quoted financial products.

A makes substantially similar offers to 10 other persons in the 6-month period before the offer.

At the date of the offer to B, A intends to make substantially similar offers to a further 10 persons in the 6-month period after the offer.

It does not matter for the purposes of counting the number of persons to whom an offer is made under subclause (1)(b) that some of those offers are made to persons referred to in regulation 162.

These regulations apply to the offer to B because A has made, is making, or intends to make unsolicited offers on substantially similar terms to 20 other persons in the period referred to in subclause (1)(b).

(2) However, this subpart does not apply to an unsolicited offer—

(a) that is an offer to acquire a derivative, to acquire a power to dispose of a derivative, or to acquire another interest in or right attaching to a derivative; or

(b) that is made in connection with an amalgamation under Part 13 of the Companies Act 1993; or

(c) that is made in connection with an arrangement or amalgamation under Part 15 of the Companies Act 1993; or

(d) that is made in connection with a compromise or an arrangement under Part 5.1 of the Corporations Act 2001 (Aust); or

(e) that is made in connection with a takeover offer for quoted managed investment products that is made in accordance with the market rules of the licensed market on which the products are quoted; or

(f) to acquire financial products issued by a body corporate that is incorporated outside New Zealand if—

(i) the offer is made by, and the financial products are to be acquired by, that body corporate; or

(ii) the offer is made as part of, or in connection with, a takeover offer that is regulated by overseas law or rules.

(3) For the purposes of subclause (2)(f),—

overseas law or rules, in relation to the body corporate referred to in that paragraph, means—

(a) the law of the country, State, or jurisdiction in which the body corporate is incorporated; or

(b) the rules of an overseas market on which the financial products issued by the body corporate are approved for trading

overseas market means a financial product market that is authorised to operate in an overseas jurisdiction in which its principal place of business is located.

Compare: SR 2012/331 r 5(1), (3), (4)

161 Miscellaneous provisions relating to application

For the purposes of regulation 160(1)(b),—

(a) the intention to make further offers must be considered as at the date of the offer to B:

(b) if A or an associated person of A makes unsolicited offers on the same, or substantially similar, terms to other persons during the 6-month period after the date of the offer to B, it must be presumed that A or the

associated person intended, as at the date of the offer to B, to make those offers unless the contrary is proved by A:

(c) in determining the number of offers to other persons,—

(i) offers to persons referred to in regulation 162 must be counted even though regulations 163 to 177 do not apply to those offers:

(ii) an offer to 2 or more persons who are joint holders of the products must be treated as an offer to a single person:

(iii) offers to persons made before or after commencement of these regulations must be counted:

(iv) only offers to persons received in New Zealand must be counted:

(v) invitations to persons to make offers to sell financial products, to confer powers to dispose of financial products, or to sell interests in or rights attaching to financial products must be counted as offers to acquire financial products, to acquire powers to dispose of financial products, or to acquire other interests in or rights attaching to financial products (as the case may be).

Compare: SR 2012/331 r 5(2)

162 Obligations do not apply to offers to certain persons

(1) Regulations 163 to 177 do not apply to an offer made to any of the following:

(a) a wholesale investor:

(b) an associated person of the offeror:

(c) a close business associate of the offeror or of a director of the offeror:

(d) a relative of the offeror or of a director of the offeror (*see* clause 5(2) of Schedule 1 of the Act).

(2) In this regulation,—

close business associate has the same meaning as in clause 4(2) and (3) of Schedule 1 of the Act (applied with all necessary modifications as if the references to the offeror or an offer of financial products were, respectively, references to the offeror as defined in regulation 159 or the unsolicited offer)

wholesale investor, in relation to financial products, means—

(a) a person who acquired the financial products under an offer as a wholesale investor (as defined in clause 3(2) and (3) of Schedule 1 of the Act); or

(b) a person who is a wholesale investor within the meaning of clause 3(2) of Schedule 1 of the Act (*see* subclause (3)).

(3) The relevant time, for the purposes of applying Schedule 1 of the Act under paragraph (b) of the definition of wholesale investor in subclause (2), must

be treated as the time immediately before the unsolicited offer is made to the person.

Compare: SR 2012/331 r 6

Offeror obligations

163 Offeror must notify intention to make unsolicited offer

(1) A person (**A**) must not make an unsolicited offer unless A has given written notice to the issuer, at least 5 working days before the offer is made, of A's intention to do so.

(2) However, the written notice must not be given more than 10 working days before the offer is made.

(3) If the unsolicited offer will relate to quoted financial products, A must, at least 5 working days before the offer is made, give a copy of the written notice referred to in subclause (1) (including the information referred to in regulation 164) to the relevant licensed market operator.

Compare: SR 2012/331 r 7(1), (2)

164 Contents of written notice to issuer

(1) The written notice referred to in regulation 163 must be accompanied by—

(a) a copy of the standard disclosure document that will be given to the offerees (excluding information relating only to a particular offeree); and

(b) a list of the names and addresses of every offeree to whom the disclosure document will be given; and

(c) a list of the names and addresses of every other person to whom the offeror or an associated person of the offeror or both have made, are making, or intend to make an unsolicited offer on the same, or substantially similar, terms in the period referred to in regulation 160(1)(b).

(2) If the person referred to in regulation 163(1) intends to make the offer to all of the persons who, as at a particular date, are registered on a financial products register as holding financial products of a particular class, the written notice referred to in that regulation—

(a) must state that intention (including the particular date and the class of financial products concerned); but

(b) is not required to be accompanied by the lists referred to in subclause (1)(b) and (c).

(3) The information referred to in subclause (1)(b) and (c) must be in a format that is readily accessible by the issuer so as to enable the issuer to readily communicate with the offerees or other persons referred to in those paragraphs.

Compare: SR 2012/331 r 7(3) to (6)

165 Unsolicited offer must be made in disclosure document

An offeror must ensure that an unsolicited offer is made only in a disclosure document that—

(a) complies with regulations 168 and 169; and

(b) is given to the offeree.

Compare: SR 2012/331 r 8(1)

166 Restricted unsolicited offer communications

(1) An offeror must ensure that a restricted unsolicited offer communication is not distributed to a person who is or will be an offeree before the disclosure document is given to the offeree under regulation 165.

(2) An offeror must, if distributing a restricted unsolicited offer communication to an offeree after giving a disclosure document to the offeree but before the offer is accepted, ensure that the communication is accompanied by another copy of the disclosure document that complies with regulations 168 and 169.

(3) In this regulation, **restricted unsolicited offer communication** means a document or other communication that—

(a) refers to an unsolicited offer or an intended unsolicited offer (for example, an acceptance form); and

(b) is authorised or instigated by, or on behalf of, the person who is or will be the offeror or prepared with the co-operation of, or by arrangement with, that person.

Compare: SR 2012/331 r 8(2), (4)

167 Disclosure document must be prominently identified if accompanied by other documents

If the disclosure document is accompanied by 1 or more other documents when it is given to the offeree, the offeror must ensure—

(a) that the disclosure document is prominently identified; and

(b) in the case where it is given—

(i) otherwise than by electronic means, that the disclosure document is placed in front of any of the other documents:

(ii) by electronic means, that the disclosure document is in a position within the group of documents where it is reasonably likely to come to the attention of the offeree.

Compare: SR 2012/331 r 8(3)

168 Contents of disclosure document

(1) The disclosure document must contain, at the front of the document, the information and statements specified in Schedule 19, in the form set out in that schedule, including,—

(a) in the case of an unsolicited offer to acquire quoted financial products,—

(i) the consideration that the offeror is offering under the offer to the offeree for each financial product (the **offer price**); and

(ii) the current average market price of each financial product (the **market price**), being the average market price calculated over a 20-working-day period ending at a point in time specified in the document (being a time that is not earlier than 10 working days before the date of the offer); and

(iii) the total consideration that the offeror is offering under the offer to the offeree (the **total offer price**); and

(iv) the total current average market price of all of the financial products that are the subject of the offer to the offeree (the **total market price**), being the total average market price calculated over a 20-working-day period ending at a point in time specified in the document (being a time that is not earlier than 10 working days before the date of the offer); and

(v) the unique identification code of the issuer as issued by the relevant licensed market operator; and

(vi) a statement to the effect that the offeree may check the current market price of the financial products on the relevant licensed market operator's Internet site and in newspapers; and

(vii) the name of that licensed market operator and its Internet site address; and

(b) in the case of an unsolicited offer to acquire non-quoted financial products,—

(i) the consideration that the offeror is offering under the offer to the offeree for each financial product (the **offer price**); and

(ii) a fair estimate of the value of each financial product as at a point in time specified in the document (being a time that is not earlier than 10 working days before the date of the offer) (the **fair estimate of value**); and

(iii) the total consideration that the offeror is offering under the offer to the offeree (the **total offer price**); and

(iv) a fair estimate of the total value of the financial products that are the subject of the offer to the offeree as at a point in time specified in the document (being a time that is not earlier than 10 working days before the date of the offer) (the **total fair estimate of value**); and

(v) the basis for making the estimates (including the main assumptions on which the estimates are based); and

(vi) a statement as to whether the estimates have been reviewed by an independent third party acting in his or her professional capacity or consist only of the expression of the offeror's opinion; and

(c) in the case of an unsolicited offer to acquire a power to dispose of financial products or to acquire other interests in or rights attaching to financial products,—

(i) the total consideration that the offeror is offering under the offer to the offeree (the **total offer price**); and

(ii) a fair estimate of the total value of the power, interests, or rights that are the subject of the offer to the offeree as at a point in time specified in the document (being a time that is not earlier than 10 working days before the date of the offer) (the **total fair estimate of value**); and

(iii) the basis for making the estimate (including the main assumptions on which the estimate is based); and

(iv) a statement as to whether the estimate has been reviewed by an independent third party acting in his or her professional capacity or consists only of the expression of the offeror's opinion; and

(d) in each case, the terms of payment of the consideration that the offeror is offering under the offer, including—

(i) how and when payments will be made; and

(ii) the date by which the consideration will be paid in full; and

(iii) if payment of the consideration is to be made by way of a single payment more than 90 days after the date of the offer, a statement in the form set out in Part 1 of Schedule 20; and

(iv) if payment of the consideration is to be made in instalments, the information and statement referred to in subclause (3).

(2) Subclause (1)(c) does not apply if subclause (1)(a) or (b) applies.

(3) The information and statement for the purposes of subclause (1)(d)(iv) are as follows:

(a) the amount of each instalment:

(b) when each instalment will be paid:

(c) how many instalments will be paid:

(d) how each instalment will be paid:

(e) a statement in the form set out in Part 1 of Schedule 20 if the last instalment is to be made more than 90 days after the date of the offer.

(4) Consideration, prices, values, or other monetary amounts that must be disclosed in a disclosure document must be expressed in New Zealand currency.

Compare: SR 2012/331 r 9

169 Presentation of information and statements

The information and statements required to be contained in a disclosure document must be worded and presented in a clear, concise, and effective manner.

Compare: SR 2012/331 r 10

170 Offer period

(1) An offeror must ensure that the unsolicited offer—

(a) specifies the period for which it will remain open; and

(b) remains open for that period.

(2) The offer period must—

(a) commence with the date of the offer; and

(b) be not shorter than 30 days and not longer than 12 months.

(3) A specified person must not, in relation to an unsolicited offer made to a person (**B**), make a representation to B (whether in the disclosure document or otherwise) to the effect that B has less than 30 days after the date of the offer within which to make a decision on the offer.

(4) In this regulation, **specified person**, in relation to an unsolicited offer, means—

(a) the offeror; or

(b) an associated person of the offeror; or

(c) a person acting on behalf of the offeror or an associated person of the offeror.

(5) This regulation is subject to regulation 171.

Compare: SR 2012/331 r 12

171 Withdrawal of offer

(1) An unsolicited offer may be withdrawn only with the consent of the FMA.

(2) A purported withdrawal of an unsolicited offer in contravention of subclause (1) is ineffective.

(3) The FMA may give its consent subject to the conditions that it thinks fit (for example, conditions relating to notice being given to the offeree and the issuer).

(4) The offerer must comply with the conditions of the FMA's consent.

Compare: SR 2012/331 r 13

172 Terms of offer cannot be varied

(1) The terms of an unsolicited offer, as set out in the disclosure document, cannot be varied.

(2) A purported variation of the terms of the offer is ineffective.

(3) This regulation does not—

(a) prevent the offeror from withdrawing the offer in accordance with regulation 171 and making another offer on different terms; or

(b) prevent the offeree from making a counter-offer on different terms.

Compare: SR 2012/331 r 14

Cancellation

173 Right to cancel

(1) An offeree has a right to cancel an agreement by—

(a) doing both of the following:

(i) giving notice of the cancellation to the offeror not later than 10 working days after the date of the acceptance of the unsolicited offer; and

(ii) repaying to the offeror any consideration paid by the offeror to the offeree under the agreement not later than 20 working days after the date of the acceptance of the unsolicited offer; or

(b) repaying to the offeror any consideration paid by the offeror to the offeree under the agreement not later than 10 working days after the date of the acceptance of the unsolicited offer.

(2) If the agreement is cancelled under subclause (1), no party is obliged or entitled to perform it further.

(3) These regulations do not limit any other right to cancel the agreement exercisable apart from this regulation.

Compare: SR 2012/331 r 15(1), (4)

174 Right to cancel does not apply if FMA has exempted offeror

Despite regulation 173(1), the right to cancel under that subclause does not apply if—

(a) the FMA has, before the right is exercised, granted an exemption under subpart 2 of Part 9 of the Act from the whole of regulation 176 or 177 (as the case may be); and

(b) the exemption applies to the unsolicited offer; and

(c) the offeror has complied with all of the terms and conditions of that exemption that are required to be complied with.

175 Notice of cancellation

(1) Notice of the cancellation under regulation 173(1)(a)—

(a) must be in writing and in a form that indicates (irrespective of the exact words used) the intention of the offeree to cancel or withdraw from the agreement; and

(b) may be given by the offeree or any person authorised by the offeree to act on the offeree's behalf.

(2) A written refusal to complete the relevant transfer of the financial products given by or on behalf of the offeree must be treated as satisfying subclause (1)(a).

(3) If an offeree gives notice of the cancellation under regulation 173(1) but does not comply with regulation 173(1)(a)(ii) within 5 working days after the notice is given to the offeror, the offeror must, as soon as practicable, give written notice to the offeree of the obligation to repay under regulation 173(1)(a)(ii).

Compare: SR 2012/331 r 15(2), (3), (5)

176 Offeror's cancellation duties where offer to acquire financial products

(1) This regulation applies in relation to an unsolicited offer to acquire financial products if the offeree has exercised the right under regulation 173(1).

(2) If the financial products that are the subject of the unsolicited offer—

(a) have not been transferred to the offeror, the offeror—

(i) must not take any steps to arrange for the transfer of the financial products; and

(ii) must take all reasonably practicable steps to prevent the registration of a transfer of the financial products:

(b) have already been, or are subsequently, transferred to the offeror, the offeror must comply with subclause (3).

(3) The offeror must—

(a) either—

(i) transfer the financial products back to the offeree; or

(ii) if the financial products have been on-sold, transfer to the offeree an equal number of financial products of the same class; and

(b) pay to the offeree all dividends and any other distribution received by the offeror in respect of the financial products; and

(c) transfer to the offeree any other interest, rights, or benefits received by the offeror in respect of the financial products.

(4) The offeror must act under this regulation as soon as practicable, but in any event not later than the end of the specified period after the offeree returns to the offeror any consideration paid by the offeror to the offeree under the agreement.

(5) In this regulation, **specified period** means,—

(a) if the financial products have been on-sold, 20 working days; or

(b) in any other case, 10 working days.

Compare: SR 2012/331 r 16

177 Offeror's cancellation duties where offer to acquire disposal power or other interests or rights

(1) This regulation applies in relation to an unsolicited offer to acquire a power to dispose of financial products or to acquire other interests in or rights attaching to financial products if the offeree has exercised the right under regulation 173(1).

(2) This regulation does not apply in relation to an unsolicited offer to acquire financial products (*see* regulation 176).

(3) The offeror must not take any steps to arrange for the acquisition of the power, interests, or rights.

(4) If the power, interests, or rights have already been, or are subsequently, acquired by the offeror, the offeror,—

(a) in the case of a power to dispose of financial products, must not take any steps to exercise the power and must—

(i) take all practicable steps to arrange for the termination of the power; or

(ii) if the power has been exercised, transfer to the offeree an equal number of financial products of the same class as those that have been disposed of; and

(b) in the case of interests in or rights attaching to financial products, must—

(i) transfer the interests or rights back to the offeree; or

(ii) if the interests or rights have been on-sold, transfer to the offeree equivalent interests or rights; and

(c) in either case, must pay to the offeree all dividends and any other distribution received by the offeror in respect of the power, interests, or rights; and

(d) in either case, must transfer to the offeree any other interest, rights, or benefits received by the offeror in respect of the power, interests, or rights that have been acquired.

(5) The offeror must act under this regulation as soon as practicable, but in any event not later than the end of the specified period after the offeree returns to the offeror any consideration paid by the offeror to the offeree under the agreement.

(6) In this regulation, **specified period** means,—

(a) if the power, interests, or rights have been exercised or on-sold, 20 working days; or

(b) in any other case, 10 working days.

Compare: SR 2012/331 r 17

Miscellaneous provisions

178 Prohibition on inviting offers to sell

(1) A person (**A**) must not invite another person (**B**) to—

(a) make an offer to sell a financial product in circumstances in which, if the invitation were an offer to acquire the financial product, it would be an unsolicited offer to which this subpart applies; or

(b) make an offer to confer a power to dispose of a financial product in circumstances in which, if the invitation were an offer to acquire a power to dispose of a financial product, it would be an unsolicited offer to which this subpart applies; or

(c) make an offer to sell an interest in or a right attaching to a financial product in circumstances in which, if the invitation were an offer to acquire an interest in or a right attaching to a financial product, it would be an unsolicited offer to which this subpart applies.

(2) Subclause (1) does not apply to invitations made to any of the persons referred to in regulation 162(1) (applied with all necessary modifications as if A were the offeror).

Compare: SR 2012/331 r 19

179 Unsolicited offer provisions

Regulations 163 to 172, 175(3), 176, 177, and 178 are unsolicited offer provisions for the purposes of the Act (which means that a contravention may give rise to an unsolicited offer order, a direction order, a pecuniary penalty, or another civil liability order).

Compare: SR 2012/331 r 20

180 Protection from liability in connection with unsolicited offer obligations

(1) The following persons, in relation to an unsolicited offer, are protected persons for the purposes of section 384 of the Act:

(a) the issuer:

(b) a person who maintains a financial products register on behalf of the issuer:

(c) a person who acts on behalf of a person referred to in paragraph (a) or (b) in connection with a transfer of financial products.

(2) For the purposes of section 384(2) of the Act, any thing done or omitted by a person referred to in subclause (1) for the purpose of implementing or giving effect to a cancellation of an agreement under regulations 173 to 177 is a protected act or omission.

Subpart 6—Control limit

181 Control limit for NZX Limited

For the purposes of section 344 of the Act, the control limit for NZX Limited is 10% of the voting rights in that company.

Part 6
Licensing and other regulation of market services

Subpart 1—Issue of licences

Subpart 1 heading: inserted, on 15 March 2021, by regulation 5 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Exemptions from DIMS licensing requirement

182 Exemptions from DIMS licensing requirement

(1) For the purposes of section 389(3)(b) of the Act, the following are exempt services:

(a) a service provided by a trustee corporation in the ordinary course of providing—

(i) legal or financial services relating to the preparation or drafting of a will; or

(ii) estate management and administration services (and associated legal, financial, and other services carried out under the relevant enactment governing the trustee corporation):

(b) a service provided by a statutory officer or a Crown-related entity in—

(i) discharging any duties or exercising any powers of the statutory officer or the Crown-related entity under any enactment; or

(ii) doing anything that is incidental to the discharge of the functions of the statutory officer or the Crown-related entity under any enactment:

(c) a service relating to only the financial products listed in subclause (3) that is provided—

(i) by a non-profit organisation in the course of providing a money management service for budgeting assistance purposes; and

(ii) without charge or for a charge set at a level to recover no more than the costs of providing the service:

(d) a service provided by a lawyer or an incorporated law firm acting, in the ordinary course of business, as an attorney under an enduring power of attorney in respect of a donor's property in circumstances where the donor becomes mentally incapable:

(e) a service provided by a person appointed by the court in respect of a person's assets.

(2) In this regulation,—

incorporated law firm has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006

non-profit organisation means any organisation, whether incorporated or not, that is carried on other than for the purposes of profit or gain to an owner, a member, or a shareholder

statutory officer means a person—

(a) holding or performing the duties of an office established by an enactment; or

(b) performing duties expressly conferred on that person by virtue of their office by an enactment; or

(c) holding office as the chief executive of a Crown-related entity

trustee corporation means one of the following:

(a) Public Trust:

(b) the Māori Trustee:

(c) a corporation that is authorised by an Act to administer the estates of deceased persons and other trust estates:

(d) a wholly owned subsidiary of a corporation referred to in paragraph (c) that is guaranteed by the corporation.

(3) For the purposes of subclause (1)(c), the financial products are the following:

(a) bank notice products:

(b) bonus bonds:

(c) call building society shares:

(d) call credit union shares:

(e) call debt securities:

(f) credit union fixed term deposit products:

(g) credit union savings account products:

(h) fixed term deposit products issued by a registered bank:

(i) fixed term redeemable building society shares:

(j) PIE call fund units or PIE term fund units.

Regulation 182(1): amended, on 15 March 2021, by regulation 18(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 182(1)(b): replaced, on 15 March 2021, by regulation 18(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 182(1)(c): amended, on 15 March 2021, by regulation 18(3) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 182(2): replaced, on 15 March 2021, by regulation 18(4) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 182(3): inserted, on 15 March 2021, by regulation 18(4) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

183 Exemption for temporary management of portfolio in situations of absence or incapacity or unexpected contingencies

(1) For the purposes of section 389(3)(b) of the Act, a service provided by a financial advice provider (**P**) to another person (**B**) is an exempt service if all of the circumstances specified in subclause (2) apply.

(2) The circumstances are as follows:

(a) the service referred to in subclause (1) is incidental or secondary to other financial advice services provided by P to B in connection with financial products; and

(b) the investment authority is not granted for the purpose of providing a mechanism to allow P to regularly manage some or all of B's holdings of financial products; and

(c) the investment authority is restricted to temporary management of the investor's portfolio under the investment authority in situations of absence or incapacity or unexpected contingencies where—

(i) B has confirmed in writing that P may manage some or all of B's holdings of financial products for a temporary period that is specified in the confirmation (being a period that is not longer than is reasonably necessary to cover the period of the absence, incapacity, or contingency); or

(ii) P reasonably considers it urgent to act under the authority in the best interests of B, and P is not reasonably able to obtain instructions from B within a time frame that would enable P to act urgently; and

(d) the management of some or all of B's holdings of financial products under subclause (1) is for a period or periods that, in aggregate, do not exceed 6 months in any 12-month period; and

(e) P agrees in a written client agreement with B that P will, in relation to acting under the investment authority,—

(i) comply with the duties that would apply under sections 433(1) and 435 of the Act as if P were providing the service as a DIMS licensee under the Act; and

(ii) take all reasonable steps to ensure that P's directors and senior managers comply with the duties that would apply under section 434 of the Act as if P were providing the service as a DIMS licensee under the Act; and

(f) if P has any rights to be indemnified by B for liabilities incurred in relation to the performance of the service referred to in subclause (1), those rights—

(i) are set out in the client agreement referred to in paragraph (e); and

(ii) are available only in relation to the proper performance of the duties referred to in paragraph (e)(i); and

(g) the client agreement referred to in paragraph (e) must adequately provide for reporting on the transactions undertaken under the service, including—

(i) providing for appropriate timing and content of reports; and

(ii) requiring reporting on why P considered it necessary to act urgently in the case of paragraph (c)(ii); and

(h) the client agreement referred to in paragraph (e) must adequately provide for a right for B to immediately revoke the investment authority by written or oral notice to P; and

(i) neither P nor any person associated with P otherwise provides a DIMS to B (except to the extent otherwise permitted by clause 84 of Schedule 4 of the Act); and

(j) neither P nor any associated person of P holds the financial products acquired or disposed of under the service; and

(k) the investment authority—

(i) is in writing; and

(ii) clearly discloses the scope of the investment authority, including any limits on the nature or type of investments and on the proportion of each type of asset invested in, or if there are no such limits, clearly discloses that fact; and

(iii) does not permit the authority to be changed without B's prior written consent.

Regulation 183: replaced, on 15 March 2021, by regulation 19 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Terms and conditions of exemption for Lloyd's underwriters

Heading: inserted, on 31 March 2025, by regulation 5 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

183A Terms and conditions of exemption for Lloyd's underwriters

The exemption in section 389(4)(a) of the Act is subject to the terms and conditions set out in Part 1 of Schedule 21D.

Regulation 183A: inserted, on 31 March 2025, by regulation 5 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Prescribed intermediary services

184 Prescribed intermediary services

The following services are prescribed intermediary services:

(a) a crowd funding service:

(b) a peer-to-peer lending service.

185 Meaning of crowd funding service and peer-to-peer lending service

(1) In these regulations,—

(a) a person (**A**) provides a **crowd funding service** if—

(i) A provides a facility by means of which offers of shares in a company are made; and

(ii) the principal purpose of the facility is to facilitate the matching of companies who wish to raise funds with many investors who are seeking to invest relatively small amounts:

(b) a person (**A**) provides a **peer-to-peer lending service** if—

(i) A provides a facility by means of which offers of debt securities are made; and

(ii) the principal purpose of the facility is to facilitate the matching of lenders with borrowers who are seeking loans for personal, charitable, or small business purposes.

(2) A crowd funding service or a peer-to-peer lending service also includes—

(a) any broking services that are provided in the course of providing the service referred to in subclause (1)(a) or (b) (as the case may be):

(b) any service of operating an ancillary market for trading financial products that have been offered on the facility referred to in subclause (1)(a) or (b) (as the case may be) (*see* section 309(2)(c) of the Act).

(3) If a facility referred to in—

(a) subclause (1)(a)(i) allows offers of financial products other than shares in a company, the crowd funding service does not include providing the facility to the extent that it relates to offers of those other financial products:

(b) subclause (1)(b)(i) allows offers of financial products other than debt securities, the peer-to-peer lending service does not include providing the facility to the extent that it relates to offers of those other financial products.

(4) For the purposes of this regulation,—

debt security does not include—

(a) an option to acquire, by way of issue, a debt security; or

(b) a financial product that will be converted, or is or may become convertible, into another financial product

share does not include a financial product that will be converted, or is or may become convertible, into another financial product.

Additional eligibility criteria

186 Additional eligibility criteria for crowd funding service

(1) The eligibility criteria for licences for a crowd funding service under section 396(a) of the Act are as follows:

(a) the provider has fair, orderly, and transparent systems and procedures for providing the service:

(b) the service is designed primarily for offers by persons other than the provider and its associated persons:

(c) the provider has an adequate policy for identifying and managing the risk of fraud by issuers using the service (the **anti-fraud policy**) that, at a minimum,—

(i) checks, against information that is readily accessible and information that is otherwise available to the public, the identity of the issuer and information provided by the issuer relating to the identity and character of its directors and senior managers; and

(ii) excludes an issuer from using the service if the provider—

(A) is not satisfied as to the identity of the issuer or of the issuer's directors and senior managers; or

(B) has reason to believe that any of the issuer's directors or senior managers are not of good character; or

(C) has reason to believe that the issuer is not likely to comply with the obligations imposed on it under the service:

(d) the provider has adequate disclosure arrangements to give investors, or to enable investors to readily obtain, timely and understandable information to assist investors to decide whether to acquire the shares (for example, through initial disclosure, or question and answer forums, or other information that is made available) (*see* subclause (2)):

(e) the provider has an adequate policy (a **fair dealing policy**) for excluding an issuer from using the service if the provider has information (for example, from checks or assessments it carries out (if any)) that gives it reason to believe that the issuer, in relation to any dealing in shares using the service, has—

(i) engaged in conduct that is misleading or deceptive or likely to mislead or deceive; or

(ii) made a false or misleading representation in contravention of section 22 of the Act; or

(iii) made an unsubstantiated representation in contravention of section 23 of the Act:

(f) the provider has adequate systems and procedures for implementing the anti-fraud policy and the fair dealing policy:

(g) the provider has adequate systems and procedures for ensuring that each issuer does not raise more than $2 million in any 12-month period under the service:

(h) the provider has adequate systems and procedures for handling conflicts between the commercial interests of the provider (or of its associated persons) and the need for the provider to have fair, orderly, and transparent systems and procedures for providing the service:

(i) if a broking service is to be provided by the provider in the course of providing the service, the provider is, or will be, registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 for the broking service on and from commencing to provide the broking service.

(2) In considering whether disclosure arrangements are adequate, the FMA must have regard to—

(a) the limits (if any) on the amount that retail investors may invest under the service; and

(b) the amount that issuers may raise under the service.

187 Additional eligibility criteria for peer-to-peer lending service

The eligibility criteria for licences for a peer-to-peer lending service under section 396(a) of the Act are as follows:

(a) the provider has fair, orderly, and transparent systems and procedures for providing the service:

(b) the service is designed primarily for offers by persons other than the provider and its associated persons:

(c) the provider has adequate systems and procedures for—

(i) checking the identity of each issuer of debt securities, and of each director and senior manager of the issuer, before the issuer is authorised to offer debt securities using the service; and

(ii) assessing, before debt securities are offered using the service, the risk of investors not being repaid in full or not receiving the interest or other returns that will be offered (for example, assessing the creditworthiness of the issuer, any guarantees, and any charge or other security to secure the performance of obligations under the securities); and

(iii) disclosing information about that checking and assessment to investors:

(d) the provider has an adequate policy (a **fair dealing policy**) for excluding an issuer from using the service if the provider has information (for example, from checks or assessments it carries out (if any)) that gives it reason to believe that the issuer, in relation to any dealing in debt securities using the service, has—

(i) engaged in conduct that is misleading or deceptive or likely to mislead or deceive; or

(ii) made a false or misleading representation in contravention of section 22 of the Act; or

(iii) made an unsubstantiated representation in contravention of section 23 of the Act:

(e) the provider has adequate systems and procedures for implementing the fair dealing policy:

(f) to the extent that the provider, under the service, carries out the activities referred to in regulation 228(d) and (e), the provider has adequate arrangements for ensuring the orderly administration of the debt securities in the event that it ceases to operate the service:

(g) the provider has adequate systems and procedures for ensuring that each issuer does not raise more than $2 million in any 12-month period under the service:

(h) the provider has adequate systems and procedures for handling conflicts between the commercial interests of the provider (or of its associated persons) and the need for the provider to have fair, orderly, and transparent systems and procedures for providing the service:

(i) if a broking service is to be provided by the applicant in the course of providing the service, the applicant is, or will be, registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008 for the broking service on and from commencing to provide the broking service.

187A Additional eligibility criteria for service of acting as administrator of financial benchmark

The eligibility criteria for licences for the service of acting as an administrator of a financial benchmark under section 396(a) of the Act are set out in Part 2 of Schedule 28.

Regulation 187A: inserted, on 15 March 2021, by regulation 4 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

188 Eligibility criteria for authorised bodies

(1) The eligibility criterion for a related body corporate under section 400(1)(e) of the Act is that the key personnel of the related body corporate are fit and proper persons to hold their respective positions.

(1A) The eligibility criterion for an entity under section 400(1A)(e) of the Act is that the key personnel of the entity are fit and proper persons to hold their respective positions.

(2) In this regulation and regulation 191, **key personnel**, in relation to a body corporate or other entity (**A**), means—

(a) the executive directors of A; and

(b) those senior managers of A who will perform duties in connection with providing a market service covered by the licence.

Regulation 188(1A): inserted, on 15 March 2021, by regulation 20(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 188(2): amended, on 15 March 2021, by regulation 20(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Procedural matters

189 FMA must have regard to compliance history of relevant parties

(1) The FMA must, before making a decision in relation to the matters in section 396(c) and (d) of the Act, have regard to any conviction, order made, or successful disciplinary action taken under a relevant proceeding or action against any relevant party.

(2) Subclause (1) applies only to the extent that the FMA is aware of the relevant proceeding or action.

(3) In this regulation, a person (**R**) is a **relevant party** in relation to an applicant (**A**) if—

(a) 1 or more of the following apply:

(i) A is a body corporate and R has the power, directly or indirectly, to exercise, or control the exercise of, the rights to vote attaching to 25% or more of the voting products of A:

(ii) A and R are acting jointly or in concert:

(iii) A acts, or is accustomed to act, in accordance with the wishes of R:

(iv) R is able, directly or indirectly, to exert a substantial degree of influence over the activities of A:

(v) R is a director or senior manager of A or of a person who is associated with or connected to A under subparagraphs (i) to (iv); and

(b) the FMA considers that the nature of the association or connection referred to in paragraph (a)(i) to (v) is relevant to the carrying out of the service to which an application for a licence relates.

(4) In this regulation, **relevant proceeding or action** means civil or criminal proceedings, regulatory action, or disciplinary action (whether in New Zealand or overseas) that the FMA considers is relevant to the carrying out of the service to which an application for a licence relates.

190 FMA must consult Reserve Bank in relation to banks, NBDTs, and insurers

The FMA must, before making a decision under section 396 of the Act, consult the Reserve Bank if the applicant, or a proposed authorised body, is a registered bank, an NBDT, or a licensed insurer.

Subpart 2—Conditions of licences

Subpart 2 heading: inserted, on 15 March 2021, by regulation 6 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Conditions imposed by regulations

Heading: replaced, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

191 General reporting condition

(1) A market services licence is subject to a condition that, if any of the following occurs, the licensee or an authorised body must, as soon as practicable, send a report containing details of the matter to the FMA:

(a) the licensee or an authorised body becomes aware or has reasonable grounds to believe that—

(i) the licensee or an authorised body is, or it is likely that the licensee or authorised body will become, subject to an insolvency event; or

(ii) a director or senior manager of the licensee, or any of the key personnel of an authorised body, is adjudicated bankrupt or it is likely that that person will be adjudicated bankrupt (whether in New Zealand or overseas); or

(b) the licensee or an authorised body becomes aware that a relevant proceeding or action has been commenced or taken against any of the following:

(i) the licensee:

(ii) an authorised body:

(iii) a director or senior manager of the licensee:

(iv) any of the key personnel of an authorised body; or

(c) a director or senior manager of the licensee, or any of the key personnel of an authorised body,—

(i) resigns, is removed, or otherwise ceases to hold the office or position; or

(ii) is appointed, employed, or engaged; or

(d) an auditor of the licensee or an authorised body—

(i) resigns or otherwise ceases to hold the office; or

(ii) is appointed (other than by way of reappointment); or

(e) the licensee or an authorised body proposes to change its name or its legal structure (for example, by virtue of an amalgamation); or

(f) the licensee or an authorised body proposes to enter into a major transaction (within the meaning of section 129 of the Companies Act 1993 applied to a licensee or an authorised body whether or not it is a company); or

(g) the licensee or an authorised body becomes aware that a transaction or an arrangement has been entered into, or it is likely that a transaction or arrangement will be entered into, that will result or has resulted in a person obtaining or losing control of the licensee or the authorised body.

(2) In subclause (1)(b), **relevant proceeding or action**—

(a) has the same meaning as in regulation 5(1); and

(b) includes a criminal proceeding for a crime involving dishonesty; but

(c) does not include any proceeding commenced, or action taken, by the FMA.

(3) In subclause (1)(g), **control** has the same meaning as in clause 48 of Schedule 1 of the Act.

192 Condition for independent trustees to report serious problems

(1) A market services licence for an independent trustee of a restricted scheme is subject to a condition that, if the licensee has reasonable grounds to believe that a serious problem has arisen in relation to a managed investment product in the scheme, the licensee must, as soon as practicable,—

(a) report the serious problem to the FMA; and

(b) disclose to the FMA all information relevant to the serious problem that is in the possession or control of the independent trustee and was obtained in the course of, or in connection with, the performance of the functions of that trustee.

(2) In subclause (1), **serious problem** has the same meaning as in section 199(2) of the Act.

193 Condition for DIMS providers and prescribed intermediary service providers to keep documents and to give documents on request

(1) A market services licence for a provider of a DIMS, a crowd funding service, or a peer-to-peer lending service is subject to a condition that the provider must, in respect of any document required by or for the purposes of the Act or these regulations in connection with the service,—

(a) keep a copy of the document for a period of at least 7 years after the date on which the document comes into the possession of the provider; and

(b) provide, on request and on payment of the relevant fee, to an investor a copy of, or an extract from, a document that is relevant to the investor (and the copy or extract must be provided in accordance with subclause (3) within 10 working days after receiving the request).

(2) The condition in subclause (1) applies to a document only if the document is given, made, or provided by or to the provider.

(3) The document must be provided by giving it to the investor or delivering or sending it to the investor's address.

(4) In this regulation,—

(a) a document is **relevant** to an investor if the investor has or had a right to access or obtain a copy of the document under the Act, regulations made under the Act, a governing document, or the terms of the offer of a financial product or a DIMS:

(b) **relevant fee** means a reasonable printing and administration fee set by the provider.

194 Condition for DIMS providers to disclose if service is wholesale

(1) A market services licence for a provider of a DIMS that is not a retail service is subject to a condition that the provider must not acquire or dispose of a financial product under the service for an investor, or accept an investment authority from an investor, unless a warning statement has been provided to the investor before—

(a) the provider acquires or disposes of a financial product under the service for the investor; or

(b) the investor grants an investment authority to the provider.

(2) A warning statement must be provided by giving it to the investor or delivering or sending it to the investor's address.

(3) The warning statement must—

(a) contain a statement to the effect that—

(i) the service is not a retail service:

(ii) the service is not covered by the licence (and, accordingly, the protections and requirements of the Financial Markets Conduct Act 2013 may not apply); and

(b) if it is included in another document, be in a prominent position in that document.

195 Condition for intermediaries to notify FMA of suspected contraventions of Part 2 of Act or of investment cap

(1) A market services licence for a provider of a crowd funding service or a peer-to-peer lending service is subject to a condition that the provider must notify the FMA, in accordance with subclauses (2) and (3), if the provider knows or suspects that an issuer that uses the service has committed, is committing, or is likely to commit—

(a) a significant contravention of Part 2 of the Act (which relates to fair dealing) in connection with the use of the service; or

(b) a contravention of the $2 million aggregate limit referred to in clause 7 of Schedule 8.

(2) The provider must give the notice immediately after knowing or suspecting the person has committed, is committing, or is likely to commit the contravention.

(3) The notice must include—

(a) the issuer's name and contact details; and

(b) the obligation to which the known or suspected contravention relates; and

(c) the facts supporting the provider's view relating to the known or suspected contravention; and

(d) any supporting evidence for that view.

196 Condition for provider of crowd funding service to make warning statement available

(1) A market services licence for a provider of a crowd funding service is subject to a condition that the provider must,—

(a) if the facility is available through an Internet site, ensure that a warning statement is prominently displayed—

(i) on the home page of the site; and

(ii) to an investor, on a page on the site, immediately before the investor uses the site to apply for, or otherwise acquire, financial products; and

(b) in all cases, ensure that a warning statement is prominently displayed in all application forms for acquiring financial products using the service.

(2) The warning statement must be in the following form:

"**Warning statement about crowd funding**

Equity crowd funding is risky.

*Issuers using this facility include new or rapidly growing ventures. *Investment in these types of businesses is very speculative and carries high risks.

You may lose your entire investment, and must be in a position to bear this risk without undue hardship.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This requires those offering financial products to have disclosed information that is important for investors to make an informed decision.

The usual rules do not apply to offers by issuers using this facility. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all information given carefully, and seek independent financial advice before committing yourself."

*Omit this sentence if the facility is confined to issuers for whom the sentence would be inapplicable.

197 Condition for provider of crowd funding service to obtain investor confirmation

(1) A market services licence for a provider of a crowd funding service is subject to a condition that the provider must obtain from each investor, in accordance with subclauses (2) and (3), a confirmation to the following effect:

"I confirm that I have seen the warning statement about crowd funding and—

- I understand that equity crowd funding is risky and I may lose my entire investment; and
- I confirm that I could bear that loss without suffering undue hardship; and
- I understand that the usual legal protections do not apply to this investment; and
- I understand that I may not be given the same information as is usually required by New Zealand law for investments.

"

(2) The confirmation must be obtained in writing in a separate document or, if it is obtained by electronic means, through a process by which it is obtained separately from the agreement to use the service.

(3) The confirmation must be obtained by the provider before the investor is authorised to use the service.

197A Condition for manager of passport fund

(1) A market services licence for a person acting as a manager of a passport fund is subject to a condition that, in respect of the passport fund, the manager must comply with the following to the extent that those rules, laws, or regulations apply to an operator of the fund (including rules, laws, or regulations that impose obligations on the fund):

(a) the passport rules:

(b) the laws and regulations (as defined in paragraph 4.1(f) of the memorandum of cooperation) of each host economy in which the fund operates.

(2) If regulation 82B(3) applies, the reference to rules, laws, or regulations that impose obligations on the fund must be treated as the rules, laws, and regulations referred to in subclause (1)(a) and (b) applied with all necessary modifications in relation to each relevant fund as if the relevant fund were a passport fund.

(3) *See* also regulation 199A (which relates to limitations on investment options).

Regulation 197A: inserted, on 14 June 2019, by regulation 10 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

197B Conditions for service of acting as administrator of financial benchmark

A market services licence for the service of acting as an administrator of a financial benchmark is subject to the conditions set out in Part 3 of Schedule 28.

Regulation 197B: inserted, on 15 March 2021, by regulation 5 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

198 Conditions are Part 6 services provisions

(1) The conditions imposed under regulations 191 to 197A are Part 6 services provisions that give rise to civil liability under section 449(4) of the Act.

(2) In addition, the conditions imposed under clauses 15(2)(a), 22 to 25, 26(1) and (2), 27, and 31(1) to (5)(a) of Schedule 28 are Part 6 services provisions that give rise to civil liability under section 449(4) of the Act.

Regulation 198(1): amended, on 14 June 2019, by regulation 11 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Regulation 198(2): inserted, on 15 March 2021, by regulation 6 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Additional conditions that FMA may impose on licences

199 General FMA conditions

(1) The FMA may impose on a market services licence 1 or more of the following conditions:

(a) conditions concerning the insurance of a licensee, an authorised body, or any director, employee, or agent of a licensee or an authorised body against claims made against any of them in respect of anything done or omitted by them in connection with a market service and for any costs associated with those claims, including—

(i) requiring a licensee or an authorised body to hold professional indemnity insurance:

(ii) requiring that insurance be held only with insurers approved by the FMA:

(iii) specifying the minimum terms and conditions that an insurance policy must satisfy for the purposes of subparagraph (i):

(b) conditions requiring the licensee or an authorised body to periodically report information to the FMA concerning the nature, scale, and operation of the service (including statistical information about numbers of transactions entered into and amounts involved):

(c) conditions under section 400(1) of the Act to authorise 1 or more named related bodies corporate of the licensee to provide a market service covered by the licence:

(ca) conditions under section 400(1A) of the Act to authorise 1 or more named entities to provide a financial advice service covered by the licence:

(d) conditions for the purposes of section 400(2) of the Act.

(2) *See also* section 403(3) and (4) of the Act (which allows the FMA to impose conditions that, for example, impose limits or restrictions on the services that are covered by the licence).

Regulation 199(1)(ca): inserted, on 15 March 2021, by regulation 21(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 199(2): amended, on 15 March 2021, by regulation 21(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

199A Other FMA conditions for licences for managers of passport funds

(1) This regulation applies to a market services licence for a person acting as a manager of a passport fund if regulation 82B(3) applies.

(2) The FMA may impose on the licence a condition that the manager must ensure that the investment options that may be selected by an investor in a host economy are limited to options that involve 1 or more specified funds that are listed in the condition.

Regulation 199A: inserted, on 14 June 2019, by regulation 12 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

200 Other FMA conditions for DIMS

The FMA may impose on a market services licence for a provider of a DIMS 1 or more of the following conditions:

(a) conditions regulating the provision of financial advice referred to in section 432A(1)(b) of the Act:

(b) conditions that—

(i) permit the custodian of investor money and investor property to be an associated person of the DIMS licensee (other than by virtue of the custodianship); and

(ii) impose limitations on that permission (for example, limiting the permission to a specified period); and

(iii) specify requirements that must be observed relating to that permission for the purposes of section 445(2)(b) of the Act, including requirements that relate to the systems or procedures that must be maintained to identify, disclose, or manage any risks associated with the custodian being an associated person of the DIMS licensee.

Regulation 200(a): amended, on 15 March 2021, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

201 Other FMA conditions for derivatives issuer

(1) The FMA may impose on a market services licence for a derivatives issuer conditions that do 1 or more of the following:

(a) require the licensee or an authorised body to maintain a minimum level of capital that the FMA considers is adequate:

(b) regulate the form of that capital (for example, the financial instruments that may be taken into account in calculating capital):

(c) require the licensee or an authorised body to maintain a capital ratio (including providing for the capital ratio to be set at a specified minimum level):

(d) require the licensee or an authorised body to maintain minimum amounts of liquid assets relative to liabilities that the FMA considers is adequate:

(e) specify the assets that qualify as liquid assets, and requirements concerning matching maturity of assets and liabilities, for the purposes of paragraph (d):

(f) impose other requirements to better ensure that a licensee or an authorised body maintains prudent cash flows and a level of liquid assets sufficient to enable it to withstand a plausible range of liquidity shocks (for example, events that result in it experiencing a significantly reduced inflow of liquid assets):

(g) require the licensee or an authorised body to have systems or procedures for assessing the suitability of a derivative for a retail investor or class of retail investors and for preventing the issue of a derivative to a retail investor where the derivative is assessed as not suitable under those systems or procedures:

(h) require the licensee or an authorised body to maintain and enforce limits on the extent to which a retail investor is permitted to be leveraged under a derivative issued by the licensee or authorised body.

(2) The FMA may not impose a condition under subclause (1)(a) to (f) (capital and liquidity) for a derivatives issuer that is a registered bank, an NBDT, or a licensed insurer.

202 Other FMA conditions for crowd funding service or peer-to-peer lending service

The FMA may impose on a market services licence for a provider of a crowd funding service or a peer-to-peer lending service any or all of the following conditions:

(a) conditions that restrict or prohibit the provider or its associated persons from issuing under or using the service:

(b) conditions that specify requirements that must be observed relating to that issuing or use, including requirements that relate to the systems or procedures that must be maintained to identify, disclose, and manage any risks associated with the provider or its associated persons issuing under or using the service.

Subpart 3—Disclosure obligations

Subpart 3 heading: inserted, on 15 March 2021, by regulation 8 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Disclosure obligations for discretionary investment management service

203 Application

(1) Regulations 204 to 209 apply to a service disclosure statement (**SDS**) for a DIMS.

(2) In those regulations, **provider** means the person who is in the business of providing the service to which the SDS relates.

204 Information at start of SDS for DIMS

(1) The SDS must, at the start of the SDS,—

(a) include, in a prominent position, the words “Service Disclosure Statement”; and

(b) identify the service to which the SDS relates; and

Example

ABC Limited's Investment Management Services

(c) identify the provider; and

(d) state the date of the SDS; and

(e) contain a statement in the following form:

"This document gives you important information about this service to help you decide whether you want to invest using this service. [*Name of provider*] has prepared this document in accordance with the Financial Markets Conduct Act 2013."; and

(f) contain, at the end of the statement under paragraph (e), whichever of the following sentences best applies:

(i) "You can also seek advice from a financial advice provider to help you decide if this service is appropriate for you.":

(ii) "[*Name of provider*]'s advisers can also give you financial advice to help you decide if this service is appropriate for you."

(2) The sentence in subclause (1)(f)(ii) may, in addition to or instead of referring to the provider's advisers, refer to the advisers of a named associated person.

(3) The SDS may also, at the start of the SDS, do either or both of the following:

(a) identify 1 or more persons involved in providing the service:

(b) include 1 or more brands or logos customarily used by the provider or any person referred to in paragraph (a).

Regulation 204(1)(f)(i): amended, on 15 March 2021, by regulation 23 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

205 Content of SDS for DIMS

The SDS must contain all of the information specified in Part 1 of Schedule 21 that is applicable.

206 Investment proposal must be provided to investors

(1) For the purposes of section 426A of the Act, a licensee or an authorised body that provides a DIMS that is a retail service must make available an investment proposal to each retail investor at the same time as or before the investment authority is granted by the investor.

(2) The **investment proposal** is a written document that contains all of the information specified in Part 2 of Schedule 21 that is applicable.

(3) The investment proposal must be made available to the investor by—

(a) giving the investment proposal to the investor or delivering or sending the investment proposal to the investor's address; or

(b) combining the investment proposal with the investment authority; or

(c) combining the investment proposal with the SDS; or

(d) combining the investment proposal with both the investment authority and the SDS.

(4) If the investment proposal is not combined with the SDS, the investment proposal must be incorporated by reference in the SDS by including a reference to the investment proposal in section 3 of the SDS.

(5) In the case of subclause (3)(c), the investment proposal must be included after section 10 of the SDS.

(6) In the case of subclause (3)(d), the investment proposal and the investment authority must be included after section 10 of the SDS.

Regulation 206(1): amended, on 7 June 2018, by regulation 7 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

207 Presentation requirements for SDS and investment proposal

(1) Every SDS and investment proposal must be worded and presented in a clear, concise, and effective manner.

(2) The format, font, and font size of the SDS and the investment proposal must be easily readable.

208 Information that must be available to investors

(1) For the purposes of section 426A of the Act, if Schedule 21 requires an SDS or an investment proposal to refer to information that is available to the investor, the provider must ensure that the information is—

(a) available to the investor—

(i) through an electronic facility on a substantially continuous basis; and

(ii) on request to the provider; or

(b) provided to the investor at or about the same time, and by the same means, as the SDS or investment proposal is made available to the investor.

(2) For the purposes of subclause (1)(a)(ii),—

(a) the provider must, after receiving a request from an investor, provide the information to the investor as soon as practicable but, in any event, within 5 working days after it receives the request; and

(b) the information must be provided by giving it to the investor or delivering or sending it to the investor's address; and

(c) the information must be provided free of charge.

Regulation 208(1): amended, on 7 June 2018, by regulation 8 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

209 Various PDS requirements also apply to SDSs and investment proposals

(1) The following regulations apply to an SDS or an investment proposal with all necessary modifications as if it were a PDS:

(a) regulation 33 (incorporation by reference):

(b) regulation 34 (additional information).

(2) For the purpose of subclause (1),—

(a) a reference to a length restriction in regulation 34 must be disregarded:

(b) a reference to the relevant section in regulation 34 is a reference to section 6 of the SDS or section 4 of the investment proposal (as the case may be).

210 Ongoing reporting for DIMS

(1) For the purposes of section 426A of the Act, a licensee or an authorised body that provides a DIMS that is a retail service must, in accordance with regulation 212, make available the information specified in subclauses (2) to (4) to each retail investor who uses the service.

(2) The information is a record of all transactions made by the provider on behalf of the investor under the service during the reporting period, including for each transaction (to the extent applicable)—

(a) the name of the issuer and the number and class of financial products to which the transaction relates; and

(b) the price per financial product; and

(c) the total amount of the transaction; and

(d) the date of the transaction.

(3) The information is also the following as at the reporting time:

(a) the name of each class of financial products in the investor's portfolio, the name of the issuer of those products, and the number of those products in the investor's portfolio; and

(b) the cash held for the investor under the service.

(4) The information is also the following in respect of the investor's portfolio:

(a) all dividends paid, all interest paid, and other distributions or income received during the reporting period:

(b) all percentage-based charges paid during the reporting period:

(c) all other charges paid during the reporting period:

(d) all individual action fees paid during the reporting period:

(e) other information that the licensee or authorised body reasonably believes the investor needs in order to have a reasonable understanding of any corporate action that affects the investor's portfolio (for example, bonus issues).

(5) If the information required under subclause (2), (3), or (4) is made available to an investor by a person (**A**) on behalf of the licensee or authorised body (for example, by a custodian), the information must be accompanied by a statement to that effect (and the statement must include A's name and role).

(6) For the purposes of section 426A of the Act, a licensee or an authorised body that provides a DIMS that is a retail service must, within 5 working days after receiving a request, make available the following requested information to the retail investor who makes the request:

(a) the current value or the most recent valuation of any of the financial products in the investor's portfolio and a statement of—

(i) the basis on which that value is assessed or the valuation is carried out (for example, the value of quoted products is the market price); and

(ii) the date on which the value is assessed or of the valuation; and

(b) the total value of the financial products in the investor's portfolio (based on the values disclosed under paragraph (a)).

(7) The information under subclause (6) must be made available, free of charge, by giving it to the investor or delivering or sending it to the investor's address.

(8) In this regulation and regulations 211 and 212,—

individual action fees has the same meaning as in clause 37 of Schedule 21

other charges has the same meaning as in clause 37 of Schedule 21

percentage-based charges has the same meaning as in clause 37 of Schedule 21

quarter means each 3-month period of a disclosure year (where each quarter ends on the date that the provider determines)

reporting period means,—

(a) in the case of regulation 212(1)(a), the period starting when this regulation first applies to the licensee or authorised body in respect of the investor and ending at a stated time (the **stated time**) that is not earlier than 48 hours before the information is made available:

(b) in the case of regulation 212(1)(b),—

(i) each of the 4 quarters of a disclosure year; or

(ii) any period shorter than a quarter of a year that is agreed with the investor

reporting time means,—

(a) in the case of regulation 212(1)(a), the stated time:

(b) in the case of regulation 212(1)(b), the end of the reporting period.

(9) In this regulation and regulations 211 and 212, financial products are of the same **class** if those financial products have attached to them identical rights,

privileges, limitations, and conditions (including, in the case of debt securities, the same redemption date and interest rate).

Regulation 210(1): amended, on 7 June 2018, by regulation 9 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 210(6): amended, on 7 June 2018, by regulation 9 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

211 Annual information

(1) For the purposes of section 426A of the Act, a licensee or an authorised body that provides a DIMS that is a retail service must, in accordance with regulation 212, make available to each retail investor who uses the service the following information in respect of the most recently completed disclosure year:

(a) a description of—

(i) the investment strategy to which the information provided under this regulation relates (including the investment objectives and a diagram or other description summarising the target investment mix under the strategy); and

(ii) the material changes to the investment strategy that have been made during the disclosure year (if any):

(b) the return on the investor's portfolio before tax but net of fees—

(i) over the disclosure year; and

(ii) over the 5-year period ending on the close of the disclosure year:

(c) a bar graph showing the return on the investor's portfolio before tax but net of fees, indicated by a bar on the graph and as a figure near the corresponding bar, that has been generated for the investor for—

(i) each complete disclosure year since the date on which the investor first started using the service; or

(ii) each of the last 10 complete disclosure years, if the investor has been using the service for 10 or more complete disclosure years:

(d) the name of each class of financial products in the investor's portfolio, the name of the issuer of those products, and the number of those products in the portfolio (as at the end of the disclosure year):

(e) the current value of each of those financial products (as at the end of the disclosure year) or the most recent valuation of each of those financial products that was available at the end of the disclosure year, and a statement of—

(i) the basis on which that value is assessed or the valuation is carried out (for example, the value of quoted products is the market price); and

(ii) the date on which the value is assessed or of the valuation:

(f) the total value of the investor's portfolio at the beginning and the end of the disclosure year (based on the values disclosed under paragraph (e) and in the previous annual disclosure made under this regulation):

(g) the cash held for the investor under the service at the end of the disclosure year:

(h) the total of all dividends paid, all interest paid, and other distributions or income received, in respect of the investor's portfolio during the disclosure year:

(i) the total percentage-based charges paid during the disclosure year in respect of the investor's portfolio, expressed as a percentage of the investor's portfolio:

(j) the total amount of other charges paid during the disclosure year in respect of the investor's portfolio:

(k) the individual action fees of each type paid during the disclosure year in respect of the investor's portfolio:

(l) a pie graph showing the composition of the financial products in the investor's portfolio at the end of the disclosure year, according to the asset categories specified in clause 1(2) of Schedule 21:

(m) a reminder that the investor may request past quarterly reports or obtain further information from the electronic facility referred to in regulation 212, as applicable.

(2) The following apply in relation to that information:

(a) the information under subclause (1)(b) or (c) may also include return information for the same periods net of trading expenses but before all other fees and tax:

(b) subclause (1)(b) and (c) applies only in respect of disclosure years that start on or after 1 December 2014:

(c) information about a disclosure year under subclause (1)(b) is not required if the investor did not have an investor's portfolio over the whole of that period:

(d) the information under subclause (1)(c) may be provided in a table (instead of a bar graph):

(e) information under subclause (1)(f) about the beginning of a disclosure year is not required if the investor does not have an investor's portfolio at the beginning of that disclosure year:

(ea) if the category "other" is used in providing the information specified in subclause (1)(l), the information must include, as a note to the pie graph, an explanation of the nature of each of the financial products included in that category:

(eb) the information specified in subclause (1)(l) must be based on the information that the provider judges to be the most appropriate to produce an accurate representation of the assets:

(f) **return** has the same meaning as in clause 34 of Schedule 21:

(g) the information may be combined in a document that includes information under regulation 210.

Regulation 211(1): amended, on 7 June 2018, by regulation 10 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 211(2)(ea): inserted, on 1 April 2017, by regulation 12 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Regulation 211(2)(eb): inserted, on 1 April 2017, by regulation 12 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

212 How information is made available

(1) The information under regulation 210(1) to (5) must be made available to the investor (**A**)—

(a) through an electronic facility on a substantially continuous basis (but only if A has agreed to this method); or

(b) by giving it to A or delivering or sending it to A's address not later than 20 working days after the last day of each reporting period in each year.

(2) In the case of subclause (1)(b), the information must cover the most recently completed reporting period.

(3) The information under regulation 211 must, not later than 20 working days after the end of each disclosure year, be made available to the investor (**A**)—

(a) through an electronic facility (but only if A has agreed to this method); or

(b) by giving it to A or delivering or sending it to A's address.

Disclosure obligations for prescribed intermediary services

213 Disclosure obligations apply to prescribed intermediary services

For the purposes of section 422(b) of the Act, subpart 4 of Part 6 of the Act applies to each of the following:

(a) the provision of a crowd funding service:

(b) the provision of a peer-to-peer lending service.

214 Application

(1) Regulations 215 to 218 apply to an SDS for a crowd funding service or a peer-to-peer lending service.

(2) In those regulations, **provider** means the person who is in the business of providing the service to which the SDS relates.

215 SDS for crowd funding service or peer-to-peer lending service

(1) An SDS must contain a brief description of—

(a) the nature of the service provided; and

(b) how investors apply for, and obtain, access to the facility and the eligibility criteria that apply; and

(c) how issuers apply for, and obtain, access to the facility and the eligibility criteria that apply; and

(d) how investments are made and financial products are issued under the service; and

(e) how investor money is received and dealt with; and

(f) the nature and extent of the checks and assessments made by the provider of the following:

(i) each issuer that offers financial products under the service:

(ii) the directors and senior managers of those issuers:

(iii) the risks involved in those financial products (or, if checks and assessments of those risks are not made as part of the service, a statement to that effect); and

(g) the nature and extent of the disclosure arrangements that apply in relation to the financial products offered under the service; and

(h) the charges that may be payable to the provider by an investor under the service (or, if those charges are not fixed, the types and bases on which charges will be imposed) and when the investor must pay the charges; and

(i) the rights of the provider or any other person to alter any of the charges applicable to the service; and

(j) the charges that may be payable to the provider by an issuer under the service (or, if those charges are not fixed, the types and bases on which charges will be imposed); and

(k) if the provider is, or issuers that are associated with the provider are, restricted or prohibited from issuing under or using the service, the nature of the restrictions or prohibitions (*see also* subclause (2)); and

(l) the nature and extent of any interest held by or in the provider that may materially adversely impact on the provider's ability to have fair, orderly, and transparent systems and procedures for providing the service, and of the steps taken to manage any risks of that adverse impact; and

(m) contact details of the provider; and

(n) how investors may complain about the service to the provider and to any dispute resolution scheme that is available; and

(o) the type of information relating to the service that is required to be, or otherwise will be, available on request from the provider and how the request should be made (including whether any charge may be made for the information and the amount of the charge).

(2) If subclause (1)(k) does not apply in relation to the provider or issuers that are associated with the provider (or both), an SDS must also contain a statement to the effect that the provider or those issuers (or both) are not restricted or prohibited from issuing under or using the service.

(3) An SDS for a crowd funding service must also contain the warning statement required by regulation 196.

(4) An SDS for a peer-to-peer lending service must also contain—

(a) a brief description of the nature and extent of the provider's monitoring of compliance by the issuer with its obligations to make repayments and payments under the debt securities (or, if such monitoring is not part of the service, a statement to that effect); and

(b) a brief description of processes in the event of a default by an issuer of those obligations or (if such processes are not part of the service) of the investor's remedies in the event of a default.

216 Presentation requirements

(1) An SDS must be worded and presented in a clear, concise, and effective manner.

(2) The format, font, and font size of the SDS must be easily readable.

217 SDS may refer to facility's Internet site

(1) If the facility is available through an Internet site, the SDS may incorporate any information required by regulation 215(1), (2), and (4) by reference to the page or section of the Internet site on which the information is located.

(2) The reference in the SDS must include—

(a) a link to or URL for the page or section of the Internet site where that information is located; and

(b) a brief description of the information on the relevant page or section.

218 Timing of disclosure for prescribed intermediary services

The prescribed time under section 424(1)(b) of the Act (for providing an SDS to a retail investor relating to a prescribed intermediary service) is before the investor enters into a client agreement for the crowd funding service or peer-to-peer lending service.

219 Prescribed intermediary service providers must provide transaction information to investors

(1) For the purposes of section 426A of the Act, a licensee or an authorised body that provides a prescribed intermediary service must, in accordance with regulation 220, make available the information specified in subclause (2) to each investor who makes transactions under the service.

(2) The information is a record of all transactions made by the investor under the service, including for each transaction (to the extent applicable)—

(a) the names of the parties (unless the parties are anonymous under the service); and

(b) a product description; and

(c) the price per product; and

(d) the quantity of products; and

(e) the total amount of the transaction; and

(f) the date of the transaction; and

(g) in the case of a loan, any security given.

Regulation 219(1): amended, on 7 June 2018, by regulation 11 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

220 How transaction information is made available

(1) This regulation applies for the purposes of regulation 219.

(2) The information must be made available to the investor (**A**)—

(a) through an electronic facility on a substantially continuous basis (but only if A has agreed to this method); or

(b) by giving it to A or delivering or sending it to A's address not later than 10 working days after the last day of each reporting period in each year (but only if A has agreed to this method); or

(c) by giving it to A or delivering or sending it to A's address not later than 5 working days after a financial product is issued or transferred under each transaction.

(3) The information must cover,—

(a) in the case of subclause (2)(a), the transactions entered into in the period starting when regulation 219 first applies to the provider in respect of A and ending at a stated time that is not earlier than 48 hours before the information is made available:

(b) in the case of subclause (2)(b), the transactions entered into in the last reporting period.

(4) The information under subclause (2)(a) or (b) must state the period that it covers.

(5) No information is required to be made available under subclause (2)(b) for a reporting period if no transactions are entered into in that period.

(6) In this regulation, **reporting period** means—

(a) each of the 4 quarters of a year ending on 30 June, 30 September, 31 December, and 31 March; or

(b) any period shorter than a quarter of a year that is agreed with A.

False or misleading SDS

Heading: replaced, on 7 June 2018, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

221 Application of regulations relating to defective SDS provided to investor

(1) Regulations 221A to 221C apply for the purposes of section 427(3) to (5) of the Act (which relate to the consequences of a defective SDS being provided to an investor).

(2) In those regulations,—

A means the person A referred to in section 427(3) of the Act (that is, the person to whom a defective SDS has already been provided)

provider means the person who is in the business of providing the service to which the SDS relates.

Section 221: replaced, on 7 June 2018, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

221A Circumstance in which service may not continue to be provided

For the purposes of section 427(3)(a) of the Act, the provider must not continue to provide the service to A if doing so would involve the provider acting otherwise than in the best interests of—

(a) the investors using the service to whom the defective SDS was provided (if the service is provided to a class of investors); or

(b) A (if the service is provided only to A).

Regulation 221A: inserted, on 7 June 2018, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

221B Conditions for continuing to provide service

(1) For the purposes of section 427(3)(b) of the Act, the provider must—

(a) provide to A a document that includes the information set out in subclause (3); and

(b) ensure that a report under section 412 of the Act is sent in relation to the contravention of section 427 of the Act (that is, the contravention of providing a defective SDS to A).

(2) The document under subclause (1)(a) must be provided—

(a) as soon as practicable but, in any event, within 10 working days after the provider becomes aware that the SDS is defective; and

(b) by giving it to A or delivering or sending it to A's last known address or an address (including an electronic address) specified by A for that purpose.

(3) The document under subclause (1)(a) must—

(a) identify the SDS that is defective and briefly explain why it is defective in terms of section 427(1)(a) and (b) of the Act; and

(b) state the steps being taken to remedy the defect; and

(c) state that the provider will, as soon as practicable, provide a new SDS that is not defective; and

(d) state that the provider will continue to provide the service to A unless continuing to do so would involve the provider acting otherwise than in the best interests of—

(i) the investors using the service to whom the defective SDS was provided (if the service is provided to a class of investors); or

(ii) A (if the service is provided only to A); and

(e) explain what continuing to provide the service will involve; and

(f) explain what rights A has to withdraw from the service.

(4) Subclauses (1)(a), (2), and (3) do not apply if the provider complies with regulation 221C within 10 working days after the provider becomes aware that the SDS is defective.

Regulation 221B: inserted, on 7 June 2018, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

221C Provision of new SDS that is not defective

(1) For the purposes of section 427(4) and (5) of the Act, the provider must—

(a) provide to A a new SDS that is not defective in terms of section 427(1)(a) and (b) of the Act as soon as practicable after the provider becomes aware that the original SDS is defective; and

(b) ensure that the new SDS is accompanied by a document that—

(i) identifies the SDS that is defective and briefly explains why it is defective in terms of section 427(1)(a) and (b) of the Act; and

(ii) describes the material changes that have been made in the new SDS to ensure that it is not defective in terms of section 427(1)(a) and (b) of the Act; and

(iii) explains what rights A has to withdraw from the service.

(2) The new SDS must be provided by giving it to A or delivering or sending it to A's last known address or an address (including an electronic address) specified by A for that purpose.

(3) Subclause (1)(b)(iii) does not apply if, before providing the new SDS, the provider has provided a document to A under regulation 221B in respect of the same defect.

Regulation 221C: inserted, on 7 June 2018, by regulation 12 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Request disclosure

222 Provider of DIMS or prescribed intermediary service must make information available on request

(1) This regulation applies if an SDS for a DIMS, a crowd funding service, or a peer-to-peer lending service contains a statement to the effect that a document or other information is available from the provider of the service on a request that is made by a particular person or a person of a particular class (**A**).

(2) For the purposes of section 426A of the Act, the provider must, after receiving a request from A, provide the document or other information to A as soon as practicable but, in any event, within 5 working days after the provider receives the request.

(3) The document or other information must be provided by—

(a) giving it to A; or

(b) delivering or sending it to A's address; or

(c) making it available to A in any other way agreed with A.

(4) The document or other information must be provided free of charge (unless a charge is otherwise expressly permitted by these regulations).

Regulation 222(2): amended, on 7 June 2018, by regulation 13 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Subpart 4—Client agreements

Subpart 4 heading: inserted, on 15 March 2021, by regulation 9 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Client agreement requirements apply to prescribed intermediary services

[Revoked]

Heading: revoked, on 15 March 2021, by regulation 9 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

223 Client agreement requirements apply to prescribed intermediary services

For the purposes of section 429(c) of the Act, subpart 5 of Part 6 of the Act applies to each of the following:

(a) the provision of a crowd funding service:

(b) the provision of a peer-to-peer lending service.

Client agreements

[Revoked]

Heading: revoked, on 15 March 2021, by regulation 10 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

224 Time for entering into client agreement for prescribed intermediary services

For the purposes of section 430(2)(c) of the Act, a client agreement required by subpart 5 of Part 6 of the Act for a crowd funding service or a peer-to-peer lending service must be entered into before the investor applies for or acquires any financial products under the service.

225 Terms implied into client agreements

(1) The following provisions are treated as being implied into a client agreement required by subpart 5 of Part 6 of the Act:

1 The licensee and every authorised body must, in exercising any powers or performing any duties in relation to the service provided under the licence, exercise the care, diligence, and skill that a prudent licensee for that service would exercise in the same circumstances.

2 If the licensee or an authorised body contracts out any of its functions in providing the service, the licensee or authorised body must take all reasonable steps to—

(a) ensure that those functions are performed in the same manner, and are subject to the same duties and restrictions, as if the licensee or authorised body were performing them directly; and

(b) monitor the performance of those functions.

(2) If clause 6(2) of Schedule 1 applies in relation to a DIMS provided to a person (**B**), the following provisions must be treated as being implied into the client agreement in respect of the DIMS provided to B (unless or until the client agreement expressly provides otherwise):

3 The investment authority may be changed only by written agreement between the investor and the licensee or authorised body.

4 The investor may terminate the client agreement, without penalty, by giving 2 days' written notice to the licensee or an authorised body.

226 Client agreements for DIMS must provide for certain matters

(1) A client agreement required by subpart 5 of Part 6 of the Act for a DIMS must provide adequately for the following matters:

(a) if financial products are to be held under the service on behalf of investors,—

(i) how custodianship will be provided under the service and the process for appointing and removing a custodian:

(ii) whether and, if so, how the investor may give instructions to exercise rights over the investor's financial products (for example, a right to vote at meetings of product holders):

(iii) the consequences of the termination of the client agreement, including whether any financial products held by a custodian on behalf of the investor under the service will be transferred to the investor, will continue to be held by the custodian, or will be sold:

(iv) how holdings of wholesale products (if any) will be dealt with on termination of the client agreement:

(b) how the investment authority may be changed:

(c) a right for the investor to terminate the client agreement without penalty:

(d) how the right under paragraph (c) may be exercised within a reasonable notice period.

(2) In subclause (1)(a)(iv), **wholesale products** means financial products that the investor is eligible to acquire only by virtue of the investor acquiring the products through a DIMS.

227 Client agreements for crowd funding service must provide for certain matters

A client agreement required by subpart 5 of Part 6 of the Act for a crowd funding service must provide adequately for the use and operation of the facility, including in relation to the following matters:

(a) how investors and issuers apply for, and obtain, access to the facility and the eligibility criteria that apply in each case:

(b) how investments are made and financial products are issued under the service:

(c) how investor money is received and dealt with (to the extent that this is part of the service):

(d) the nature, extent, and frequency of monitoring of issuers undertaken by the provider (to the extent that this is part of the service):

(e) the charges that may be payable to the provider by an investor under the service (or, if those charges are not fixed, the types and bases on which charges will be imposed) and when the investor must pay the charges.

228 Client agreements for peer-to-peer lending service must provide for certain matters

A client agreement required by subpart 5 of Part 6 of the Act for a peer-to-peer lending service must provide adequately for the use and operation of the facility, including in relation to the following matters:

(a) how investors and issuers apply for, and obtain, access to the facility and the eligibility criteria that apply in each case:

(b) how investments are made and financial products are issued under the service:

(c) how investor money is received and dealt with:

(d) how the provider will monitor compliance by the issuer with its obligations to make repayments and payments under the debt securities (to the extent that this is part of the service):

(e) processes in the event of a default by an issuer of its obligations under the terms of a debt security (to the extent that this is part of the service):

(f) the charges that may be payable to the provider by an investor under the service (or, if those charges are not fixed, the types and bases on which charges will be imposed) and when the investor must pay the charges.

229 Client agreements may use different terminology

Regulations 226 to 228 do not require client agreements to use the same terminology as is used in those regulations (for example, in relation to a peer-to-peer lending service, an agreement may refer to a borrower, a lender, or a loan rather than to an issuer, an investor, or a debt security).

Subpart 5—Additional regulation

Subpart 5 heading: inserted, on 15 March 2021, by regulation 11 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Disclosure for financial advice and financial advice services

Heading: replaced, on 15 March 2021 (immediately after being inserted by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132)), by regulation 24 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229A Outline of disclosure requirements when giving financial advice to retail clients

(1) Regulations 229C to 229J apply to a person who gives regulated financial advice to retail clients. Those regulations require the following information to be made available in accordance with section 431O of the Act:

Publicly available information

(a) a financial advice provider must make the information set out in clause 4 of Schedule 21A publicly available (*see* regulation 229C):

Disclosures relating to advice

(b) at the time when the nature and scope of the advice sought or provided become known, the information set out in clause 5 of Schedule 21A must be given to a client (*see* regulation 229D). When the advice is given, the client receives additional information as set out in clause 6 of Schedule 21A, together with an update of any clause 5 information that has been materially changed (*see* regulation 229E). In future, infor-

mation does not need to be disclosed again provided that the information the client was previously given remains current (*see* regulation 229G):

Complaints information

(c) if a complaint is made, the complainant must be given information about the dispute resolution process (*see* regulation 229F).

(2) In addition to these regulations, a person who gives regulated financial advice is also required to comply with the duties set out in sections 431I to 431N and 431P of the Act.

(3) This regulation is a guide only to the general scheme and effect of regulations 229C to 229J.

Regulation 229A: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229B Application and interpretation

(1) Regulations 229C to 229J apply to a person who gives regulated financial advice to retail clients.

(2) In regulations 229C to 229J and Schedule 21A,—

advice means regulated financial advice given, or to be given, to a retail client

client, in relation to a financial advice provider, includes a person who may receive advice from the provider or advice given on behalf of the provider

material change, in relation to a change to information, has the meaning set out in subclause (3)

publicly available has the meaning set out in subclause (4).

(3) A change to information is a **material change** under regulations 229C to 229J and Schedule 21A if a reasonable client would expect the change to, or to be likely to, materially influence a decision about whether to seek or obtain advice from a particular person or provider or to act on advice that they have been given.

(4) Information is **publicly available** under regulations 229C to 229J and Schedule 21A if the information is available on an Internet site that is maintained by or on behalf of a financial advice provider in a way that ensures—

(a) that the information, or a link to the information, is prominently displayed either on the home page or on an appropriate section of the site; and

(b) that the home page prominently displays a link to the appropriate section of the site (if the information is displayed on that section of the site); and

(c) that members of the public can easily access the information at all reasonable times.

Regulation 229B: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229C Information that must be publicly available

(1) The purpose of this regulation is to give retail clients access to information that will help them to find a financial advice provider that meets their needs.

(2) A financial advice provider (**P**) must make all of the applicable information set out in clause 4 of Schedule 21A publicly available.

(3) P must also make that information available by providing it in writing on request from a member of the public.

(4) P must comply with a request under subclause (3) as soon as practicable after receiving it.

(5) The information made available under this regulation must include P's name and contact details and be clearly identified as having been provided by P.

(6) Subclause (2) does not apply if no Internet site is maintained by or on behalf of P.

Regulation 229C: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229D Information that must be given when nature and scope of advice known

(1) The purpose of this regulation is to give retail clients information that will help them to make an informed decision about whether to seek, obtain, or act on advice from a particular person or provider.

(2) This regulation applies if—

(a) a person who gives advice (**A**) knows or ought reasonably to know the nature and scope of the advice that—

(i) a client is seeking; or

(ii) A is giving or intending to give to a client; and

(b) there are reasonable grounds for concluding that the financial advice provider (**P**) or A (or another person acting on P's behalf) may give the advice to the client.

(3) A must give the client all of the information set out in clause 5 of Schedule 21A that is applicable.

(4) The information must be given at the time this regulation applies or, if it is not practicable to do so, as soon as practicable after that time.

(5) In any event, the information must be given no later than the time when the information in regulation 229E is given.

Example

Alice is a mortgage adviser who works for ABC Limited. Claire approaches Alice seeking mortgage advice. During their initial meeting, Alice learns that Claire is seeking mortgage advice in relation to a purchase of a residential property.

At that initial meeting, Alice must give Claire all of the applicable information set out in clause 5 of Schedule 21A.

Regulation 229D: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229E Information that must be given when advice given

(1) The purpose of this regulation is to give retail clients information that will help them to make an informed decision about whether to act on advice that they have been given.

(2) A person (**A**) who gives advice to a client must give the client the following information:

(a) all of the information set out in clause 6 of Schedule 21A that is applicable; and

(b) if any of the information set out in clause 5(1) of Schedule 21A has materially changed since the client was last given it (when considered as a whole together with any other information the client has been given under regulation 229D or this regulation), an updated version of the information or an explanation of what has changed.

Example (continued from regulation 229D)

ABC Limited only gives advice in relation to products from particular lenders.

After Alice has told Claire the names of the particular lenders under clause 5(1)(b) of Schedule 21A, but before Alice gives Claire the mortgage advice, ABC Limited changes its arrangements with a particular lender. As a result, ABC Limited is no longer giving advice about the financial products of that lender.

Alice emails Claire the advice. In the same email, Alice must give Claire—

- all of the information set out in clause 6 of Schedule 21A that is applicable; and
- information about the change to the lender. Alice can do this by giving Claire an updated statement and list of names (*see* clause 5(1)(b) of Schedule 21A) or an explanation of the change.

(3) A must give the information—

(a) before, or at the same time as, the advice is given; or

(b) if it is not practicable to comply with paragraph (a), as soon as practicable after the advice is given.

(4) Nothing in this regulation prevents A from giving the information required by this regulation at the same time that it gives the information required by regulation 229D.

Example

Alex is a financial adviser who works for a bank.

Charlotte asks Alex for some financial advice about term deposits and other investment options offered by the bank.

Alex gives Charlotte all of the information required by regulations 229D and 229E at the same time (before the advice is given). Alex was able to give all of the

information at the same time because Alex knew all of it by the time the nature and scope of the advice were known.

(5) Subclause (4) does not limit regulation 229D(4) and (5).

Regulation 229E: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229F Information that must be given if complaint received

(1) A financial advice provider (**P**), or a person engaged by P to give advice to P's clients on P's behalf, who receives a complaint must give to the complainant—

(a) an overview of P's internal complaints process; and

(b) the following information about P's dispute resolution scheme:

(i) a statement to the effect that the complainant has access to a free, independent dispute resolution service, and that service may help to investigate or resolve the complaint if it is not resolved to the complainant's satisfaction using P's internal complaints process; and

(ii) the name of the dispute resolution scheme that P is a member of; and

(iii) the scheme's contact details to make a complaint.

(2) The information must be given no later than 2 working days after a complaint is received or, if it is not practicable to do so, as soon as practicable after that time.

(3) However, the information need not be given if the complaint is earlier resolved to the complainant's satisfaction.

(4) In this regulation and Schedule 21A, a **complaint** is an expression of dissatisfaction relating to P's financial advice service to which a response or a resolution is explicitly or implicitly expected (including dissatisfaction with any advice given by P or on P's behalf).

(5) In this regulation, **dispute resolution scheme** has the meaning set out in clause 1(1) of Schedule 21A.

Regulation 229F: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229G Disclosures relating to advice not required if client has current information

(1) The purpose of this regulation is to prevent a client from being overburdened by repetition of information that they have already received.

(2) A person who is required to give particular information in accordance with regulation 229D or 229E does not have to give that information if—

(a) the client has previously been given the information; and

(b) there has been no material change to the information since the client was given it (when considered as a whole together with any other information the client has been given under regulation 229D or 229E).

Example (continued from regulations 229D and 229E(2))

Three years after Alice gives Claire mortgage advice, Claire's fixed mortgage rate is due to expire. Claire and Alice arrange a meeting to review her home loan arrangements and assess whether any changes need to be made.

The only change that has been made to the information set out in clauses 5 and 6 of Schedule 21A since Claire received it 3 years ago is that there has been a fee increase.

Alice must give Claire the updated information about the fees. Alice can do this by giving Claire the updated fees information set out in clause 5(2)(b) of Schedule 21A or an explanation of the change to the fees (*see* regulation 229I(4)).

(3) However, if particular information is not given to a client in reliance on this regulation,—

(a) the client may request that information; and

(b) A must give the information to the client as soon as practicable after receiving the request.

Example (continued from subclause (2))

Alice does not otherwise have to give Claire any of the other information set out in clause 5 of Schedule 21A because there has been no change to that information. However, if Claire asks to be reminded about the lenders that Alice gives advice about, Alice must provide the information even if it remains the same.

Regulation 229G: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229H General requirements for form and manner of disclosure

(1) A provider or other person that is required to comply with any provision of regulations 229C to 229G (**A**) must ensure that any information that they make available or give under those regulations—

(a) is presented in a clear, concise, and effective manner; and

(b) if it is presented with other information, is given prominence; and

(c) if it is presented in writing, is in a format, font, and type size that are easily readable; and

(d) is made available or given free of charge.

(2) A must have regard to any stated purpose of a regulation referred to in subclause (1) when complying with that regulation.

(3) A may otherwise make information available or give information in the form and manner they reasonably consider appropriate, having regard to any stated purpose of the regulation.

Regulation 229H: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229I Additional requirements for form and manner of disclosure relating to advice

(1) This regulation applies if a person (**A**) is required to give information under regulation 229D or 229E.

(2) If A gives the information in a form other than in writing, A must ensure that the client has been told that the information is available in writing on request.

(3) A must, if requested, give the information in writing.

(4) If a client has previously been given particular information and there has been a change to that information, A may give the client—

(a) an updated version of the information; or

(b) an explanation of what has changed (instead of the information in full).

(5) A must ensure that the form or manner of giving the information adequately identifies, or allows for identification of, the financial advice provider who is giving, or will give, the advice.

Regulation 229I: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

229J Information given or supplied by provider

(1) This regulation applies if a person (**A**) is—

(a) engaged by a financial advice provider (**P**) to give advice to P's clients on P's behalf; and

(b) required by regulations 229D to 229G to give information to a person (**C**).

(2) It is sufficient compliance with A's duty for P to give the information to C directly on A's behalf.

Regulation 229J: inserted, on 15 March 2021, by regulation 12 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Financial advice that is not regulated

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229K Circumstances in which financial advice is not regulated financial advice

Schedule 21B prescribes circumstances in which financial advice is not regulated financial advice for the purposes of clause 17 of Schedule 5 of the Act.

Regulation 229K: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229L Lender's duty to ensure borrower understands that advice about credit contract or insurance is not regulated financial advice

(1) This regulation applies for the purposes of clause 10(2) of Schedule 5 of the Act (which provides that a lender is taken to have complied with clause 10(1)(b) of that schedule if the lender gives the borrower a statement in the prescribed manner).

(2) The statement must be in the following form:

"You are protected by responsible lending laws. Because of these protections, the recommendations given to you about [*briefly specify (for example,* "*this home loan*")*)*] are not regulated financial advice.

This means that duties and requirements imposed on people who give financial advice do not apply to these recommendations. This includes a duty to comply with a code of conduct and a requirement to be licensed."

(3) The lender must ensure that the statement,—

(a) if it is presented with other information, is given prominence; and

(b) if it is presented in writing, is in a format, font, and font size that is easily readable; and

(c) is made available or given free of charge.

(4) The lender may otherwise make the information available or give the information in the form and manner they reasonably consider appropriate.

(5) Regulation 9 applies to a statement under this regulation.

(6) If the lender gives a statement in oral form under this regulation, the lender must maintain records that demonstrate that it has met the requirements of this regulation.

Regulation 229L: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Record of nominated representatives

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229M Record of nominated representatives

For the purposes of section 431T(5) of the Act, a financial advice provider must ensure that the record of its nominated representatives contains the following:

(a) the name of each nominated representative:

(b) if a nominated representative is engaged indirectly through 1 or more interposed persons, the name of each interposed person:

(c) the date on which the nomination of each nominated representative takes effect:

(d) if the nomination is specified as expiring on a particular date, that date:

(e) if the nomination has expired, the date on which it expired.

Regulation 229M: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Custodians of financial products

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229N Application of regulations relating to custodians of financial products

(1) Regulations 229P to 229V apply to a person who provides relevant custodial services to a client.

(2) However, those regulations do not apply to any of the following:

(a) a person who provides relevant custodial services if the person and all of its associated persons provide the services to no more than 5 clients in aggregate:

(b) services provided by—

(i) a trustee of a family trust in respect of the trust's assets:

(ii) an executor, an administrator, or a trustee of a deceased person's estate in respect of the estate's assets:

(iii) an attorney acting under an enduring power of attorney in respect of a donor's property in circumstances where the donor becomes mentally incapable:

(iv) any person appointed by the court in respect of a person's assets:

(c) a sub-custodian acting in that capacity.

Compare: LI 2014/48 r 4(1), (2)

Regulation 229N: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229O Definitions in regulations 229N to 229W

In regulations 229N to 229W,—

assurance report means a report for an assurance engagement under regulation 229U

custodian means a person to whom regulations 229P to 229V apply under regulation 229N

family trust has the same meaning as in section 173M(5) of the Tax Administration Act 1994

relevant custodial service—

(a) means a custodial service that—

(i) is a regulated client money or property service; and

(ii) relates to a financial product; but

(b) does not include any service to the extent that client money or client property is held solely for completing a transaction, securing an obligation, or both

sub-custodian means a person who provides relevant custodial services under an arrangement with a custodian where the custodian holds a beneficial interest in the financial product (to which the services relate) in trust for, or on behalf of, the client.

Compare: LI 2014/48 r 3

Regulation 229O: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229P Relevant custodial services provided on behalf of business of another person

(1) This regulation applies to relevant custodial services provided to a client (**C**) if—

(a) a person (**A**) provides the services to C on behalf of the business of another person (**B**); and

(b) B does not itself provide the services but, by virtue of section 431ZI of the Act, is treated (instead of A) as the provider having the obligations under subpart 5B of Part 6 of the Act.

(2) If this regulation applies,—

(a) B must ensure that A complies with the requirements of regulations 229Q to 229ZC in respect of the relevant custodial services (applied as if references to a custodian were references to A); and

(b) B must be treated as having complied with the requirements of regulations 229Q to 229ZC in respect of the relevant custodial services if A complies with the requirements as referred to in paragraph (a).

Compare: LI 2014/48 r 4(3), (4)

Regulation 229P: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229Q Custodian must provide information to clients

(1) For the purposes of section 431ZF of the Act, a custodian must, in relation to its relevant custodial service, provide the following information to a client for each reporting period in respect of client money and client property received or held by the custodian and any of its sub-custodians:

(a) a record of all transactions effected by the custodian or any of its sub-custodians for the client during the reporting period, which for each transaction must, at a minimum, include—

(i) the date of the transaction; and

(ii) the name of the issuer and the number (if applicable) and class of financial products to which the transaction relates; and

(iii) the balance of that class of financial products held on behalf of the client on completion of the transaction; and

(b) all entries made in a ledger of client money held on behalf of the client during the reporting period, which for each entry must, at a minimum, include—

(i) a date; and

(ii) references that identify the source or destination of client money and that enable it to be traced backward or forward; and

(c) information on client property currently held on behalf of the client, which, at a minimum, must include—

(i) the name of the issuer and the number (if applicable) and class of financial products currently held on behalf of the client; and

(ii) the name, if known, of the custodian or sub-custodian that holds those products; and

(d) the amount of the fees (if any) charged by the custodian in respect of client money or client property held on behalf of the client; and

(e) a statement that the client may request the latest assurance report required by regulations 229U and 229V.

(2) The information—

(a) must be prepared as at the last day of the reporting period and in respect of the last reporting period; and

(b) must be provided to the client not later than 20 working days after the last day of each reporting period by giving it to the client or delivering or sending it to the client's address.

(3) In this regulation, **reporting period** means—

(a) each period of 6 months (or any shorter period determined by the custodian) for which the person is a client of the custodian; or

(b) if the person ceases to be a client of a custodian on a date within that period, the shorter period ending on that date.

Compare: LI 2014/48 r 5

Regulation 229Q: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229R Alternative means of providing information required by regulation 229Q(1)

(1) A custodian does not have to comply with regulation 229Q(2) and (3) if—

(a) the information required by regulation 229Q(1) is available through an electronic facility on a substantially continuous basis; and

(b) the client agrees to the information being provided in that way; and

(c) the client has been given access to the facility.

(2) The information that is made available on the facility must include a statement of the date at which the information is prepared.

(3) For the purposes of this regulation, a reference in regulation 229Q(1) to a **reporting period** means the period—

(a) beginning on the date on which the person becomes a client of a custodian; and

(b) ending on the date that is not earlier than 48 hours before the information is made available.

Compare: LI 2014/48 r 6

Regulation 229R: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229S Client request for information from custodian

For the purposes of section 431ZF of the Act, if a client has made a written request to the custodian for any information required by regulation 229Q(1), the custodian must provide the information by giving it to the client or delivering or sending it to the client's address not later than 10 working days after the date on which the request is received.

Compare: LI 2014/48 r 7

Regulation 229S: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229T Procedures for reconciling custodian's records

(1) This regulation applies for the purposes of section 431ZE(4)(b) of the Act.

(2) For the purpose of ensuring that the custodian's records accurately state the custodian's holding of client money and client property and all transactions relating to that money and property, the custodian must, in relation to its relevant custodial service,—

(a) take adequate steps to reconcile records of client money and client property held for each client with the overall records of client money and client property held by the custodian; and

(b) take adequate steps to reconcile records of client money and client property kept by the custodian with records kept by sub-custodians and third parties; and

(c) have in place adequate procedures for promptly identifying discrepancies in those records and determining the cause of those discrepancies; and

(d) promptly and fully rectify any discrepancies.

(3) The frequency of the reconciliation of client property must be appropriate to—

(a) the type of client property to which the records relate; and

(b) the frequency with which client property is traded; and

(c) the timing of any custody reports provided.

(4) All records of client money must be reconciled daily.

Compare: LI 2014/48 r 8

Regulation 229T: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229U Custodian must obtain assurance engagement

(1) This regulation and regulation 229V apply for the purposes of sections 431ZC(4), 431ZE(4)(b), and 431ZF of the Act.

(2) A custodian must obtain, within 4 months after the relevant date, an assurance engagement with a qualified FMC auditor in relation to its relevant custodial service (including obtaining the assurance report within that period).

(3) The assurance engagement must be done in accordance with applicable auditing and assurance standards.

(4) The custodian must,—

(a) within 20 working days after obtaining an assurance report, provide a copy of the report to the FMA unless the FMA waives this requirement; and

(b) at the request of a client, send the client a copy of the most recent assurance report within 10 working days after receiving the request.

(5) In this regulation and regulation 229V, **relevant date**, in relation to a custodian, means—

(a) the custodian's balance date; or

(b) a date in each calendar year that is—

(i) determined by the custodian; and

(ii) notified to the FMA in writing within 10 working days after the determination is made.

(6) The following apply for the purposes of the date under subclause (5)(b):

(a) in the case of a date that is adopted as the first relevant date, the date must be within the first 12 months of this regulation applying to the custodian in respect of a client; and

(b) the custodian may change the date if—

(i) the period between any 2 dates does not exceed 15 months; and

(ii) the change is notified to the FMA in writing within 10 working days after the custodian decides to make the change; and

(c) if the custodian adopts a date in accordance with paragraph (a) or changes the date in accordance with paragraph (b), it need not have a date in a particular calendar year.

Compare: LI 2014/48 r 9

Regulation 229U: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 229U(2): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

229V Requirements of assurance engagement and report

(1) An assurance report must state whether, in the auditor's opinion,—

(a) the custodian's processes, procedures, and controls were suitably designed to meet the control objectives in subclause (2) throughout the most recently completed relevant period; and

(b) the custodian's processes, procedures, and controls operated effectively throughout that relevant period.

(2) The control objectives are that—

(a) new accounts are set up completely and accurately in accordance with client agreements and any applicable regulations:

(b) complete agreements that properly authorise the holding of client money and client property (**authorising agreements**) are established before the custodian starts providing relevant custodial services:

(c) transactions are authorised, processed, and recorded in an appropriate, accurate, and timely manner:

(d) accounts are administered in accordance with the Act, these regulations, and authorising agreements:

(e) records and changes to records relating to relevant custodial services are accurate and are kept—

(i) in an appropriate and timely manner; and

(ii) in accordance with the Act, these regulations, and authorising agreements:

(f) there are adequate safeguards against the loss, misappropriation, and unauthorised use of client money and client property:

(g) sub-custodians are appropriately approved and managed and adequately monitored:

(h) reports to the client in respect of holdings of client money and client property—

(i) are complete and accurate; and

(ii) are provided within the time frames in the Act, these regulations, and client agreements:

(i) information technology systems and processes are appropriate to allow the custodian to accurately and reliably meet the objectives in paragraphs (a) to (h).

(3) In this regulation, **relevant period**, in relation to a custodian, means a 12-month period ending on the relevant date of the custodian, and if, as a result of the date on which it became a custodian or a change of the relevant date of the custodian, the period ending on that date is longer or shorter than 12 months, that longer or shorter period is a relevant period.

Compare: LI 2014/48 r 10

Regulation 229V: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Application of obligations to custodial services provided to wholesale clients

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229W Application of sections 431ZC to 431ZH of Act and regulations to wholesale clients

(1) The following apply to relevant custodial services provided by a custodian to wholesale clients:

(a) sections 431ZC to 431ZH of the Act (obligations for handling client money and client property); and

(b) regulations 229Q to 229V and 229X to 229ZE.

(2) Subclause (1) does not apply to a relevant custodial service if all of the clients for that service fall within 1 or more of the following categories:

(a) investment businesses within the meaning of clause 37 of Schedule 1 of the Act:

(b) large persons within the meaning of clause 39 of Schedule 1 of the Act:

(c) government agencies within the meaning of clause 40 of Schedule 1 of the Act:

(d) entities that are under the control of a person referred to in any of paragraphs (a) to (c) (where **control** has the same meaning as in clause 48 of Schedule 1 of the Act).

(3) Subclause (1) does not apply to a relevant custodial service provided by a derivatives issuer to the extent that the client money or client property to which the service relates is derivatives investor money (as defined in regulation 239(1) to (3) and (6)) or derivatives investor property (as defined in regulation 239(4) to (6)).

(4) In subclause (2)(b), for the purpose of applying Schedule 1 of the Act, **relevant time** (as referred to in clause 39 of that schedule) must be treated as the time immediately before the client agreement for the custodial service is entered into.

Compare: LI 2014/48 r 11; SR 2011/50 r 13

Regulation 229W: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Holding client money or property together with other money or property

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229X Application of regulations that allow client money or property to be held together with other money or property

(1) Regulations 229Y to 229ZC apply for the purposes of section 431ZC(3) and (4) of the Act (which provides for when client money or client property may be held together with other money or property).

(2) In those regulations, **client money trust account**, **financial product transaction**, **firm money**, **firm property**, **non-NZX provider**, **NZX provider**, and **reasonably necessary** have the meanings set out in clause 2 of Schedule 21C.

Regulation 229X: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229Y Client money or property not held separately in order to facilitate settlements

(1) Section 431ZC(2) of the Act does not apply to an NZX provider to the extent that—

(a) client money or client property is held together with firm money or firm property for the purpose of facilitating or arranging the settlement of 1 or more financial product transactions for a client of the NZX provider; and

(b) it is reasonably necessary for client money or client property to be held together with firm money or firm property.

(2) However, this regulation applies only if the NZX provider is satisfied on reasonable grounds that it has adequate systems and procedures for ensuring that it complies with the applicable duties set out in Schedule 21C.

Regulation 229Y: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229Z When firm money or property not held separately in order to facilitate settlements is treated as client money or property

(1) This regulation applies for the purposes of section 431ZC(3)(b) of the Act.

(2) Firm money or firm property (the **money or property**) that is held together with client money or client property under regulation 229Y must be treated as client money or client property for all purposes (subject to subclause (3)).

(3) However, the NZX provider must separate the money or property from the client money or client property in order to comply with clause 3(2)(a) of Schedule 21C (in which case, the separated money or property ceases to be client money or client property).

Regulation 229Z: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229ZA Client money not held separately in order to rectify or reduce risk of shortfall

(1) Section 431ZC(2) of the Act does not apply to an NZX provider or a non-NZX provider to the extent that it is reasonably necessary for firm money to be held together with client money in a client money trust account in order to rectify, or reduce the risk of, a shortfall arising in the client money held for a client in that account.

(2) However, this regulation applies to—

(a) an NZX provider only if the provider is satisfied on reasonable grounds that it has adequate systems and procedures for ensuring that it complies with the applicable duties set out in Schedule 21C; and

(b) a non-NZX provider only if—

(i) the provider is satisfied on reasonable grounds that it has adequate systems and procedures for ensuring that it complies with the applicable duties set out in Schedule 21C; and

(ii) the provider has notified the FMA in writing that it intends to rely on this regulation; and

(iii) the provider maintains, at a bank in New Zealand, at least 1 client money trust account in each currency in which it accepts money from or on behalf of clients; and

(iv) the provider has obtained from each bank that holds a client money trust account a written acknowledgement of the trust status of that account; and

(v) the provider has ensured that the words "client funds account", "trust account", "client funds a/c", or "trust a/c" appear in the name of each client money trust account.

Regulation 229ZA: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229ZB When firm money not held separately in order to rectify or reduce risk of shortfall is treated as client money

(1) This regulation applies for the purposes of section 431ZC(3)(b) of the Act.

(2) Firm money (the **money**) that is held together with client money under regulation 229ZA must be treated as client money for all purposes (subject to subclause (3)).

(3) However, the NZX provider or non-NZX provider must separate the money from the client money in order to comply with clause 4(2)(a) or (c) of Schedule 21C (in which case, the separated money ceases to be client money).

Regulation 229ZB: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229ZC Provider that holds client money or property together with other money or property must comply with duties

For the purposes of section 431ZC(4) of the Act, a provider must comply with the applicable duties set out in Schedule 21C if the provider relies on regulation 229Y or 229ZA.

Regulation 229ZC: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Miscellaneous provisions relating to regulation of client money or property services

Heading: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229ZD Custodianship of property of registered scheme is not regulated client money or property service

(1) This regulation applies for the purposes of clause 22 of Schedule 5 of the Act.

(2) To the extent that the holding of scheme property under sections 156 to 160 of the Act is a client money or property service, that service is not a regulated client money or property service.

Regulation 229ZD: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

229ZE Overseas banks prescribed entities for purposes of section 431ZC of Act

(1) Overseas banks are prescribed entities for the purposes of section 431ZC(1)(b) of the Act.

(2) In this regulation,—

overseas bank means a bank that is—

(a) an overseas person; and

(b) subject to regulatory controls that are substantially the same as those applying in New Zealand in relation to—

(i) the composition of the board of directors or other governing body of the bank; and

(ii) the disclosure requirements relating to the bank's financial position; and

(iii) the requirements relating to the capital adequacy of the bank; and

(iv) the requirements relating to the taking of deposits

overseas person means—

(a) a body corporate incorporated outside New Zealand; or

(b) an unincorporated body that has its head office or principal place of business outside New Zealand.

Regulation 229ZE: inserted, on 15 March 2021, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Additional regulation of DIMS

230 DIMS licensee must provide report to FMA in event of limit break

(1) A DIMS licensee must provide to the FMA a report in accordance with this regulation and regulation 232 if—

(a) section 438 of the Act applies; and

(b) the limit break is not corrected within 5 working days after the date that the DIMS licensee becomes aware of the limit break.

(2) The report must be provided as soon as practicable after the expiry of the 5-working-day period referred to in subclause (1)(b).

(3) The report must contain the information specified in regulation 232.

231 DIMS licensee must provide quarterly reports to FMA about limit breaks

(1) For the purposes of section 411 of the Act, a DIMS licensee must provide to the FMA a report in accordance with this regulation and regulation 232 within 10 working days after the expiry of each quarter of each year.

(2) The report must—

(a) state whether there have been any limit breaks in the previous quarter to which section 438 of the Act applies; and

(b) if so, contain the information specified in regulation 232.

232 Contents of reports about limit breaks

(1) This regulation applies to—

(a) a report under regulation 230:

(b) a report under regulation 231 if regulation 231(2)(b) applies.

(2) The report must disclose—

(a) the date that the DIMS licensee became aware of the limit break; and

(b) a description of the service affected; and

(c) the nature and cause of the limit break (the **type** of limit break); and

(d) the net asset value of the assets held under the service to which the limit break relates (as at the date the limit break first occurred); and

(e) the reasons why the limit break is material (as determined in accordance with an applicable framework or methodology (if any)); and

(f) the date on which the limit break first occurred and the period for which the limit break continued before it was corrected (or whether the limit break remains uncorrected at the time of the report); and

(g) the steps taken, or to be taken, by the DIMS licensee to correct the limit break; and

(h) what steps (if any) have been taken, or will be taken, to minimise risk of a recurrence of this type of limit break or to ensure early notification and correction of limit breaks of this type; and

(i) the time frame within which the DIMS licensee intends to take any steps not already taken under paragraph (g) or (h).

(3) If any information referred to in subclause (2)(d) to (i) is not reasonably ascertainable as at the date of the report,—

(a) the report is not required to include that information; but

(b) the DIMS licensee must make a further report containing that information to the FMA as soon as is reasonably practicable after the information becomes reasonably ascertainable.

(4) A quarterly report under regulation 231 is not required to include any information referred to in subclause (2)(d) to (i) if—

(a) the information has previously been provided to the FMA in a report provided under regulation 230 or in any other report that the DIMS licensee is required to provide to the FMA; and

(b) as at the date of the quarterly report under regulation 231, the information remains correct.

233 Investments in Australian registered managed investment scheme is permitted related party benefit transaction

For the purposes of section 441(b) of the Act, an interest in a registered scheme (within the meaning of section 9 of the Corporations Act 2001 (Aust)) is a prescribed interest in a prescribed overseas scheme.

234 Investment in Government securities is permitted related party benefit transaction

A transaction is prescribed for the purposes of section 441(d) of the Act if the transaction is the acquisition or disposal of any public security in the ordinary course of business.

235 Requirements for certificates as to related party benefits

For the purpose of section 442(1)(b) of the Act, a certificate under section 440 of the Act—

(a) must,—

(i) if the monetary value of the related party benefit or benefits to which the certificate relates can be quantified, state the nature and monetary value of that benefit or those benefits; or

(ii) if the monetary value of the related party benefit or benefits to which the certificate relates cannot be quantified, state the nature and extent of that benefit or those benefits; and

(b) must provide, or have attached to it, reasonable evidence supporting—

(i) the statement under paragraph (a); and

(ii) the stated basis for relying on a ground in section 440 of the Act and (if relevant) section 441 of the Act.

236 DIMS licensee must provide quarterly report to FMA that identifies certificates

(1) For the purposes of section 411 of the Act, a DIMS licensee must provide to the FMA a report in accordance with this regulation within 10 working days after the expiry of each quarter of each year.

(2) The report must state whether any certificates have been given under section 440 of the Act in the previous quarter and, if so, include a copy of those certificates.

237 Quarterly reports may be in single report

The reports that a DIMS licensee must provide to the FMA after the expiry of each quarter may be combined in a single report.

Circumstance in which custodian requirements do not apply

Heading: inserted, on 1 December 2015, by regulation 29 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

237A Requirements do not apply if money or property held solely for completing transaction or securing obligation

Section 445 of the Act does not apply to investor money or investor property if it is held solely for completing a transaction, securing an obligation, or both.

Regulation 237A: inserted, on 1 December 2015, by regulation 29 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Conduct of financial institutions: services that are not relevant services

Heading: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237B Relevant service does not include certain services provided to retail client controlled by wholesale client

(1) For the purposes of paragraph (b) of the definition of relevant service in section 446F(1) of the Act, the following services are not relevant services:

(a) a service referred to in section 446F(1)(a)(iii) of the Act where the only retail clients that receive or will receive the service are persons that are controlled by 1 or more wholesale clients:

(b) acting as an intermediary for a service referred to in paragraph (a).

(2) In this regulation,—

controlled has the same meaning as in clause 48 of Schedule 1 of the Act

wholesale client has the same meaning as in section 49(2) of the Financial Service Providers (Registration and Dispute Resolution) Act 2008.

Regulation 237B: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Conduct of financial institutions: providing information on request

Heading: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237C How information about fair conduct programme must be provided to person who requests it

(1) This regulation applies when a financial institution provides information under section 446H(1)(b) of the Act to a person who requests the information.

(2) For the purposes of section 446H(4) of the Act, the information must be provided to the person by giving it to them or delivering or sending it to their address.

Regulation 237C: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Conduct of financial institutions: incentives

Heading: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237D Incentives regulations

(1) Regulations 237E to 237H prescribe matters for the purposes of sections 446K and 446L of the Act, which require financial institutions and their intermediaries to comply with regulations relating to incentives.

(2) In this regulation, regulations 237E to 237H, and Part 10 of Schedule 1,—

associated product has the meaning set out in section 446F(2) of the Act

immediate manager means a relevant employee's immediate manager or supervisor (by whatever name called)

incentive has the meaning set out in section 446M of the Act

intermediary has the meaning set out in section 446Q of the Act

involved has the meaning set out in section 446Q(3) and (4) of the Act

prohibited incentive has the meaning set out in regulation 237E(1)

relevant employee means a person referred to in regulation 237G(2)(a) or 237H(2)(a)

relevant service has the meaning set out in section 446F(1) of the Act.

Regulation 237D: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Regulation 237D(2): amended, on 31 March 2025, by regulation 7(b) of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237E What is prohibited incentive

(1) An incentive is a **prohibited incentive**, in relation to relevant services or associated products, if a person's entitlement to the incentive, or the nature or value of the incentive, is determined or calculated in any way by a direct reference to a target or other threshold that relates to the volume or value of the services or products.

Examples of prohibited incentive

Example 1

The employee of a life insurer is offered a $1,000 bonus for selling at least 100 life policies in a 3-month period. The bonus is a prohibited incentive because the employee's entitlement to the bonus is determined by way of a direct reference to a sales target.

Example 2

An employee (**A**) receives an annual bonus calculated on a sliding scale. The bonus is calculated as the aggregate of 0.5% of A's base salary for the first $10 million in customer funds invested in a particular product based on A's recommendations, 0.75% for amounts over $10 million, and 1.00% for amounts over $20 million. The bonus is a prohibited incentive because it is determined by reference to thresholds directly referencing the volume of the relevant services or associated products sold.

(2) However, an incentive is not a **prohibited incentive** if—

(a) the person's entitlement to the incentive, or the nature or value of the incentive,—

(i) is determined or calculated on a linear basis (that is, on a per service or per product basis); and

(ii) is not determined or calculated in any way by a direct reference to a target or other threshold that relates to the volume or value of the relevant services or associated products; or

Example of incentive that is not prohibited (linear basis only)

An employee (**A**) is paid a commission for each insurance contract that A arranges, calculated as 5% of the first year's premium for the contract. The percentage does not depend on any target or threshold (that is, the percentage does not change based on the volume or value of contracts).

The incentive is not prohibited because it is determined or calculated on a linear basis only (that is, on a per service or per product basis as a fixed percentage of the premium).

(b) the person's entitlement to the incentive, or the nature or value of the incentive, is determined or calculated in any way by a direct reference

to a target or other threshold that relates to the volume or value of relevant services or associated products provided to wholesale clients only (and in no way relates to the volume or value of relevant services or associated products provided to retail clients); or

Example of incentive that is not prohibited (wholesale only)

An employee (**A**) of an intermediary receives 5% of transaction income generated if A generates over $100,000 of transaction income from wholesale clients in a 3-month period. The transaction income includes income generated from financial products issued by financial institutions.

The incentive is not prohibited because it does not in any way relate to transaction income from retail clients.

(c) the incentive is offered or given in the circumstances set out in subclause (3).

(3) The circumstances are that—

(a) the incentive is offered or given by a person (**A**) that—

(i) is an intermediary; and

(ii) is a financial advice provider; and

(iii) is not a financial institution; and

(b) the incentive is offered or given to a relevant employee (**B**) of A under regulation 237H(2)(a); and

(c) B's entitlement to the incentive, or the nature or value of the incentive,—

(i) is determined or calculated on a linear basis (that is, on a per service or per product basis); and

(ii) is also determined or calculated in any way by only one direct reference to a target or other threshold that relates to the volume or value of the relevant services or associated products; and

(d) B is also entitled to receive from A a monetary benefit that is not an incentive; and

(e) the monetary benefit is paid for B being involved in the provision of the same relevant services or associated products as those to which the incentive relates.

Example

An employee of a financial advice provider has a base salary of $50,000. In addition, the employee receives a commission of 5% of every dollar's worth of all sales in a quarter if the employee hits a target of $100,000 in a quarter.

The $100,000 target is the only target that relates to the volume or value of the relevant services or associated products.

The employee's sales for a quarter are $200,000. The commission is $10,000 (5% of $200,000).

The commission is not a prohibited incentive.

Regulation 237E: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237F Clarifications about direct references to targets or other thresholds

(1) Subclause (2) applies if—

(a) an immediate manager's entitlement to an incentive, or the nature or value of an immediate manager's incentive, is determined or calculated in any way by reference to the performance of 1 or more relevant employees; and

(b) that performance is assessed in any way by a direct reference to a target or other threshold that relates to the volume or value of relevant services or associated products.

(2) For the purposes of regulation 237E(1), the immediate manager's entitlement, or the nature or value of the incentive, must be treated as being determined or calculated by way of a direct reference to a target or other threshold that relates to the volume or value of relevant services or associated products.

(3) For the purposes of regulation 237E(1), a person's entitlement to an incentive, or the nature or value of a person's incentive, is not determined or calculated by reference to a target or other threshold that relates to the volume or value of relevant services or associated products merely because—

(a) the entitlement, nature, or value is determined or calculated by reference to a target or other threshold that relates to market share, profit, or any other similar measure of financial performance; or

Example

A manager is entitled to a bonus if a company's net profit exceeds $5 million. The volume or value of services or products that the company sells affects the company's profit, but this does not mean that the incentive is determined or calculated by reference to a target or other threshold that relates to the volume or value of services or products.

(b) an incentive is subject to a limit or cap.

Example

An employee receives $100 for every home loan that they sell, up to a maximum of $2,500 a quarter. The $100 amount is a linear-based incentive that is not prohibited. The $2,500 limit or cap does not change that result.

Regulation 237F: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237G Financial institution must not offer or give prohibited incentives

(1) For the purposes of section 446K of the Act, a financial institution must not offer or give a prohibited incentive to a person referred to in subclause (2).

(2) The persons are—

(a) an employee (a **relevant employee**) of the financial institution who—

(i) is involved in the provision of the financial institution's relevant services or associated products; and

(ii) in the course of that involvement, has direct contact with 1 or more consumers or persons who act on behalf of 1 or more consumers (for example, face-to-face contact or contact by telephone, letter, email, or other electronic communication); or

(b) the immediate manager of a relevant employee; or

(c) an intermediary that is involved in the provision of the financial institution's relevant services or associated products; or

(d) an agent of the financial institution that is involved in the provision of the financial institution's relevant services or associated products.

Regulation 237G: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237H Intermediary must not offer or give prohibited incentives

(1) For the purposes of section 446L of the Act, an intermediary must not offer or give a prohibited incentive to a person referred to in subclause (2) in connection with the provision of a financial institution's relevant services or associated products.

(2) The persons are—

(a) an employee (a **relevant employee**) of the intermediary who—

(i) is involved in the provision of the financial institution's relevant services or associated products; and

(ii) in the course of that involvement, has direct contact with 1 or more consumers or persons who act on behalf of 1 or more consumers (for example, face-to-face contact or contact by telephone, letter, email, or other electronic communication); or

(b) the immediate manager of a relevant employee; or

(c) another intermediary that is involved in the provision of the financial institution's relevant services or associated products; or

(d) an agent of the intermediary that is involved in the provision of the financial institution's relevant services or associated products.

Regulation 237H: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Conduct of financial institutions: Lloyd's

Heading: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237I Requirements for fair conduct programmes of Lloyd's managing agents

Part 2 of Schedule 21D prescribes matters for the purposes of section 446V(3)(b)(i) of the Act.

Regulation 237I: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

237J How information about fair conduct programmes of Lloyd's managing agents must be made publicly available

Part 3 of Schedule 21D prescribes matters for the purposes of section 446V(3)(b)(ii) of the Act.

Regulation 237J: inserted, on 31 March 2025, by regulation 6 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Subpart 6—Holding and application of investor funds and property by derivatives issuers

Subpart 6 heading: inserted, on 15 March 2021, by regulation 13 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Holding and application of investor funds and property by derivatives issuers

[Revoked]

Heading: revoked, on 15 March 2021, by regulation 13 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

238 Interpretation and application

(1) In regulations 239 to 250, unless the context otherwise requires,—

authorised hedging activity means the hedging of a derivatives issuer's exposure to investors under derivatives (other than exchange-traded derivatives) by—

(a) acquiring assets underlying derivatives:

(b) entering into, securing, or settling offsetting derivatives with a hedging counterparty

derivatives investor money has the meaning given in regulation 239(1) to (3) and (6)

derivatives investor property has the meaning given in regulation 239(4) to (6)

exchange-traded derivative means a derivative that is quoted, or approved for trading, on a financial product market (whether a licensed market or not)

hedging counterparty means—

(a) a specified bank:

(b) a licensed derivatives issuer:

(c) an operator of a designated FMI:

(d) a company that is registered as a BIPRU 730k firm (a BIPRU investment firm that is not a collective portfolio management investment firm, a BIPRU 50K firm, or a BIPRU 125K firm) with the UK Financial Conduct Authority:

(e) a Futures Commission Merchant that is registered with the U.S. Commodity Futures Trading Commission under the Commodity Exchange Act (USA):

(f) any person who the derivatives issuer considers, on reasonable grounds, is unlikely to default on obligations under derivatives

insolvency event has the meaning given in section 6(4) of the Act

obligations relating to exchange-traded derivatives means obligations incurred by a derivatives issuer in connection with margining or settling dealings in exchange-traded derivatives on behalf of an investor

trust account means an account at a specified bank that is in the name of the derivatives issuer and that is designated as a trust account.

(2) Regulations 239 to 250 do not apply to a person to the extent that the person is acting as—

(a) an operator of a designated FMI; or

(b) an operator of a clearing house of a licensed market.

(3) In this regulation,—

designated FMI has the meaning given in section 5 of the Financial Market Infrastructures Act 2021

operator, in relation to a designated FMI, has the meaning given in that section.

Regulation 238(1) **derivatives investor money**: amended, on 7 June 2018, by regulation 14(1) of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 238(1) **derivatives investor property**: amended, on 7 June 2018, by regulation 14(2) of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 238(1) **hedging counterparty** paragraph (c): replaced, on 1 March 2024, by section 163(2) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Regulation 238(2): replaced, on 1 March 2024, by section 163(2) of the Financial Market Infrastructures Act 2021 (2021 No 13).

Regulation 238(3): inserted, on 1 March 2024, by section 163(2) of the Financial Market Infrastructures Act 2021 (2021 No 13).

239 Derivatives investor money and investor property

(1) Money is **derivatives investor money** if—

(a) the money is received in connection with 1 or more derivatives, where each of those derivatives is—

(i) an exchange-traded derivative; or

(ii) a derivative offered under a regulated offer made by a derivatives issuer; and

(b) the money is received by the derivatives issuer—

(i) from an investor and not on the derivatives issuer's own account; or

(ii) from a retail investor for the purpose of the investor meeting any current or future margin or collateral requirement under a derivative referred to in paragraph (a).

(2) In addition, **derivatives investor money** also includes each of the following:

(a) money received in connection with 1 or more derivatives that are offered under an offer that is not a regulated offer if—

(i) the money is received by the derivatives issuer from an investor and not on the derivatives issuer's own account; and

(ii) the money is paid into a trust account maintained for the purposes of regulation 241:

(b) if money or property is used for an authorised hedging activity as permitted by regulation 242(1)(d) or 243(1)(d), the proceeds received by the derivatives issuer from the disposal of—

(i) assets acquired in the course of the authorised hedging activity; or

(ii) offsetting derivatives that were entered into or secured in the course of the authorised hedging activity.

(3) Despite subclauses (1) and (2), **derivatives investor money** does not include money received by a registered bank on its own account.

(4) Property (other than money) is **derivatives investor property** if—

(a) the property is received in connection with 1 or more derivatives, where each of those derivatives is—

(i) an exchange-traded derivative; or

(ii) a derivative offered under a regulated offer made by a derivatives issuer; and

(b) the property is received by the derivatives issuer—

(i) from an investor and not on the derivatives issuer's own account; or

(ii) from a retail investor for the purpose of the investor meeting any current or future margin or collateral requirement under a derivative referred to in paragraph (a).

(5) In addition, **derivatives investor property** also includes each of the following:

(a) any asset referred to in paragraph (a) of the definition of authorised hedging activity in regulation 238 if the asset is acquired as referred to in that definition using derivatives investor money:

(b) property (other than money) received in connection with 1 or more derivatives that are offered under an offer that is not a regulated offer if—

(i) the property is received by the derivatives issuer from an investor and not on the derivatives issuer's own account; and

(ii) the derivatives issuer elects, by written notice given to the investor on or before the property is received, that the property is to be derivatives investor property under this paragraph:

(c) if money or property is used for an authorised hedging activity as permitted by regulation 242(1)(d) or 243(1)(d), any property (other than money) transferred to the derivatives issuer as consideration for the disposal of—

(i) assets acquired in the course of the authorised hedging activity; or

(ii) offsetting derivatives that were entered into or secured in the course of the authorised hedging activity.

(6) Despite subclauses (1)(a)(i) and (4)(a)(i), money or property received in connection with an exchange-traded derivative is not derivatives investor money or derivatives investor property if the derivative is not offered under a regulated offer and either or both of the following apply:

(a) the derivative is quoted, or approved for trading, on a financial product market that—

(i) is not a licensed market; or

(ii) is a market licensed under section 317 of the Act:

(b) the derivatives issuer—

(i) is not a participant in a market that is licensed under section 316 of the Act; and

(ii) does not have a place of business in New Zealand.

Regulation 239(6): inserted, on 7 June 2018, by regulation 15 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

240 Derivatives issuer must ensure derivatives investor money and property held on trust for investor

(1) A derivatives issuer must hold derivatives investor money on trust for the investor or ensure the money is held on trust for the investor.

(2) A derivatives issuer must hold derivatives investor property on trust for the investor or ensure the property is held on trust for the investor.

(3) If any other person (**C**) is holding derivatives investor money or derivatives investor property as a custodian, the derivatives issuer must take all reasonable steps to—

(a) ensure that C holds the money or property in the same manner and subject to the same duties and restrictions as if the derivatives issuer were holding the money or property directly; and

(b) monitor C's performance of its functions and duties in respect of the money or property.

241 Derivatives issuer must pay money into trust account

For the purpose of regulation 240(1), a derivatives issuer must ensure that the money is—

(a) paid promptly into a specified bank to a trust account; and

(b) held separate from money held by or for any of the following persons on their own account:

(i) the derivatives issuer:

(ii) the offeror:

(iii) any person who holds the money.

Compare: SR 1990/227 rr 3, 4

242 When derivatives investor money ceases to be held on trust

(1) Derivatives investor money ceases to be held on trust and may be withdrawn from the trust account only if the money—

(a) is repaid to the investor:

(b) is used in the settlement of the derivative with the investor:

(ba) is used to acquire a derivative with the issuer in accordance with the investor's express instructions:

(c) is used to meet obligations relating to exchange-traded derivatives, but only if—

(i) the client agreement authorises the money to be used in that way; and

(ii) the derivatives issuer is satisfied that the person who receives the money is a hedging counterparty or is subject, in respect of the money, to obligations that are the same as, or substantially similar to, the obligations in regulations 238 to 250:

(d) is used for authorised hedging activities, but—

(i) only if the client agreement authorises the money to be used in this way; and

(ii) only so much of the money may be transferred to a hedging counterparty as is reasonably required for entering into derivatives

with the hedging counterparty or for settling or securing those derivatives with the hedging counterparty:

(e) is used to pay brokerage or other fees and charges authorised by the client agreement:

(f) is paid to a third person in accordance with the investor's express instructions given after the money is received by the derivatives issuer:

(g) is withdrawn in accordance with regulation 244(4).

(1A) Money referred to in subclause (1) ceases to be derivatives investor money when it ceases to be held on trust under that subclause.

(1B) Subclause (1)(ba) does not include using money to meet any current or future margin or collateral requirement.

(2) In this regulation, **third person** means a person other than the derivatives issuer or any of its associated persons.

Regulation 242(1)(ba): inserted, on 1 December 2015, by regulation 30(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Section 242(1)(c): replaced, on 7 June 2018, by regulation 16 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 242(1A): inserted, on 1 December 2015, by regulation 30(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 242(1B): inserted, on 1 December 2015, by regulation 30(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

243 When derivatives investor property ceases to be held on trust

(1) Derivatives investor property ceases to be held on trust if the property—

(a) is returned to the investor:

(b) is used in the settlement of the derivative with the investor:

(c) is used to meet obligations relating to exchange-traded derivatives, but only if—

(i) the client agreement authorises the property to be used in that way; and

(ii) the derivatives issuer is satisfied that the person who receives the property is a hedging counterparty or is subject, in respect of the property, to obligations that are the same as, or substantially similar to, the obligations in regulations 238 to 250:

(d) is used for authorised hedging activities, but—

(i) only if the client agreement authorises the property to be used in this way; and

(ii) only so much of the property may be transferred to a hedging counterparty as is reasonably required for entering into derivatives with the hedging counterparty or for settling or securing those derivatives with the hedging counterparty:

(e) is used to pay brokerage or other fees and charges authorised by the client agreement:

(f) is disposed of to a third person in accordance with the investor's express instructions given after the property is received by the derivatives issuer.

(1A) Property referred to in subclause (1) ceases to be derivatives investor property when it ceases to be held on trust under that subclause.

(2) In this regulation, **third person** means a person other than the derivatives issuer or any of its associated persons.

Section 243(1)(c): replaced, on 7 June 2018, by regulation 17 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Regulation 243(1A): inserted, on 1 December 2015, by regulation 31 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

244 Responsibilities of derivatives issuer in event of shortfall

(1) The derivatives issuer must,—

(a) if it carries out authorised hedging activities, carry out an equity-based reconciliation in accordance with regulation 244A; or

(b) in any other case, carry out an equity-based reconciliation in accordance with regulation 244A or a cash-based reconciliation in accordance with regulation 244B.

(2) If, on any day, the required amount exceeds the specified aggregate,—

(a) the derivatives issuer must immediately deposit in the trust account an amount of money equal to the amount of the shortfall; and

(b) the amount deposited is for the purposes of these regulations deemed to be derivatives investor money.

(3) The derivatives issuer may deposit in the trust account amounts of money that it considers reasonable to cover the risk of a shortfall arising at any time.

(3A) If the derivatives issuer has deposited money in the trust account under subclause (3), that money—

(a) does not become derivatives investor money for the purposes of calculating the required amount; but

(b) is deemed to be derivatives investor money for all other purposes (subject to regulation 242(1A)).

(4) If the derivatives issuer has deposited money in the trust account under subclause (2) or (3) and the specified aggregate subsequently exceeds the required amount, the derivatives issuer may withdraw from the account an amount up to the amount of the excess.

(5) The derivatives issuer must take reasonable steps to ensure that the specified aggregate does not exceed the required amount by more than what is reasonable to cover the risk of a shortfall.

(6) In this regulation,—

required amount,—

(a) in relation to a reconciliation under regulation 244A, means the required amount calculated under regulation 244A(2):

(b) in relation to a reconciliation under regulation 244B, has the same meaning as in regulation 244B

shortfall is the amount by which the required amount exceeds the specified aggregate

specified aggregate,—

(a) in relation to a reconciliation under regulation 244A, means the specified aggregate under regulation 244A(3):

(b) in relation to a reconciliation under regulation 244B, has the same meaning as in regulation 244B.

Regulation 244(1): replaced, on 1 December 2015, by regulation 32(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(2): amended, on 1 December 2015, by regulation 32(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(3): amended, on 1 December 2015, by regulation 32(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(3A): inserted, on 1 December 2015, by regulation 32(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(4): amended, on 1 December 2015, by regulation 32(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(5): amended, on 1 December 2015, by regulation 32(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Regulation 244(6): replaced, on 1 December 2015, by regulation 32(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

244A Equity-based reconciliation

(1) A derivatives issuer that carries out an equity-based reconciliation must, at least daily, reconcile the derivatives issuer's records of the required amount with the specified aggregate.

(2) In this regulation, to calculate the required amount the derivatives issuer must take the following steps:

(a) first, for each investor, the issuer must calculate the sum of the following from its records:

(i) the amount of derivatives investor money in respect of the investor:

(ii) the net realisable value to the investor of derivatives issued by the derivatives issuer to the investor:

(b) second, the issuer must disregard the total amounts under paragraph (a) that are negative:

(c) third, the issuer must calculate the sum of all of the total amounts under paragraph (a) that are positive (the result being the **required amount**).

(3) In this regulation, the **specified aggregate** is the sum of the following:

(a) the amount of money in the trust account:

(b) the net realisable value to the derivatives issuer of the derivatives held by the derivatives issuer with any hedging counterparty:

(c) the net realisable value of the following types of derivatives investor property:

(i) the assets referred to in regulation 239(5)(a):

(ii) the property referred to in regulation 239(5)(c):

(d) the money held by a hedging counterparty on behalf of the derivatives issuer as a result of the use of derivatives investor money or property in authorised hedging activities under regulation 242(1)(d) or 243(1)(d).

(4) In this regulation, the **net realisable value** on a particular day is,—

(a) in the case of a derivative, the fair value of the derivative on that day determined in accordance with GAAP; and

(b) in any other case, the net amount that the issuer could reasonably expect to realise on that day for the relevant property.

Regulation 244A: inserted, on 1 December 2015, by regulation 33 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

244B Cash-based reconciliation

(1) A derivatives issuer that carries out a cash-based reconciliation must, at least daily, reconcile the derivatives issuer's records of the required amount with the specified aggregate.

(2) In this regulation,—

required amount is the total amount of derivatives investor money in respect of all investors

specified aggregate is the amount of money in the trust account.

Regulation 244B: inserted, on 1 December 2015, by regulation 33 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

245 Protections

(1) Derivatives investor money and derivatives investor property are not available to satisfy any liability of a derivatives issuer.

(2) This regulation does not apply to—

(a) the right of an investor to recover derivatives investor money or derivatives investor property to which the investor is entitled:

(b) any claim or lien that the derivatives issuer has against or on the derivatives investor money or derivatives investor property:

(c) any payment or transfer authorised by these regulations.

246 Insolvency

(1) If a derivatives issuer is subject to an insolvency event, the following is subject to a single trust in favour of all of the investors on whose behalf the money or property is being held:

(a) derivatives investor money:

(b) derivatives investor property:

(c) any money or property held by a hedging counterparty on behalf of the derivatives issuer as a result of the use of derivatives investor money or property in authorised hedging activities under regulation 242(1)(d) or 243(1)(d) (less any obligations owed by the derivatives issuer to the hedging counterparty that have arisen from this use):

(d) any obligations owed by a hedging counterparty to the derivatives issuer that have arisen from the use of derivatives investor money under regulation 242(1)(d) or the use of derivatives investor property under regulation 243(1)(d).

(2) The trustee of a trust created under subclause (1) is a person appointed by the FMA.

Regulation 246(1)(c): amended, on 1 December 2015, by regulation 34 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

247 Record keeping

(1) A derivatives issuer must, in accordance with this regulation, keep and maintain up-to-date records of derivatives investor money and derivatives investor property held for each investor.

(2) The records must—

(a) clearly identify the derivatives investor money:

(b) clearly disclose details of all amounts deposited in, and all amounts withdrawn from, the trust account:

(c) clearly identify the derivatives investor property held by the derivatives issuer, and state in respect of each property—

(i) when that property was received and from whom it was received; and

(ii) if the property has been disposed of, when the property was disposed of and to whom.

(3) The following records must be kept separately from the records required under subclause (2):

(a) details of all amounts paid, or property applied, as is permitted under regulation 242(1)(c) or (d) or 243(1)(c) or (d):

(b) details of all amounts deposited in, or withdrawn from, the trust account under regulation 244 (which relates to the issuer's responsibilities in event of a shortfall):

(c) details of all other money and obligations that have arisen from these permitted activities.

(4) The derivatives issuer must keep the records in a manner that—

(a) enables the derivatives issuer to distinguish, without delay, derivatives investor money and derivatives investor property held for 1 investor—

(i) from derivatives investor money and derivatives investor property held for another investor; and

(ii) from the derivatives issuer's own money and property; and

(b) enables the records to be conveniently and properly audited or reviewed.

248 Assurance engagement

(1) A derivatives issuer who holds derivatives investor money or derivatives investor property must, within 4 months after the issuer's balance date, obtain an assurance engagement with a qualified FMC auditor (including obtaining the assurance report within that period).

(1A) The assurance engagement must be done in accordance with applicable auditing and assurance standards.

(2) The derivatives issuer must,—

(a) within 20 working days after obtaining an assurance report, provide a copy of the report to the FMA unless the FMA waives this requirement; and

(b) at the request of an investor, send the investor a copy of the most recent assurance report within 10 working days after receiving the request.

Regulation 248(1): replaced, on 15 March 2021, by regulation 26 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Regulation 248(1): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Regulation 248(1A): inserted, on 15 March 2021, by regulation 26 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

249 Contents of assurance report

(1) An assurance report referred to in regulation 248 must state whether, in the auditor's opinion, there is reasonable assurance that the derivatives issuer's processes, procedures, and controls—

(a) were suitably designed to meet the control objectives in subclause (2) throughout the most recently completed accounting period; and

(b) operated effectively throughout that accounting period.

(2) The control objectives are that—

(a) new investor accounts are set up completely and accurately in accordance with client agreements and any applicable regulations:

(b) complete agreements that properly authorise the holding of derivatives investor money and derivatives investor property (**authorising agreements**) are established before the derivatives issuer starts receiving derivatives investor money and derivatives investor property:

(c) transactions in respect of derivatives investor money or derivatives investor property are authorised, processed, and recorded in an appropriate, accurate, and timely manner:

(d) investor accounts are administered in accordance with the Act, these regulations, and authorising agreements:

(e) records and changes to records relating to the derivatives investor money and derivatives investor property are accurate and are kept—

(i) in an appropriate and timely manner; and

(ii) in accordance with the Act, these regulations, and authorising agreements:

(f) there are adequate safeguards against the loss, misappropriation, and unauthorised use of derivatives investor money and derivatives investor property:

(g) hedging counterparties are appropriately approved and managed and adequately monitored:

(h) entities that the derivatives issuer appoints to hold, pay, or transfer derivatives investor money or derivatives investor property are appropriately approved and managed and adequately monitored:

(i) reports to the investor in respect of holdings of derivatives investor money and derivatives investor property—

(i) are complete and accurate; and

(ii) are provided within the time frames in the Act, these regulations, and client agreements:

(j) information technology systems and processes are appropriate to allow the provider to accurately and reliably meet the objectives in paragraphs (a) to (i).

250 Application of Part 6 provisions

Regulations 240, 241, 244, 247, 248, and 249 are Part 6 services provisions for the purposes of the Act.

Part 7
Financial reporting

251 Entities that are FMC reporting entities as a result of exclusions

(1) For the purposes of clause 27A of Schedule 1 of the Act, an entity that has made an offer in reliance upon clause 12 of Schedule 1 of the Act is an FMC reporting entity if it has 50 or more relevant shareholders and 50 or more parcels of relevant shares.

(2) In subclause (1),—

relevant shareholder means a shareholder who holds a voting product of the entity that was acquired under an offer made in reliance upon clause 12 of Schedule 1 of the Act

relevant shares means voting products of the entity acquired under an offer made in reliance upon clause 12 of Schedule 1 of the Act.

252 Prescribed circumstances for definition of recipient of money from conduit issuer

For the purposes of section 453(b)(ii) of the Act (recipients of money from conduit issuers), the prescribed circumstances are where the offer is made in reliance upon clause 12 of Schedule 1 of the Act by an entity that—

(a) is an FMC reporting entity as a result of regulation 251; or

(b) will be an FMC reporting entity as a result of regulation 251 immediately after the issue or transfer of voting products under the offer.

Part 7A
Climate-related disclosures for certain FMC reporting entities with higher level of public accountability

Part 7A: inserted, on 2 October 2023, by regulation 4 of the Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222).

Record-keeping requirements

Heading: inserted, on 1 January 2024, by regulation 5 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

252A CRD records must be readily identifiable and comprehensible

For the purposes of section 461W of the Act, a climate reporting entity must keep its CRD records in a way that—

(a) ensures that they can be identified and made available for inspection within the time required by regulation 252C; and

(b) reasonably enables a person inspecting the records in accordance with section 461Y of the Act to ascertain whether the records comply with section 461V of the Act.

Regulation 252A: inserted, on 2 October 2023, by regulation 4 of the Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222).

252B CRD records must be kept in English or te reo Māori

For the purposes of section 461W of the Act, a climate reporting entity must keep its CRD records—

(a) in written form in English or te reo Māori; or

(b) in a form or manner in which they are easily accessible and convertible into written form in English or te reo Māori.

Regulation 252B: inserted, on 2 October 2023, by regulation 4 of the Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222).

252C Manner in which CRD records must be made available for inspection

(1) For the purposes of section 461Y of the Act, a climate reporting entity that receives a written notice of intention to inspect its CRD records from a person specified in that section must make the records available for inspection by the person by sending the records to the person's electronic address as soon as practicable but, in any event, within 5 working days after it receives the notice.

(2) Despite subclause (1), a climate reporting entity and a person specified in section 461Y of the Act may agree another time within which, or another manner in which, the CRD records are to be made available for inspection by the person, in which case the records must be made available in accordance with the agreement.

(3) In this regulation, **electronic address**, of a person (**A**), means—

(a) the electronic address specified by A for the relevant purpose; or

(b) the actual or last known electronic address for A, if—

(i) paragraph (a) does not apply; or

(ii) the climate reporting entity knows that the address referred to in paragraph (a) is not correct.

Regulation 252C: inserted, on 2 October 2023, by regulation 4 of the Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222).

Climate-related disclosures register

Heading: inserted, on 1 January 2024, by regulation 6 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

252D Contents of climate-related disclosures register

Information about climate reporting entities

(1) The climate-related disclosures register must, to the extent that the information is relevant, contain the following information in relation to a climate reporting entity:

(a) the name of the entity:

(b) the New Zealand Business Number of the entity (if any):

(c) copies of climate statements or group climate statements delivered by the entity for lodgement under section 461ZI(1) of the Act:

(d) assurance practitioners' reports on those statements delivered by the entity for lodgement under section 461ZI(1):

(e) if the entity has been exempted from compliance with section 461ZI(1) under section 556 of the Act, the following information provided by the entity:

(i) the title of the relevant notice of exemption from the FMA:

(ii) any other information that the notice of exemption requires the entity to provide to the Registrar:

(f) the balance date to which the climate statements or group climate statements relate or the notice of exemption relates.

Information about managers that are climate reporting entities in respect of registered schemes

(2) The climate-related disclosures register must, to the extent that the information is relevant, contain the following information in relation to a manager that is a climate reporting entity in respect of a registered scheme:

(a) the name of the manager:

(b) the New Zealand Business Number of the manager (if any):

(c) copies of climate statements delivered by the manager for lodgement under section 461ZI(2) of the Act:

(d) assurance practitioners' reports on those statements delivered by the manager for lodgement under section 461ZI(2):

(e) if the manager has been exempted from compliance with section 461ZI(2) under section 556 of the Act, the following information provided by the manager:

(i) the title of the relevant notice of exemption from the FMA:

(ii) any other information that the notice of exemption requires the manager to provide to the Registrar:

(f) the balance date to which the climate statements relate or the notice of exemption relates:

(g) the name of the registered scheme.

Regulation 252D: inserted, on 1 January 2024, by regulation 6 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

252E Search of climate-related disclosures register

(1) The climate-related disclosures register may be searched by reference to the following criteria in relation to a climate reporting entity:

(a) the name of the entity:

(b) the New Zealand Business Number of the entity (if any):

(c) if the entity is a climate reporting entity in respect of a registered scheme, the name of the registered scheme.

(2) A person may search the climate-related disclosures register only for the following purposes:

(a) to determine whether climate statements or group climate statements have been lodged in accordance with section 461ZI(1) or (2) of the Act:

(b) to obtain information contained in, or concerning, climate statements or group climate statements:

(c) to determine whether a climate reporting entity has been exempted from compliance with section 461ZI(1) or (2) under section 556 of the Act:

(d) to assist a person—

(i) in the exercise of that person's powers under the Act or any other enactment; or

(ii) in the performance of that person's functions or duties under the Act or any other enactment.

Regulation 252E: inserted, on 1 January 2024, by regulation 6 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

252F Amendments to climate-related disclosures register

The Registrar must amend the climate-related disclosures register if—

(a) a climate reporting entity that is not an issuer informs the Registrar of information (**new information**) that is different from the information entered on the register (**existing information**); and

(b) the Registrar is satisfied that the new information is more accurate than the existing information.

Regulation 252F: inserted, on 1 January 2024, by regulation 6 of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

Part 8
Enforcement, liability, and appeals

253 Financial service does not include providing credit in definition of restricted communication

For the purposes of paragraph (c) of the definition of financial service in section 6(1) of the Act, the service of being a creditor under a credit contract is declared not to be a financial service for the purposes of section 464 of the Act (which relates to the meaning of restricted communication).

254 Infringement offence fees

The infringement fee for an infringement offence is the fee specified in relation to the offence in the third column of Schedule 22.

255 Infringement notice and reminder notice

(1) An infringement notice issued under section 514(1) of the Act must be in the form set out in Schedule 23.

(2) A reminder notice issued under section 515(4) of the Act must be in the form set out in Schedule 24.

Part 9
Mutual recognition with Australia, interest rates, and other miscellaneous provisions

Part 9 heading: amended, on 14 June 2019, by regulation 13 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Subpart 1—Preliminary provisions relating to mutual recognition of financial product offerings: Australia

256 Interpretation

In this subpart and subparts 2 and 3, unless the context otherwise requires,—

agreement means the agreement dated 22 February 2006 between the Government of Australia and the Government of New Zealand in relation to mutual recognition of securities offerings

Australian disclosure document means any of the following:

(a) a Product Disclosure Statement as defined in section 761A of the Corporations Act 2001 (Aust):

(b) a disclosure document as defined in section 9 of the Corporations Act 2001 (Aust):

(c) a document that contains disclosure relating to an offer of financial products that is required to be prepared under Australian securities legislation and by which means it is lawful under the law in Australia to accept applications for the financial products that are offered

Australian exemption or declaration means an exemption granted, or a declaration made, by the Australian regulator under the Corporations Act 2001 (Aust)

Australian offeror means an offeror that—

(a) is incorporated under the laws of Australia; or

(b) in the case of a natural person, is resident in Australia; or

(c) in the case of a legal person that is not a natural person, is established under the laws of Australia; or

(d) is registered as a foreign company under the laws of Australia

Australian recognition scheme means the recognition scheme provided for in Chapter 8 of the Corporations Act 2001 (Aust) and regulations made under that Act for implementing the agreement

Australian registered scheme means a registered scheme as defined in section 9 of the Corporations Act 2001 (Aust)

Australian regulated offer—

(a) means an offer of financial products by an Australian offeror in respect of which an Australian disclosure document is required under Australian securities legislation; but

(b) does not include an offer of interests in a passport fund (within the meaning of regulation 3 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019) the home economy for which is not Australia

Australian regulator means—

(a) the Australian Securities and Investments Commission established under the Australian Securities and Investments Commission Act 1989 and continued under the Australian Securities and Investments Commission Act 2001; or

(b) any other similar regulator established by law to replace that Commission

Australian securities legislation—

(a) means the Corporations Act 2001 (Aust) and any regulations made under that Act, or any legislation enacted in substitution for that Act or those regulations; and

(b) includes an exemption granted, or a declaration made, by the Australian regulator under the Corporations Act 2001 (Aust)

financial products means,—

(a) in relation to subpart 2 (recognition regime), any or all of the following financial products:

(i) debt securities:

(ii) equity securities:

(iii) managed investment products that are interests in an Australian registered scheme:

(b) in relation to subpart 3 (application regime), any or all of the following financial products:

(i) debt securities:

(ii) equity securities:

(iii) managed investment products that are interests in a New Zealand registered scheme

New Zealand offeror means an offeror that—

(a) is incorporated under the laws of New Zealand; or

(b) in the case of a natural person, is resident in New Zealand; or

(c) in the case of a legal person that is not a natural person, is established under the laws of New Zealand; or

(d) is registered as an overseas company under the laws of New Zealand

New Zealand registered scheme—

(a) means a registered scheme (as defined in section 6(1) of the Act); but

(b) does not include a retirement scheme

offeror, in relation to an offer of an interest in an Australian registered scheme for issue, means the responsible entity for the scheme as defined in section 9 of the Corporations Act 2001 (Aust)

recognised offer means an offer referred to in regulation 260.

Compare: SR 2008/153 r 4(1)

Regulation 256 **Australian regulated offer**: replaced, on 14 June 2019, by regulation 14 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

256A Offeror may act under alternative mutual recognition regime

(1) Subparts 2 and 3 do not limit the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019.

(2) In particular, an offeror may elect to act under either those subparts or those regulations.

Regulation 256A: inserted, on 14 June 2019, by regulation 15 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Subpart 2—Recognition regime when New Zealand is host country

Application

257 Australia designated as country to which recognition regime applies

Australia is designated as the country to which the recognition regime established by this subpart applies.

Compare: SR 2008/153 r 3

258 Class of financial products to which subpart applies

(1) This subpart applies to financial products offered in New Zealand by an Australian offeror.

(2) However, this subpart does not apply to an offer of financial products in New Zealand by an Australian offeror if—

(a) the FMA has made an order under section 471 of the Act that prohibits the Australian offeror from making an offer under the recognition regime; and

(b) the order has not been revoked or otherwise expired.

Compare: SR 2008/153 rr 7, 8(2)

259 When New Zealand is host country

New Zealand is the host country when an offer of financial products to which this subpart applies is made in New Zealand by an Australian offeror.

Compare: SR 2008/153 r 5

Recognised offer

260 When offer is recognised offer

(1) An offer of financial products to which this subpart applies becomes a recognised offer, in relation to New Zealand, on the day on which the offer is first made in New Zealand, if the preconditions in regulations 262 to 268 are met in relation to the offer on that day.

(2) The offer continues to be a recognised offer after that day even if a precondition in regulations 262 to 268 ceases to be met after that day.

(3) *See* section 578 of the Act (which allows the FMA to declare that a failure to comply with a precondition is non-material).

Compare: Corporations Act 2001 s 1200B (Aust)

261 Effect of recognised offer

Financial products offered under a recognised offer are exempt from—

(a) section 23 of the Act (to the extent that it would otherwise apply to an Australian disclosure document); and

(b) Parts 3 and 4 of the Act.

Compare: SR 2008/153 r 6(1), (2)

Preconditions

262 Preconditions

Regulations 263 to 268 set out preconditions for the purposes of section 577(1)(d) of the Act.

263 Precondition for offer to be regulated offer in Australia

The offer must be an Australian regulated offer.

Compare: SR 2008/153 r 9

264 Precondition concerning pre-offer advertising

(1) A person must not, except in accordance with subclause (2), distribute an advertisement of the offer or intended offer on or before the day on which the offer is first made in New Zealand.

(2) A person may distribute an advertisement of the offer or intended offer if the person complies with either of the following (subject to any Australian exemption or declaration):

(a) section 734 or 1018A of the Corporations Act 2001 (Aust) and any regulations made under that Act that relate to those provisions; or

(b) any legislation enacted or made in substitution for those sections or regulations (whether with or without modification).

(3) Subclause (1) applies in relation to an offer by an Australian offeror only if the advertisement is authorised or instigated by, or on behalf of, the Australian offeror or an associated person of the Australian offeror.

Regulation 264(2): replaced, on 1 December 2015, by regulation 35 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

265 Precondition for Australian offeror to be entitled under Australian law to offer financial products

(1) The Australian offeror must be entitled under Australian securities legislation to offer the financial products.

(2) In particular, if—

(a) an Australian disclosure document (or any other document relating to the offer) is required to be lodged with the Australian regulator, the document must be lodged:

(b) a notice relating to a document referred to in paragraph (a) is required to be lodged with the Australian regulator (for example, under section 1015D of the Corporations Act 2001 (Aust)), the notice must be lodged.

(3) Subclause (2) does not limit subclause (1).

Compare: SR 2008/153 r 10

266 Preconditions for Australian offeror to give notice to Registrar

(1) The Australian offeror must, before making the offer, lodge a notice with the Registrar that complies with regulation 267.

(2) The notice, when received by the Registrar, also serves as the opt-in notice referred to in section 575(2) of the Act.

(3) If there is more than 1 Australian offeror of the financial products, each Australian offeror who intends to make an offer in accordance with this subpart must lodge a notice under this regulation.

Compare: SR 2008/153 r 11(1), (2), (5)

267 Requirements for notice to Registrar

(1) The notice referred to in regulation 266 must—

(a) state that the Australian offeror intends to make an offer under the recognition regime in accordance with this subpart; and

(b) specify the financial products to be offered; and

(c) specify the proposed offer period for each of the following:

(i) the offer of the financial products in New Zealand:

(ii) the offer of the financial products in Australia; and

(d) state the full name and address in New Zealand of 1 or more persons resident or incorporated in New Zealand who are authorised to accept service in New Zealand at that address of documents on behalf of the Australian offeror; and

(e) state that the Australian offeror submits to the jurisdiction of the courts of New Zealand; and

(f) state the Australian offeror's New Zealand overseas offeror registration number allocated by the Registrar (if any); and

(g) be accompanied by the documents specified in regulation 268; and

(h) comply with the requirements of regulation 274.

(2) In subclause (1)(c), the proposed offer period for the offer of the financial products in Australia must include the proposed offer period for the offer of the financial products in New Zealand.

Compare: SR 2008/153 r 11(3), (4)

268 Documents that must accompany notice to Registrar

The following documents must accompany the notice lodged with the Registrar under regulation 267:

(a) the Australian disclosure documents and any document that supplements those documents (whether or not those documents are lodged with the Australian regulator); and

(b) a copy of every Australian exemption or declaration that is relevant to the offer (other than an exemption or a declaration referred to in paragraph (c)); and

(c) particulars of every Australian exemption or declaration that is—

(i) relevant to the offer; and

(ii) of general application and applies to a class of persons or a class of transactions; and

(d) to the extent that it is not included as part of the documents referred to in paragraph (a),—

(i) the constitution (if any) of the issuer of the financial products, unless subparagraph (ii) applies:

(ii) if the financial products to be offered are interests in an Australian registered scheme, the constitution of the scheme (*see* section 601GA of the Corporations Act 2001 (Aust)):

(iii) a copy of each warning statement referred to in regulation 271.

Compare: SR 2008/153 r 12

Terms and conditions

269 Terms and conditions to be complied with

Regulations 270 to 275 set out terms and conditions for the purposes of section 577(1)(e) of the Act (*see* section 579 of the Act for an offence relating to a contravention).

270 Offer must remain Australian regulated offer, comply with Australian law, and be open to acceptance in Australia

The offer must comply with the following terms and conditions:

(a) the offer must remain an Australian regulated offer at all times during which it is open for acceptance by persons in New Zealand; and

(b) the offer must comply with the Australian securities legislation; and

(c) the offer must be open to acceptance by persons in Australia at all times during which it is open for acceptance by persons in New Zealand.

Compare: SR 2008/153 r 13(1)(a) to (c)

271 Warning statements

If an Australian disclosure document or any other document referred to in regulation 268(a) is provided to a person in New Zealand, the document must be accompanied by—

(a) the warning statement set out in Part 1 of Schedule 25; and

(b) the additional warning statement set out in Part 2 of Schedule 25 if the offer involves payments that are not in New Zealand dollars; and

(c) the additional warning statement set out in Part 3 of Schedule 25 if the offer involves financial products able to be traded on a financial product market; and

(d) the additional warning statement set out in Part 4 of Schedule 25 if the offer is of interests in an Australian registered scheme and any dispute resolution process described in the document is not available in New Zealand.

Compare: SR 2008/153 r 13(1)(d) to (g)

272 Other terms and conditions

The Australian offeror must comply with the following requirements during the period of the offer:

(a) the Australian offeror must provide an offeree, on request, with a copy of the constitution referred to in regulation 268(d)(i) or (ii) if the constitution has been lodged with the Registrar; and

(b) the Australian offeror must ensure that no director, senior manager, or controlling owner of the Australian offeror would be disqualified under section 14(2) of the Financial Service Providers (Registration and Dispute Resolution) Act 2008 (if the Australian offeror were a provider to which that Act applied); and

(c) the Australian offeror must ensure that at least 1 person resident or incorporated in New Zealand is authorised to accept service in New Zealand of documents on behalf of the Australian offeror.

Compare: SR 2008/153 r 13(2)

273 Notice of changes

(1) If an event listed in column 2 of the following table occurs in relation to the offer or the Australian offeror, the Australian offeror must lodge with the Registrar the notice specified in column 3 within the time for lodging the notice specified in column 4:

Column 1 Item	Column 2 Event	Column 3 Notice	Column 4 Time for filing
1	Change made to an Australian disclosure document or any other document required by Australian securities legislation in relation to the offer (unless the offeror is not required to notify the Australian regulator of the change)	Notice of change to document	No later than 5 working days after the day on which the offeror notified (or should have notified) the Australian regulator of the change
2	Change in offeror's address for service	Notice of change of address for service	At least 5 working days before the change takes effect
3	Supplementary or replacement Australian disclosure document is lodged or notified under Australian securities legislation	Notice of supplementary or replacement Australian disclosure document	As soon as practicable after the supplementary or replacement document is lodged with the Australian regulator (or the Australian regulator is notified of the document) and no later than 5 working days after the day on which the document is (or

Column 1 Item	Column 2 Event	Column 3 Notice	Column 4 Time for filing
			should have been) lodged or notified
4	Change made to a constitution referred to in regulation 268(d)(i) or (ii)	Notice of change to the constitution	No later than 5 working days after the day on which the offeror notified (or should have notified) the Australian regulator of the change
5	Australian regulator grants, amends, or revokes an Australian exemption or declaration referred to in regulation 268(b)	Notice of grant of, amendment to, or revocation of the exemption or declaration	No later than 5 working days after the grant of, amendment to, or revocation of the exemption or declaration
6	Australian regulator grants, amends, or revokes an Australian exemption or declaration referred to in regulation 268(c)	Notice of grant of, amendment to, or revocation of the exemption or declaration	No later than 10 working days after the grant of, amendment to, or revocation of the exemption or declaration
7	Australian regulator begins an enforcement action, or exercises a power it has under law, in relation to the offer or the offeror	Notice of enforcement action or exercise of power by Australian regulator	As soon as practicable after the action is taken or the power is exercised and no later than 5 working days after the day on which the action is taken or the power is exercised

(2) A change referred to in item 1 in the table in subclause (1) does not include a change made by way of a supplementary or replacement document referred to in item 3 of that table.

Compare: SR 2008/153 r 13(3)

274 Other requirements for notices under regulation 266 or 273

(1) Every notice required by regulation 266 or 273 must—

(a) be signed and dated by the Australian offeror or a person with authority to act on the offeror's behalf; and

(b) contain the information set out in subclause (2).

(2) Every notice required by regulation 266 or 273 must contain the following information:

(a) the name of the Australian offeror:

(b) if applicable, the Australian registered scheme number:

(c) the name of the person signing the notice on the Australian offeror's behalf:

(d) the name of the person completing the notice and an address for communications from the Registrar to that person.

Compare: SR 2008/153 r 16

275 Additional information that must be contained in specific notices required by regulation 273

(1) A notice required by item 1 in the table in regulation 273 (notice of change to Australian disclosure document) must—

(a) state the date on which the Australian offeror notified (or should have notified) the Australian regulator of the change; and

(b) be accompanied by a copy of the changes.

(2) A notice required by item 2 in the table in regulation 273 (notice of change of address for service) must state—

(a) the Australian offeror's new address for service; and

(b) the date on which the change in the Australian offeror's address for service takes effect.

(3) A notice required by item 3 in the table in regulation 273 (notice of supplementary or replacement Australian disclosure document) must—

(a) state the date on which the Australian offeror lodged (or should have lodged) the supplementary or replacement document with the Australian regulator or notified (or should have notified) the Australian regulator of that document; and

(b) be accompanied by a copy of the supplementary or replacement document.

(4) A notice required by item 4 in the table in regulation 273 (notice of change to constitution) must—

(a) state the date on which the Australian offeror notified (or should have notified) the Australian regulator of the change; and

(b) be accompanied by a copy of the constitution as changed with the changes marked.

(5) A notice required by item 5 in the table in regulation 273 (notice of grant of, amendment to, or revocation of specific Australian exemption or declaration) must—

(a) specify the exemption or declaration; and

(b) in the case of the grant of, or amendment to, the exemption or declaration, be accompanied by a copy of the exemption or declaration or amended exemption or declaration (with the amendments marked); and

(c) state the date on which the exemption or declaration was granted, amended, or revoked.

(6) A notice required by item 6 in the table in regulation 273 (notice of grant of, amendment to, or revocation of Australian class exemption or declaration) must—

(a) specify the exemption or declaration; and

(b) state whether it has been granted, amended, or revoked; and

(c) state the date on which it was granted, amended, or revoked.

(7) A notice required by item 7 in the table in regulation 273 (notice of enforcement action or exercise of power by Australian regulator) must—

(a) state the date on which the enforcement action began or the power was exercised; and

(b) give details of the nature of the enforcement action or the exercise of the power.

Compare: SR 2008/153 r 17

Subpart 3—Application of New Zealand financial markets conduct law to New Zealand financial products offered in Australia

276 Extension of Act and regulations to financial products offered in Australia by New Zealand offeror

(1) This regulation applies if—

(a) a New Zealand offeror proposes to make, or is making, an offer of financial products in Australia under the Australian recognition scheme; and

(b) under the Australian recognition scheme, the offer is to be regulated by the law of New Zealand.

(2) The Act (other than section 34) and these regulations apply in Australia in relation to the offer as if it were an offer being made in New Zealand.

(3) However, the Act and these regulations do not apply to financial products offered in Australia by a New Zealand offeror to the extent that the offer is exempted under subpart 2 of Part 9 of the Act.

Compare: SR 2008/153 r 14(1), (2)

277 Notice to Registrar of intention to make offer under Australian recognition scheme

(1) A New Zealand offeror who intends to make an offer of financial products in Australia under the Australian recognition scheme must lodge a notice with the Registrar of the intention to make the offer.

(2) The offeror must lodge the notice not later than the time when it notifies the Australian regulator of the intention to make the offer.

Compare: SR 2008/153 r 15

278 Form of notice required by regulation 277

(1) A notice required by regulation 277 must—

(a) state that the New Zealand offeror intends to make an offer of financial products in Australia under the Australian recognition scheme; and

(b) be signed and dated by the New Zealand offeror or a person with authority to act on the New Zealand offeror's behalf; and

(c) contain the information set out in subclause (2).

(2) Every notice required by regulation 277 must contain the following information:

(a) the name of the New Zealand offeror:

(b) the New Zealand offeror's registration number:

(c) particulars of the financial products to be offered:

(d) the proposed offer period for the offer of the financial products in Australia:

(e) the name of the person signing the notice on the New Zealand offeror's behalf.

Compare: SR 2008/153 r 18

Subpart 4—Miscellaneous matters

Subpart 4 heading: amended, on 1 December 2015, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

279 Prescribed rate of interest

The prescribed rate of interest under sections 36(1)(b) and (2)(c), 55(1)(b) and (2)(c), 80(3), and 85(5) of the Act is 10% per annum.

280 Status of PDS

(1) The status of a PDS that has been lodged must be described on the offer register as—

(a) registered; or

(b) open for applications; or

(c) closed for applications; or

(d) withdrawn; or

(e) finalised.

(2) For the purposes of subclause (1), the status of a PDS that has been lodged must be determined as follows:

(a) a PDS is registered if it does not have a status under paragraphs (b) to (e):

(b) a PDS is open for applications if the offeror is accepting applications for financial products offered under the PDS:

(c) a PDS is closed for applications if—

(i) the PDS has had an open for applications status but the offeror is no longer accepting applications for financial products offered under the PDS; and

(ii) the PDS does not have a withdrawn status or a finalised status:

(d) a PDS is withdrawn if—

(i) no financial products have been issued under the PDS; and

(ii) the PDS does not have an open for applications status and the offeror has determined that the offeror has no intention that the PDS will have such a status at any future time; and

(iii) the PDS does not have a finalised status:

(e) a PDS is finalised if—

(i) the PDS has had an open for applications status and a closed for applications status; and

(ii) the offeror is not accepting applications for financial products offered under the PDS; and

(iii) all financial products that were issued under the PDS have been cancelled, redeemed, or forfeited, or all of the obligations owing under those products have been discharged.

(3) *See* clause 3(1)(h) of Schedule 2 of the Act.

280A Notices or other documents given, provided, or served by FMA

(1) Any notice or other document that the FMA may or must give to, provide to, or serve on any person under the Act is sufficiently given, provided, or served if it is—

(a) in writing; and

(b) signed by 1 or more of the members of the FMA or by any person purporting to act with the authority of the FMA; and

(c) sent, provided, or served in accordance with regulation 280B.

(2) This regulation and regulation 280B do not apply—

(a) to a requirement to give, provide, or serve any notice or other document in any proceeding in a court; or

(b) if the Act or these regulations provide for the notice or other document to be given, provided, or served in a particular manner.

Regulation 280A: inserted, on 1 December 2015, by regulation 37 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

280B How FMA notices or other documents are given, provided, or served

(1) Any notice or other document required or authorised under the Act to be given to, provided to, or served on any person by the FMA may—

(a) be given, provided, or served on an individual—

(i) by delivering it personally or by an agent (such as a courier) to the person; or

(ii) by sending it by post addressed to the person at the person's usual or last known place of residence or business; or

(iii) by sending it by fax or email to the person's fax number or email address provided by the person for the purpose; or

(iv) in any other manner that a District Court Judge directs:

(b) be given to, provided to, or served on a company, within the meaning of the Companies Act 1993, in a manner provided for in section 388 of that Act:

(c) be given to, provided to, or served on an overseas company in a manner provided for in section 390 of the Companies Act 1993:

(d) be given to, provided to, or served on any other body corporate in a manner in which it could be served if the body corporate were a company within the meaning of the Companies Act 1993.

(2) In the absence of proof to the contrary, a notice, document, or notification sent to a person in accordance with—

(a) subclause (1)(a)(ii) must be treated as having been given to, provided to, or served on the person when it would have been delivered in the ordinary course of post; and, in proving the delivery, it is sufficient to prove that the letter was properly addressed and posted:

(b) subclause (1)(a)(iii) must be treated as having been given to, provided to, or served on the person on the second working day after the day on which it is sent.

(3) Section 392 of the Companies Act 1993 applies for the purposes of subclause (1)(b) to (d).

(4) If a person is absent from New Zealand, a notice given to, provided to, or served on the person's agent in New Zealand in accordance with subclause (1) must be treated as having been given to, provided to, or served on the person.

(5) If a person has died, the notice may be given, provided, or served, in accordance with subclause (1), on his or her personal representative.

Regulation 280B: inserted, on 1 December 2015, by regulation 37 of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

280C Contents of registers (New Zealand Business Numbers)

(1) For the purpose of clause 3(1)(i) of Schedule 2 of the Act, the offer register must contain,—

(a) for each regulated offer of debt securities, a New Zealand Business Number for each of the following persons if a New Zealand Business Number for that person has been provided to the Registrar:

(i) the issuer:

(ii) the supervisor:

(iii) each offeror:

(iv) each guarantor; and

(b) for each regulated offer of equity securities, a New Zealand Business Number for each of the following persons if a New Zealand Business Number for that person has been provided to the Registrar:

(i) the issuer:

(ii) each offeror; and

(c) for each regulated offer of managed investment products, a New Zealand Business Number for each of the following persons if a New Zealand Business Number for that person has been provided to the Registrar:

(i) the manager:

(ii) each offeror; and

(d) for each regulated offer of derivatives, a New Zealand Business Number for each of the following persons if a New Zealand Business Number for that person has been provided to the Registrar:

(i) the issuer:

(ii) each guarantor of the issuer's obligations under the derivatives.

(2) For the purpose of clause 6(1)(e) of Schedule 2 of the Act, the scheme register must contain a New Zealand Business Number for each of the following persons if a New Zealand Business Number for that person has been provided to the Registrar:

(a) the manager:

(b) the supervisor:

(c) the independent trustee (in the case of a restricted scheme):

(d) each custodian that is not the supervisor.

Regulation 280C: inserted, on 31 December 2017, by regulation 5 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

280D Criteria for searching registers (New Zealand Business Numbers)

(1) For the purpose of clause 12 of Schedule 2 of the Act,—

(a) the offer register may be searched by reference to an issuer's New Zealand Business Number (if any); and

(b) the scheme register may be searched by reference to a licensed manager's New Zealand Business Number (if any).

(2) *See* clause 12(2) of Schedule 2 of the Act, which also allows a register to be searched by reference to the contents of the register.

Regulation 280D: inserted, on 31 December 2017, by regulation 5 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

281 Revocation of Financial Markets Conduct (Phase 1) Regulations 2014

The Financial Markets Conduct (Phase 1) Regulations 2014 (LI 2014/50) are revoked.

Schedule 1
Transitional, savings, and related provisions

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1 Overview

This schedule provides for transitional, savings, and related provisions relating to—

(a) the enactment of the Act; and

(b) amendments made to these regulations.

Schedule 1 clause 1: replaced, on 1 December 2015, by regulation 38(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 1
Transitional provisions relating to enactment of Act

[Revoked]

Schedule 1 Part 1: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

2 Interpretation

[Revoked]

Schedule 1 Part 1 clause 2: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

Financial advisers

[Revoked]

Heading: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

3 Various aspects of former law continue to apply

[Revoked]

Schedule 1 Part 1 clause 3: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

4 Broker must pay client money into separate trust account and hold client property on trust

[Revoked]

Schedule 1 Part 1 clause 4: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

5 Existing DIMS providers not subject to licensing until either 31 May 2015 or 1 December 2015

[Revoked]

Schedule 1 Part 1 clause 5: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

6 How service disclosure statement for existing DIMS is made available to existing clients

[Revoked]

Schedule 1 Part 1 clause 6: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

Financial markets supervisors

[Revoked]

Heading: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

7 Definitions extended to cover former law concepts

[Revoked]

Schedule 1 Part 1 clause 7: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

8 Existing licences continue and cover supervision

[Revoked]

Schedule 1 Part 1 clause 8: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

9 Extension of licences to cover substantially similar matters under new law

[Revoked]

Schedule 1 Part 1 clause 9: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

KiwiSaver

[Revoked]

Heading: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

10 KiwiSaver definitions and references

[Revoked]

Schedule 1 Part 1 clause 10: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

11 Former provisions of KiwiSaver Act 2006 and of regulations continue to apply in certain circumstances

[Revoked]

Schedule 1 Part 1 clause 11: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

Continuing application of former enactments

[Revoked]

Heading: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

12 Securities Act 1978 and related enactments continue to apply to previously allotted securities until effective date

[Revoked]

Schedule 1 Part 1 clause 12: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

13 Superannuation Act 1989 continues to apply to superannuation schemes until effective date

[Revoked]

Schedule 1 Part 1 clause 13: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

14 Unit Trusts Act 1960 continues to apply to unit trusts until effective date

[Revoked]

Schedule 1 Part 1 clause 14: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

Miscellaneous

[Revoked]

Heading: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

15 Information to be supplied to Registrar and FMA before effective date for managed investment scheme

[Revoked]

Schedule 1 Part 1 clause 15: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

16 Transitional disclosure exclusion

[Revoked]

Schedule 1 Part 1 clause 16: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

17 Offers of derivatives

[Revoked]

Schedule 1 Part 1 clause 17: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

18 Handling of derivatives investor money and property

[Revoked]

Schedule 1 Part 1 clause 18: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

19 Governance requirements for PIE call fund units, PIE term fund units, and bank notice products that are specified units

[Revoked]

Schedule 1 Part 1 clause 19: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

20 Insider trading

[Revoked]

Schedule 1 Part 1 clause 20: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

21 Transfer of securities by securities transfer under Securities Transfer Act 1991

[Revoked]

Schedule 1 Part 1 clause 21: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

22 Financial markets participants

[Revoked]

Schedule 1 Part 1 clause 22: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

23 Wholesale clients under Financial Service Providers (Registration and Dispute Resolution) Act 2008

[Revoked]

Schedule 1 Part 1 clause 23: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

24 Employee share purchase schemes and small offer exclusion calculations take into account offers under former law

[Revoked]

Schedule 1 Part 1 clause 24: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

25 FMA order power includes equivalent reference under former law

[Revoked]

Schedule 1 Part 1 clause 25: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

26 Exemptions under 1978 Act continue in force

[Revoked]

Schedule 1 Part 1 clause 26: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

27 Exemptions under Securities Markets Act 1988 continue in force

[Revoked]

Schedule 1 Part 1 clause 27: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

28 Miscellaneous transitional provisions relating to continuing application of 1978 Act

[Revoked]

Schedule 1 Part 1 clause 28: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

29 Banks' regulatory capital

[Revoked]

Schedule 1 Part 1 clause 29: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

30 Transitional provisions relating to consequential amendments in Financial Markets (Repeals and Amendments) Act 2013

[Revoked]

Schedule 1 Part 1 clause 30: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

30A Certain superannuation schemes may elect to be treated as registered

[Revoked]

Schedule 1 Part 1 clause 30A: revoked, on 15 September 2018, pursuant to section 547(4) of the Financial Markets Conduct Act 2013 (2013 No 69).

Part 2
Transitional provisions relating to Financial Markets Conduct Amendment Regulations 2015

Schedule 1 Part 2: inserted, on 1 December 2015, by regulation 38(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

31 Certain requirements need not be complied with before 1 December 2016

Fund updates for multi-fund investment options and life cycle stages

(1) A manager may, during the transition period, comply with these regulations as if the following were not in force:

(a) regulations 18(1) and (2), 19, 20, and 41(1), (4), (7) to (10), (12), and (13) of the 2015 regulations:

(b) regulation 41(11) of the 2015 regulations (to the extent that it relates to clause 24(3) of Schedule 4).

Certain other fund update requirements

(2) A manager may, during the transition period, comply with these regulations as if regulation 41(24), (26), (28), and (31) to (33) of the 2015 regulations were not in force.

Ongoing confirmation information for derivatives

(3) A derivatives issuer may, during the transition period, comply with these regulations as if regulation 25 of the 2015 regulations were not in force.

Investment proposal for DIMS

(4) A provider may, during the transition period, comply with these regulations as if regulation 46(1) and (2) of the 2015 regulations were not in force.

Responsibilities of derivatives issuers in event of shortfall

(5) During the period from the beginning of 1 December 2015 until the close of 30 November 2016, regulations 244 to 244B do not apply to a derivatives issuer if the derivatives issuer complies with the conditions in clause 6 of the Financial Markets Conduct (Derivatives Issuers—Responsibilities in Event of Shortfall) Exemption Notice 2015 (applied with all necessary modifications as if that clause were still in force).

Interpretation

(6) In this regulation,—

2015 regulations means the Financial Markets Conduct Amendment Regulations 2015

transition period means the period from the beginning of 17 December 2015 until the close of 30 November 2016.

Schedule 1 clause 31: inserted, on 1 December 2015, by regulation 38(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 3
Provisions relating to Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017

Schedule 1 Part 3: inserted, on 21 April 2017, by regulation 7 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

32 Interpretation

In this Part, **regulations 64A, 70, and 70A** means regulations 64A, 70, and 70A of these regulations, as inserted by regulations 4 and 6 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017.

Schedule 1 clause 32: inserted, on 21 April 2017, by regulation 7 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

33 Application of regulations 64A, 70, and 70A

(1) Regulations 64A, 70, and 70A apply to a KiwiSaver scheme in relation to the following accounting periods of the scheme:

(a) an accounting period that commenced before, but ends on or after 31 March 2017 (in respect of which confirmation information must be provided not later than 3 months after the expiry of the accounting period):

(b) accounting periods that commence on or after 31 March 2017.

(2) Despite subclause (1), regulations 64A, 70, and 70A do not apply in relation to an accounting period for which confirmation information was provided in accordance with regulation 70 before the commencement of regulations 64A, 70, and 70A.

Schedule 1 clause 33: inserted, on 21 April 2017, by regulation 7 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

34 KiwiSaver schemes may provide alternative information for accounting periods ending before 31 March 2018

(1) This clause applies to a manager of a KiwiSaver scheme in relation to an accounting period that ends before 31 March 2018.

(2) The manager—

(a) is not required to comply with the requirements in regulations 64A and 70(2); but

(b) if the manager chooses not to comply, the manager must instead, for the purposes of section 100(1) of the Act, provide the following confirmation information to each scheme participant:

(i) the confirmation information required by regulation 70, as in force before the commencement of regulations 64A, 70, and 70A; and

(ii) the membership fee; and

(iii) the further information described in subclause (3).

(3) The further information is the actual total fund charges for the disclosure year that ended—

(a) on the date on which the relevant accounting period ended; or

(b) most recently before the date on which the relevant accounting period ended.

(4) In this clause,—

actual total fund charges means the fund charges, expressed as a percentage of average net asset value, for the funds in which the scheme participant was invested at the end of the disclosure year

membership fee means the amount of any fee charged to the scheme participant during the accounting period in respect of the scheme participant's membership of, or participation in, the scheme.

Schedule 1 clause 34: inserted, on 21 April 2017, by regulation 7 of the Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77).

Part 4
Provisions relating to Financial Markets Conduct Amendment Regulations 2017

Schedule 1 Part 4: inserted, on 9 August 2017, by regulation 9 of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

35 Transitional arrangement for e-reporting until 2018

An FMC reporting entity that is an e-reporting entity under regulation 61C(1) may elect not to comply with regulations 61D to 61F in relation to the annual report for an accounting period that ends on or before 31 December 2017.

Part 5
Provision relating to Financial Markets Conduct Amendment Regulations (No 2) 2017

Schedule 1 Part 5: inserted, on 31 December 2017, by regulation 6 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

36 Transitional provision relating to register entry information supplied under section 48(1)(c) of Act

The amendments made by clauses 7 to 11 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 do not apply to a register entry for which information was supplied under section 48(1)(c) of the Act before the commencement of the Financial Markets Conduct Amendment Regulations (No 2) 2017.

Part 6
Provision relating to Financial Markets Conduct Amendment Regulations 2018

Schedule 1 Part 6: inserted, on 7 June 2018, by regulation 18 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

37 Annual reports to be made available by e-reporting entities

Regulations 61D and 61E, as amended by the Financial Markets Conduct Amendment Regulations 2018, apply to an e-reporting entity in relation to the following accounting periods of the entity:

(a) an accounting period that commenced before, but ends on or after, the commencement of this clause:

(b) accounting periods that commence on or after the commencement of this clause.

38 Defective SDS requirements

(1) This clause applies if,—

(a) before the commencement of this clause, a provider (as defined in regulation 221(2)) became aware that an SDS was defective in terms of section 427(1)(a) and (b) of the Act; and

(b) the provider is required to provide a new SDS under section 427(4) of the Act.

(2) Regulations 221B and 221C do not apply if the new SDS under section 427(4) of the Act was provided before the commencement of this clause.

(3) If, on the commencement of this clause, the new SDS has not yet been provided under section 427(4) of the Act,—

(a) the document under regulation 221B(1)(a) must be provided within 10 working days after the commencement of this clause (and this paragraph applies instead of regulation 221B(2)(a)); and

(b) regulation 221B(4) applies as if the reference to 10 working days were a reference to 10 working days after the commencement of this clause.

Part 7
Provision relating to Financial Markets Conduct Amendment Regulations 2019

Schedule 1 Part 7: inserted, on 13 June 2019, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

39 Amendments apply from 2019/2020 accounting period

Regulation 71AA, as inserted by the Financial Markets Conduct Amendment Regulations 2019, applies to KiwiSaver schemes in relation to accounting periods commencing on or after 1 April 2019.

Schedule 1 clause 39: inserted, on 13 June 2019, by regulation 5 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Part 8
Provisions relating to Financial Markets Conduct Amendment Regulations 2020

Schedule 1 Part 8: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

40 Interpretation

(1) *[Revoked]*

(2) In this Part,—

(a) a reference to former regulation 183 is a reference to regulation 183 (as in force immediately before 15 March 2021):

(b) a reference to new regulation 183 is a reference to regulation 183 (as in force on 15 March 2021).

Schedule 1 clause 40: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 1 clause 40(1): revoked, on the close of 14 March 2024, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

41 Duty of former authorised financial advisers to retain existing records for at least 7 years continues

[Revoked]

Schedule 1 clause 41: revoked, on the close of 14 March 2024, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

42 Duty of former QFEs relating to existing records continues

[Revoked]

Schedule 1 clause 42: revoked, on the close of 14 March 2024, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

43 Complaints after 15 March 2021 about financial adviser conduct under former code of conduct

[Revoked]

Schedule 1 clause 43: revoked, on the close of 14 March 2024, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

44 Exemption for temporary management of portfolio by financial adviser who is engaged by financial advice provider

(1) This clause applies if,—

(a) immediately before 15 March 2021, a person who was an authorised financial adviser (**A**) was able to provide a service to another person (**B**) that was an exempt service under former regulation 183; and

(b) the investment authority referred to in former regulation 183(2) names A as the person who will provide the service; and

(c) A is engaged as a financial adviser by a financial advice provider (**P**).

(2) For the purposes of section 389(3)(b) of the Act, a service provided by P to B is an exempt service if—

(a) the service is provided by A on behalf of P; and

(b) B has agreed in writing that the service may be provided by A on behalf of P—

(i) on the basis of the investment authority granted to A and the client agreement between A and B that applied under former regulation 183; and

(ii) for a stated period that ends no later than the close of 14 March 2022; and

(c) P has notified B in writing that B has a right to immediately revoke the investment authority by written or oral notice to either P or A; and

(d) all of the circumstances specified in new regulation 183(2) apply (but with the modifications under subclause (3) and any other necessary modifications).

(3) New regulation 183(2) applies with the following modifications:

(a) the references to an investment authority are references to the investment authority that applied under former regulation 183:

(b) the references to the service in new regulation 183(1) are references to the service described in subclause (2) of this clause:

(c) the references to P in new regulation 183(2)(b) and (c) must be treated as references to A:

(d) new regulation 183(2)(e) does not apply, but in relation to providing the exempt service,—

(i) P (and A on P's behalf) must comply with the duties that would apply under sections 433(1) and 435 of the Act as if P were providing the service as a DIMS licensee under the Act; and

(ii) P must take all reasonable steps to ensure that P's directors and senior managers comply with the duties that would apply under section 434 of the Act as if P were providing the service as a DIMS licensee under the Act:

(e) new regulation 183(2)(f) does not apply, but instead, if A or P has any rights to be indemnified by B for liabilities incurred in relation to the performance of the service referred to in subclause (2),—

(i) those rights are set out, and agreed to by B, in writing; and

(ii) those rights are available only in relation to the proper performance of the duties referred to in paragraph (d)(i):

(f) new regulation 183(2)(g) and (h) does not apply, but instead,—

(i) immediately before 15 March 2021, there must have been a client agreement between A and B that adequately provided for the matters specified in former regulation 183(2)(f) and (g); and

(ii) P and A must continue to comply with that client agreement to the extent that it provides for those matters (and, for that purpose, P must comply with the agreement as if P were A, including accepting a notice referred to in former regulation 183(2)(g) that is given to either P or A).

Schedule 1 clause 44: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

45 When clause 44 ceases to apply

(1) Clause 44 ceases to apply if A is or becomes engaged as a financial adviser by more than 1 financial advice provider.

(2) In all other cases, clause 44 ceases to apply on the close of 14 March 2022.

Schedule 1 clause 45: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

46 Exemption for temporary management of portfolio by financial adviser who becomes financial advice provider

(1) This clause applies if,—

(a) immediately before 15 March 2021, a person (**P**) who was an authorised financial adviser was able to provide a service to another person (**B**) that was an exempt service under former regulation 183; and

(b) the investment authority referred to in former regulation 183(2) names P as the person who will provide the service; and

(c) P is a financial advice provider.

(2) For the purposes of section 389(3)(b) of the Act, a service provided by P to B is an exempt service if all of the circumstances specified in new regulation 183(2) apply (but with the modifications under subclause (3) and any other necessary modifications).

(3) New regulation 183(2) applies with the following modifications:

(a) the references to an investment authority are references to the investment authority that applied under former regulation 183:

(b) the references to the service in new regulation 183(1) are references to the service described in subclause (2) of this clause:

(c) new regulation 183(2)(e) does not apply, but in relation to providing the exempt service, P must comply with the duties that would apply under sections 433(1) and 435 of the Act as if P were providing the service as a DIMS licensee under the Act:

(d) new regulation 183(2)(f) does not apply, but instead, if P has any rights to be indemnified by B for liabilities incurred in relation to the performance of the service referred to in subclause (2),—

(i) those rights are set out, and agreed to by B, in writing; and

(ii) those rights are available only in relation to the proper performance of the duties referred to in paragraph (c):

(e) new regulation 183(2)(g) and (h) does not apply, but instead,—

(i) immediately before 15 March 2021, there must have been a client agreement between P and B that adequately provided for the matters specified in former regulation 183(2)(f) and (g); and

(ii) P must continue to comply with that client agreement to the extent that it provides for those matters.

(4) This clause ceases to apply on the close of 14 March 2022.

Schedule 1 clause 46: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

47 Transitional arrangements for custodians' assurance engagement duty

(1) This clause applies to a person (a **custodian**) who, immediately before 15 March 2021, was subject to regulation 9 of the Financial Advisers (Custodians of FMCA Financial Products) Regulations 2014 (the **2014 regulations**).

(2) The relevant date that applied to the custodian, immediately before 15 March 2021, under regulation 9 of the 2014 regulations continues to be the relevant date of the custodian under regulation 229U of these regulations (until that date is changed under regulation 229U(6)(b)).

(3) Regulation 229U of these regulations applies to the custodian in relation to relevant periods (as defined in regulation 229V(3)) that end on or after 15 March 2021 (and regulations 9 and 10 of the 2014 regulations continue to apply to the custodian in relation to any relevant period that ends before that date).

(4) *[Revoked]*

Schedule 1 clause 47: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 1 clause 47(4): revoked, on the close of 14 March 2024, by regulation 27(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

48 Transitional provisions relating to Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017

(1) This clause applies to a person (**A**) who was a non-NZX broker under the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017 and who is a non-NZX provider under Schedule 21C.

(2) If A notified the FMA under clause 5(2) of the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017, the notification must be treated as a notification under regulation 229ZA(2)(b)(ii).

(3) If A gave information to a client under clause 7(1)(b) of the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017, A must be treated as having complied with clause 5(1)(a) of Schedule 21C in relation to that client.

(4) If A holds a current acknowledgement under clause 7(1)(c)(i) or (iii) of the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017 in relation to a bank account, A must be treated as having complied with regulation 229ZA(2)(b)(iv) in relation to that account (but a new written acknowledgement must be provided under clause 5(1)(b) of Schedule 21C if there are any subsequent changes as referred to in that paragraph).

(5) A's relevant date under clause 7(2) of the Financial Advisers (Non-NZX Brokers—Client Money) Exemption Notice 2017 must be treated as A's relevant date under clause 5(2) of Schedule 21C (until A changes that date).

Schedule 1 clause 48: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

49 Amendments to information in PDS do not apply to PDS lodged before 15 March 2021

(1) The amendments made by regulations 9, 13, and 28 of the Financial Markets Conduct Amendment Regulations 2020 do not apply to a PDS that is lodged before 15 March 2021.

(2) Subclause (1) does not prevent the PDS from being amended to comply with regulation 20 or 49E or Schedule 3 of these regulations (as amended by the Financial Markets Conduct Amendment Regulations 2020).

Schedule 1 clause 49: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

50 Amendment to information in SDS is not mandatory until 15 March 2022

If an SDS is provided before 15 March 2022, the SDS may be in accordance with—

(a) regulation 204(1)(f) as in force immediately before the amendment made by regulation 23 of the Financial Markets Conduct Amendment Regulations 2020; or

(b) regulation 204(1)(f) as amended by regulation 23 of the Financial Markets Conduct Amendment Regulations 2020.

Schedule 1 clause 50: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

51 Amendment to confirmation information for KiwiSaver schemes is not mandatory until 15 March 2022

If a statement under regulation 71AA(2)(b) or (3)(b)(ii) is made available before 15 March 2022, that statement may be in accordance with—

(a) clause 2 or 3 of Schedule 7A as in force immediately before the amendments made by regulation 32 of the Financial Markets Conduct Amendment Regulations 2020; or

(b) clause 2 or 3 of Schedule 7A as amended by regulation 32 of the Financial Markets Conduct Amendment Regulations 2020.

Schedule 1 clause 51: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

52 Amendment to warning statement does not apply to offer for which notice is lodged before 15 March 2021

(1) The amendment made by regulation 37 of the Financial Markets Conduct Amendment Regulations 2020 to Schedule 25 does not apply to a warning statement for an offer for which the Australian offeror has lodged a notice under regulation 266 before 15 March 2021.

(2) Subclause (1) does not prevent a warning statement from being amended to comply with Schedule 25 (as amended by the Financial Markets Conduct Amendment Regulations 2020).

Schedule 1 clause 52: inserted, on 15 March 2021, by regulation 27(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Part 9
Provisions relating to Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023

Schedule 1 Part 9: inserted, on 1 January 2024, by regulation 7(a) of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

53 Register does not need to contain assurance practitioners' reports until related amendments in force

Regulation 252D(1)(d) and (2)(d) (as inserted by the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023) does not require the climate-related disclosures register to contain assurance practitioners' reports before section 26 of the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 comes into force.

Schedule 1 clause 53: inserted, on 1 January 2024, by regulation 7(a) of the Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281).

Part 10
Provisions relating to Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023

Schedule 1 Part 10: inserted, on 31 March 2025, by regulation 7 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

54 Application of incentives regulations

(1) Regulations 237D to 237H apply to prohibited incentives offered, given, or otherwise payable on or after the commencement of this clause (the **commencement**).

(2) Subclause (1) applies even if the incentive is offered, given, or otherwise payable under an agreement referred to in clause 98(2) of Schedule 4 of the Act.

(3) *See* clause 98(3) of Schedule 4 of the Act, which provides that nothing in these regulations applies to an incentive that is given, paid, or payable before the commencement or that a person has become entitled to before the commencement.

(4) Clause 98(4)(b) of Schedule 4 of the Act does not apply to a right to terminate or cancel an agreement that would otherwise be exercisable by a person (**A**) who, but for regulations 237D to 237H, would be entitled to receive a prohibited incentive if—

(a) the parties to the agreement have expressly or impliedly agreed that the provision of the incentive is essential to A; or

(b) the effect of regulations 237D to 237H will be—

(i) substantially to reduce the benefit of the agreement to A; or

(ii) in relation to A, to make the benefit or burden of the agreement substantially different from that agreed to.

Guidance note

Clause 98 of Schedule 4 of the Act allows incentives regulations to apply to existing agreements.

Schedule 1 clause 54: inserted, on 31 March 2025, by regulation 7 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Part 11
Provisions relating to Financial Markets Conduct Amendment Regulations 2025

Schedule 1 Part 11: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

55 Definition for this Part

In this Part, **amendment** means an amendment made by the Financial Markets Conduct Amendment Regulations 2025.

Schedule 1 clause 55: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

56 Amendments relating to fund updates for certain restricted schemes

(1) The amendment to regulation 56 and regulation 63AA apply in respect of periods (as defined in regulation 63AA(4)) ending on or after 12 June 2025.

(2) However, if the period commenced before 12 June 2025,—

(a) the manager is not required to comply with regulation 63AA; but

(b) if the manager chooses not to comply with regulation 63AA, the manager must instead comply with regulation 56 as in force immediately before 12 June 2025.

Schedule 1 clause 56: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

57 Amendments relating to when confirmation information must be provided

(1) The amendment to regulation 68 applies to confirmation information in respect of reporting periods ending on or after 28 May 2025.

(2) The amendment to regulation 71 applies to confirmation information in respect of accounting periods ending on or after 12 March 2025.

Schedule 1 clause 57: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

58 Amendments relating to confirmation information for certain restricted schemes

(1) The amendments to regulation 70B apply to confirmation information in respect of accounting periods ending on or after 12 June 2025.

(2) However, if the accounting period commenced before 12 June 2025,—

(a) the manager is not required to comply with regulation 70B(4); but

(b) if the manager chooses not to comply with regulation 70B(4), the manager must instead comply with regulation 70B as in force immediately before 12 June 2025.

Schedule 1 clause 58: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

59 Amendments relating to custodian assurance engagement for restricted schemes

Regulations 88A to 88D apply in respect of relevant periods (as defined in regulation 88(4)) ending on or after 12 June 2025.

Schedule 1 clause 59: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

60 Amendments relating to reporting requirements for restricted schemes

Regulations 95A and 100A and the amendments to regulations 95, 96, and 100 apply to reporting in respect of a quarter ending on or after 12 June 2025 or a balance date occurring on or after 12 June 2025 (as the case may be).

Schedule 1 clause 60: inserted, on 12 June 2025, by regulation 20(a) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Part 12
Provisions relating to Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025

Schedule 1 Part 12: inserted, on 1 July 2025, by regulation 6(a) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

61 Transition period for requirements relating to depositor compensation scheme

(1) This clause applies until the close of 30 June 2026.

(2) An issuer is not required to comply with clause 16A of Schedule 2 and include in the KIS a section headed "Protection under depositor compensation scheme" but may choose to do so.

(3) An issuer is not required to comply with clause 3(5) of Schedule 7 but may choose to do so.

Schedule 1 clause 61: inserted, on 1 July 2025, by regulation 6(a) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Schedule 2
Debt securities

rr 22, 38, 51, 55

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1 Interpretation

(1) In this schedule,—

debt securities means the debt securities that are being offered under the PDS

most recent period means the issuing group's most recently completed accounting period before the date of the PDS

P_{-1} means the issuing group's accounting period that immediately precedes the most recent period

P_{-2} means the issuing group's accounting period that immediately precedes P_{-1}

relevant period—

(a) means each of P_{-2}, P_{-1}, and the most recent period (unless no member of the issuing group was in operation during that period); and

(b) includes, if the most recent period ended more than 9 months before the date of the PDS, an interim accounting period from the balance date of the most recent period and ending on a stated date (being an interim accounting period that is not less than 6 months); and

(c) includes, if there is no relevant period under paragraph (a) or (b) but a member of the issuing group has commenced business and has acquired an asset or has incurred a debt on or before the date of the PDS, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the date of the PDS

specified period means the period starting at the beginning of P_{-2} and ending on the date of the PDS.

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the debt securities that are being offered under the PDS.

(3) If the debt securities are redeemable shares (*see* section 8(1)(b)(iii) of the Act),—

(a) the requirements relating to interest or the interest rate apply in relation to dividends or the dividend rate under those shares; and

(b) the PDS or register entry may refer to dividends or the dividend rate rather than interest or the interest rate.

(4) If the debt securities are offered for the purposes of a managed investment scheme, the following apply (unless the context otherwise requires) with all necessary modifications:

(a) a reference in this schedule to the issuing group must be treated as a reference to the scheme and all subsidiaries of the scheme at the date of the PDS (and the scheme and those subsidiaries must be treated as members of the issuing group); and

(b) a reference in this schedule to the liquidation of the issuer must be treated as a reference to the winding up of the scheme; and

(c) a reference in this schedule to the issuer's liabilities, assets, equity, financial position, performance, or balance date must be treated as a reference to the scheme's liabilities, assets, equity, financial position, performance, or balance date; and

(d) a reference in this schedule to the issuer's credit rating must be treated as a reference to the scheme's credit rating; and

(e) a reference to the issuer in clause 37(4), 38, 39(6), or 48(2)(a) must be treated as a reference to the scheme; and

(f) a reference to the issuer in clause 58 must treated as a reference to both the issuer and the scheme.

Schedule 2 clause 1(4): inserted, on 1 December 2015, by regulation 39(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

2 PDS may describe debt securities as secured only in specified circumstances

(1) This clause applies to a PDS for an offer of debt securities unless—

(a) the repayment of all money that has been, or may be, deposited or lent under the debt securities has been secured by a security interest in favour of the supervisor over the whole or any part of the property of the issuer or of any of the guarantors; and

(b) the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to—

(i) repay the debt securities; and

(ii) pay all other liabilities that a security interest over the property secures and that rank in priority to, or equally with, the debt securities.

(2) The PDS must not use the term "secured" in—

(a) the name of the financial products in the information under regulation 20; or

(b) the description of the financial products in the KIS.

(3) The PDS must not elsewhere describe or refer to the debt securities as "secured".

(4) Subclause (3) does not prevent a PDS from stating that the repayment obligations under the debt securities are secured by a security interest if, and only if, that statement is accompanied by—

(a) a statement that the security interest is insufficient to repay the debt securities; or

(b) a statement that there is a real risk that the security interest is insufficient to repay the debt securities.

3 Recipients of money from conduit issuer

(1) This clause applies if,—

(a) in respect of the offer of the debt securities, it is expected that a person (**A**) will become a recipient of money from a conduit issuer (within the meaning of section 453 of the Act); and

(b) A is not a member of the issuing group.

(2) The PDS may include additional information about A that is of a type that would be required to be disclosed if A were a member of the issuing group.

(3) The information may be included in the PDS in any section that contains information about the members of the issuing group.

3A Application of schedule to depositor compensation scheme

The following clauses do not require any disclosure in relation to the depositor compensation scheme:

(a) clause 10:

(b) clause 33:

(c) clause 38:

(d) clause 63(1)(a)(iv) and (ba)(iv):

(e) clause 65(1)(a):

(f) clause 68(1)(a) and (b).

Schedule 2 clause 3A: inserted, on 1 July 2025, by regulation 7(1) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Part 1
PDS for debt securities

PDS sections

4 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Key information summary

2 Key dates and offer process

3 Terms of the offer

4 [*Name of issuing group*] and what it does

5 Purpose of the offer

6 Key features of [*name of financial products*]

7 [*Name of issuing group*]'s financial information

8 Risks of investing

9 Tax

10 Who is involved?

11 How to complain

12 Where you can find more information

13 How to apply

14 Contact information

(2) The sections of the PDS must be numbered sequentially.

(3) However, section 7 of the PDS (financial information) applies only if, before the date of the PDS, a member of the issuing group has commenced business and—

(a) has acquired an asset; or

(b) has incurred a debt.

(4) If the issuer is an NBDT, the heading of section 7 of the PDS must be "[*Name of issuer*]'s financial information".

Key information summary

5 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

About [*name of issuing group*]

Purpose of this offer

Key terms of the offer

No guarantee/Who is responsible for repaying you?*

How you can get your money out early/No early withdrawal or transfer*

How [*name of financial products*] rank for repayment

No security/What assets are these [*name of financial products*] secured against?*

Where you can find [*name of issuing group*]'s financial information

Key risks affecting this investment

What is [*name of issuer*]'s credit rating?/What is [*name of issuer's holding company*]'s credit rating?/What is [*name of financial product*]'s credit rating?/No credit rating*

Protection under depositor compensation scheme

*Select one.

(2) If the issuer is an NBDT and the PDS is a continuous issue PDS, the KIS is not required to have a section headed "Purpose of this offer".

(3) If the issuer is an NBDT, the section heading relating to financial information must be "Where you can find [*name of issuer*]'s financial information".

(3A) If the PDS is for an offer of debt securities that are not protected deposits, the KIS is not required to have a section headed "Protection under depositor compensation scheme".

(4) The section heading relating to financial information may be amended in accordance with clause 14.

(5) Clauses 6 to 16A specify the information that must be contained in the KIS under each of the headings in subclause (1).

Schedule 2 clause 5(1): amended, on 1 July 2025, by regulation 7(2) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Schedule 2 clause 5(3A): inserted, on 1 July 2025, by regulation 7(3) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Schedule 2 clause 5(5): amended, on 1 July 2025, by regulation 7(4) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

6 What is this?

(1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products*]. [*Name of financial products*] are debt securities issued by [*name of issuer*]. You give [*name of issuer*] money, and in return [*name of issuer*] promises to pay you interest and repay the money at the end of the term. If [*name of issuer*] runs into financial trouble, you might lose some or all of the money you invested."

(2) In the case of convertibles, the statement in subclause (1) must be modified with the effect that the statement—

(a) identifies the debt securities as being convertible; and

(b) includes the name of the new products and the name of the issuer of the new products; and

(c) briefly specifies how or when the conversion may or will occur (for example, at the investor's option, at the issuer's option, on a specified date, or on the occurrence of a particular event); and

(d) briefly specifies how the conversion will affect the form of returns.

Schedule 2 clause 6(2): inserted, on 1 December 2015, by regulation 39(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

7 About [*name of issuing group*]

The KIS must contain a brief description of the issuing group's business.

Example

ABC Limited and its subsidiaries primarily invest in transport infrastructure in New Zealand, including in major roading public–private partnerships.

8 Purpose of this offer

The KIS must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for).

9 Key terms of the offer

(1) The KIS must contain the key terms of the offer briefly summarised in a table, including—

(a) a brief description of the debt securities (for example, an unsecured, unsubordinated bond); and

(b) a brief description of the term of the debt securities; and

(c) a statement—

(i) of the interest rate or rates that may be earned by holding the debt securities (if the rate or rates are fixed at the date of the PDS); or

(ii) of the basis on which or the method by which the interest rate or rates will be ascertained; and

(d) the intended dates on which the offer opens and closes; and

(e) the dates on which, or frequency with which, the interest from the debt securities will be due and paid; and

(f) if a holder of the debt securities will or may be liable to make further payments or to pay fees or charges relating to those securities, a brief description of the nature of that liability or of those fees or charges; and

(g) if the issuer has the right to extend the time for payment of the principal or interest, or to reduce or cancel the principal or interest, under the debt securities, a statement to that effect and a reference to the section of the PDS where more information on that matter can be found.

(2) In the case of convertibles, the table must also include a brief description of—

(a) the new products; and

(b) the circumstances in which the conversion may or will occur; and

(c) the terms of the conversion.

Schedule 2 clause 9(2): inserted, on 1 December 2015, by regulation 39(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

10 No guarantee/Who is responsible for repaying you?

The KIS must—

(a) include the heading "**No guarantee**" and a statement to the effect that the debt securities are not guaranteed by any member of the issuing group or any other person and that the issuer is solely responsible for the repayment of the securities; or

(b) include the heading "**Who is responsible for repaying you?**" and the following information:

(i) a statement as to who is responsible for the repayment of the securities (including an identification of the guarantor or guarantors, whether by name or a description):

(ii) if the guarantee of a guarantor is conditional or subject to limits, a statement to that effect and a reference to the section of the PDS where more information on that matter can be found:

(iii) a statement to the effect that no other members of the issuing group are guarantors of the securities (if there are members who are not guarantors).

11 How you can get your money out early/No early withdrawal or transfer

(1) The KIS must—

(a) contain a brief description of the ability to redeem the debt securities before the end of the term of the securities; or

(b) if there is no ability to do so, contain a statement to that effect.

(2) If the debt securities are transferable and have a term of 1 year or more, the KIS must include whichever of the following statements best applies:

(a) "[*Name of issuer*] intends to quote these [*name of financial products*] on [*name of licensed market*]. This means you may be able to sell them on the [*name of licensed market*] before the end of their term if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of the [*name of issuing group*] and movements in the market interest rates. You may receive less than the full amount that you paid for them.":

(b) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a licensed market in New Zealand but they will be able to be traded on the [*describe established market available for trading*]. This means you may be able to sell them on [*name of established market*] before the end of their term if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of the [*name of issuing group*] and movements in the market interest rates. You may receive less than the full amount that you paid for them.":

(c) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a market licensed in New Zealand and there is no other established market for trading them. This means that you may not be able to sell your [*name of financial products*] before the end of their term."

(3) For the purposes of subclause (2)(a), if the issuer intends that the debt securities will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(4) If the debt securities are not transferable and have a term of 1 year or more, the KIS must include a statement to the following effect:

"These [*name of financial products*] cannot be sold to anyone else."

(5) In the case of convertibles, the statement in subclause (2) must be modified with the effect that the statement also—

(a) states whether or not the new products are quoted or approved for trading, or the issuer intends that those products will be quoted or approved

for trading, on a market licensed in New Zealand or on another established market; and

(b) if the issuer does not intend that the new products will be quoted or approved for trading on an established market, includes a statement that the investor may not be able to sell those new products; and

(c) if the new products cannot be sold or transferred, includes a statement to that effect.

Schedule 2 clause 11(5): inserted, on 1 December 2015, by regulation 39(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

12 How [*name of financial products*] rank for repayment

The KIS must include—

(a) a brief summary of the ranking of the debt securities on a liquidation of the issuer; and

(b) a reference to the section of the PDS where more information on that matter can be found.

13 No security/What assets are these [*name of financial products*] secured against?

The KIS must—

(a) include the heading "**No security**" and a statement to the effect that the debt securities are unsecured; or

(b) include the heading "**What assets are these [*name of financial products*] secured against?**" and the following information:

(i) a brief description of the assets that are subject to a security interest that secures the payment or performance of an obligation under the debt securities:

(ii) if, under clause 2, the debt securities must not be described or referred to as "secured", a statement to the effect that there is a security interest to secure the repayment of the debt securities accompanied by the statement referred to in clause 2(4)(a) or (b):

(iii) a reference to the section of the PDS where more information on that matter can be found.

14 Where you can find [*name of issuing group*]'s financial information

(1) The KIS must include a statement in the following form:

"The financial position and performance of [*name of issuing group*] are essential to an assessment of [*name of issuer*]'s ability to meet its obligations under the [*name of financial product*]. *You should also read [*refer to section 7 of the PDS (financial information)*]."

*If no financial information is required to be provided under section 7 of the PDS, replace this sentence with a statement to that effect and a statement of the reason why no financial

information is required (in which case the words "**Where you can find**" may be omitted from the heading of this section of the KIS).

(2) If the issuer is an NBDT, the section heading and the statement must specify the name of the issuer rather than the name of the issuing group.

(3) The KIS may include 1 or more items of financial information that may be included in the PDS under clauses 36 to 38 (in which case the words "**Where you can find**" may be omitted from the heading of this section of the KIS).

15 Key risks affecting this investment

(1) The KIS must include a statement in the following form:

"Investments in debt securities have risks. A key risk is that [*name of issuer*] does not meet its commitments to repay you or pay you interest (credit risk). Section 8 of the PDS (risks of investing) discusses the main factors that give rise to the risk. You should consider if the credit risk of these debt securities is suitable for you.

The interest rate for these [*name of financial products*] should also reflect the degree of credit risk. In general, higher returns are demanded by investors from businesses with higher risk of defaulting on their commitments. You need to decide whether the offer is fair. [*Name of issuer*] considers that the most significant risk factors are: [*brief summary of the circumstances that must be disclosed under clause 49 (specific risks) that the issuer considers most significantly increase the risk that the issuer defaults on its payment obligations*]."

(2) The brief summary must include particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular debt securities (as compared to other issuers or debt securities).

(3) The KIS must include a statement in the following form after the statement in subclause (1):

"This summary does not cover all of the risks of investing in [*name of financial products*]. You should also read [*references to section 8 of the PDS (risks of investing) and to other places in the PDS that describe risk factors (for example, the key features of the product)*]."

(4) In the case of convertibles where the new products are equity securities, the KIS must include a statement in the following form after the statement in subclause (1) and before the statement in subclause (3):

"If/When* these [*name of financial products*] convert into shares, these risks will change significantly. You should consider whether the degree of uncertainty about [*name of issuing group*]'s future performance and returns is suitable for you."

*Select one.

Schedule 2 clause 15(4): inserted, on 1 December 2015, by regulation 39(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

16 What is [*name of issuer*]'s credit rating?/What is [*name of issuer's holding company*]'s credit rating?/What is [*name of financial product*]'s credit rating?/No credit rating

(1) The KIS must include—

(a) the heading "**What is [*name of issuer*]'s credit rating?**" or "**What is [*name of issuer's holding company*]'s credit rating?**" or "**What is [*name of financial product*]'s credit rating?**" or "**No credit rating**" (whichever heading best applies); and

(b) whichever of the statements specified in subclauses (2), (5), and (6) that best applies.

(2) A statement under this subclause must be in the following form (and must be accompanied by the diagram required by subclause (3)(b)):

"A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.

[*Specify either the name of the issuer or its holding company or, in the case of a financial product rating, the name of the financial products*] has/have* been rated by [*name of approved rating agency*]. [*Name of approved rating agency*] gives ratings from [*specify the top rating*] through to [*specify the lowest rating, excluding ratings attaching to entities in default*]."

*Select one.

(3) For the purposes of subclause (2),—

(a) **approved rating agency**,—

(i) in the case of an NBDT, means an approved rating agency within the meaning of the Non-bank Deposit Takers Act 2013:

(ii) in any other case, has the same meaning as in section 60(3) of the Act:

(b) the KIS must include a diagram—

(i) showing the range of credit ratings given by the approved rating agency; and

(ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and

(iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics on the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and

(iv) indicating the placement within that range of the issuer's, holding company's, or issue's current credit rating:

(c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), that statement must be disclosed with the diagram:

(d) if the debt securities have been given a credit rating by an approved rating agency, that rating must be used (rather than a credit rating for the issuer or its holding company):

(e) a credit rating for the issuer's holding company may be given only if the holding company is an unconditional guarantor:

(f) if a credit rating is given for the issuer or its holding company but the debt securities (if those securities were to be given a credit rating by an approved rating agency) would be likely to be given a lower credit rating, the diagram under paragraph (b) must include—

(i) a statement to that effect; and

(ii) a brief explanation as to why the rating would be likely to be lower:

(g) if this paragraph applies under subclause (4),—

(i) the statement under subclause (2) must be amended to refer to the ratings given by each approved rating agency; and

(ii) the diagram under paragraph (b) must include, at a minimum, the information under paragraph (b)(i) to (iv) and (c) for any one of those ratings; and

(iii) the information under paragraphs (b)(i) and (iv) and (c) for each other current credit rating must be given in or under the diagram.

(4) Subclause (3)(g) applies if the rating to be referred to in the statement under subclause (2) is a credit rating for—

(a) the debt securities and another current credit rating for the debt securities has been given by another approved rating agency:

(b) the issuer and another current credit rating for the issuer has been given by another approved rating agency:

(c) the issuer's holding company and another current credit rating for the holding company has been given by another approved rating agency.

(5) A statement under this subclause must be in the following form:

"[*Name of issuer*]'s creditworthiness has not been assessed by an approved rating agency. This means that [*name of issuer*] has not received an independent opinion of its capability and willingness to repay its debts from an approved source."

(6) In the case of an NBDT that does not have a credit rating because of an exemption from section 23 of the Non-bank Deposit Takers Act 2013 that

is granted under that Act, a statement under this subclause must be in the following form:

"[*Name of issuer*] is exempt from the requirement to have its creditworthiness assessed by an approved rating agency. This is because [*briefly state the reason for the exemption*]. This means that [*name of issuer*] has not received an independent opinion of its capability and willingness to repay its debts from an approved source."

(7) Subclause (5) does not apply if the debt securities have been given a credit rating by an approved rating agency.

16A Protection under depositor compensation scheme

If the debt securities are protected deposits, the KIS must contain a statement in the following form:

"[*Name of financial products*] are protected deposits under the depositor compensation scheme, which protects up to $100,000 per eligible depositor per deposit taker. For more information about the scheme, please refer to the Reserve Bank of New Zealand's internet site at www.rbnz.govt.nz/dcs".

Schedule 2 clause 16A: inserted, on 1 July 2025, by regulation 7(5) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

17 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

18 Letter from chairperson of issuer's board

After the KIS and the table of contents, the PDS may include a letter from the chairperson of the board.

Key dates and offer process

19 Application

(1) Clause 20 applies to section 2 of the PDS (key dates and offer process).

(2) However, section 2 of the PDS does not apply to a continuous issue PDS.

20 Key dates and offer process

(1) The PDS must include—

(a) a table showing the key dates for the offer and the issue or transfer of the debt securities, including the intended dates on which—

(i) the offer opens:

(ii) the offer closes:

(iii) the debt securities are issued or transferred:

(iv) the debt securities are quoted:

(b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 3 of the PDS (terms of the offer).

(2) The table may specify other dates relating to the debt securities (for example, the first interest payment date).

(3) If an investor is required to make payments on specified dates or at a specified frequency, the PDS must specify the payment dates or frequency and the consequences of failing to make the payments.

(4) In relation to subclause (1)(a)(iv), *see* section 78 of the Act (which provides that an issue or a transfer is void if a quotation condition is not fulfilled).

Terms of the offer

21 Application

Clauses 22 and 23 apply to section 3 of the PDS (terms of the offer).

22 Terms of the offer

(1) The PDS must include a table that sets out the terms of the offer (including the terms that are summarised under clause 9).

(2) The following information must be provided in or below the table:

(a) the dates on which, or frequency with which, the interest from the debt securities will be due and paid:

(b) a description of the ranking of the debt securities on a liquidation of the issuer:

(c) a description of any provision for repayment of the debt securities to occur before the end of their term.

(3) The PDS may, rather than setting out a particular term or particular terms of the offer in the table under subclause (1), refer to a PDS page or provide another PDS cross-reference to where the term or terms are described.

(4) The PDS must—

(a) refer to the trust deed and any other deed or agreement that sets the terms of the debt securities or other terms of the offer; and

(b) include a statement to the effect that these documents may be obtained from the offer register.

(5) Subclause (1) does not apply—

(a) to any terms implied by law; or

(b) to a term set by the trust deed or any other deed or agreement that the issuer considers is not a key term of the offer.

23 Comparable pricing

(1) The purpose of this clause is to enable information to be provided to assist investors to assess whether the returns offered under the debt securities adequately compensate for the risks of investing (by comparing the risk premium offered with market pricing information).

(2) The PDS may, under the table referred to in clause 22, include either or both of the following:

(a) a diagram that assists investors to compare the yield of the debt securities with 1 or more of the following (for example, by plotting points on a graph):

(i) the yield of other securities of the issuer:

(ii) the yield of the securities of other issuers (if the issuer considers that information about those securities provides a useful comparison for investors):

(iii) the New Zealand Government bond market reference rate or other rates that the issuer considers provide a relevant benchmark:

(b) a reference to a URL for an Internet site on which a tool can be found to enable a comparison of the yields of various debt securities (within the meaning of section 8 of the Act).

(3) The information under—

(a) subclause (2)(a) must be accompanied by information to assist investors to use the diagram:

(b) subclause (2)(b) must be accompanied by information about the debt securities to assist investors to use the tool.

Schedule 2 clause 23(1): replaced, on 1 December 2015, by regulation 39(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

[Name of issuing group] and what it does

24 Application

Clauses 25 and 26 apply to section 4 of the PDS ([*name of issuing group*] and what it does).

25 Overview

(1) The PDS must give an overview of the business of the issuing group.

(2) The overview—

(a) must cover the specified period (or any shorter period for which the issuing group has been in business); and

(b) may cover a longer period if information about a longer period involves material information.

(3) The overview must,—

(a) if the issuing group includes subsidiaries, include a diagram or brief description of the issuing group, which must—

(i) identify the most significant members of the group; and

(ii) if New Zealand is not the place of incorporation of any member of the group identified under subparagraph (i), specify the place of incorporation of that member; and

(iii) identify which members of the issuing group are guarantors; and

(b) describe the nature of the operations, and the main activities, of the issuing group and specify how long it has been undertaking that kind of business; and

(c) briefly describe, in relation to the period covered by the overview, the purchase or sale of any assets by any member of the issuing group if—

(i) information about the purchase or sale is material information; and

(ii) the purchase or sale is not carried out in the ordinary course of business of the member; and

(d) briefly describe the main industry or sector or industries or sectors in which the issuing group operates; and

(e) identify the current, and (if relevant to the payment of the principal or interest under the debt securities) any future, aspects of the business that are key to generating income; and

(f) if any of the following have occurred in respect of any member of the issuing group or other relevant party of the issuer, include a statement to that effect:

(i) the member or relevant party has, in the 10-year period preceding the date of the PDS, breached any financial covenant on any debt securities:

(ii) the member or relevant party has, in the 10-year period preceding the date of the PDS, defaulted on the payment of any obligations under any debt securities (whether of principal or interest):

(iii) the member or relevant party has, in the 10-year period preceding the date of the PDS, been an issuer of any debt securities in respect of which there has been a moratorium:

(iv) the member or relevant party has at any time been subject to an insolvency event or been convicted of a crime involving dishonesty:

(v) the member or relevant party has, in the 10-year period preceding the date of the PDS, been the subject of a successful relevant proceeding or action; and

(g) if any relevant proceeding or action is pending in respect of any member of the issuing group or other relevant party of the issuer at the date of the PDS, include a statement to that effect.

(4) If, after the issue or sale, the membership of the issuing group is likely to change, the information under subclause (3)(a) must include information about the likely changes if that information is material information.

(5) Subclause (3)(f) and (g) is not limited by subclause (2).

(6) In subclause (3)(f)(i) to (iii), **debt securities** means any debt securities (and not only those being offered under the PDS).

(7) Subclause (3)(f)(iii) and (v) and (g) applies only to the extent that information about a matter is material information.

(8) Subclause (3)(f) and (g) applies in relation to a relevant party—

(a) only to the extent that information about the matter is material information; and

(b) only to the extent that the issuer is aware of information about the relevant party after having made reasonable endeavours to obtain all relevant information; and

(c) only if the relevant party is an entity.

26 Directors, senior managers, and individual relevant parties

(1) The PDS must,—

(a) if any of the following have, at any time, occurred in respect of a director, proposed director, senior manager, or proposed senior manager of the issuer or in respect of a relevant party of the issuer (whether in New Zealand or overseas), include a statement to that effect and state the name and any alternative or former name or names of the person:

(i) the person has been adjudged bankrupt:

(ii) the person has been convicted of a crime involving dishonesty:

(iii) the person has been prohibited from acting as a director, or from taking part in the management, of an entity; and

(b) if any of the following have occurred in respect of a director, proposed director, senior manager, or proposed senior manager of the issuer, or a relevant party of the issuer, in the 10-year period preceding the date of the PDS, include a statement to that effect and of the name and any alternative or former name or names of the person:

(i) the person has been a director or a senior manager of an entity that, while the person held that position or within 2 years after the person ceased to hold that position, became subject to an insolvency event:

(ii) the person has been the subject of a successful relevant proceeding or action; and

(c) if any relevant proceeding or action is pending in respect of a director, proposed director, senior manager, or proposed senior manager of the issuer or in respect of a relevant party of the issuer at the date of the PDS, include a statement to that effect.

(2) Subclause (1)(b)(i) applies only to the extent that information about the matter is material information.

(3) Subclause (1) applies in relation to a relevant party—

(a) only to the extent that information about the matter is material information; and

(b) only to the extent that the issuer is aware of information about the relevant party after having made reasonable endeavours to obtain all relevant information; and

(c) only if the relevant party is an individual.

(4) The PDS may include information about the skills, experience, or background of a director, proposed director, senior manager, or proposed senior manager of the issuer if it is material information.

Purpose of the offer

27 Application

Clause 28 applies to section 5 of the PDS (purpose of the offer).

28 Purpose of the offer

(1) The PDS must give a brief description of the purpose of the offer and of how the money raised under the offer is expected to be allocated to each intended use, including—

(a) information about whether (and, if so, how) the use of the money raised under the offer may change depending on the total amount that is raised; and

(b) if a minimum amount must be raised before the debt securities are issued or transferred, a statement to that effect and of the minimum amount (*see* section 77(1)(b) of the Act); and

(c) a statement as to the extent to which the offer is underwritten.

(2) However, a continuous issue PDS is not required to contain information under subclause (1)(a), (b), and (c).

(3) If the purpose of the offer is to provide finance for a particular capital project, the PDS must include—

(a) a brief description of the project; and

(b) an indication of the expected financial benefits of the project.

(4) If it is expected that 1 or more persons will become a recipient of money from a conduit issuer (within the meaning of section 453 of the Act) in respect of the debt securities, the PDS must—

(a) state the name of each of those persons; and

(b) state the proportion of the amount that is raised under the offer that is expected to be provided, directly or indirectly and whether by 1 transaction or a series of transactions, for the use of each of those persons; and

(c) briefly describe how each of those persons intends to use the money that is provided.

Key features of [name of financial products]

29 Application

Clauses 30 to 34 apply to section 6 of the PDS (key features of [*name of financial products*]).

30 Key features

(1) The PDS must include a description of the features of the debt securities (to the extent those features are not already disclosed in section 3 of the PDS (terms of the offer)).

(2) The description under subclause (1) must—

(a) be sufficient to make it clear why a feature is of significance to investors; and

(b) include a description of the ranking of the debt securities on a liquidation of the issuer, including a diagram showing the total liabilities and total equity of the issuer; and

(c) include a description of each security interest that secures the payment or performance of an obligation under the debt securities.

(3) The information under subclause (2)(b) and (c) must be under the subheading "**Ranking and security**" or, if subclause (2)(c) is not applicable, the information under subclause (2)(b) must be under the subheading "**Ranking**".

(4) The description under subclause (2)(b) must—

(a) state whether, after the issue or sale, further liabilities that rank equally with, or in priority to, the debt securities on a liquidation of the issuer can arise and, if so, include a description of the circumstances in which this may occur; and

(b) briefly describe any terms of the trust deed or other covenants with third parties that impose limitations relating to—

(i) the creation of new security interests that rank equally with, or in priority to, any security interest securing the debt securities; or

(ii) the creation of further liabilities that rank equally with, or in priority to, the debt securities on a liquidation of the issuer; and

(c) if there are no terms of the kind described in paragraph (b), include a statement to that effect.

(5) If, in relation to subclause (2)(b), the issuer reasonably considers that information about the liabilities and equity of the issuing group provides more useful information to investors about the ranking of the debt securities (as compared to information about the issuer's liabilities and equity), information about the liabilities and equity of the issuing group may replace or be added to the information required by subclause (2)(b) and clause 31 (and, in that case, references to the issuer's liabilities, equity, or financial position must be treated as references to the issuing group's liabilities, equity, or financial position).

(6) In the case of convertibles, the following apply:

(a) if the new products are of the same class as financial products that are quoted at the time of the offer, the PDS must include a statement that those products are already quoted:

(b) if the new products are equity securities that are not quoted at the time of the offer, the PDS must include a description of the key features of the equity securities (to the extent that those features are not already disclosed in section 3 of the PDS (terms of the offer) and are not features that apply to ordinary shares in a company generally).

(7) The description under subclause (6)(b) must be sufficient to make it clear why a feature is of significance to investors.

Schedule 2 clause 30(6): inserted, on 1 December 2015, by regulation 39(7) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 30(7): inserted, on 1 December 2015, by regulation 39(7) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

31 Diagram showing ranking of debt securities

(1) The diagram under clause 30(2)(b) must be prepared in accordance with the following rules:

(a) the diagram must state the amount of the issuer's liabilities, divided into 3 classes that are listed vertically and labelled as follows:

(i) the liabilities that rank in priority to the debt securities on a liquidation of the issuer:

(ii) the liabilities that rank equally with the debt securities on a liquidation of the issuer:

(iii) the liabilities that rank below the debt securities on a liquidation of the issuer:

(b) the division of the issuer's liabilities into 3 classes may be subdivided further:

(c) the diagram must include the total amount of the issuer's equity below the liabilities specified under paragraph (a)(iii) and that amount must be labelled as "Equity":

(d) the amounts must be indicative amounts based on the financial position of the issuer at its most recent balance date, or any more recent stated date, that is adjusted to reflect the changes in the value of the issuer's assets and liabilities that the issuer reasonably expects to result from the issue or sale:

(e) if it is not reasonably practicable to classify certain liabilities within a particular ranking due to the nature of the liabilities (for example, where there is uncertainty concerning the application of priority rules), the liabilities may be—

(i) classified into an assumed ranking that the issuer considers is reasonable (and, in this case, the diagram must be accompanied by a statement of this assumption); or

(ii) omitted from the diagram (and, in this case, the diagram must be accompanied by a statement of the indicative amount, and general nature, of those liabilities, an explanation for the omission, and a statement of the possible priority ranking of the liabilities):

(f) the amounts must be calculated on the basis of an assumption as to the number of debt securities on issue, being a number that the issuer reasonably considers is likely to provide the most useful information for investors.

(2) The diagram under clause 30(2)(b) must be prepared in accordance with an applicable framework or methodology (if any).

(3) The PDS must—

(a) disclose the number of debt securities that is used for the purposes of subclause (1)(f); and

(b) briefly explain the effect of using that number.

32 Description of each security interest

(1) The description under clause 30(2)(c) must—

(a) describe the nature of the security interest (including its priority as against other security interests in the collateral); and

(b) state the amount of the liability that is secured; and

(c) describe the nature of the assets that are subject to the security interest; and

(d) state the total value of those assets; and

(e) if clause 2 applies, include a statement referred to in clause 2(4)(a) or (b).

(2) The amounts under subclause (1)(b) and (d) must be estimated amounts based on the financial position of the issuer at its most recent balance date, or any more recent stated date, that is adjusted to reflect the changes in the value of the issuer's assets and liabilities that the issuer reasonably expects to result from the issue or sale.

33 Guarantors

(1) The PDS must, under the subheading "**Guarantees**", include a description of the guarantees (if any), including for each guarantee—

(a) the name of the guarantor; and

(b) a description of the nature and amount of the guarantee; and

(c) a statement as to whether the guarantee is subject to limits or conditions and, if so, a description of the principal limits or conditions; and

(d) a statement as to whether the guarantee is secured by a security interest and, if so,—

(i) a description of the nature and amount of the security interest; and

(ii) whichever of the statements specified in subclause (2)(a), (b), and (c) that best applies; and

(e) a statement as to whether the guarantor is a member of the issuing group; and

(f) if the guarantor is not a member of the issuing group but is an associated person of the issuer, a statement to that effect and a brief description of the nature of the association.

(2) The statements are—

(a) a statement that the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to—

(i) repay the liability of the guarantee; and

(ii) pay all other liabilities that a security interest over the property secures and that rank in priority to, or equally with, the guarantee; or

(b) a statement that the security interest is insufficient to repay the liability of the guarantee; or

(c) a statement that there is a real risk that the security interest is insufficient to repay the liability of the guarantee.

34 Continuous issue PDS

If the PDS is a continuous issue PDS, the following apply:

(a) the diagram required by clause 30(2)(b) that is included in the PDS does not need to include the amounts referred to in clause 31 if the PDS

incorporates by reference a publicly available document that contains those amounts in a diagram:

(b) the PDS does not need to include the amounts referred to in clause 32(1)(b) and (d) if the PDS incorporates by reference a publicly available document that contains those amounts:

(c) the amounts stated in the publicly available document—

(i) for clause 31 must be indicative amounts based on the financial position of the issuer at its most recent balance date (and clause 31(1)(d) and (f) and (3) does not apply):

(ii) for clause 32 must be estimated amounts based on the financial position of the issuer at its most recent balance date (and clause 32(2) does not apply):

(d) the publicly available document must be included in the offer register.

[Name of issuing group]'s financial information

35 Application

(1) Clauses 36 to 39 and 45 and 46 apply to section 7 of the PDS ([*name of issuing group*]'s financial information).

(2) However, subclause (1) does not apply if the issuer is an NBDT.

(3) *See* clause 4(3) (which provides that section 7 does not apply if no member of the issuing group has commenced business).

36 [*Name of issuing group*]'s financial information

(1) The PDS must include a statement in the following form:

"This table provides selected financial information about [*name of issuing group*]. Full financial statements are available on the offer register at [*specify Internet site address*]. [*Name of issuing group*]'s financial performance and position is critical to [*name of issuer*]'s ability to meet its obligations, including those owed to you. If you do not understand this sort of financial information, you can seek professional advice."

(2) If no members, or only some of the members, of the issuing group (other than the issuer) are guarantors, the PDS must—

(a) include a statement to this effect; and

(b) briefly describe how the issuing group's financial position and performance is relevant to repayment of the debt securities.

37 Selected financial information and ratios table

(1) The PDS must include a table headed "**Selected financial information and ratios**" that contains, at a minimum, the following information for the issuing group for each of the relevant periods:

(a) revenues as determined in accordance with GAAP:

(b) net profit after tax plus interest, tax, depreciation, and amortisation (**EBITDA**) as each of those items is determined in accordance with GAAP:

(c) net profit after tax as determined in accordance with GAAP:

(d) net cash flows from operating activities as determined in accordance with GAAP:

(e) cash and cash equivalents as determined in accordance with GAAP:

(f) total assets as determined in accordance with GAAP:

(g) total debt (being total interest-bearing liabilities as determined in accordance with GAAP):

(h) total liabilities as determined in accordance with GAAP:

(i) equity as determined in accordance with GAAP:

(j) debt/EBITDA, where debt is determined in accordance with paragraph (g) (but this paragraph does not apply to a relevant period of less than 12 months):

(k) interest expense as determined in accordance with GAAP:

(l) EBITDA/interest expense, where interest expense is determined in accordance with GAAP.

(2) Under the row for debt/EBITDA in the table, a statement in the following form must be included:

"Debt/EBITDA is an indicator of the degree to which an entity has borrowed against earnings. The higher the number, the greater the risk that the entity will not be able to pay off its debts."

(3) Under the row for EBITDA/interest expense in the table, a statement in the following form must be included:

"EBITDA/interest expense is a measure of the ability of an entity to pay interest on borrowings. The lower the number, the greater the risk that the entity will not be able to pay interest."

(4) Subclause (5) applies if—

(a) either or both of the following apply:

(i) a member of the issuing group acquired a business, or became a subsidiary of the issuer, at any time in a relevant period:

(ii) the PDS contains a statement to the effect that a member of the issuing group intends to acquire a business or to acquire equity securities that will result in a body corporate becoming a subsidiary of the issuer; and

(b) the information required by subclause (5) in relation to the business, subsidiary, or body corporate is material information.

(5) If this subclause applies, either or both of the following paragraphs must be complied with:

(a) the PDS must, in the table under subclause (1) or in 1 or more separate tables, separately specify the information referred to in subclause (1)(a) to (i) and (k) for the business, subsidiary, or body corporate for each period referred to in subclause (6) (but this paragraph does not require information for such a period after it ceased to be a part of the issuing group):

(b) pro forma financial information relating to the matters in subclause (1) that is prepared as if the business, subsidiary, or body corporate were a part of the issuing group for each of the relevant periods must be substituted for financial information referred to in subclause (1).

(6) For the purposes of subclause (5)(a), the periods are, in respect of a business, subsidiary, or body corporate (**A**),—

(a) A's most recently completed accounting period before the earlier of—

(i) the date of the PDS:

(ii) the date on which A became part of the issuing group (if that date is before the date of the PDS):

(b) A's accounting period that immediately precedes the period referred to in paragraph (a):

(c) A's accounting period that immediately precedes the period referred to in paragraph (b):

(d) if this paragraph applies under subclause (6A), an interim accounting period from the balance date of the period referred to in paragraph (a) and ending on a stated date (being an interim accounting period that is not less than 6 months):

(e) if this paragraph applies under subclause (6B), an interim accounting period from the balance date of the period referred to in paragraph (a) and ending on a stated date (being an interim accounting period that is not less than 6 months).

(6A) Subclause (6)(d) applies if—

(a) the period referred to in subclause (6)(a) ended more than 9 months before the date of the PDS; and

(b) A became or will become part of the issuing group during or after the issuing group's most recent period; and

(c) A's most recently completed accounting period ended more than 6 months before A became part of the issuing group.

(6B) Subclause (6)(e) applies if—

(a) A became part of the issuing group before the issuing group's most recent period; and

(b) A's most recently completed accounting period ended more than 9 months before A became part of the issuing group; and

(c) the information referred to in subclause (1)(a) to (i) and (k) can be taken or derived from interim financial statements that have already been prepared.

(7) Despite subclauses (5)(a) and (6), information is not required under subclause (5)(a) for an accounting period of A if it ends more than 36 months before the start of the issuing group's current accounting period at the date of the PDS.

Schedule 2 clause 37(4)(b): replaced, on 28 October 2016, by regulation 14(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(5)(a): replaced, on 1 December 2015, by regulation 39(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 37(5)(a): amended, on 28 October 2016, by regulation 14(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(6): inserted, on 1 December 2015, by regulation 39(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 37(6)(a): replaced, on 28 October 2016, by regulation 14(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(6)(d): replaced, on 28 October 2016, by regulation 14(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(6)(e): inserted, on 28 October 2016, by regulation 14(5) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(6A): inserted, on 28 October 2016, by regulation 14(6) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(6B): inserted, on 28 October 2016, by regulation 14(6) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 37(7): replaced, on 28 October 2016, by regulation 14(7) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

38 Financial information for issuer and guarantors

(1) If 1 or more, but not all, members of the issuing group (other than the issuer) are guarantors, the PDS must, in a table, include the financial information specified in subclause (5) for—

(a) the issuer; and

(b) the issuer consolidated with all of the guarantors that are related bodies corporate of the issuer.

(2) However,—

(a) financial information is required to be included under subclause (1) only if the consolidated financial information referred to in subclause (5) for the persons referred to in subclause (1)(b) would be materially different from the equivalent information for the issuing group; and

(b) if, under paragraph (a), the financial information is not required to be included under subclause (1), the information in subclause (5)(b) and (d)

for the issuing group for each of the relevant periods must be included in the table under clause 37(1).

(3) If no members of the issuing group are guarantors, the PDS must, in a table, include the financial information specified in subclause (5) for the issuer if that information would be materially different from the equivalent information for the issuing group.

(4) The PDS must, in a table, include the financial information specified in subclause (5) for each guarantor that is not a member of the issuing group.

(5) The financial information is the following stated as at the issuer's most recent balance date or any more recent stated date:

(a) total assets as determined in accordance with GAAP:

(b) total tangible assets (being total assets less total intangible assets and goodwill as determined in accordance with GAAP):

(c) total liabilities as determined in accordance with GAAP:

(d) total net tangible assets (being total tangible assets under paragraph (b) less total liabilities under paragraph (c)).

(6) The PDS must include,—

(a) above the table under subclause (1), a statement to the effect that the table shows the financial position of the issuer and the related bodies corporate who are guaranteeing the obligations owed under the debt securities; or

(b) above the table under subclause (3), a statement to the effect that the table shows the financial position of the issuer; or

(c) above the table under subclause (4), a statement to the effect that the table shows the financial position of certain persons who are guaranteeing the obligations owed under the debt securities.

(7) If a guarantor is not a member of the issuing group, the PDS must state whether financial statements of, or relating to, the guarantor are available to the public by any means and, if so, how.

39 Miscellaneous rules relating to financial information

(1) The following rules apply to information that is prepared under clause 37 or 38:

(a) the information must be prepared in accordance with an applicable framework or methodology:

(b) other financial measures and non-financial information may be added to a table if the issuer reasonably considers that the added information is likely to be useful for investors:

(c) another GAAP financial measure or non-GAAP financial measure may be substituted for EBITDA or debt if the issuer reasonably considers

that the other information is likely to be more useful to investors than EBITDA or debt:

(d) in the case of paragraph (c), the substituted information must—

(i) be included in the same place in the table as the information that is replaced, and any description and note in the table must be consequentially modified; and

(ii) in the case of EBITDA, be used for the purposes of clause 37(1)(j) and (l) and (2) and (3) (rather than EBITDA); and

(iii) in the case of debt, be used for the purposes of clause 37(1)(g) and (j) and (2) (rather than debt):

(e) in the case of paragraph (b) or (c), the PDS must—

(i) identify any information derived from financial statements or other information that has not been prepared in accordance with GAAP; and

(ii) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register:

(f) interim financial information using amounts prepared in accordance with GAAP may be added to a table:

(g) if a relevant period is an interim accounting period, the table under clause 37 must also include the information under clause 37(1)(a) to (d) for a corresponding interim accounting period in the previous accounting period:

(ga) if a table under clause 37 includes information for a business, subsidiary, or body corporate (**A**) under clause 37(5)(a) for an interim accounting period under clause 37(6)(d) or (e), the table must also include the following information in respect of A:

(i) in the case of a period under clause 37(6)(d), the information under clause 37(1)(a) to (d) for a corresponding interim accounting period in the previous accounting period:

(ii) in the case of a period under clause 37(6)(e), the information under clause 37(1)(a) to (d) for a corresponding interim accounting period in the previous accounting period (but only if that information can be taken or derived from interim financial statements that have already been prepared):

(h) if there are any factors that would materially affect the comparability or usefulness of the information reflected in a table (for example, changes to accounting policies, business combinations, or dispositions),—

(i) pro forma financial information may be added to a table or substituted for financial information for a period; or

(ii) the PDS must include explanatory notes about those factors if those notes are necessary or desirable to explain the effect of the factors on that comparability or usefulness:

(i) in the case of paragraph (h), the PDS must—

(i) identify any information derived from financial statements or other information that has not been prepared in accordance with GAAP; and

(ii) briefly describe the basis on which pro forma information has been prepared; and

(iii) refer to where information on the principal assumptions on which the pro forma financial information is based can be obtained on the offer register; and

(iv) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register:

(j) if clause 37(5) applies in respect of a business, subsidiary, or body corporate (**A**) and information is provided under clause 37(5)(b), A must be treated as being a member of the issuing group for the purposes of paragraph (a) of the definition of relevant period in clause 1(1).

(2) If a PDS includes a non-GAAP profit measure, the PDS must—

(a) state that the measure is not determined in accordance with GAAP; and

(b) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register.

(3) If a PDS includes a GAAP financial measure or a non-GAAP financial measure and either of the following applies, the PDS must include a statement to that effect:

(a) any information used to calculate the financial measure is derived from financial statements, or group financial statements, that have not been audited by a qualified FMC auditor:

(b) any information used to calculate the financial measure is derived from audited financial statements, or audited group financial statements, in respect of which the auditor's report was qualified or referred to a fundamental matter in any respect.

(4) If subclause (3)(b) applies, the PDS must explain what the qualification or fundamental matter was.

(5) If the information required by subclause (3) would, but for this subclause, be required to be specified in 2 or more places in the PDS, the PDS may include the information in 1 or more of those places and in other places include a cross-reference to where the information may be found in the PDS.

(6) In this clause,—

determined in accordance with GAAP, in relation to a measure, means that the measure may be calculated and presented in accordance with GAAP

GAAP financial measure means a numerical measure of an issuer's or issuing group's historical or future financial performance, financial position, or cash flows that is determined in accordance with GAAP

non-GAAP financial measure means a numerical measure of an issuer's or issuing group's historical or future financial performance, financial position, or cash flows that is used as an alternative to, or to supplement, a GAAP financial measure

non-GAAP profit measure means a non-GAAP financial measure that is used as an alternative to, or to supplement, net profit after tax.

Schedule 2 clause 39(1)(ga): inserted, on 28 October 2016, by regulation 14(8) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 2 clause 39(1)(j): inserted, on 1 December 2015, by regulation 39(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 39(3)(a): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

40 Application to NBDTs

Clauses 41 to 46 apply to section 7 of the PDS ([*name of issuer*]'s financial information) if the issuer is an NBDT.

41 [*Name of issuer*]'s financial information

The PDS must include a statement in the following form:

"[*Name of issuer*] is required by law and its trust deed to meet certain financial requirements. This table shows how [*name of issuer*] is currently meeting those requirements. These are minimum requirements. Meeting them does not mean that [*name of issuer*] is safe. The section on specific risks relating to [*name of issuer*]'s creditworthiness sets out risk factors that could cause its financial position to deteriorate. The offer register provides a breakdown of how the figures in this table are calculated, as well as full financial statements."

42 Key ratios table

(1) The PDS must include a table headed "**Key ratios**" that contains, at a minimum, the following information as at the end of each of the relevant periods:

(a) the NBDT's capital ratio as calculated in accordance with the 2010 regulations:

(b) the minimum capital ratio that the NBDT must maintain under the trust deed:

(c) the minimum capital ratio that must be included in the trust deed under regulation 8(2) of the 2010 regulations:

(d) the amount of the NBDT's aggregate exposures to related parties as calculated in accordance with the 2010 regulations:

(e) the maximum limit on aggregate exposures to related parties that the NBDT must not exceed that is included in the trust deed:

(f) the maximum limit on aggregate exposures to related parties that the NBDT must not exceed that must be included in the trust deed under regulation 23(3)(b) of the 2010 regulations:

(g) the liquidity of the NBDT calculated in accordance with the quantitative liquidity requirements included in the trust deed:

(h) the minimum liquidity requirements required by the trust deed.

(2) Under the rows for capital ratios in the table, a statement in the following form must be included:

"The capital ratio is a measure of the extent to which [*name of issuer*] is able to absorb losses without becoming insolvent. The lower the capital ratio, the fewer financial assets [*name of issuer*] has to absorb unexpected losses arising out of its business activities."

(3) Under the rows for exposures to related parties in the table, a statement in the following form must be included:

"Related party exposures are financial exposures that [*name of issuer*] has to related parties. A related party is an entity that is related to [*name of issuer*] through common control or some other connection that may give the party influence over [*name of issuer*] (or [*name of issuer*] over the related party). These related parties include [*specify examples of related parties*]."

(4) Under the rows for liquidity requirements in the table, a statement in the following form must be included:

"Liquidity requirements help to ensure that [*name of issuer*] has sufficient realisable assets on hand to pay its debts as they become due in the ordinary course of business. Failure to comply with liquidity requirements may mean that [*name of issuer*] is unable to repay investors on time, and may indicate other financial problems in its business."

(5) For the purposes of this clause and clause 43,—

(a) **2010 regulations** means the Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposures) Regulations 2010; and

(b) any term or expression that is defined in the Non-bank Deposit Takers Act 2013 or the 2010 regulations and used, but not defined, in this clause has the same meaning as in that Act or the 2010 regulations.

43 Other financial information table

The PDS must include a table headed "**Selected financial information**" that contains, at a minimum, the following information for the NBDT for each of the relevant periods:

(a) total assets as determined in accordance with GAAP:

(b) total liabilities as determined in accordance with GAAP:

(c) net profit after tax as determined in accordance with GAAP:

(d) net cash flows from operating activities as determined in accordance with GAAP:

(e) cash and cash equivalents as determined in accordance with GAAP:

(f) capital as calculated in accordance with the 2010 regulations.

44 Miscellaneous rules relating to financial information

Clause 39 (other than subclause (1)(c) and (d)) applies to information that is prepared under clauses 42 and 43 (applied with all necessary modifications as if the reference to clause 37 were a reference to clause 43 and the reference to clause 37(1)(a) to (d) were a reference to clause 43(c) and (d)).

45 Other limitations, restrictions, and prohibitions

The PDS must set out the following information (unless the information is stated elsewhere in the PDS):

(a) a description of any terms of the trust deed that impose any financial covenant:

(b) a description of any restrictions on the ability of any member of the issuing group to borrow that result from any agreement entered into by the member:

(c) a description of any prohibitions or restrictions on the issuer entering into transactions with any of its associated persons.

46 Continuous issue PDS

If the PDS is a continuous issue PDS, the following apply:

(a) the information required by clauses 36 to 45 may be incorporated by reference to a document that is publicly available:

(b) that document must be included in the offer register.

Risks of investing

47 Application

Clauses 48 to 50 apply section 8 of the PDS (risks of investing).

48 General risks

(1) The PDS must include the subheading "**General risks**" and a statement to the effect that the investor's investment is subject to the general risk or risks summarised under subclause (2).

(2) The PDS must include a summary relating to the following risks (if applicable):

(a) the risk that the issuer becomes insolvent and is unable to meet its obligations under the debt securities; and

(b) if the investor wishes to sell the debt securities before maturity, the risk that the investor is unable to find a buyer or that the amount received is less than the principal amount paid for the debt securities.

(3) In the case of convertibles, the PDS must—

(a) include a statement to the effect that if or when the debt securities convert into other financial products, the risks will change significantly; and

(b) identify the following general risks if the new products are equity securities:

(i) that an investor may receive a return only if dividends are paid or the issuer increases in value and the investor is able to sell his or her equity securities at a higher price than the investor paid for the convertibles:

(ii) that the price of the equity securities may go up or down:

(iii) that if the issuer of the equity securities runs into financial difficulties and is wound up, an investor will be paid only after all creditors and, if applicable, holders of preference shares have been paid:

(iv) that an investor may lose some or all of his or her investment.

Schedule 2 clause 48(3): inserted, on 1 December 2015, by regulation 39(11) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

49 Specific risks

(1) The PDS must include the subheading "**Specific risks relating to [*name of issuer*]'s creditworthiness**" and a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk that the issuer may default on any of its payment obligations under the debt securities.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular debt securities (as compared to other issuers or debt securities); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

Examples

Example 1

ABC Limited is a finance company. Sixty percent of ABC Limited's lending has been made to 3 property developments. The failure of 2 of these property developments would be likely to result in ABC Limited defaulting on its obligations under the debt securities. These property developments are expected to be successful, but ABC Limited considers there is a sufficient chance that 2 or more could fail such that ABC Limited's risk of default is significantly increased.

ABC Limited discloses the concentration of its lending (along with the particulars required by subclause (2)).

Example 2

XYZ Limited is a manufacturer. XYZ Limited has received information suggesting that a key customer, accounting for 40% of its revenues in the last financial year, will not be renewing its contract with XYZ Limited next year. XYZ Limited has sufficient alternative cash flows to meet its obligations under the debt securities, but XYZ Limited considers the impact of the customer loss is sufficient to significantly increase XYZ Limited's risk of default.

XYZ Limited discloses that a key customer may not be renewing its contract (along with the particulars required by subclause (2)).

50 Risks otherwise disclosed in PDS or register entry

(1) To the extent that information about a risk is included elsewhere in the PDS (other than the KIS) or in the register entry, that information is not required to be repeated in section 8 of the PDS for the purposes of clause 49.

(2) However, if information about a risk is not included in section 8 of the PDS as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 49; and

(b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

Tax

51 Application

Clause 52 applies to section 9 of the PDS (tax).

52 Taxation

(1) The PDS must include a statement to the effect that—

(a) New Zealand residents will have resident withholding tax deducted from interest that is payable under the debt securities; and

(b) there may be other tax consequences from acquiring or disposing of the debt securities; and

(c) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(2) This PDS section may include other information on the tax consequences of the investment if, and only if, the information relates to the particular debt securities on offer (rather than to debt securities, or classes of debt securities, generally).

Who is involved?

53 Application

Clauses 54 applies to section 10 of the PDS (who is involved?).

54 Who is involved?

(1) Under the subheading "**Who is involved?**", the PDS must include the following table:

	Name	**Role**
Issuer	[*specify*]	[*brief description of role*]
Supervisor	[*specify*]	[*brief description of role*]

(2) The table may, in addition to the persons referred to in subclause (1), refer to other persons who are involved in the offer or in connection with the debt securities.

How to complain

55 Application

Clause 56 applies to section 11 of the PDS (how to complain).

56 How to complain

(1) The PDS must include a statement as to whether complaints about the debt securities can be made to any 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the issuer:

(b) the supervisor:

(c) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

57 Application

Clause 58 applies to section 12 of the PDS (where you can find more information).

58 Where you can find more information

(1) The PDS must include a statement to the effect that—

(a) further information relating to the issuer and the debt securities is available on the offer register (for example, financial statements); and

(b) a copy of information on the offer register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The PDS must include a statement—

(a) briefly describing any information relating to the issuer or the debt securities that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register; or

(ii) on request to the issuer; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

59 Application

Clause 60 applies to section 13 of the PDS (how to apply).

60 How to apply

The PDS—

(a) must include a short statement explaining how to apply for the debt securities; and

(b) may include a link or reference to the application form.

Contact information

61 Application

Clause 62 applies to section 14 of the PDS (contact information).

62 Contact details

(1) The PDS must state the contact details of—

(a) the issuer; and

(b) the offeror (if the offeror is not the issuer); and

(c) the securities registrar (if the register for the debt securities under subpart 4 of Part 4 of the Act is or will be kept on behalf of the issuer).

(2) The contact details must include an address and a business telephone number.

Part 1A
Modifications for simplified disclosure PDS

Schedule 2 Part 1A: inserted, on 1 December 2015, by regulation 39(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

62A Application

(1) This Part applies to a simplified disclosure PDS for a simplified disclosure offer of debt securities.

(2) *See* regulation 22(2)(b)(i), which refers to the information requirements in Part 1 of this schedule being modified by this Part in the case of a simplified disclosure PDS.

(3) Part 1 of this schedule as modified by this Part applies with all other modifications that are necessary to ensure that the PDS is consistent with the modifications made by this Part.

(4) If, under this Part, a PDS is not required to contain certain information, the issuer may nevertheless elect to include that information in the PDS (in whole or in part).

Schedule 2 clause 62A: inserted, on 1 December 2015, by regulation 39(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

62B PDS sections

(1) This clause modifies clauses 4, 24 to 26, and 35 to 46.

(2) The PDS is not required to have—

(a) a section headed "[*Name of issuing group*] and what it does" (and, accordingly, clauses 24 to 26 do not apply):

(b) a section headed "[*Name of issuing group*]'s financial information" (and, accordingly, clauses 35 to 46 do not apply).

Schedule 2 clause 62B: inserted, on 1 December 2015, by regulation 39(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

62C Key information summary

(1) This clause modifies clauses 5 and 14.

(2) The KIS is not required to have a section headed "Where you can find [*name of issuing group*]'s financial information" (and, accordingly, clause 14 does not apply).

(3) The KIS must have, as the last section of the KIS, a section headed "Where you can find other market information about [*name of issuer*]".

(4) The section referred to in subclause (3) must include—

(a) a statement that short-form disclosure is being used for the offer; and

(b) a statement of the reasons why short-form disclosure may be made (for example, because the debt securities being offered rank equally with, or in priority to, quoted financial products of the issuer); and

(c) a brief description of the existing quoted financial products referred to in regulation 49G(2); and

(d) a statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a licensed market operator for the purpose of that information being made available to participants in the market; and

(e) if the existing quoted financial products referred to in regulation 49G(2) are debt securities, a statement to the effect that investors should look at the market price of the quoted debt securities of the issuer in order to find out how the market assesses the returns and risk premium for those debt securities; and

(f) the URL of the issuer's page on the licensed market operator's Internet site.

Schedule 2 clause 62C: inserted, on 1 December 2015, by regulation 39(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

62D Diagram showing ranking of debt securities

(1) This clause modifies clauses 30(2)(b) and 31.

(2) If the existing quoted financial products referred to in regulation 49G(2) are—

(a) debt securities, the diagram under clause 30(2)(b) must also indicate which class referred to in clause 31(1)(a) those products fall within:

(b) equity securities, the reference to the total amount of the issuer's equity in the diagram under clause 30(2)(b) must also include a statement to the effect that the amount includes an amount in relation to those quoted equity securities.

Schedule 2 clause 62D: inserted, on 1 December 2015, by regulation 39(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 2
Register entry for debt securities when PDS is lodged

63 General register entry information

(1) The register entry must contain the following:

(a) the name of each of the following (as selected from another register kept by the Registrar) or, if the person does not have an entry on such a register, the unique identifying information of the person:

(i) the issuer:

(ii) the supervisor:

(iii) each offeror:

(iv) each guarantor:

(b) the address for communications from the Registrar—

(i) to the issuer:

(ii) to the supervisor:

(iii) to each offeror:

(ba) a New Zealand Business Number (if any) for—

(i) the issuer; and

(ii) the supervisor; and

(iii) each offeror; and

(iv) each guarantor:

(c) an identification of the main industry in which the issuer operates:

(d) a brief description of the debt securities:

(e) a description of the term of the debt securities:

(f) a statement—

(i) of the interest rate or rates that may be earned by holding the debt securities (if the rate or rates are fixed at the date of the PDS); or

(ii) of the basis on which or the method by which the interest rate or rates will be ascertained:

(g) if a holder of the debt securities will or may be liable to make further payments or to pay fees or charges relating to those securities, confirmation of that fact:

(h) if the issuer has the right to extend the time for payment of the principal or interest, or to reduce or cancel the principal or interest, under the debt securities, confirmation of that fact:

(i) if the debt securities are quoted or the issuer intends for the debt securities to be quoted,—

(i) confirmation of that fact; and

(ii) a link to or URL for the page of the Internet site maintained by the licensed market operator that relates to the debt securities or the issuer (if a link or URL is known by the issuer at the date of the PDS):

(j) the intended dates on which the offer opens and, if applicable, closes:

(k) if the PDS is a continuous issue PDS, confirmation of the fact that the debt securities are continuously offered:

(ka) if the offer is a simplified disclosure offer, confirmation (if applicable) that short-form disclosure is being used for the offer:

(l) a statement of the credit rating included in the diagram under clause 16 (if any), the name of the approved rating agency, and the date of that rating:

(m) if there is a minimum amount that an investor who applies for the debt securities is required to invest, a statement of the minimum amount:

(n) if the debt securities will not be issued or transferred unless a minimum amount is raised, a statement of the minimum amount:

(o) if the debt securities are not transferable or there are restrictions on the right to transfer, confirmation of that fact:

(p) if a debt security is or may become convertible into a financial product of another kind, confirmation of that fact and a brief description of the new product:

(q) if the offer is made in reliance on an exemption granted under subpart 2 of Part 9 of the Act, confirmation of that fact and the name of the exemption notice:

(r) if a declaration under subpart 3 of Part 9 of the Act applies to the debt securities, confirmation of that fact:

(s) if the offer is made under subpart 3 of Part 9 of these regulations (mutual recognition), confirmation of that fact:

(t) if the debt securities are offered for the purposes of a registered scheme, the name of the scheme (as selected from another register kept by the Registrar).

(2) Subclause (1)(o) does not apply to the following restrictions:

(a) a restriction in connection with a lien that the issuer has over a debt security:

(b) a restriction to prevent a product holder from having less than a minimum holding:

(c) a restriction that is otherwise expressly permitted by the market rules of a licensed market on which the debt security is quoted.

Schedule 2 clause 63(1)(ba): inserted, on 31 December 2017, by regulation 7 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

Schedule 2 clause 63(1)(ka): inserted, on 1 December 2015, by regulation 39(13) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 63(1)(p): amended, on 1 December 2015, by regulation 39(14) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

64 Financial information on register entry

(1) The register entry must contain the following:

(a) group financial statements for the issuing group for each relevant period for which financial information is required under clause 37, 38, 42, or 43, together with any auditor's report on those statements (*see* subclause (2)):

(b) if a table prepared under clause 37, 38, 42, or 43 includes interim financial information derived from interim financial statements, those interim financial statements:

(c) if group or interim financial statements referred to in paragraph (a) or (b) are not prepared in accordance with GAAP,—

(i) a statement to that effect; and

(ii) a statement to the effect that those financial statements may contain different financial information from the information in section 7 of the PDS; and

(iii) a statement explaining why those financial statements are not prepared in accordance with GAAP:

(d) if a table prepared under clause 37, 38, 42, or 43 includes pro forma financial information, a description of the principal assumptions on which the pro forma financial information contained in the PDS is based:

(e) in the case of clause 39(1)(e)(ii) or (i)(iv), a reconciliation for the purposes of that subparagraph.

(2) For the purposes of subclause (1)(a),—

(a) the group financial statements for the most recent period must be prepared in accordance with GAAP (applied with all necessary modifications as if the issuer (or, if its holding company is a member of the issuing group, that holding company) were an FMC reporting entity with a higher level of public accountability than other FMC reporting entities as referred to in section 461K(1) of the Act); and

(b) those group financial statements must be audited by a qualified FMC auditor; and

(c) the register entry must include a copy of the auditor's report on those statements.

(3) For the purposes of subclause (1)(a) and without limiting subclause (2), the register entry may, instead of including separate group financial statements for each of the most recent period, P_{-1}, and P_{-2}, include group financial statements for the issuing group for the most recent period that incorporate comparative information for P_{-1} and P_{-2}.

(4) However, group financial statements included in the register entry are not required to include comparative information for any period before P_{-2}.

(5) The interim financial statements included under subclause (1)(a) or (b) must be—

(a) prepared in accordance with NZ IAS 34 (but need not be audited); and

(b) accompanied by the audit or review report on those statements (if any).

(6) For the purposes of subclause (1)(e), the reconciliation must—

(a) be a tabular reconciliation to GAAP; and

(b) disclose each material adjustment; and

(c) include explanatory notes about those adjustments if those notes are necessary or desirable in order to explain the tabular information.

(7) This clause does not apply if the offer is a simplified disclosure offer.

Schedule 2 clause 64(2)(b): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 2 clause 64(7): inserted, on 1 December 2015, by regulation 39(15) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

65 Information about guarantees, credit rating, material contracts, and issue expenses to be lodged on register entry

(1) The register entry must contain—

(a) a copy of each guarantee or a summary of its key terms; and

(b) a copy of each report giving a credit rating referred to in clause 16(3); and

(c) if the existence, or any of the terms, of a contract entered into by any member of the issuing group is material information,—

(i) a copy of that contract; or

(ii) a summary of the key terms of that contract (including the terms that are material information); and

(d) an estimate of the sum of the following (labelled as "Total estimated costs of offer and issue" or "Total estimated costs of offer and sale"):

(i) the total of the amounts paid or agreed to be paid by, or on behalf of, 1 or more relevant persons in connection with the offer of the debt securities or the issue or sale of those securities (or both); and

(ii) the total value of all benefits given or agreed to be given by, or on behalf of, 1 or more relevant persons in connection with the

offer of the debt securities or the issue or sale of those securities (or both); and

(e) if an amount paid or agreed to be paid, or a value of a benefit given or agreed to be given, as referred to in paragraph (d) is contingent on, or will differ according to, the amount raised under offer, the interest rate or rates that may be earned by holding the debt securities, or the number of the debt securities that are issued or sold,—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided); and

(f) if the person to whom an amount has been paid or will be paid, or to whom a benefit has been or will be given, as referred to in paragraph (d) is a person A as defined in section 60 of the Act (an expert or a person who has made an endorsement),—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided).

(2) Subclause (1)(b) does not apply to a report if—

(a) lodging the report with the Registrar or otherwise making the report available on the register entry would breach a legal obligation that is binding on the issuer under a contract with the rating agency; and

(b) the rating agency has expressly refused to waive the legal obligation to the extent necessary to allow it to be contained on the register entry.

(3) Subclause (1)(c) does not apply to a contract if—

(a) all of the key terms of the contract (including the terms that are material information) are summarised or otherwise disclosed in the PDS; or

(b) it is entered into in the ordinary course of business of a member of the issuing group.

(3A) Subclause (1)(c) does not apply if the offer is a simplified disclosure offer.

(4) Subclause (1)(d) to (f) does not apply to a continuous issue PDS.

(5) In subclause (1)(d), **relevant person** means the issuer, an offeror, or an associated person of an issuer or offeror.

Schedule 2 clause 65(3A): inserted, on 1 December 2015, by regulation 39(16) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

66 Other register information for NBDTs

If the issuer is an NBDT, the register entry must also contain the following:

(a) the tables required under clauses 42 and 43 of this schedule or clauses 7 and 8 of Schedule 7 (if it is incorporated by reference in the PDS):

(b) tables in the form required by an applicable framework or methodology that show how the capital ratios, aggregate exposures to related parties, and liquidity measures contained in the PDS or in the register entry have been calculated.

Part 3
Ongoing disclosure and updating register entry

67 Information to be lodged with Registrar for updating register

(1) The information to be lodged with the Registrar under regulation 51 is as follows:

(a) in the case of an NBDT, the information referred to in clause 66(a) and (b) as at the end of the most recently completed quarter (regardless of whether or not it is incorporated by reference in the PDS):

(ab) if the interest rate or rates are fixed after the date of the PDS, a statement of those rates:

(ac) if the basis on which or the method by which the interest rate or rates will be ascertained involves a variable and that variable is fixed after the date of the PDS, a statement of the amount at which the variable has been fixed:

Example

The debt securities issued by ABC Limited have an interest rate that floats by reference to Libor (the London interbank offered rate). The interest rate is Libor plus a variable that will be fixed after the date of the PDS.

After the date of the PDS, the variable is fixed at 2%. Therefore, the interest rate is a floating rate of Libor plus 2%.

As a floating rate, the rate is not fixed as referred to in paragraph (ab). However, when the variable is fixed at 2%, ABC Limited must lodge with the Registrar a statement of the amount at which the variable has been fixed.

(b) if the debt securities are continuously offered in the ordinary course of the issuer's business, a statement of the information referred to in the following as at the issuer's most recent balance date or for the issuer's most recently completed accounting period (as the case may be):

(i) clause 34 (if information is incorporated by reference in the PDS under that clause):

(ii) clause 46 (if information is incorporated by reference in the PDS under that clause):

Example

ABC Limited, a continuous issuer of debt securities, incorporates by reference in the PDS a publicly available document that contains a diagram showing the ranking of its liabilities (*see* clause 34).

Within 4 months after each balance date, ABC Limited is required to update that information as at that balance date.

(c) if a person (**A**) becomes a recipient of money from a conduit issuer (within the meaning of section 453 of the Act) in respect of the debt securities,—

(i) A's name (as selected from another register kept by the Registrar) or, if A does not have an entry on such a register, the unique identifying information of A; and

(ii) A's financial service provider number.

(2) The issuer must comply with regulation 51,—

(a) in the case of subclause (1)(a), within 20 working days after the end of each quarter:

(ab) in the case of subclause (1)(ab), within 5 working days after the interest rate or rates are fixed:

(ac) in the case of subclause (1)(ac), within 5 working days after the variable is fixed:

(b) in the case of subclause (1)(b), within 4 months after each balance date of the issuer:

(c) in the case of subclause (1)(c), within 5 working days after the person becomes a recipient of money from a conduit issuer.

(3) In this clause, **interest rate or rates** means the interest rate or rates that may be earned by holding the debt securities.

Schedule 2 clause 67(1)(ab): inserted, on 1 June 2016, by regulation 39(17) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 67(1)(ac): inserted, on 1 June 2016, by regulation 39(17) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 67(2)(ab): inserted, on 1 June 2016, by regulation 39(18) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 67(2)(ac): inserted, on 1 June 2016, by regulation 39(18) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 2 clause 67(3): inserted, on 1 June 2016, by regulation 39(19) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

68 Event disclosures to be made publicly available

(1) If any of the following events occur, the information required by subclause (2) must be made publicly available under regulation 55:

(a) a person becomes or ceases to be a guarantor:

(b) a guarantee is materially changed:

(c) a new credit rating for the issuer, the issuer's holding company, or the debt securities is obtained (or an existing credit rating changes):

(d) the issuer becomes subject to an insolvency event.

(2) The information is—

(a) a statement of the debt securities to which the information relates; and

(b) a brief description of the event; and

(c) a brief description of the implications of the event to assist an investor to assess its potential significance in terms of its impact on the investor's investment.

(3) Subclause (1) does not apply in respect of quoted debt securities.

(4) The issuer must comply with regulation 55 within 5 working days after the date of the event.

Schedule 3
Equity securities

rr 23, 39, 51(b), 55

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1 Interpretation

(1) In this schedule,—

equity securities means the equity securities that are being offered under the PDS

most recent period means the issuing group's most recently completed accounting period before the date of the PDS

P_{-1} means the issuing group's accounting period that immediately precedes the most recent period

P_{-2} means the issuing group's accounting period that immediately precedes P_{-1}

P_{+1} means the issuing group's accounting period that will immediately follow the most recent period

P_{+2} means the issuing group's accounting period that will immediately follow P_{+1}

relevant period—

(a) means each of P_{-2}, P_{-1}, and the most recent period (unless no member of the issuing group was in operation during that period); and

(b) includes, if the most recent period ended more than 9 months before the date of the PDS, an interim accounting period from the balance date of the most recent period and ending on a stated date (being an interim accounting period that is not less than 6 months); and

(c) includes, if there is no relevant period under paragraph (a) or (b) but a member of the issuing group has commenced business and has acquired an asset or has incurred a debt on or before the date of the PDS, the period from the date of commencement of business and ending on a stated date that is not more than 4 months before the date of the PDS; and

(d) includes P_{+1} and P_{+2} (but *see* clauses 39(b) and (c) and 39A)

specified period means the period starting at the beginning of accounting period P_{-2} and ending on the date of the PDS

table 1 means the table or tables relating to selected financial information prepared under clause 35

table 2 means the table or tables relating to capitalisation of the issuer prepared under clause 36.

table 3 *[Revoked]*

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the equity securities that are being offered under the PDS.

Schedule 3 clause 1(1) **relevant period** paragraph (d): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 1(1) **table 3**: revoked, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

2 Rules relating to financial measures

(1) If a PDS includes a non-GAAP profit measure, the PDS must—

(a) state that the measure is not determined in accordance with GAAP; and

(b) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register.

(2) If a PDS includes a GAAP financial measure or a non-GAAP financial measure and either of the following applies, the PDS must include a statement to that effect:

(a) any information used to calculate the financial measure is derived from financial statements, or group financial statements, that have not been audited by a qualified FMC auditor:

(b) any information used to calculate the financial measure is derived from audited financial statements, or audited group financial statements, in respect of which the auditor's report was qualified or referred to a fundamental matter in any respect.

(3) If subclause (2)(b) applies, the PDS must explain what the qualification or fundamental matter was.

(4) If the information required by subclause (1) or (2) would, but for this subclause, be required to be specified in 2 or more places in the PDS, the PDS may include the information in 1 or more of those places and in other places include a cross-reference to where the information may be found in the PDS.

(5) In this clause,—

determined in accordance with GAAP, in relation to a measure, means that the measure may be calculated and presented in accordance with GAAP

GAAP financial measure means a numerical measure of an issuer's or issuing group's historical or future financial performance, financial position, or cash flows that is determined in accordance with GAAP

non-GAAP financial measure means a numerical measure of an issuer's or issuing group's historical or future financial performance, financial position, or cash flows that is used as an alternative to, or to supplement, a GAAP financial measure

non-GAAP profit measure means a non-GAAP financial measure that is used as an alternative to, or to supplement, net profit after tax.

Schedule 3 clause 2(2)(a): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Part 1
PDS for equity securities

PDS sections

3 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Key information summary
2 [*Name of issuing group*] and what it does
3 Purpose of the offer
4 Key dates and offer process
5 Terms of the offer
6 Key features of [*name of financial products*]
7 [*Name of issuing group*]'s financial information
8 Risks to [*name of issuing group*]'s business and plans
9 Tax
10 Where you can find more information
11 How to apply
12 Contact information

(2) The sections of the PDS must be numbered sequentially.

Key information summary

4 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

About [*name of issuing group*]

Purpose of this offer

Key terms of the offer

How pricing of [*name of financial products*] is fixed

How you can get your money out

Key drivers of returns

Key risks affecting this investment

Where you can find [*name of issuing group*]'s financial information

(2) Clauses 5 to 13 specify the information that must be contained in the KIS under each of the section headings in subclause (1).

(3) The section heading relating to financial information may be amended in accordance with clause 13.

5 What is this?

(1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products (for example, ordinary shares)*]. [*Name of financial products*] give you a stake in the ownership of [*name of issuer*]. You may receive a return if *dividends are paid or [*name of issuer*] increases in value and you are able to sell your [*name of financial products*] at a higher price than you paid for them.

If [*name of issuer*] runs into financial difficulties and is wound up, you will be paid only after all creditors †and holders of preference shares have been paid. You may lose some or all of your investment."

*Omit the words "dividends are paid or" if those words are inapplicable or may be false, misleading, deceptive, or confusing.

†Omit the words "and holders of preference shares" if those words are inapplicable or may be false, misleading, deceptive, or confusing.

(2) In the case of co-operative shares, the sentence in subclause (1) relating to a return may instead be in the following form:

"You could receive a return reflecting the performance of [*name of issuer*] through [*specify mechanism for receiving returns (for example, rebates)*]."

(3) In the case of convertibles, the statement in subclause (1) must be modified with the effect that the statement—

(a) identifies the equity securities as being convertible; and

(b) includes the name of the new products and the name of the issuer of the new products; and

(c) briefly specifies how or when the conversion may or will occur (for example, at the investor's option, at the issuer's option, on a specified date, or on the occurrence of a particular event); and

(d) briefly specifies how the conversion will affect the form of returns.

Schedule 3 clause 5(3): inserted, on 1 December 2015, by regulation 40(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

6 About [*name of issuing group*]

The KIS must contain a brief description of the issuing group's business.

Example

ABC Limited and its subsidiaries primarily invest in transport infrastructure in New Zealand, including in major roading public–private partnerships.

7 Purpose of this offer

The KIS must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for).

8 Key terms of the offer

(1) The KIS must contain the key terms of the offer briefly summarised in a table, including—

(a) a brief description of the equity securities (for example, ordinary shares); and

(b) the fixed price of, or other fixed consideration for, the equity securities (if any) or the (fixed or indicative) range within which that price or consideration may be fixed (if any); and

(c) the intended dates on which the offer opens and closes; and

(d) the number or amount of the equity securities being offered and the percentage of the total equity securities of the same class on issue that that number or amount will represent immediately after the issue or sale; and

(e) if a holder of the equity securities will or may be liable to make further payments or to pay fees or charges relating to those securities, a brief description of the nature of the liability, fees, or charges.

(2) If, at the date of the PDS, there is no fixed price of, or other fixed consideration for, the equity securities and no fixed or indicative range within which that price or consideration may be fixed, the KIS must contain a statement to that effect.

(3) Subclause (4) applies if either or both of the following apply:

(a) the PDS states that the equity securities will not be issued or transferred unless applications for a minimum number of those securities are received (*see* section 77(1)(a) of the Act) (the **minimum number**):

(b) there is a maximum number of equity securities being offered (the **maximum number**).

(4) The information under subclause (1)(d) must be disclosed on the basis of the minimum number or the maximum number (or both), as the case may be.

(5) Subclause (1)(d) does not apply to a continuous issue PDS.

(6) In the case of convertibles, the table in subclause (1) must also include a brief description of—

(a) the new products; and

(b) the circumstances in which the conversion may or will occur; and

(c) the terms of the conversion.

Schedule 3 clause 8(6): inserted, on 1 December 2015, by regulation 40(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

9 How pricing of [*name of financial products*] is fixed

(1) The KIS must contain a brief description of how the price of, or other consideration for, the equity securities will be fixed and a reference to section 5 of the PDS (terms of the offer).

(2) This clause does not apply if, at the date of the PDS, the price or consideration is fixed.

10 How you can get your money out

(1) The KIS must include whichever of the following statements best applies:

(a) "[*Name of issuer*] intends to quote these [*name of financial products*] on [*name of licensed market*]. This means you may be able to sell them on the [*name of licensed market*] if there are interested buyers. You may get less than you invested. The price will depend on the demand for the [*name of financial products*].":

(b) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a licensed market in New Zealand but they will be able to be traded on the [*describe established market available for trading*]. This means you may be able to sell them on [*name of established market*] if there are interested buyers. You may get less than you invested. The price will depend on the demand for the [*name of financial products*].":

(c) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a market licensed in New Zealand and there is no other established market for trading them. This means that you may not be able to sell your [*name of financial products*].":

(d) "These [*name of financial products*] cannot be sold or transferred."

(2) For the purposes of subclause (1)(a), if the issuer intends that the equity securities will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(3) The KIS must contain a description of the ability to redeem the equity securities (if any).

(4) In the case of convertibles, the statement in subclause (1) must be modified with the effect that the statement also—

(a) states whether or not the new products are quoted or approved for trading, or the issuer intends that those products will be quoted or approved for trading, on a market licensed in New Zealand or on another established market; and

(b) if the issuer does not intend that the new products will be quoted or approved for trading on an established market, includes a statement that the investor may not be able to sell those new products; and

(c) if the new products cannot be sold or transferred, includes a statement to that effect.

Schedule 3 clause 10(4): inserted, on 1 December 2015, by regulation 40(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

11 Key drivers of returns

(1) The KIS must give a brief summary of what the issuer considers to be—

(a) the current and future aspects of the issuing group's business that have, or may have, the most impact on the financial performance of the business; and

(b) the key strategies and plans for those aspects of the business.

(2) The summary may refer to a PDS page or provide another PDS cross-reference to where information about the matters referred to in subclause (1) may be found.

12 Key risks affecting this investment

(1) The KIS must include a statement in the following form:

"Investments in shares are risky. You should consider if the degree of uncertainty about [*name of issuing group*]'s future performance and returns is suitable for you. The price of these [*name of financial products*] should reflect the potential returns and the particular risks of these [*name of financial products*]. [*Name of issuer*] considers that the most significant risk factors that could affect the value of the [*name of financial products*] are: [*brief summary of the circumstances that must be disclosed under clause 42 (risks) that the issuer considers most significantly increase the risk to the issuing group's financial position, financial performance, or stated plans*]."

(2) In the case of co-operative shares, the statement in subclause (1) may instead be in the following form:

"[*Name of issuer*] considers that the most significant risk factors that could affect the returns received from holding these [*name of financial products*] are:

[*brief summary of the most significant risk factors that the issuer considers may affect the returns*]."

(3) The brief summary under subclause (1) or (2) must include particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities).

(4) The KIS must include a statement in the following form after the statement in subclause (1) or (2):

"This summary does not cover all of the risks of investing in [*name of financial products*]. You should also read [*references to section 8 of the PDS (risks to [name of issuing group]'s business and plans) and to other places in the PDS that describe risk factors (for example, risks arising for investors from the nature of the product)*]."

13 Where you can find [*name of issuing group*]'s financial information

(1) The KIS must include a statement in the following form:

"The financial position and performance of [*name of issuing group*] are essential to an assessment of this offer. *You should also read [*reference to section 7 of the PDS ([name of issuing group]'s financial information)*]."

*If no financial information is required to be provided under section 7 of the PDS, replace this sentence with a statement to that effect and a statement of the reason why no financial information is required (in which case the words "**Where you can find**" may be omitted from the heading of this section of the KIS).

(2) The KIS may include 1 or more items of financial information that may be included in the PDS under clauses 35 to 39A (in which case the words "**Where you can find**" may be omitted from the heading of this section of the KIS).

Schedule 3 clause 13(2): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

14 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

15 Letter from chairperson of issuer's board

After the KIS and the table of contents, the PDS may include a letter from the chairperson of the board.

[Name of issuing group] and what it does

16 Application

Clauses 17 to 24 apply to section 2 of the PDS ([*name of issuing group*] and what it does).

17 Overview

(1) The PDS must give an overview of the business of the issuing group.

(2) The overview—

(a) must cover the specified period (or any shorter period for which it has been in business); and

(b) may cover a longer period if information about a longer period involves material information.

(3) The overview must,—

(a) if the issuer has subsidiaries, include a diagram or brief description of the issuing group, which must—

(i) identify the most significant members of the group; and

(ii) if New Zealand is not the place of incorporation of the issuer, specify the place of incorporation of the issuer; and

(b) if the membership of the issuing group is likely to change after the issue or sale, include, in that diagram or description, information about the likely changes (to the extent that information about the changes is material information); and

(c) describe the nature of the operations, and the main activities, of the issuing group and specify how long it has been undertaking that kind of business; and

(d) briefly describe, in relation to the period covered by the overview, any change to those operations or activities if information about the change is material information; and

(e) briefly describe, in relation to the period covered by the overview, the purchase or sale of any assets by any member of the issuing group if—

(i) information about the purchase or sale is material information; and

(ii) the purchase or sale is not carried out in the ordinary course of business of the member; and

(f) briefly describe the main industry or sector, or industries or sectors, in which the issuing group operates; and

(g) identify the current and future aspects of the issuing group's business that have, or may have, the most impact on the financial performance of the business; and

(h) briefly describe the key strategies and plans for those aspects of the business; and

(i) if either or both of the following has occurred in respect of any member of the issuing group or other relevant party of the issuer, include a statement to that effect:

(i) the member or relevant party has at any time been subject to an insolvency event or been convicted of a crime involving dishonesty:

(ii) the member or relevant party has, in the 10-year period preceding the date of the PDS, been the subject of a successful relevant proceeding or action; and

(j) if any relevant proceeding or action is pending in respect of any member of the issuing group or other relevant party of the issuer at the date of the PDS, include a statement to that effect.

(4) Subclause (3)(i) is not limited by subclause (2).

(5) Subclause (3) applies in relation to a relevant party—

(a) only to the extent that information about the matter is material information; and

(b) only to the extent that the issuer is aware of information about the relevant party after having made reasonable endeavours to obtain all relevant information; and

(c) only if the relevant party is an entity.

(6) Subclause (3)(i)(ii) and (j) applies only to the extent that information about a matter is material information.

18 Directors, senior managers, and individual relevant parties

(1) The PDS must—

(a) specify the names of—

(i) every director of the issuer; and

(ii) every proposed director of the issuer; and

(iii) every senior manager of the issuer; and

(iv) every proposed senior manager of the issuer; and

(b) if any of the following have, at any time, occurred in respect of a person referred to in paragraph (a) or a relevant party of the issuer (whether in New Zealand or overseas), include a statement to that effect and the name and any alternative or former name or names of the person:

(i) the person has been adjudged bankrupt:

(ii) the person has been convicted of a crime involving dishonesty:

(iii) the person has been prohibited from acting as a director, or from taking part in the management, of an entity; and

(c) if either or both of the following has occurred in respect of a person referred to in paragraph (a), or a relevant party of the issuer, in the 10-year period preceding the date of the PDS, include a statement to that

effect and the name and any alternative or former name or names of the person:

(i) the person has been a director or a senior manager of an entity that, while the person held that position or within 2 years after the person ceased to hold that position, became subject to an insolvency event:

(ii) the person has been the subject of a successful relevant proceeding or action; and

(d) if any relevant proceeding or action is pending in respect of a person referred to in paragraph (a) or a relevant party of the issuer at the date of the PDS, include a statement to that effect.

(2) Subclause (1)(c)(i) applies only to the extent that information about the matter is material information.

(3) Subclause (1) applies in relation to a relevant party—

(a) only to the extent that information about the matter is material information; and

(b) only to the extent that the issuer is aware of information about the relevant party after having made reasonable endeavours to obtain all relevant information; and

(c) only if the relevant party is an individual.

(4) The PDS may include information about the role, position, skills, experience, or background of a director, proposed director, senior manager, or proposed senior manager of the issuer if it is material information.

19 Overview must include information about acquired businesses, subsidiaries, and bodies corporate

(1) This clause applies if—

(a) either or both of the following apply:

(i) a member of the issuing group acquired a business, or became a subsidiary of the issuer, at any time in a relevant period:

(ii) the PDS contains a statement to the effect that a member of the issuing group intends to acquire a business or to acquire equity securities that will result in a body corporate becoming a subsidiary of the issuer; and

(b) financial information about the business, subsidiary, or body corporate is material information.

(2) The information under clause 17(3)(c) to (g), (i), and (j) must include information on the business, subsidiary, or body corporate as if references to the issuing group included references to the business, subsidiary, or body corporate.

20 Table of substantial shareholders and of relevant interests held by directors and senior managers, etc

(1) The PDS must include 1 or more tables showing the information under—

(a) subclause (2)(a), (b), and (c) in relation to each product holder of the issuer that has, as at a date not earlier than 20 working days before the date of the PDS, relevant interests in 5% or more of a class of relevant securities:

(b) subclause (2)(a), (b), and (d) in relation to each person who is likely to have, immediately after the issue or sale, relevant interests in 5% or more of a class of relevant securities:

(c) subclause (2)(a), (b), (c), and (d) in relation to each director, proposed director, senior manager, or proposed senior manager of the issuer.

(2) The information is—

(a) the name of the person (**A**) referred to in subclause (1)(a) to (c):

(b) the legal ownership or other nature of the relevant interest that is held, or that is likely to be held, by A:

(c) the percentage and number of the total relevant securities of each class in respect of which A has a relevant interest as at a date not earlier than 20 working days before the date of the PDS:

(d) the percentage and number of the total relevant securities of each class in respect of which A is likely to have a relevant interest immediately after the issue or sale.

(3) Disclosure under this clause must be made on the basis of information of which the issuer is aware after having made reasonable endeavours to obtain all relevant information for the purposes of preparing that disclosure.

(4) If the PDS is a continuous issue PDS, the following apply:

(a) the PDS is not required to contain information about relevant interests that are likely to be held immediately after the issue or sale:

(b) the table that contains the information under subclauses (1)(a) and (c) and (2)(a) to (c) may be incorporated by reference:

(c) the information referred to in paragraph (b) must be included in the offer register if that information is incorporated by reference under that paragraph.

(5) The PDS is not required to include information under this clause relating to co-operative shares held by a director, proposed director, senior manager, or proposed senior manager if—

(a) the co-operative shares are acquired by the director, proposed director, senior manager, or proposed senior manager in his or her capacity as a transacting shareholder; and

(b) the information is not material information.

(6) In this clause, **relevant security**—

(a) means an equity security of the issuer (regardless of whether it is of the same class as the securities on offer); and

(b) includes a financial product that will be converted, or is or may become convertible, into an equity security of the issuer (regardless of whether that equity security is of the same class as the securities on offer).

21 Options to acquire securities of issuer

(1) If an option to acquire equity securities is granted to, or is proposed to be granted to, any person by or on behalf of the issuer, the PDS must contain the following information in respect of each class of the securities that are under option:

(a) a description of the class of securities:

(b) the total number of securities to which the option relates:

(c) the price of each security:

(d) the consideration (if any) given or to be given for each option and the expiry date of the option.

(2) In this clause, **equity securities** means any equity securities of the issuer—

(a) that are of the same class as those on offer; or

(b) that rank equally with, or in priority to, the equity securities on offer in respect of—

(i) a liquidation of the issuer; or

(ii) the payment of dividends.

22 Other equity securities of issuer

(1) If another class of equity securities of the issuer (**class A securities**) ranks equally with, or in priority to, the equity securities on offer, the PDS must—

(a) identify the class A securities and the number of those securities on issue; and

(b) describe the ranking of the equity securities on offer as compared with the class A securities in respect of—

(i) a liquidation of the issuer; and

(ii) the payment of dividends.

(2) The PDS must contain particulars of any voting rights or pre-emptive rights attaching to other classes of equity securities of the issuer if those same rights are not attached to the equity securities on offer.

(3) If any other class of equity securities of the issuer that would rank equally with, or in priority to, the class of equity securities on offer could be issued

(under the issuer's constitution) without a special resolution of the holders of the equity securities on offer, the PDS must—

(a) state that fact; and

(b) briefly describe the circumstances in which those securities could be issued.

(4) In this clause, equity securities rank equally with, or in priority to, the equity securities on offer if those securities rank equally with, or in priority to, the equity securities on offer in either or both of the following circumstances:

(a) a liquidation of the issuer:

(b) the payment of a dividend.

(5) In this clause, **equity securities**—

(a) means any equity securities of the issuer (and not only those being offered under the PDS); but

(b) does not include options.

23 Interests of directors, senior managers, etc

(1) The PDS must—

(a) state, in respect of each director or proposed director of the issuer, the total of the remuneration and the value of other benefits received by that director or proposed director in respect of the issuer or any other member of the issuing group during the most recent period; and

(b) describe the nature of any services provided by a director or proposed director of the issuer to which that remuneration or those benefits relate (other than services provided in that person's capacity as a director); and

(c) state the number of employees or former employees of the issuer, not being directors of the issuer, who, during the most recent period, received remuneration and any other benefits in their capacity as employees that in value was or exceeded $100,000 per annum, and must state the number of such employees or former employees in brackets of $10,000.

(2) If the issuer has reasonable grounds to believe that the remuneration or benefits of the kind referred to in subclause (1) for P_{+1} will be materially different from the remuneration or benefits disclosed under that subclause, the issuer must include—

(a) a statement to that effect; and

(b) a brief description of the expected differences.

(3) The PDS must specify particulars of any direct or indirect material interest in the issuer or any of its subsidiaries, or in any agreement entered into on behalf of or in respect of the issuer or any of its subsidiaries, that—

(a) any specified person has, or has had, at any time during the specified period; and

(b) is material to either or both of the person who has the interest and the issuer or any of its subsidiaries.

(4) In this clause, **specified person** means a director, proposed director, senior manager, or proposed senior manager of the issuer or an associated person of any of them.

24 Other material governance disclosures

The PDS must describe—

(a) any ability under the issuer's constitution or any other agreement for 1 or more persons to exercise a power that would usually be exercised by the shareholders by resolution; and

(b) any restrictions under the issuer's constitution or any agreement on the ability of the holders of the equity securities to control the composition of the board of the issuer; and

(c) any provision under the issuer's constitution or any agreement that provides for the board of the issuer, or a director of the issuer, to act in a manner that the board or the director believes is in the best interests of a person other than the issuer (even though it may not be in the best interests of the issuer).

Purpose of the offer

25 Application

Clause 26 applies to section 3 of the PDS (purpose of the offer).

26 Purpose of the offer

(1) The PDS must give a brief description of the purpose of the offer and of how the money raised under the offer is expected to be allocated to each intended use, including—

(a) particulars of how each intended use relates to the strategies and plans of the issuing group's business; and

(b) information about whether (and, if so, how) the use of the money raised under the offer may change depending on the total amount that is raised; and

(c) a statement as to whether a minimum amount must be raised before the equity securities are issued or transferred (*see* section 77(1)(b) of the Act); and

(d) a statement as to the extent to which the offer is underwritten.

(2) However, a continuous issue PDS is not required to contain information under subclause (1)(c) and (d).

Key dates and offer process

27 Application

(1) Clause 28 applies to section 4 of the PDS (key dates and offer process).

(2) However, section 4 of the PDS does not apply to a continuous issue PDS.

28 Key dates and offer process

(1) The PDS must include—

(a) a table showing the key dates for the offer and the issue or transfer of the equity securities, including the intended dates on which—

(i) the offer opens:

(ii) the offer closes:

(iii) the equity securities are issued or transferred:

(iv) the equity securities are quoted:

(b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 5 of the PDS (terms of the offer).

(2) The table may specify other dates relating to the equity securities (for example, the intended date of the payment of the first dividend).

(3) If an investor is required to make payments on specified dates or at a specified frequency, the PDS must specify the payment dates or frequency and the consequences of failing to make the payments.

(4) In relation to subclause (1)(a)(iv), *see* section 78 of the Act (which provides that an issue or a transfer is void if a quotation condition is not fulfilled).

Terms of the offer

29 Application

Clause 30 applies to section 5 of the PDS (terms of the offer).

30 Terms of the offer

(1) The PDS must include a table that sets out the terms of the offer or provides a cross-reference to where those terms can be found in the PDS (including the terms that are summarised under clause 8).

(2) The following information must be provided in or below the table:

(a) if terms of the offer will be determined in the course of the offer (for example, the price or number of the equity securities), a description of the process by which those terms will be determined:

(b) a description of the factors that were or may be considered in determining the price of, or consideration for, the equity securities and a statement as to whether any independent or objective mechanism has

been used, or will be used, to set the price or consideration (for example, setting the price through a book build with institutional investors or through the use of an independent valuation):

(c) if some or all of the equity securities are offered by way of sale (rather than by way of issue), the name of the offerors and the number of equity securities that each offeror is offering.

(3) The PDS must—

(a) refer to the constitution and any other deed or agreement that sets the terms of the equity securities or other terms of the offer; and

(b) include a statement to the effect that these documents may be obtained from the offer register.

(4) Subclause (1) does not apply—

(a) to any terms implied by law; or

(b) to a term set by the constitution or any other deed or agreement that the issuer considers is not a key term of the offer.

Key features of [name of financial products]

31 Application

Clause 32 applies to section 6 of the PDS (key features of [*name of financial products*]).

32 Key features

(1) The PDS must include—

(a) a description of the key features of the equity securities (to the extent that those features are not already disclosed in section 5 of the PDS (terms of the offer) and are not features that apply to ordinary shares in a company generally); and

(b) a description of the issuer's dividend policy; and

(c) a reference to section 5 of the PDS (terms of the offer) if key features of the equity securities are disclosed in that section (rather than in section 6).

(2) The description under subclause (1)(a) must be sufficient to make it clear why a feature is of significance to investors.

(3) The description under subclause (1)(b) must—

(a) specify the dates and amounts of dividends per equity security that are declared by the issuer in the specified period (on equity securities of the same class as those on offer); and

(b) refer to the information on dividends under section 7 of the PDS (*see* clause 35(1)(d)); and

(c) include a statement to the effect that dividends are not guaranteed, are at the discretion of the directors, and will be declared only after meeting appropriate solvency requirements.

(4) The information under subclause (3)(a) about a dividend may be omitted if the dividend policy described under subclause (1)(b) has significantly changed from the dividend policy that applied when the dividend was declared (and if no information is included about any dividend under subclause (3)(a), the information under subclause (3)(b) must be omitted).

(5) If the PDS is a continuous issue PDS,—

(a) the information under subclause (3)(a) may be incorporated by reference; and

(b) the information under subclause (3)(a) must be included in the offer register if the information is incorporated by reference under paragraph (a).

(6) In the case of convertibles, the following apply:

(a) if the new products are of the same class as financial products that are quoted at the time of the offer, the PDS must include a statement that those products are already quoted:

(b) if the new products are equity securities that are not quoted at the time of the offer, the PDS must include a description of the key features of the new products (to the extent that those features are not already disclosed in section 5 of the PDS (terms of the offer) and are not features that apply to ordinary shares in a company generally).

(7) The description under subclause (6)(b) must be sufficient to make it clear why a feature is of significance to investors.

Schedule 3 clause 32(6): inserted, on 1 December 2015, by regulation 40(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 32(7): inserted, on 1 December 2015, by regulation 40(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

[Name of issuing group]'s financial information

33 Application

(1) Clauses 34 to 40 apply to section 7 of the PDS ([*name of issuing group*]'s financial information).

(2) However, that section is not required if no financial information is required to be included in the PDS under clauses 35 to 39.

34 Issuing group's financial information

The PDS must include a statement in the following form:

"These tables provide key financial information about [*name of issuing group*]. Full financial statements are available on the offer register at [*specify Internet*

site address]. If you do not understand this financial information, you can seek advice from a financial advice provider or an accountant."

Schedule 3 clause 34: amended, on 15 March 2021, by regulation 28 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

35 Selected financial information (table 1)

(1) The PDS must include a table headed "**Selected financial information**" that contains, at a minimum, the following information for the issuing group for each of the relevant periods:

(a) revenues as determined in accordance with GAAP:

(b) net profit after tax plus interest, tax, depreciation, and amortisation (**EBITDA**) as each of those items is determined in accordance with GAAP:

(c) net profit after tax as determined in accordance with GAAP:

(d) dividends on all equity securities of the issuer (showing both the total dividends for each class of equity securities and a total for all of the equity securities):

(e) total assets as determined in accordance with GAAP:

(f) cash and cash equivalents as determined in accordance with GAAP:

(g) total liabilities as determined in accordance with GAAP:

(h) total debt (being total interest-bearing liabilities as determined in accordance with GAAP):

(i) net cash flows from operating activities as determined in accordance with GAAP.

(2) Subclause (3) applies if—

(a) either or both of the following apply:

(i) a member of the issuing group acquired a business, or became a subsidiary of the issuer, at any time in a relevant period:

(ii) the PDS contains a statement to the effect that a member of the issuing group intends to acquire a business or to acquire equity securities that will result in a body corporate becoming a subsidiary of the issuer; and

(b) the information required by subclause (3) in relation to the business, subsidiary, or body corporate is material information.

(3) If this subclause applies, either or both of the following paragraphs must be complied with:

(a) the PDS must, in the table under subclause (1) or in 1 or more separate tables, separately specify the information referred to in subclause (1)(a) to (c) and (e) to (i) for the business, subsidiary, or body corporate for each period referred to in subclause (5) (but this paragraph does not

require information for such a period after it ceased to be a part of the issuing group):

(b) pro forma financial information in relation to the matters in subclause (1) that is prepared as if the business, subsidiary, or body corporate were a part of the issuing group for each of the relevant periods must be substituted for financial information referred to in subclause (1) (*see* clause 39(l) and (m)).

(4) In this clause, **equity securities** means any equity securities (and not only those being offered under the PDS).

(5) For the purposes of subclause (3)(a), the periods are, in respect of a business, subsidiary, or body corporate (**A**),—

(a) A's most recently completed accounting period before the earlier of—

(i) the date of the PDS:

(ii) the date on which A became part of the issuing group (if that date is before the date of the PDS):

(b) A's accounting period that immediately precedes the period referred to in paragraph (a):

(c) A's accounting period that immediately precedes the period referred to in paragraph (b):

(d) if this paragraph applies under subclause (5A), an interim accounting period from the balance date of the period referred to in paragraph (a) and ending on a stated date (being an interim accounting period that is not less than 6 months):

(e) if this paragraph applies under subclause (5B), an interim accounting period from the balance date of the period referred to in paragraph (a) and ending on a stated date (being an interim accounting period that is not less than 6 months).

(5A) Subclause (5)(d) applies if—

(a) the period referred to in subclause (5)(a) ended more than 9 months before the date of the PDS; and

(b) A became or will become part of the issuing group during or after the issuing group's most recent period; and

(c) A's most recently completed accounting period ended more than 6 months before A became part of the issuing group.

(5B) Subclause (5)(e) applies if—

(a) A became part of the issuing group before the issuing group's most recent period; and

(b) A's most recently completed accounting period ended more than 9 months before A became part of the issuing group; and

(c) the information referred to in subclause (1)(a) to (c) and (e) to (i) can be taken or derived from interim financial statements that have already been prepared.

(6) Despite subclauses (3)(a) and (5), information is not required under subclause (3)(a) for an accounting period of A if it ends more than 36 months before the start of the issuing group's current accounting period at the date of the PDS.

Schedule 3 clause 35(2)(b): replaced, on 28 October 2016, by regulation 15(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(3)(a): replaced, on 1 December 2015, by regulation 40(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 35(3)(a): amended, on 28 October 2016, by regulation 15(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(5): inserted, on 1 December 2015, by regulation 40(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 35(5)(a): replaced, on 28 October 2016, by regulation 15(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(5)(d): replaced, on 28 October 2016, by regulation 15(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(5)(e): inserted, on 28 October 2016, by regulation 15(5) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(5A): inserted, on 28 October 2016, by regulation 15(6) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(5B): inserted, on 28 October 2016, by regulation 15(6) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 35(6): replaced, on 28 October 2016, by regulation 15(7) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

36 Capitalisation (table 2)

(1) This clause applies if—

(a) the PDS states or implies that the issuer intends to quote the equity securities, or have the equity securities approved for trading, on a financial product market (whether in New Zealand or elsewhere); and

(b) the issuer does not currently have any equity securities quoted, or approved for trading, on that market; and

(c) the price of, or other consideration for, the equity securities is fixed or the PDS states a (fixed or indicative) range within which that price or consideration may be fixed; and

(d) at least 1 of the following applies:

(i) the number of equity securities being offered is fixed:

(ii) there is a (fixed or indicative) range within which the number of equity securities being offered may be fixed:

(iii) the PDS states that the equity securities will not be issued or transferred unless applications for a minimum number of those securities are received (the **minimum number**):

(iv) there is a maximum number of equity securities being offered (the **maximum number**).

(2) The PDS must include a table headed "**Capitalisation table**" that contains, at a minimum, the following information:

(a) the number of equity securities being offered, the range referred to in subclause (1)(d)(ii), the minimum number, or the maximum number:

(b) an indicative value of all of the issuer's equity securities immediately after the issue or sale:

Example of calculation of implied market capitalisation

ABC Limited currently has 3 million shares. It is offering a further 7 million shares at $1 each. After the issue, it will have 10 million shares on issue. ABC Limited's implied market capitalisation is $10 million.

(c) an indicative total value of the issuer immediately after the issue or sale.

Example of calculation of implied enterprise value

ABC Limited's implied market capitalisation is $10 million. After the issue, it will have interest-bearing liabilities of $5 million and will hold cash and cash equivalents of $1 million. ABC Limited's implied enterprise value is $14 million ($10 million plus $5 million less $1 million).

(3) For the purposes of subclause (2)(b), the indicative value must—

(a) take into account—

(i) the price of, or other consideration for, the equity securities; and

(ii) if the issuer has equity securities other than those on offer, a reasonable estimate of the market price of those securities; and

(b) be labelled as the implied market capitalisation of the issuer.

(4) For the purposes of subclause (2)(c), the indicative total value must be—

(a) based on the implied market capitalisation of the issuer (disclosed under subclause (2)(b)) plus a reasonable estimate of the amount that a purchaser of the issuer would need to settle the claims of all of the holders of debt securities of every member of the issuing group; and

(b) labelled as the implied enterprise value of the issuer.

(5) If the PDS states a (fixed or indicative) range within which the price or consideration may be fixed, the information under subclause (2)(b) and (c) must be expressed as ranges taking into account the minimum price or consideration and the maximum price or consideration.

(6) If subclause (1)(d)(ii), (iii), or (iv) applies, the information under subclause (2)(b) and (c) must be calculated on the basis of an assumption as to the number of equity securities on issue, being a number that the issuer reasonably considers is likely to provide the most useful information for investors.

(7) The PDS must—

(a) disclose the number that is used for the purposes of subclause (6); and

(b) briefly explain the effect of using that number.

(8) In subclauses (2)(b), (3)(a)(ii), and (6), **equity securities** means any equity securities of the issuer (and not only those being offered under the PDS).

37 Explanation of implied market capitalisation and implied enterprise value

The PDS must, under table 2, include statements in the following form:

"Implied market capitalisation is the value of all of the issuer's equity securities, as implied by the price of the [*name of equity securities*] being offered. It tells you what [*name of offeror*] is proposing that [*name of issuer*]'s equity is worth.

Implied enterprise value (**EV**) is a measure of the total value of the business of [*name of issuer*], as implied by the price of the [*name of equity securities*] being offered. Implied enterprise value is the amount that a person would need to pay to acquire all of [*name of issuer*]'s equity securities and to settle all of the [*name of issuing group*]'s borrowings. It is a measure of what [*name of offeror*] is proposing the business of [*name of issuing group*] as a whole is worth."

38 Key investment metrics for the offer (table 3)

[Revoked]

Schedule 3 clause 38: revoked, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

39 Miscellaneous rules relating to financial information

The following rules apply to information that is prepared under clauses 35 and 36:

(a) the information must be prepared in accordance with an applicable framework or methodology (if any):

(b) in table 1,—

(i) prospective financial information must be provided for P_{+1} and P_{+2} only in the case of a first regulated offer of the equity securities of the issuer (and that information is not required if any equity securities of the issuer have previously been offered to the public in New Zealand under the Securities Act 1978); and

(ii) if prospective financial information for P_{+1} and P_{+2} is not required as a result of subparagraph (i), that information may be included if the issuer thinks fit; and

(iii) prospective financial information may also be provided for any subsequent accounting period:

(c) the prospective financial information for table 1 is not required in relation to a period or any part of a period if—

(i) the issuer considers, after having made reasonable endeavours to obtain all relevant information, that prospective financial information for that period or part of a period would be likely to deceive or mislead with regard to any particular that is material to the offer of the equity securities (for example, because it is not practicable to formulate reasonable assumptions on which to base the prospective financial information); and

(ii) the PDS contains a statement to that effect together with a statement of the issuer's reasons for that opinion:

(d) the PDS must—

(i) briefly summarise the principal assumptions on which the prospective financial information in the PDS is based; and

(ii) refer to where information about those assumptions can be obtained on the offer register:

(e) other financial measures and non-financial information may be added to a table if the issuer reasonably considers that the added information is likely to be useful for investors:

(f) another GAAP financial measure or non-GAAP financial measure may be substituted for EBITDA or debt if the issuer reasonably considers that the other financial measure is likely to be more useful to investors than EBITDA or debt:

(g) in the case of an offer of co-operative shares, other financial measures of earnings or distributions may be substituted for EBITDA, net profit, or dividends if the issuer reasonably considers that the other financial measures are likely to be more useful to investors:

(h) in the case of paragraph (f) or (g), the substituted information must be included in the same place in the table as the information that is replaced and any description and note in the table must be consequentially modified:

(i) in the case of paragraphs (e) to (g), the PDS must—

(i) identify any information derived from financial statements or other information that has not been prepared in accordance with GAAP; and

(ii) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register:

(j) interim financial information using amounts determined in accordance with GAAP may be added to table 1:

(k) if a relevant period is an interim accounting period, the table under clause 35 must also include the information under clause 35(1)(a) to (d) and (i) for a corresponding interim accounting period in the previous accounting period:

(ka) if a table under clause 35 includes information for a business, subsidiary, or body corporate (**A**) under clause 35(3)(a) for an interim accounting period under clause 35(5)(d) or (e), the table must also include the following information in respect of A:

(i) in the case of a period under clause 35(5)(d), the information under clause 35(1)(a) to (c) and (i) for a corresponding interim accounting period in the previous accounting period:

(ii) in the case of a period under clause 35(5)(e), the information under clause 35(1)(a) to (c) and (i) for a corresponding interim accounting period in the previous accounting period (but only if that information can be taken or derived from interim financial statements that have already been prepared):

(l) if there are any factors that would materially affect the comparability or usefulness of the information reflected in a table (for example, changes to accounting policies, business combinations, or dispositions),—

(i) pro forma financial information may be added to a table or substituted for financial information for a period; or

(ii) the PDS must include explanatory notes about those factors if those notes are necessary or desirable to explain the effect of the factors on that comparability or usefulness:

(m) in the case of the PDS including pro forma information, the PDS must—

(i) identify any information derived from financial statements or other information that has not been prepared in accordance with GAAP; and

(ii) briefly describe the basis on which pro forma information has been prepared; and

(iii) refer to where information about the principal assumptions on which the pro forma financial information is based can be obtained on the offer register; and

(iv) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register:

(n) if clause 35(3) applies in respect of a business, subsidiary, or body corporate (**A**) and information is provided under clause 35(3)(b), A must be treated as being a member of the issuing group for the purposes of paragraph (a) of the definition of relevant period in clause 1(1).

Schedule 3 clause 39: amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 39(b): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 39(c): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 39(h): replaced, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 39(ka): inserted, on 28 October 2016, by regulation 15(8) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 3 clause 39(n): inserted, on 1 December 2015, by regulation 40(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

39A Prospective financial information for initial public offerings

(1) Clause 39 does not apply in respect of prospective financial information if—

(a) the PDS states or implies that the issuer intends to quote the equity securities, or have the equity securities approved for trading, on a financial product market (whether in New Zealand or elsewhere); and

(b) the issuer does not currently have any equity securities quoted, or approved for trading, on that market.

(2) Instead, the following rules apply in respect of prospective financial information:

(a) prospective financial information for P_{+1} and P_{+2} is not required to be included in the PDS:

(b) the PDS may include prospective financial information for P_{+1} (and any subsequent accounting periods) if the issuer thinks fit:

(c) if the PDS does not include prospective financial information under paragraph (b), the PDS must state that prospective information is not provided and give reasons for this:

(d) if the PDS includes prospective financial information under paragraph (b), the issuer may prepare the information on any basis (whether in accordance with GAAP or not) and present it in any form (for example, a table or a narrative description), but the PDS must—

(i) identify the basis on which the prospective financial information in the PDS has been prepared; and

(ii) briefly summarise the principal assumptions on which the prospective financial information in the PDS is based; and

(iii) refer to where information about those assumptions can be obtained on the offer register.

Schedule 3 clause 39A: inserted, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

40 Continuous issue PDS

If the PDS is a continuous issue PDS, the following apply:

(a) the information in table 1 may be incorporated by reference:

(b) the information in table 1 must be included in the offer register if the information is incorporated by reference under paragraph (a):

(c) prospective financial information in table 1 is not required:

(d) table 2 is not required.

Schedule 3 clause 40(d): replaced, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Risks to [name of issuing group]'s business and plans

41 Application

Clauses 42 and 43 apply to section 8 of the PDS (risks to [*name of issuing group*]'s business and plans).

42 Risks

(1) The PDS must include a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk to the issuing group's financial position, financial performance, or stated plans.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

43 Risks otherwise disclosed in PDS or register entry

(1) To the extent that information about a risk is included elsewhere in the PDS (other than the KIS) or in the register entry, that information is not required to be repeated in section 8 of the PDS for the purposes of clause 42.

(2) However, if information about a risk is not included in section 8 of the PDS as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 42; and

(b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

Tax

44 Application

Clause 45 applies to section 9 of the PDS (tax).

45 Taxation

(1) The PDS must include a statement to the effect that—

(a) tax can have significant consequences for investments; and

(b) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(2) This PDS section may include other information on the tax consequences of the investment if, and only if, the information relates to the particular equity securities on offer (rather than to equity securities, or classes of equity securities, generally).

Where you can find more information

46 Application

Clause 47 applies to section 10 of the PDS (where you can find more information).

47 Where you can find more information

(1) The PDS must include a statement to the effect that—

(a) further information relating to the issuer and the equity securities is available on the offer register (for example, the issuer's constitution and financial statements); and

(b) a copy of information on the offer register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The PDS must include—

(a) a link to, or URL for, an Internet site for a register kept by the Registrar on which there is an entry for the issuer (for example, the New Zealand register or the overseas register kept under the Companies Act 1993); and

(b) a statement to the effect that further information relating to the issuer is available from that Internet site.

(4) The PDS must include a statement—

(a) briefly describing any information relating to the issuer or the equity securities that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register or the register referred to in subclause (3)(a); or

(ii) on request to the issuer; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

48 Application

Clause 49 applies to section 11 of the PDS (how to apply).

49 How to apply

The PDS—

(a) must include a short statement explaining how to apply for the equity securities; and

(b) may include a link or reference to the application form.

Contact information

50 Application

Clause 51 applies to section 12 of the PDS (contact information).

51 Contact details

(1) The PDS must state the contact details of—

(a) the issuer; and

(b) the offeror (if the offeror is not the issuer); and

(c) the securities registrar (if the register for the equity securities under subpart 4 of Part 4 of the Act is or will be kept on behalf of the issuer).

(2) The contact details must include an address and a business telephone number.

Part 1A
Modifications for simplified disclosure PDS

Schedule 3 Part 1A: inserted, on 1 December 2015, by regulation 40(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51A Application

(1) This Part applies to a simplified disclosure PDS for a simplified disclosure offer of equity securities.

(2) *See* regulation 23(1A)(a), which refers to the information requirements in Part 1 of this schedule being modified by this Part in the case of a simplified disclosure PDS.

(3) Part 1 of this schedule as modified by this Part applies with all other modifications that are necessary to ensure that the PDS is consistent with the modifications made by this Part.

(4) If, under this Part, a PDS is not required to contain certain information, the issuer may nevertheless elect to include that information in the PDS (in whole or in part).

Schedule 3 clause 51A: inserted, on 1 December 2015, by regulation 40(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51B PDS sections

(1) This clause modifies clauses 3, 16 to 24, and 33 to 43.

(2) The PDS is not required to have—

(a) a section headed "[*Name of issuing group*] and what it does" (and, accordingly, clauses 16 to 24 do not apply):

(b) a section headed "[*Name of issuing group*]'s financial information" (and, accordingly, clauses 33 to 40 do not apply):

(c) a section headed "Risks to [*name of issuing group*]'s business and plans" (and, accordingly, clauses 41 to 43 do not apply).

Schedule 3 clause 51B: inserted, on 1 December 2015, by regulation 40(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51C Key information summary

(1) This clause modifies clauses 4 and 11 to 13.

(2) The KIS is not required to have—

(a) a section headed "Key drivers of returns" (and, accordingly, clause 11 does not apply):

(b) a section headed "Key risks affecting this investment" (and, accordingly, clause 12 does not apply):

(c) a section headed "Where you can find [*name of issuing group*]'s financial information" (and, accordingly, clause 13 does not apply).

(3) The KIS must have, as the last section of the KIS, a section headed "Where you can find other market information about [*name of issuer*]".

(4) The section referred to in subclause (3) must include—

(a) a statement that short-form disclosure is being used for the offer; and

(b) a statement of the reasons why short-form disclosure may be made (for example, because the equity securities being offered rank equally with, or in priority to, quoted financial products of the issuer); and

(c) a brief description of the existing quoted financial products referred to in regulation 49G(2); and

(d) a statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a licensed market operator for the purpose of that information being made available to participants in the market; and

(e) a statement to the effect that investors should look at the market price of the issuer's quoted financial products in order to find out how the market assesses the value of those financial products; and

(f) the URL of the issuer's page on the licensed market operator's Internet site.

Schedule 3 clause 51C: inserted, on 1 December 2015, by regulation 40(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51D Key features of [*name of financial products*]

In the section headed "Key features of [*name of financial products*]" (*see* clause 32), the PDS must include a description of the ranking of the equity securities as compared with each of the issuer's quoted equity securities in respect of—

(a) a liquidation of the issuer; and

(b) the payment of dividends.

Schedule 3 clause 51D: inserted, on 1 December 2015, by regulation 40(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 2
Register entry for equity securities when PDS lodged

52 General register entry information

(1) The register entry must contain the following:

(a) the name of the issuer and of each offeror (as selected from another register kept by the Registrar) or, if the issuer or offeror does not have an entry on such a register, the unique identifying information of the issuer or offeror:

(b) the address for communications from the Registrar to the issuer and to each offeror:

(ba) a New Zealand Business Number (if any) for the issuer and each offeror:

(c) an identification of the main industry in which the issuer operates:

(d) a brief description of the equity securities:

(da) the fixed price of, or other fixed consideration for, the equity securities (if any), the (fixed or indicative) range within which that price or consideration may be fixed (if any), or a brief description of how the price of, or other consideration for, the equity securities will be fixed:

(e) if a holder of the equity securities will or may be liable to make further payments or to pay fees or charges relating to those securities, confirmation of that fact:

(f) if the equity securities are quoted or the issuer intends for the equity securities to be quoted,—

(i) confirmation of that fact; and

(ii) a link to or URL for the page of the Internet site maintained by the licensed market operator that relates to the equity securities or the issuer (if a link or URL is known by the issuer at the date of the PDS):

(g) the intended dates on which the offer opens and, if applicable, closes:

(h) if the PDS is a continuous issue PDS, confirmation of the fact that the equity securities are continuously offered:

(ha) if the offer is a simplified disclosure offer, confirmation (if applicable) that short-form disclosure is being used for the offer:

(i) if there is a minimum amount that an investor who applies for the equity securities is required to invest, a statement of the minimum amount:

(j) if the equity securities will not be issued or transferred unless a minimum amount is raised, a statement of the minimum amount:

(k) if there are restrictions, under the terms of the offer, on the investors in New Zealand who are able to acquire the equity securities, a statement to that effect and a brief description of those restrictions (for example, a brief description of eligibility criteria that an investor must satisfy):

(l) if the equity securities are not transferable or there are restrictions on the right to transfer, confirmation of that fact:

(m) if an equity security is or may become convertible into a financial product of another kind, confirmation of that fact and a brief description of the new product:

(n) if the offer is made in reliance on an exemption granted under subpart 2 of Part 9 of the Act, confirmation of that fact and the name of the exemption notice:

(o) if a declaration under subpart 3 of Part 9 of the Act applies to the equity securities, confirmation of that fact:

(p) if the offer is made under subpart 3 of Part 9 of these regulations (mutual recognition), confirmation of that fact.

(2) Subclause (1)(l) does not apply to the following restrictions:

(a) a restriction in connection with a lien that the issuer has over an equity security:

(b) a restriction to prevent a product holder from having less than a minimum holding:

(c) a restriction that is otherwise expressly permitted by the market rules of a licensed market on which the financial product is quoted.

Schedule 3 clause 52(1)(ba): inserted, on 31 December 2017, by regulation 8 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

Schedule 3 clause 52(1)(da): inserted, on 1 June 2016, by regulation 40(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 52(1)(ha): inserted, on 1 December 2015, by regulation 40(11) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 52(1)(m): amended, on 1 December 2015, by regulation 40(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

53 Financial information on register entry

(1) The register entry must contain the following:

(a) group financial statements for the issuing group for each relevant period for which financial information is required under clause 35 (other than P_{+1} and P_{+2}) together with any auditor's report on those statements (*see* subclause (2)):

(b) if a table prepared under clause 35 includes financial information under clause 35(2) and (3) for a business, subsidiary, or body corporate, the financial statements from which that information is taken or derived, together with any auditor's report on those statements:

(c) if a table prepared under any of clauses 35 to 37 includes prospective financial information, prospective financial statements prepared in accordance with FRS-42:

(d) if a table prepared under any of clauses 35 to 37 includes interim financial information derived from interim financial statements, those interim financial statements:

(e) if a table prepared under any of clauses 35 to 37 includes pro forma financial information, a description of the principal assumptions on which the pro forma financial information contained in the PDS is based:

(f) in the case of clauses 2(1)(b) and 39(i)(ii) and (m)(iv), a reconciliation for the purposes of that provision:

(g) if prospective financial information is included under clause 39A,—

(i) any key information on which the prospective financial information is based (for example, financial statements if the prospective financial information is based on these); and

(ii) a description of the principal assumptions, and any other significant assumptions, on which the prospective financial information is based.

(2) For the purposes of subclause (1)(a),—

(a) the group financial statements for the most recent period must be prepared in accordance with GAAP (applied with all necessary modifications as if the issuer were an FMC reporting entity with a higher level of

public accountability than other FMC reporting entities as referred to in section 461K(1) of the Act); and

(b) those group financial statements must be audited by a qualified FMC auditor; and

(c) the register entry must include a copy of the auditor's report on those statements.

(3) For the purposes of subclause (1)(a) and without limiting subclause (2), the register entry may, instead of including separate group financial statements for each of the most recent period, P_{-1}, and P_{-2}, include group financial statements for the issuing group for the most recent period that incorporate comparative information for P_{-1} and P_{-2}.

(4) *[Revoked]*

(5) Despite subclauses (2) and (3), group financial statements or financial statements included in the register entry are not required to include comparative information for any period before P_{-2}.

(6) If financial statements referred to in subclause (1)(a), (b), or (d) are not prepared in accordance with GAAP, the register entry must include—

(a) a statement to that effect; and

(b) a statement that those financial statements may contain different financial information from the information in the table headed "**Selected financial information**" in the PDS; and

(c) a statement explaining why those financial statements are not prepared in accordance with GAAP.

(7) The interim financial statements included under subclause (1)(a) or (d) must be—

(a) prepared in accordance with NZ IAS 34 (but need not be audited); and

(b) accompanied by the audit or review report on those statements (if any).

(8) For the purposes of subclause (1)(f), the reconciliation must—

(a) be a tabular reconciliation to GAAP; and

(b) disclose each material adjustment; and

(c) include explanatory notes about those adjustments if those notes are necessary or desirable in order to explain the tabular information.

(9) This clause does not apply if the offer is a simplified disclosure offer.

Schedule 3 clause 53(1)(b): replaced, on 1 December 2015, by regulation 40(13) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 53(1)(c): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 53(1)(d): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 53(1)(e): amended, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 53(1)(g): inserted, on 12 June 2025, by regulation 21 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 3 clause 53(2)(b): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 3 clause 53(4): revoked, on 1 December 2015, by regulation 40(14) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 53(5): amended, on 1 December 2015, by regulation 40(15) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 53(6): amended, on 1 December 2015, by regulation 40(16) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 53(9): inserted, on 1 December 2015, by regulation 40(17) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

54 Information about constitution, material contracts, and issue expenses to be lodged on register entry

(1) The register entry must contain—

(a) a copy of the constitution of the issuer; and

(b) if the existence, or any of the terms, of a contract entered into by any member of the issuing group is material information,—

(i) a copy of that contract; or

(ii) a summary of the key terms of that contract (including the terms that are material information); and

(c) an estimate of the sum of the following (labelled as "Total estimated costs of offer and issue" or "Total estimated costs of offer and sale"):

(i) the total of the amounts paid or agreed to be paid by, or on behalf of, 1 or more relevant persons in connection with the offer of the equity securities or the issue or sale of those securities (or both); and

(ii) the total value of all benefits given or agreed to be given by, or on behalf of, 1 or more relevant persons in connection with the offer of the equity securities or the issue or sale of those securities (or both); and

(d) if an amount paid or agreed to be paid, or a value of a benefit given or agreed to be given, as referred to in paragraph (c) is contingent on, or will differ according to, the price of, or other consideration for, the equity securities, the amount raised under the offer, or the number of those securities that are issued or sold,—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided); and

(e) if the person to whom an amount has been paid or will be paid, or to whom a benefit has been or will be given, as referred to in paragraph (c) is a person A as defined in section 60 of the Act (an expert or a person who has made an endorsement),—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided).

(2) Subclause (1)(b) does not apply to a contract if—

(a) all of the key terms of the contract (including the terms that are material information) are summarised or otherwise disclosed in the PDS; or

(b) it is entered into in the ordinary course of business of a member of the issuing group.

(2A) Subclause (1)(b) does not apply if the offer is a simplified disclosure offer.

(3) Subclause (1)(c) to (e) does not apply to a continuous issue PDS.

(4) In subclause (1)(c), **relevant person** means the issuer, an offeror, or an associated person of an issuer or offeror.

Schedule 3 clause 54(2A): inserted, on 1 December 2015, by regulation 40(18) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 3
Ongoing disclosure and updating register entry

55 Information to be lodged with Registrar for updating register

(1) Subclause (2) applies if the equity securities are continuously offered in the ordinary course of the issuer's business.

(2) The information to be lodged with the Registrar under regulation 51 is as follows:

(a) if information under clause 20 is incorporated by reference in the PDS, a statement of the information referred to in clause 20(1)(a) and (c) and (2)(a) to (c) as at the date of the latest confirmation notice under regulation 52:

(b) if information under clause 32(3)(a) is incorporated by reference in the PDS, a statement of the information referred to in clause 32(3)(a) for dividends declared in the most recently completed accounting period:

(c) if information under clause 35 is incorporated by reference in the PDS, a statement of the information referred to in clause 35 for the most recently completed accounting period:

Example

ABC Limited, a continuous issuer of equity securities, incorporates by reference in the PDS selected financial information for the issuing group (*see* clause 40).

Within 4 months after each balance date, ABC Limited is required to update that financial information for the accounting period ending on that balance date.

(2A) If the price of, or other consideration for, the equity securities is fixed after the date of the PDS, a statement of that price or consideration must be lodged with the Registrar under regulation 51.

(3) The issuer must comply with regulation 51,—

(a) in the case of subclause (2)(a), on lodging each confirmation notice under regulation 52:

(b) in the case of subclause (2)(b) or (c), within 4 months after each balance date of the issuer:

(c) in the case of subclause (2A), within 5 working days after the price or other consideration is fixed.

Schedule 3 clause 55(1): amended, on 1 December 2015, by regulation 40(19) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 55(2A): inserted, on 1 June 2016, by regulation 40(20) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 3 clause 55(3)(c): inserted, on 1 June 2016, by regulation 40(21) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

56 Event disclosures to be made publicly available

(1) If any of the following events occur, the information required by subclause (2) must be made publicly available under regulation 55:

(a) the issuer enters into a major transaction or changes the essential nature of the issuer's business:

(b) the issuer becomes aware that an agreement has been entered into that will result, or has resulted, in a person obtaining or losing control of the issuer (as defined in clause 48 of Schedule 1 of the Act):

(c) the issuer becomes subject to an insolvency event.

(2) The information is—

(a) a statement of the equity securities to which the information relates; and

(b) a brief description of the event; and

(c) a brief description of the implications of the event to assist an investor to assess its potential significance in terms of its impact on the investor's investment.

(3) The issuer must comply with regulation 55 within 5 working days after the date of the event.

(4) This clause does not apply to—

(a) a listed issuer; or

(b) an issuer that is a company that has fewer than 50 shareholders or fewer than 50 parcels of shares that are voting products (where **shareholder** means a shareholder holding a voting product).

(5) In this clause, **major transaction** has the same meaning as in section 129 of the Companies Act 1993 (applied to an issuer even if it is not a company).

Schedule 4
Managed investment products in managed fund

rr 24(1), 40(1), 51, 58, 63(a)

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Interpretation

1 Interpretation

(1) In this schedule,—

appropriate market index has the meaning set out in clause 61(3)

closed scheme means a superannuation scheme, or workplace savings scheme, that—

(a) was closed to new members on its registration as a registered scheme; and

(b) remains closed to new members

closed section means a section of a superannuation scheme, or workplace savings scheme, that—

(a) was closed to new members on the scheme's registration as a registered scheme; and

(b) remains closed to new members

individual asset means the total holdings of a unique asset, unless otherwise provided

investment option means an investment option that may be selected by an investor (for example, an investment in a particular fund, a multi-fund investment option, or a life cycle investment option)

life cycle investment option means an investment option under which the allocation of the investor's investments to funds is automatically adjusted in line with the age of the investor

life cycle stage, in relation to a life cycle investment option, means—

(a) a stage during which an investor's investment is allocated to a particular fund or funds in accordance with the option; or

(b) if clause 24(4) applies, a representative life cycle stage described in the PDS

managed investment products means the managed investment products that are being offered under the PDS

manager's basic fee, in relation to a fund, means the fee or fees charged by the manager in respect of the fund

multi-fund investment option—

(a) means an investment option that may be selected by an investor that involves investment in 2 or more funds in allocations set by the manager for that option; but

(b) does not include a life cycle investment option

open section means a section of a superannuation scheme, or workplace savings scheme, that is not a closed section

proxy voting policies means policies relating to the exercise of proxy voting rights in relation to a fund's assets

relevant assets means assets for which there is no appropriate market index

relevant date means,—

(a) in relation to information under clause 53(1) that is provided for the purposes of regulations 37 and 40 (content of register entries when PDS is lodged), the last day of the most recent quarter before the date of the PDS; and

(b) in relation to a fund update or in relation to the information lodged under clause 54 at the same time or before a fund update is lodged, the last day of the quarter or disclosure year or the balance date as at which the fund update is prepared (as identified under regulation 57(d))

Example

Regulations 37 and 40 require the register entry to contain the information in clause 53(1)(c)(i) when the PDS is lodged. That subparagraph refers to a description of the fund under clause 57, including the fund's net asset value as at the relevant date. In this case, the relevant date is the last day of the most recent quarter before the date of the PDS.

Each fund update must also contain information specified under clause 57. But in this case, the relevant date under clause 57 is the last day of the quarter or disclosure year or the balance date as at which the fund update is prepared.

In addition, the information on the register entry must be updated as at the relevant date of the fund update. This updating is achieved by lodging the information with the Registrar when the fund update is lodged (*see* clause 54(1)(a)).

relevant fund means a fund that invests, directly or indirectly, in whole or in part, in relevant assets

scheme means the managed fund to which the managed investment products relate

trade allocation policies means policies relating to how trades that are ordered contemporaneously on behalf of multiple funds or investors are apportioned

trade execution policies means policies relating to how trades are executed on behalf of a fund

valuation and pricing methodology means a methodology for valuing the fund's assets and liabilities and attributing the net asset value of a fund to investors' accounts.

(2) In these regulations, the **average net asset value** of a fund for a period (**period A**) must be calculated in accordance with the following formula:

$$a = \Sigma x \div b$$

where—

a is the average net asset value

Σx is the sum of the net asset value as at the end of every valuation period in period A

b is the number of valuation periods, rounded up to whole valuation periods, that the fund is in existence during period A.

(3) In subclause (2), a **valuation period** is a period that corresponds to the period for valuing the fund's assets that is adopted under the valuation policies and methodologies specified in or by the governing document for the managed fund.

Examples

If the assets are valued on a daily basis, each day is a valuation period.

If the fund is valued on a monthly basis, each month is a valuation period.

(4) The categories of assets for the purposes of this schedule are the following:

(a) cash and cash equivalents:

(b) New Zealand fixed interest (which are fixed-interest assets the country of which is New Zealand):

(c) international fixed interest (which are fixed-interest assets the country of which is not New Zealand):

(d) Australasian equities (which are those equities the country of which is Australia or New Zealand):

(e) international equities (which are equities the country of which is not Australia or New Zealand):

(f) listed property:

(g) unlisted property:

(h) commodities:

(i) other.

(5) For the purposes of this schedule, the country of an asset is,—

(a) if the asset is approved for trading on 1 or more financial product markets, the country of the financial product market that has primary jurisdiction for the listing requirements for the asset; and

(b) if the asset is not approved for trading on a financial product market but is issued by an entity that is incorporated, the country in which the entity is incorporated; and

(c) in any other case, the country in which the issuer or asset is located.

(5A) However, New Zealand may be treated as being the country of a fixed-interest asset if—

(a) the asset is denominated in New Zealand currency; or

(b) both of the following apply:

(i) the asset is issued by an entity that is incorporated or located in New Zealand; and

(ii) the asset is denominated in a currency other than New Zealand currency but 1 or more derivatives are held to hedge the foreign market currency and interest rate risk so as to effectively swap exposure on the asset into an asset denominated in New Zealand currency with New Zealand interest rate risk.

(6) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the managed investment products that are being offered under the PDS.

Schedule 4 clause 1(1) **appropriate market index**: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 1(1) **closed scheme**: inserted, on 28 October 2016, by regulation 16(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 1(1) **closed section**: inserted, on 28 October 2016, by regulation 16(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 1(1) **investment option**: amended, on 17 December 2015, by regulation 41(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 1(1) **life cycle stage** paragraph (a): amended, on 17 December 2015, by regulation 41(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 1(1) **life cycle stage** paragraph (b): replaced, on 17 December 2015, by regulation 41(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 1(1) **multi-fund investment option**: inserted, on 17 December 2015, by regulation 41(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 1(1) **non-fund investment option**: revoked, on 17 December 2015, by regulation 41(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 1(1) **open section**: inserted, on 28 October 2016, by regulation 16(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 1(1) **relevant assets**: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 1(1) **relevant fund**: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 1(5A): inserted, on 28 October 2016, by regulation 16(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

2 Interpretation and other matters relating to fees

(1) In this schedule,—

contribution fee means an amount paid or payable for the initial, or any subsequent, contribution or investment in the fund

establishment fee—

(a) means an amount paid or payable for the establishment of an investor's interest in a managed investment scheme; but

(b) does not include a contribution fee paid or payable for the initial contribution or investment in the fund if the fee is the same as the contribution fee paid or payable for subsequent contributions or investments in the fund

fund charges means—

(a) management and administration charges:

(b) performance-based fees

individual action fees—

(a) means fees charged to an investor on an individual basis for investor-specific decisions or actions; and

(b) includes—

(i) contribution fees:

(ii) fees for financial advice:

(iii) establishment fees:

(iv) termination fees:

(v) withdrawal fees:

(vi) transfer fees:

(vii) switching fees

management and administration charges—

(a) means fees and costs charged by any person in respect of the fund or an underlying fund that affect investors in proportion to their interest in the fund; but

(b) does not include performance-based fees or trading expenses

other charges—

(a) means fees and costs charged by any person in respect of the fund or an underlying fund; and

(b) includes any fee charged to a scheme participant in respect of the scheme participant's membership of, or participation in, the scheme; but

(c) does not include performance-based fees, management and administration charges, trading expenses, or individual action fees

performance-based fees means fees charged by the manager, or any manager of a related underlying fund, on the basis of performance of the fund or related underlying fund

termination fee means an amount paid or payable on the disposal of all of the investor's managed investment products in the scheme

trading expense—

(a) means the actual costs of buying and selling investments, such as brokerage fees and spreads, including those costs incurred by underlying funds; but

(b) does not include custodial fees

withdrawal fee means an amount, other than a termination fee, paid or payable in respect of—

(a) a withdrawal; or

(b) the disposal of a managed investment product in the scheme.

(2) For the purposes of disclosure under this schedule, fees must be calculated net of rebates that are paid or payable to the fund.

Schedule 4 clause 2(1) **individual action fees** paragraph (b)(ii): replaced, on 15 March 2021, by regulation 29(1) of the Financial Markets Conduct Amendment Regulations 2020: (LI 2020/315).

Schedule 4 clause 2(1) **other charges** paragraph (c): amended, on 28 October 2016, by regulation 16(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Compliance with valuation policies and methodologies and applicable framework or methodology

3 Compliance with valuation policies and methodologies and applicable framework or methodology

Calculations of returns, of the value of assets, and of other amounts that are undertaken for the purposes of this schedule must be made in accordance with—

(a) the valuation policies and methodologies specified in or by the governing document for a managed fund or, to the extent that matters are not covered by those policies or methodologies, GAAP, unless (or except to the extent that) to do so would be inconsistent with these regulations or with an applicable framework or methodology; and

(b) an applicable framework or methodology (if any).

Risk indicator

4 Application

(1) Clauses 5 to 8 apply when a provision of this schedule requires a risk indicator diagram to be contained in a PDS, fund update, or register entry.

(2) Clause 8AA applies when a provision of this schedule requires a risk indicator diagram to be contained in a replacement PDS.

Schedule 4 clause 4(2): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

5 Risk indicator diagram

A risk indicator diagram—

(a) must show a scale as a sequence of categories denoted by whole numbers in ascending order from 1 to 7 running left to right, representing levels of risk, from lowest to highest; and

(b) must make clear that lower risk involves potentially lower returns and that higher risk involves potentially higher returns; and

(c) must not use colours to distinguish between categories on the scale (except to indicate the ranking of the fund); and

(d) if filled in, must use shading and (if the manager wishes) colour to indicate the rank of the fund.

6 How risk indicator is calculated and filled in

(1) When the risk indicator is calculated and filled in for a fund,—

(a) the indicator must rank the fund on the 1 to 7 scale on the basis of a standard deviation calculated from weekly returns of the fund (or, if weekly returns are not otherwise calculated by the manager, monthly returns of the fund) over the 5 years ending on the most recently completed quarter and annualised; and

(b) the fund must be allocated to a category on the scale based on the following table:

Risk category	Annualised standard deviation
1	0% to less than 0.5%
2	0.5% or more, but less than 2%
3	2% or more, but less than 5%
4	5% or more, but less than 10%
5	10% or more, but less than 15%
6	15% or more, but less than 25%
7	25% or more

(c) the indicator must otherwise be calculated and filled in in accordance with an applicable framework or methodology.

(2) If the fund's investment policy has changed significantly and the manager reasonably considers that using returns for the fund before the change would be likely to deceive or mislead with regard to any particular that is material to the offer of the managed investment products, or if the fund has not been in existence for the whole or a part of the 5 years referred to in subclause (1), the risk indicator must be calculated and filled in using—

(a) the returns on the market index as determined under clause 61 for that part of the 5-year period during which the investment policy was significantly different from the current investment policy or during which the fund is not in existence; and

(b) the available returns data for the fund for the rest of the 5-year period not covered under paragraph (a).

(2A) However, subclause (2) does not apply to a relevant fund if the conditions set out in Part 7 are met.

(3) For the purposes of this clause,—

(a) **return**, in relation to a fund and a period,—

(i) means the percentage change in the value of an investment in the fund over the period; and

(ii) must be calculated on the basis of the assumptions that a single investment is made at the beginning of the period and that all distributions are reinvested (a time-weighted return); and

(b) all returns disclosed or used must be pre-tax, net of trading expenses, net of all fund charges, and otherwise calculated in accordance with an applicable framework or methodology.

Schedule 4 clause 6(2A): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

7 Risk indicator based on market index returns

(1) If a risk indicator is calculated and filled in in accordance with clause 6(2), the PDS or fund update (as the case may be) must include—

(a) a note indicator beside the risk indicator; and

(b) an explanatory note—

(i) briefly stating that market index returns rather than (or as well as) the fund's actual returns have been used to fill in the risk indicator; and

(ii) briefly explaining the reason why those returns have been used; and

(iii) briefly explaining that, as a result of those returns being used, the risk indicator may provide a less reliable indicator of the potential future volatility of the fund; and

(iv) stating the period for which the market index returns have been used.

(2) However, subclause (1)(b) does not apply to a relevant fund if the conditions set out in Part 7 are met.

Schedule 4 clause 7(2): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

8 Risk indicator that would deceive or mislead because of nature of fund

(1) This clause applies if the manager considers that a risk indicator calculated and filled in in accordance with clause 6 would be likely to deceive or mislead with regard to any particular that is material to the offer of the managed investment products because of the nature of the fund (for example, the fund is an absolute return fund with no target asset allocation that invests under the constraint of a predetermined risk limit).

(2) Clause 6 does not apply and the risk indicator must instead be calculated and filled in in accordance with—

(a) an applicable framework or methodology; or

(b) if there is no applicable framework or methodology, a method that the manager reasonably considers will allow the risk indicator to reflect the potential future volatility of the fund.

8AA Risk indicator in replacement PDS

(1) This clause applies in respect of a replacement PDS if—

(a) the replacement PDS is for an offer of managed investment products in a managed fund to which regulation 56(1) or (2) applies; and

(b) the replacement PDS is lodged—

(i) within 20 working days after the last day of a quarter (if regulation 56(1) applies); or

(ii) within 3 months after the last day of a disclosure year or the balance date of the scheme (if regulation 56(2) applies).

(2) A requirement in this schedule for a risk indicator for a fund to be contained in a replacement PDS may be satisfied by using the risk indicator from the fund update most recently made publicly available for the fund.

Schedule 4 clause 8AA: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

PDS supplemented by fund updates

Heading: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

8A PDS supplemented by fund updates

(1) A PDS is not required to contain the information specified in subclause (2) for a fund or other investment option (the **fund or option**) if—

(a) the PDS states that the fund or option is offered under the PDS; and

(b) the PDS contains a statement referred to in clause 12(1)(b)(ii) and incorporates by reference the relevant fund update.

(2) The information is the following information to the extent that it relates to the fund or option:

(a) the table required by clause 12(2):

(b) the table required by clause 23:

(c) the information required by clause 28:

(d) the information required by clauses 31 to 39.

(3) In this clause, a **relevant fund update** means a fund update for the fund or option that—

(a) is one of the 4 fund updates most recently made publicly available or (if regulation 56(2) applies) the fund update most recently made publicly available; and

(b) includes the information required in the PDS by clauses 28, 33, and 37 for the fund or option (to the extent that the information is not contained in the PDS).

(4) This clause does not apply in relation to information on a specified life cycle stage.

Schedule 4 clause 8A: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Multiple-participant schemes

Heading: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

8B Multiple-participant schemes

(1) This clause applies to a PDS for an offer of interests in a multiple-participant scheme.

(2) The PDS is not required to contain the information specified in subclause (3) if—

(a) each PDS that is given to an investor under section 50 of the Act is accompanied by a relevant supplement; and

(b) the PDS incorporates that information by reference to the relevant supplements that are given to investors.

(c) *[Revoked]*

(3) The information is—

(a) the information required by the following, to the extent that the information is applicable only to a particular participant or class of participants:

(i) clause 21(2)(g) to (i) (information relating to joining the scheme, making investments, and withdrawing investments):

(ii) clauses 32 to 34 (information relating to annual fund charges, performance-based fees, and other charges):

(b) information relating only to a particular participant, or class of participants, that would otherwise be required to be contained in the PDS.

(4) If information specified in subclause (3) is not contained in the PDS, the manager may modify the information in the KIS to the extent that is necessary to make the KIS consistent with the rest of the PDS by omitting information from the KIS and incorporating that information by reference to the relevant supplements that are given to investors.

(4A) If information specified in subclause (3) is not contained in the PDS, section 9 of the PDS (where you can find more information) must include—

(a) a statement to the effect that an investor may request that the manager provide a relevant supplement that relates to the investor; and

(b) a statement explaining how a request for that document should be made.

(5) In this clause,—

multiple-participant scheme means a retirement scheme in which there are at least 2 participants that are not related bodies corporate

participant means a person that, by virtue of the person's participation in the scheme, entitles investors to be admitted as members of the scheme

relevant supplement, in relation to an investor to whom it is given along with the PDS, means a document that contains the information referred to in subclause (3) that applies in connection with the particular participant that has participated in the scheme in respect of the investor.

Example

ABC Limited is a participant of a retirement scheme. The company's participation in the scheme allows its employees to join the scheme on a particular basis that applies only to ABC Limited and its employees.

A PDS is normally required to include information about how investors may join a scheme.

Under this clause, this information is instead included in a supplement that is given to ABC Limited's employees with the PDS.

Schedule 4 clause 8B: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 8B(2)(b): amended, on 28 October 2016, by regulation 16(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 8B(2)(c): revoked, on 28 October 2016, by regulation 16(5) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 8B(4A): inserted, on 28 October 2016, by regulation 16(6) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Multi-fund investment option and life cycle stage

Heading: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

8C Multi-fund investment option and life cycle stage

For the purposes of this schedule,—

(a) a multi-fund investment option or life cycle stage is in **existence** if every fund to which the option or stage relates is in existence under regulation 5(4)(b):

(b) a calculation of the assets or liabilities of a multi-fund investment option or life cycle stage must be carried out by reference to the assets or liabilities of every fund to which the option or stage relates.

Schedule 4 clause 8C: inserted, on 17 December 2015, by regulation 41(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 1
PDS for managed funds

PDS sections

9 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Key information summary

2 How does this investment work?

3 Description of your investment option(s)

4 What are the risks of investing?

5 What are the fees?

6 What taxes will you pay?

7 Who is involved?

8 How to complain

9 Where you can find more information

10 How to apply

(2) The sections of the PDS must be numbered sequentially.

Key information summary

10 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

What will your money be invested in?

Who manages [*name of scheme/funds*]?

What are the returns?

How can you get your money out?

How will your investment be taxed?

Where can you find more key information?

(2) Clauses 11 to 18 specify the information that must be contained in the KIS under each of the headings in subclause (1).

11 What is this?

The KIS must contain a statement in the following form:

"This is a managed investment scheme. Your money will be pooled with other investors' money and invested in various investments. [*Name of manager*] will invest your money and charge you a fee for its services. The returns you receive are dependent on the investment decisions of [*name of manager*]* and the performance of the investments. The value of those investments may go up or down. The types of investments and the fees you will be charged are described in this document."

*The words "and of its investment manager" or "and of its investment managers" may be added.

12 What will your money be invested in?

(1) If the PDS covers more than 1 scheme or fund or other investment option, the KIS must—

(a) include a statement as to how many investment options are offered under the PDS; and

Example

ABC Investment Trust offers 5 funds for you to invest in.

(b) either—

(i) contain a statement in the following form:

"These investment options are summarised below. More information about the investment target and strategy for each investment option is provided at [*specify PDS cross-reference*].";

(ii) contain a statement in the following form:

"Some of these investment options are summarised below. More information about the investment target and strategy for each of these investment options is provided at [*specify PDS cross-reference*].

The other investment options offered under this product disclosure statement are listed below. A summary of the investment target and strategy, and other information about performance and fees, for each of these investment options is contained in a separate fund update. These fund updates should be read together with this product disclosure statement. [*Specify the information required by regulation 33(2)(c).*]"

(2) The KIS must include a table for each fund covered by the PDS showing the following information:

(a) the name of the fund:

(b) a brief description of the fund and its investment objective:

Example

The Conservative Fund invests mostly in assets with lower risks and returns, with some investment in growth assets that may give higher returns. The fund has a low to medium level of volatility.

(c) the risk indicator for the fund, which must be—

(i) labelled "Risk indicator"; and

(ii) presented, calculated, and filled in in accordance with clauses 5 to 8AA:

(d) a fees table for the fund, which must include the following:

(i) a reference to the fund charges and an estimate of those charges calculated in accordance with clause 32:

(ii) if a performance-based fee is applicable, an affirmative indication that there is a performance-based fee and a reference to the part of the PDS that contains information about that fee:

(iii) if a contribution fee is applicable, a reference to that fee and a statement of the fee in accordance with clause 37(2) or (if clause 37(2)(b) applies) a cross-reference to where in the PDS the basis or method of calculating the fee is set out:

(iv) if a withdrawal fee is applicable, a reference to that fee and a statement of the fee in accordance with clause 37(2) or (if clause 37(2)(b) applies) a cross-reference to where in the PDS the basis or method of calculating the fee is set out:

(v) if there are other charges, the information required by subclauses (6) and (7).

Example

Fees for Growth Fund	
Fund charges	0.65% of the fund value
Performance-based fees	yes (see page 8)
Contribution fees	1% of each contribution
Withdrawal fees	1% of each withdrawal
Administration and member fees	$250 per annum per investor

(3) For the purposes of subclause (2)(d)(i), if, after the manager has made reasonable endeavours to obtain all relevant information, the manager cannot make a reasonable estimate of the fund charges charged in respect of an underlying fund because of a lack of information, the KIS must include, under the fees table,—

(a) a statement that the information about fund charges does not include information about some underlying fund charges because the manager cannot make a reasonable estimate of those charges as a result of a lack of information; and

(b) a PDS cross-reference to where information about those fund charges can be found.

(4) The KIS must include a statement in the following form in a prominent position and highlighted:

"See [*specify PDS cross-reference*] for an explanation of the risk indicator and for information about other risks that are not included in the risk indicator. To help you clarify your own attitude to risk, you can seek financial advice or work out your risk profile at [*specify a URL for an appropriate page on an Internet site maintained by, or on behalf of, the manager or the Retirement Commissioner*]."

(5) If the other charges under subclause (2)(d)(v) are the same for all of the funds covered by the PDS (whether or not the charges are charged on a per fund or per scheme basis), the information under that subparagraph may be stated below the fees tables.

(6) For the purposes of subclause (2)(d)(v), the fees table must include, to the extent that the other charges are fixed as dollar amounts at the date of the PDS,—

(a) an estimate of the total amount of those charges (calculated on an annualised basis per investor and expressed as a dollar amount); and

(b) a reference to the general nature of those charges (for example, "Administration and member fees").

Example

ABC fund has an administration fee of $2.50 per week per investor. It also has a member fee of $10 per month. In total, on an annualised basis, this would be $250 ((2.50 × 52) + (10 × 12)).

The fees table would refer to administration and member fees of $250 per annum per investor.

(7) For the purposes of subclause (2)(d)(v), the fees table must include, to the extent that the other charges are not fixed as dollar amounts at the date of the PDS, a reference to the nature of the charge and a description of the basis or method of calculating the charge (or a cross-reference to where in the PDS that information is set out).

Schedule 4 clause 12(1)(b): replaced, on 17 December 2015, by regulation 41(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 12(2)(c)(ii): amended, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

13 Multi-fund and life cycle investment options

(1) If a multi-fund investment option is covered by the PDS, the information required by clause 12 must be set out in relation to that option as if the option were a fund.

(2) If a life cycle investment option is covered by the PDS, the PDS must indicate how the information required by clause 12 applies in relation to each life cycle stage.

Schedule 4 clause 13 heading: replaced, on 17 December 2015, by regulation 41(7) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 13(1): amended, on 17 December 2015, by regulation 41(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

14 Who manages [*name of scheme or funds*]?

The KIS must—

(a) state the name of the manager of the scheme; and

(b) contain a reference to section 7 of the PDS (who is involved?).

15 What are the returns?

(1) The KIS must contain—

(a) a summary of the nature and frequency of distributions to investors; and

(b) a reference to the place in the PDS that provides more detail about the matters specified in paragraph (a) (if more detail is provided in the PDS).

(2) This clause does not apply if the returns for the scheme are distributed only by way of the redemption of interests in the scheme.

16 How can you get your money out?

(1) The KIS must—

(a) state whether the investment is redeemable; and

(b) briefly describe any restrictions on redemption of the investment and include a reference to the section of the PDS where more information on that matter can be found.

(2) The KIS must include whichever of the following statements best applies:

(a) "[*Name of manager*] intends to quote these [*name of managed investment products*] on [*name of licensed market*] so you can sell your investment if there are interested buyers. The amount you get may be less than the amount that you invested.":

(b) "[*Name of manager*] does not intend to quote the [*name of managed investment products*] on a market licensed in New Zealand. However, these financial products will be able to be traded on [*describe established market available for trading*]. This means that you can sell your investment if there are interested buyers. You may receive less than the amount that you invested.":

(c) "Your investment in these [*name of managed investment products*] can be sold but there is no established market for trading these financial products. This means that you may not be able to find a buyer for your investment.":

(d) "Your investment in [*name of managed investment products*] cannot be sold or transferred to anyone else."

(3) For the purposes of subclause (2)(a), if the manager intends that the managed investment products will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(4) If the scheme is a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme,—

(a) subclauses (1) and (2) do not apply; and

(b) the KIS must—

(i) briefly describe the restrictions on the ability of members to withdraw contributions; and

(ii) include a reference to the section of the PDS where more information on that matter can be found.

17 How will your investment be taxed?

(1) If the scheme is a PIE, the KIS must contain—

(a) a statement that the scheme is a portfolio investment entity; and

(b) a statement in the following form:

"The amount of tax you pay in respect of a PIE is based on your prescribed investor rate (PIR). *This can be [*specify current rates*]. See section 6 of the PDS (what taxes will you pay?) on [*specify PDS cross-reference*] for more information."

*This sentence may be replaced with "To determine your PIR, go to [*refer to an application form (if it contains information about how a person can work out his or her PIR) or specify a URL for the page on the Inland Revenue Department's Internet site on which a person can work out his or her PIR*]."

(2) If the scheme is not a PIE, the KIS must contain a statement to this effect and a reference to section 6 of the PDS (what taxes will you pay?).

18 Where can you find more key information?

The KIS must contain a statement in the following form:

"[*Name of manager*] is required to publish [*specify either quarterly or annual (as the case may be)*] updates for each fund/each investment option*. The updates show the returns, and the total fees actually charged to investors, during the previous year. The latest fund updates are available at [*specify Internet site address*]. The manager will also give you copies of those documents on request."

*Select one.

19 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

How does this investment work?

20 Application

Clause 21 applies to section 2 of the PDS (how does this investment work?).

21 How does this investment work?

(1) The PDS must describe—

(a) how the scheme works; and

(b) the significant benefits of investing in the scheme or in the funds covered by the PDS.

(2) The description under subclause (1) must include the following:

(a) a summary of the significant features of the scheme or funds:

(b) the nature and frequency of distributions (if any) and how those distributions are made:

(c) if no distributions are expected to be made, a statement to that effect:

(d) the nature of the interests that investors acquire; and

(e) a brief description of the legal structure of the scheme (for example, whether the scheme is established as a trust):

(f) a statement of whether any assets of a fund are available to be applied to meet the liabilities of any other fund in the scheme:

(g) under the subheading "**Joining the scheme**", a summary of how to become a scheme participant and any conditions of entry of scheme participants (including any minimum investment amounts):

(h) under the subheading "**Making investments**", a statement as to how investors can make investments, or increase their investment, by acquiring interests or making further contributions (for example, one-off lump sum purchases of units or regular contributions), and any requirements or conditions relating to those matters:

(i) under the subheading "**Withdrawing your investments**", a statement as to how investors can decrease their investment by disposing of interests or making withdrawals, and any requirements or conditions relating to those matters:

(j) under the subheading "**How to switch between funds**", a statement as to how an investor may switch funds, and any requirements or conditions relating to those matters.

(3) If the PDS does not cover all of the funds in a scheme, the PDS may include a reference to where information on investing in other funds in the scheme can be obtained.

(4) Subclause (2)(c) does not apply to a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme.

(5) Subclause (2)(g) applies only if the scheme is a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme.

Description of your investment option(s)

22 Application

Clauses 23 and 24 apply to section 3 of the PDS (description of your investment option(s)).

23 Table showing investment options

(1) The PDS must include a table showing the following information for each fund covered by the PDS:

(a) the name of the fund:

(b) a summary of the investment objectives and investment strategy for the fund (including a diagram or other description summarising its target investment mix):

(c) either—

(i) the risk indicator for the fund (which must be labelled "Risk indicator" and presented, calculated, and filled in in accordance with clauses 5 to 8AA); or

(ii) a statement of the risk category to which the fund is allocated (as referred to in clause 6):

(d) the minimum suggested time frame for holding the investment (determined in accordance with an applicable framework or methodology (if any)).

(2) The table may include either or both of the following for each fund covered by the PDS:

(a) a summary of the investment policies:

(b) a statement as to the suitability of the fund for particular classes of investors.

(3) The PDS must contain—

(a) a summary of how changes can be made to the SIPO for each fund, including whether investors will be notified of those changes and how investors can otherwise obtain information about those changes; and

(b) a statement in the following form:

"Further information about the assets in the fund can be found in the fund updates at [*specify Internet site address*]."

Schedule 4 clause 23(1)(c)(i): amended, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

24 Multi-fund and life cycle investment options

(1) If a multi-fund investment option is covered by the PDS, the information mentioned in each item of the table under clause 23 must be set out in relation to that option.

(2) If a life cycle investment option is covered by the PDS, the information mentioned in each item of the table under clause 23 must be set out in relation to each life cycle stage.

(3) If a multi-fund investment option or a life cycle investment option is covered by the PDS, the table under clause 23 must include a brief description of the multi-fund investment option or life cycle investment option.

(4) The description of a life cycle investment option under subclause (3) only needs to relate to enough life cycle stages to give a reasonable representation of the entire life cycle to which the option relates.

Schedule 4 clause 24 heading: replaced, on 17 December 2015, by regulation 41(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 24(1): amended, on 17 December 2015, by regulation 41(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 24(3): replaced, on 17 December 2015, by regulation 41(11) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 24(4): replaced, on 17 December 2015, by regulation 41(11) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

What are the risks of investing?

25 Application

Clauses 26 to 29 apply to section 4 of the PDS (what are the risks of investing?).

26 Risk indicator

(1) The PDS must include the subheading "**Understanding the risk indicator**" and a statement in the following form:

"Managed funds in New Zealand must have a standard risk indicator. The risk indicator is designed to help investors understand the uncertainties both for loss and growth that may affect their investment. You can compare funds using the risk indicator."

(2) The PDS must include—

(a) a blank or an example risk indicator; and

(b) a cross-reference to the filled-in risk indicator in the PDS; and

(c) below the risk indicator, a statement in the following form:

"The risk indicator is rated from 1 (low) to 7 (high). The rating reflects how much the value of the fund's assets goes up and down (volatility). A higher risk generally means higher potential returns over time, but more ups and downs along the way.

To help you clarify your own attitude to risk, you can seek financial advice or work out your risk profile at [*specify an appropriate page on an Internet site maintained by, or on behalf of, the manager or the Retirement Commissioner*].

Note that even the lowest category does not mean a risk-free investment, and there are other risks (described under the heading "Other specific risks") that are not captured by this rating.

This risk indicator is not a guarantee of a fund's future performance. The risk indicator is based on the returns data for [*insert time period*]. While risk indicators are usually relatively stable, they do shift from time to

time. You can see the most recent risk indicator in the latest fund update for this fund."

27 General investment risks

Under the subheading "**General investment risks**", the PDS must contain a statement in the following form:

"Some of the things that may cause the fund's value to move up and down, which affect the risk indicator, are: [*insert brief summary of risks reflected in the risk indicator. For example, investment return risk, market risk, company risk, credit risk, and currency risk*]."

28 Other specific risks

(1) Under the subheading "**Other specific risks**", the PDS must include a description of the circumstances that the manager is aware of that exist or are likely to arise that significantly increase the risk to returns for investors, other than circumstances that are already reflected in the risk indicator.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular scheme or a particular fund (as compared to other schemes or funds); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

29 Risks otherwise disclosed in PDS or register entry

(1) To the extent that information about a risk is included elsewhere in the PDS (other than the KIS) or in the register entry, that information is not required to be repeated in section 4 of the PDS for the purposes of clause 28.

(2) However, if information about a risk is not included in section 4 of the PDS as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 28; and

(b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

What are the fees?

30 Application

Clauses 31 to 39 apply to section 5 of the PDS (what are the fees?).

31 Statement about fees

The PDS must include a statement in the following form:

"You will be charged fees for investing in [*name of scheme or funds*]. Fees are deducted from your investment and will reduce your returns. If [*name of manager*] invests in other funds, those funds may also charge fees.* The fees you pay will be charged in two ways—

- regular charges (for example, annual fund charges). Small differences in these fees can have a big impact on your investment over the long term:
- one-off fees (for example, [*specify 1 or more examples*]).

"

*This sentence may be omitted if there are no underlying fund charges or all of the underlying fund charges are fully rebated.

32 Annual fund charges

(1) The PDS must state the total annual fund charges as a percentage of the net asset value of each fund (or, if it would be the same percentage, as a percentage of a scheme participant's balance).

(2) For the purposes of calculating the information required under subclause (1), the following apply:

(a) to the extent that fund charges involve amounts that are fixed at the date of the PDS as percentages of the net asset value, those amounts must be used:

(b) to the extent that paragraph (a) does not apply, a best estimate of amounts must be used.

(3) If estimates are used,—

(a) the PDS must identify which amounts are estimated; and

(b) the estimates must be made on the basis of reasonable assumptions about the ongoing level of fees and costs expected to be charged (taking into account the actual fees and costs as a percentage of average net asset value that were charged for the most recent scheme year).

(4) The assumptions under subclause (3)(b) may, in relation to performance-based fees, include the assumption that the fund will achieve (before the deduction of fees and tax) the average returns of the market index used for the purposes of clause 61 (being an average calculated over a long-term period that is reasonable in the circumstances).

(5) If, after the manager has made reasonable endeavours to obtain all relevant information, the manager cannot make a reasonable estimate of the fund charges charged in respect of 1 or more underlying funds because of a lack of information,—

(a) all known fund charges must be used in calculating the information required under subclause (1); and

(b) other fund charges charged in respect of the underlying funds may be omitted from the calculations; and

(c) the PDS must include a statement—

(i) recording that the manager is unable to determine the fund charges charged by some underlying funds; and

(ii) specifying those underlying funds for which information is omitted under paragraph (b) and, if available, the proportion of the specified fund's net asset value that those underlying funds represent; and

(iii) if known, specifying which type of fund charges are omitted under paragraph (b).

(6) In this clause, **most recent scheme year** means the most recently completed accounting period of the scheme.

33 Performance-based fees

(1) The PDS must, in respect of each fund, state the basis on which the performance-based fees portion of the fund charges is charged.

(2) For the purposes of subclause (1), the PDS must, at a minimum, set out—

(a) the return that must be achieved before a performance-based fee applies (the **hurdle rate of return**); and

(b) the proportion of the return above the hurdle rate of return that is paid as a performance-based fee; and

(c) whether the performance-based fee has a maximum limit and, if so, what the limit is; and

(d) whether there is provision in the performance-based fee calculation to the effect that no fee, or a reduced fee, is paid in circumstances where the fund or underlying fund is recovering any losses that have been incurred by it; and

(e) the frequency of calculating and paying the performance-based fee.

(3) If there is no hurdle rate of return that must be achieved before a performance-based fee applies, the PDS must include a statement to the effect that no minimum return must be achieved before a performance-based fee applies.

(4) If a performance-based fee may be paid even if the fund does not achieve (after fees but before tax) the return of the market index that is used for the purposes of clause 61, the PDS must include a statement to that effect.

(5) However, subclause (4) does not apply to a relevant fund if the conditions set out in Part 7 are met.

Schedule 4 clause 33(5): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

34 Other charges

(1) The PDS must state, to the extent that the other charges are fixed as dollar amounts at the date of the PDS,—

(a) an estimate of the total amount of those charges (calculated on an annualised basis per investor and expressed as a dollar amount); and

(b) the general nature of those charges (for example, "Administration and member fees").

Example

ABC fund has an administration fee of $2.50 per week per investor. It also has a member fee of $10 per month. In total, on an annualised basis, this would be $250 ((2.50 × 52) + (10 × 12)).

The PDS would refer to administration and member fees of $250 per annum per investor.

(2) If a charge that is part of the other charges is not fixed as a dollar amount at the date of the PDS, the PDS must include a description of the general nature of the charge and the basis or method of calculating the charge.

(3) The information under this clause may be provided for 2 or more different scenarios that are briefly described in the PDS (for example, where the charges vary depending on the size of an investor's balance).

35 Fees for multi-fund and life cycle investment options

(1) If a multi-fund investment option is covered by the PDS, the PDS must include the information required under clauses 32 to 34 in relation to that option as if it were a fund.

(2) If a life cycle investment option is covered by the PDS, the PDS must indicate how the information required by clauses 32 to 34 applies in relation to each life cycle stage.

Schedule 4 clause 35 heading: amended, on 17 December 2015, by regulation 41(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 35(1): amended, on 17 December 2015, by regulation 41(13) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

36 Miscellaneous requirements relating to clauses 32 to 34

(1) The information under clauses 32 to 34 must be stated in 1 or more tables.

(2) The PDS must, under the table or tables, briefly describe what each fee category covers, how it is charged, and, if it is not part of the fund charges, when the fee is charged to investors.

37 Various individual action fees

(1) The PDS must, in accordance with subclause (2), state the amount of the following fees:

(a) any contribution fees:

(b) any establishment fees:

(c) any termination fees:

(d) any withdrawal fees.

(2) For the purposes of subclause (1), the PDS must,—

(a) if the fee, or the minimum or maximum amount of the fee, can be expressed as a dollar amount (or as a percentage of another dollar amount), state the dollar amount (or the percentage and a description of the other dollar amount):

(b) if the fee, or the minimum or maximum amount of the fee, cannot be expressed as a dollar amount (or as a percentage of another dollar amount), state the basis or method of calculating the fee.

(3) The PDS must state how and when the fees in subclause (1) are payable.

(4) If there is more than 1 fund covered by the PDS and any of the information under subclause (1) or (3) is different for any of those funds, the information under subclauses (1) and (3) must be stated in a table.

(5) The PDS must—

(a) contain a statement to the effect that an investor may be charged other fees on an individual basis for investor-specific decisions or actions; and

(b) incorporate by reference a publicly available document that contains information about those fees (including a description of the fee, the minimum or maximum amount of the fee or how the fee is ascertained, and how and when the fee is payable).

38 Example of how fees apply to investors

(1) Under the subheading "**Example of how fees apply to an investor**", the PDS must contain an example in the following form:

"[*Name*] invests $10,000 in the [*specify fund name*]. He/She* is charged an establishment fee of $[*specify*]. He/She* is also charged contribution fees of $[*calculate*] ([*specify*]% of $10,000).

This brings the starting value of his/her* investment to $[*specify*].

He/She* is also charged management and administration fees, which work out to about $[*calculate*] ([*specify*]% of $[*specify*]). These fees might be more or less if his/her* account balance has increased or decreased over the year.

[*Name*] may also be charged a performance-based fee if his/her* fund earned more than its target.

Over the next year, [*name*] pays other charges of $[*specify*].

Estimated total fees for the first year

Individual action fees: $[*calculate*]

Fund charges: $[*calculate*]

Other charges: $[*specify*]

See the latest fund update for an example of the actual returns and fees investors were charged over the past year.

This example applies only to the [*specify fund name*]. If you are considering investing in other funds or investment options in the scheme, this example may not be representative of the actual fees you may be charged."

*Select one.

(2) If there is more than 1 fund covered by the PDS, the example must be based on a fund that involves amounts of fees that are at least average (in relation to the funds covered by the PDS).

(3) The amount of the initial investment may be amended if the manager reasonably considers that another amount would provide more useful information to investors.

39 Whether fees can be changed

(1) The PDS must contain the subheading "**The fees can be changed**" or the subheading "**The fees cannot be changed**".

(2) The PDS must—

(a) state whether and, if so, how the fees or charges payable by an investor in respect of each fund may change; and

(b) include a statement in the following form:

"[*Name of manager*] must publish a fund update for each fund showing the fees actually charged during the most recent year. Fund updates, including past updates, are available at [*specify Internet site address*]."

What taxes will you pay?

40 Application

Clause 41 applies to section 6 of the PDS (what taxes will you pay?).

41 What taxes will you pay?

(1) If the scheme is a PIE, the PDS must include a statement in the following form:

"[*Name of scheme*] is a portfolio investment entity. The amount of tax you pay is based on your prescribed investor rate (PIR). To determine your PIR, go to [*refer to an application form (if it contains information about how a person can work out his or her PIR) or specify a URL for the page on the Inland Revenue Department's Internet site on which a person can work out his or her PIR*]. If you are unsure of your PIR, we recommend you seek professional advice or contact the Inland Revenue Department. It is your responsibility to tell [*name of manager*] your PIR when you invest or if your PIR changes. If you do not tell [*name of manager*], a default rate may be applied. If the rate applied to your PIE income is lower than your correct PIR, you will be required to pay

any tax shortfall as part of the income tax year-end process. If the rate applied to your PIE income is higher than your PIR, any tax over-withheld will be used to reduce any income tax liability you may have for the tax year and any remaining amount will be refunded to you."

(2) If the scheme is not a PIE, the PDS must include a statement to the effect that—

(a) tax can have significant consequences for investments; and

(b) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(3) Section 6 of the PDS may do either or both of the following:

(a) include other information on the tax consequences of the investment:

(b) incorporate by reference a publicly available document that contains information about the tax consequences of the investment.

Schedule 4 clause 41(1): amended, on 18 January 2021, by regulation 29(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Who is involved?

42 Application

Clauses 43 and 44 apply to section 7 of the PDS (who is involved?).

43 About [*name of manager*]

(1) The PDS may contain a description of the manager and its business to the extent that that information is material information.

(2) The PDS must state the manager's contact details.

(3) The contact details must include an address and a business telephone number.

44 Who else is involved?

Under the subheading "**Who else is involved?**", the PDS must include the following table:

	Name	**Role**
Supervisor	[*specify*]	[*brief description of role*]
Custodian	[*specify*]	[*brief description of role*]
[*Other person(s) involved in the scheme, eg, an investment manager or an administration manager*]	[*specify*]	[*brief description of role*]

How to complain

45 Application

Clause 46 applies to section 8 of the PDS (how to complain).

46 How to complain

(1) The PDS must include a statement as to whether complaints about the managed investment products or the scheme can be made to 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the manager:

(b) the supervisor:

(c) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

47 Application

Clause 48 applies to section 9 of the PDS (where you can find more information).

48 Where you can find more information

(1) The PDS must include a statement to the effect that—

(a) further information relating to the scheme and the managed investment products is available on the offer register and the scheme register (for example, financial statements); and

(b) a copy of information on the offer register or scheme register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The PDS must include a statement—

(a) briefly describing any information relating to the scheme or the managed investment products that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register or the scheme register; or

(ii) on request to the manager; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

49 Application

Clause 50 applies to section 10 of the PDS (how to apply).

50 How to apply

The PDS—

(a) must include a short statement explaining how to apply for the managed investment products; and

(b) may include a link or cross-reference to the application form.

Part 2
Register entry for managed funds when PDS is lodged

51 General register entry information

(1) The register entry must contain the following:

(a) the name of each of the following (as selected from another register kept by the Registrar) or, if the person or scheme does not have an entry on such a register, the unique identifying information of the person or scheme:

(i) the manager:

(ii) the scheme:

(iii) each offeror:

(b) the address for communications from the Registrar—

(i) to the manager:

(ii) to each offeror:

(ba) a New Zealand Business Number (if any) for—

(i) the manager; and

(ii) each offeror:

(c) a brief description of the managed investment products:

(d) if the managed investment products are quoted or the manager intends for the managed investment products to be quoted,—

(i) confirmation of that fact; and

(ii) a link to or URL for the page of the Internet site maintained by the licensed market operator that relates to the managed investment products or the manager (if a link or URL is known by the manager at the date of the PDS):

(e) the dates on which the offer opens and, if applicable, closes:

(ea) the status of each fund that is, or will be, a specified fund (*see* subclause (2)):

(f) if the PDS is a continuous issue PDS, confirmation of the fact that the managed investment products are continuously offered:

(g) if there is a minimum amount that an investor who applies for the managed investment products is required to invest, a statement of the minimum amount:

(ga) if the offer includes a multi-fund investment option,—

(i) confirmation of that fact; and

(ii) the name of the option; and

(iii) a brief description of the option, including a list of the funds to which the option relates; and

(iv) the status of the option (*see* subclause (2)):

(h) if the offer includes a life cycle investment option,—

(i) confirmation of that fact; and

(ii) the name of the option; and

(iii) a brief description of the option, including a list of the life cycle stages; and

(iv) the status of the option (*see* subclause (2)):

(i) if the offer is made in reliance on an exemption granted under subpart 2 of Part 9 of the Act, confirmation of that fact and the name of the exemption notice:

(j) if a declaration under subpart 3 of Part 9 of the Act applies to the managed investment products, confirmation of that fact:

(k) if the offer is made under subpart 3 of Part 9 of these regulations (mutual recognition), confirmation of that fact.

(2) For the purposes of subclause (1)(ea), (ga)(iv), and (h)(iv), the status of a fund or option must be described as—

(a) registered if the name of the fund or option has been entered on the register entry under clause 53(1)(a) or subclause (1)(ga)(ii) or (h)(ii) and the offeror intends to make a regulated offer in respect of the fund or option but is not yet accepting contributions to, or investments in, the fund or option; or

(b) open if—

(i) the offeror is accepting contributions to, or investments in, the fund or option; and

(ii) the fund or option does not have a status under paragraph (c); or

(c) closed to new investors if the offeror is still accepting contributions to, or investments in, the fund or option, but only from or on behalf of existing scheme participants; or

(d) closed to all investment if the offeror has previously accepted contributions to, or investments in, the fund or option, but has ceased to accept further contributions or investments; or

(e) disestablished if the fund or option has previously had a status under any of paragraphs (a) to (d) but is no longer established as a separate fund or option under the scheme (for example, because the fund has been wound up).

Schedule 4 clause 51(1)(ba): inserted, on 31 December 2017, by regulation 9 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

Schedule 4 clause 51(1)(ea): inserted, on 1 June 2016, by regulation 41(14) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 51(1)(ga): inserted, on 1 June 2016, by regulation 41(15) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 51(1)(ga)(iii): amended, on 9 August 2017, by regulation 10(1) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(1)(ga)(iv): inserted, on 9 August 2017, by regulation 10(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(1)(h)(iii): amended, on 9 August 2017, by regulation 10(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(1)(h)(iv): inserted, on 9 August 2017, by regulation 10(4) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2): inserted, on 1 June 2016, by regulation 41(16) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 51(2): amended, on 9 August 2017, by regulation 10(5) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(a): editorial change made by the PCO, on 29 October 2024, under sections 86(1) and 87(l)(iii) and (iv) of the Legislation Act 2019 (2019 No 58).

Schedule 4 clause 51(2)(a): amended, on 9 August 2017, by regulation 10(6) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(a): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(b)(i): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(b)(ii): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(c): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(d): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 51(2)(e): amended, on 9 August 2017, by regulation 10(7) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

52 Information about material contracts, market index, and conflicts of interest, etc

(1) The register entry must contain,—

(a) if the existence, or any of the terms, of a contract entered into in respect of the scheme is material information,—

(i) a copy of that contract; or

(ii) a summary of the key terms of that contract (including the terms that are material information); and

(b) a document, in relation to a market index referred to in clause 61, that states where more information on the market index may be obtained; and

(c) a document that describes the nature of any conflict of interest that currently exists or is likely to arise in the future; and

(d) if, under clause 32(2)(b) a best estimate of amounts is used in the PDS, a description of the basis on which the estimate is made and the assumptions that have been used in producing the estimate.

(2) Subclause (1)(a) does not apply to a contract if—

(a) all of the key terms of the contract (including the terms that are material information) are summarised or otherwise disclosed in the PDS; or

(b) it is entered into in the ordinary course of business of the manager.

(3) Subclause (1)(b) does not apply—

(a) if a fund was not in existence at the end of the most recent quarter before the date of the PDS; or

(b) to a relevant fund if the conditions set out in Part 7 are met.

(4) The following apply for the purposes of subclause (1)(c):

(a) if conflicts of interest that are likely to arise in the future are of a particular type, a general description of that type of conflict of interest is a sufficient description of those conflicts of interest for the purposes of subclause (1)(c):

(b) paragraph (a) applies to a particular type of conflict of interest that currently exists if that type of conflict of interest is also likely to arise in the future:

(c) if the scheme has more than 1 fund, the document must identify the fund or funds that are or may be affected by each conflict of interest:

(d) the document must include a description of the circumstances in which, and how, the conflict of interest would, or could reasonably be expected to, materially influence the investment decisions of the manager or investment manager (or both) in respect of the managed fund:

(e) the document must describe the steps that have, or will be taken, to manage any conflict of interest.

(5) In this clause,—

conflict of interest means a financial or any other interest, a relationship, or any other association of the manager, of an investment manager, or of a relevant person that would, or could reasonably be expected to, materially influence the investment decisions of the manager or investment manager (or both) in respect of the managed fund

Example

A manager intends to invest scheme property in 1 or more related underlying funds.

relevant person, in relation to a managed fund, means—

(a) a director of the manager; or

(b) a senior manager of the manager; or

(c) an employee of the manager who has a significant impact on the investment decisions that are made in respect of the managed fund; or

(d) an associated person of the manager (or a director or senior manager of that associated person).

Schedule 4 clause 52(3): replaced, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

53 Fund information

(1) The register entry must contain the following in respect of each specified fund:

(a) the fund name:

(b) an identification of the type of fund:

(c) the following information for the fund:

(i) the information specified in clause 57 (description of this fund):

(ii) the risk indicator for the specified fund (as at the relevant date), which must be presented, calculated, and filled in in accordance with clauses 5 to 8:

(iii) the information specified in clause 59(1)(a), (b), and (c) and (6)(a) (how has the fund performed?):

(iv) the numbers used to generate a bar graph under clause 62:

(v) the ratio of the total charges charged for the operations of the fund and its underlying funds to the fund's average net asset value (the **synthetic total expense ratio** of the fund):

(vi) the numbers used to generate a pie graph under clause 68:

(vii) the numbers used to generate a pie graph or table under clause 69:

(viii) a list of the 10 highest-value individual assets of the fund and the information required by clause 70(1)(a) and (b):

(ix) the fund's asset liquidity ratio (as at the relevant date):

(x) the fund's debt ratio (as at the relevant date):

(xi) the information provided under clause 72 (key personnel):

(d) the total fund charges as required by clause 63 for the most recent scheme year, and information about how that total is made up by showing each of the following:

(i) the manager's basic fee:

(ii) other management and administrative charges:

(iii) total performance-based fees:

(e) if there is a performance-based fee, confirmation of that fact:

(f) if there is a contribution fee, a statement of the amount of that fee as at the relevant date (if it is a fixed amount):

(g) if there is a withdrawal fee, a statement of the amount of that fee as at the relevant date (if it is a fixed amount):

(h) if there are other individual action fees, confirmation of that fact:

(i) the total amount of the other charges as required by clause 64 for the most recent scheme year:

(j) a complete list of individual assets of the fund as at a stated date (which is not earlier than 40 working days before the date of the PDS) and, against that list, the following information about each individual asset:

(i) the name of the asset:

(ii) the value of the asset as a percentage of the specified fund's net asset value:

(iii) if applicable, a security identification number, ticker symbol, or exchange code used to identify the asset:

(k) the weekly returns of the fund (or, if weekly returns are not otherwise calculated by the manager, monthly returns of the fund) since the date on which the fund started accepting contributions and ending on the relevant date (where **returns** has the same meaning, and must be disclosed, as in clause 6(3)):

(l) a copy of each trade allocation policy, trade execution policy, proxy voting policy, or valuation and pricing methodology that is applied to the fund as at the relevant date (if any).

(1A) However,—

(a) subclause (1)(c)(iii) and (iv) does not apply to a relevant fund if the conditions set out in Part 7 are met; and

(b) the information in subclause (1)(c) to (k) does not need to be updated when lodging a replacement PDS if—

(i) the replacement PDS is for an offer of managed investment products in a managed fund to which regulation 56(1) or (2) applies; and

(ii) the replacement PDS is lodged—

(A) within 20 working days after the last day of a quarter (if regulation 56(1) applies); or

(B) within 3 months after the last day of a disclosure year or the balance date of the scheme (if regulation 56(2) applies); and

(iii) the information is subsequently provided in accordance with clause 54.

(2) For the purposes of subclause (1)(c)(iv), (vi), or (vii), if a bar graph, pie graph, or table referred to in that subparagraph is not prepared, the numbers must be the numbers that would have been used to generate the bar graph, pie graph, or table had it been prepared.

(3) For the purposes of subclause (1)(c)(v), the synthetic total expense ratio must be calculated using the following formula and excluding trading expenses:

$$a = ((b + c + d) \div e) \times 100$$

where—

a is the synthetic total expense ratio for the end of the most recent scheme year

b is the total fund charges for the most recent scheme year

c is the total other charges for the most recent scheme year

d is any other fees charged in respect of the specified fund or underlying funds that an applicable framework or methodology (if any) specifies must be included in the synthetic total expense ratio

e is the average net asset value of the specified fund for the most recent scheme year.

(4) In relation to the formula and formula variables c and d in subclause (3), if the fees are charged at a scheme level without being charged to members' interests in particular funds, the manager must allocate the fees between the scheme's specified funds in a manner that the manager reasonably considers appropriate.

(5) For the purposes of subclause (1)(c)(ix), the asset liquidity ratio must be calculated in accordance with the following formula:

$$a\% = (b \div c) \times 100$$

where—

a% is the asset liquidity ratio

b is the value of the specified fund's assets that are of a type referred to in paragraph (a)(ii)(A), (B), or (C) of the definition of managed fund in regulation 5

c is the net asset value of the specified fund.

(6) For the purposes of subclause (1)(c)(x), the debt ratio must be calculated in accordance with the following formula:

$$a\% = (b \div c) \times 100$$

where—

a% is the debt ratio

b is the value of the liabilities of the specified fund, other than net assets attributable to members

c is the value of the assets of the specified fund.

(7) If a fund was not in existence—

(a) at the end of the most recent quarter before the date of the PDS, the register entry is not required to contain the information in subclause (1)(c)(iii), (iv), (vi), and (viii):

(b) at the date that is 40 working days before the date of the PDS, the register entry is not required to contain the information in subclause (1)(j) or (k).

(8) The following apply for the purposes of subclause (1)(j):

(a) paragraph (j) does not apply to a fund in—

(i) a restricted scheme; or

(ii) a closed scheme; or

(iii) a closed section (subject to paragraph (ab) of this subclause):

(ab) if a fund relates to both a closed section and an open section,—

(i) paragraph (j) applies to the fund for the purposes of fund updates made publicly available in accordance with regulation 56(1) (which relates to the open section); and

(ii) paragraph (j) does not apply to the fund for the purposes of fund updates made publicly available in accordance with regulation 56(2)(b) (which relates to the closed section).

(b) clause 70(2) and (3) applies with all necessary modifications for the purposes of paragraph (j):

(c) the information provided under paragraph (j) must—

(i) identify the fund and scheme to which it relates; and

(ii) be provided in a format set by an applicable framework or methodology (if any).

(9) The following apply for the purposes of subclause (1)(k):

(a) paragraph (k) does not apply to a fund in—

(i) a restricted scheme; or

(ii) a closed scheme; or

(iii) a closed section (subject to paragraph (ab) of this subclause):

(ab) if a fund relates to both a closed section and an open section,—

(i) paragraph (k) applies to the fund for the purposes of fund updates made publicly available in accordance with regulation 56(1) (which relates to the open section); and

(ii) paragraph (k) does not apply to the fund for the purposes of fund updates made publicly available in accordance with regulation 56(2)(b) (which relates to the closed section).

(b) the information provided under paragraph (k) must—

(i) identify the fund and scheme to which it relates; and

(ii) be provided in a format set by an applicable framework or methodology (if any).

(10) In this clause and clause 54, **most recent scheme year** means,—

(a) if the relevant date is more than 60 working days after the scheme's most recent balance date, the 12-month period ending on that balance date; or

(b) in any other case, the 12-month period ending on the scheme's balance date that immediately precedes the scheme's most recent balance date (or the 12-month period ending on the scheme's most recent balance date).

Schedule 4 clause 53(1A): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 53(8)(a): replaced, on 28 October 2016, by regulation 16(7) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 53(8)(ab): inserted, on 28 October 2016, by regulation 16(7) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 53(9)(a): replaced, on 28 October 2016, by regulation 16(8) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 53(9)(ab): inserted, on 28 October 2016, by regulation 16(8) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

53AA Limited fund information for certain defined benefit schemes

(1) Despite clause 53, the register entry for a limited information scheme—

(a) is required to contain the information set out in clause 53(1)(a), (b), (c)(i) and (ii), and (d) to (h), to the extent that it is applicable for the scheme; but

(b) is not required to contain the other information referred to in clause 53.

(2) For the purposes of subclause (1)(a), clause 53(1)(d) applies as if the scheme were a fund for which a fund update that complies with clause 63 is required.

(3) In this clause, **limited information scheme** means a defined benefit scheme to which regulation 56(1) and (2) does not apply because of regulation 56(2A) or (2C).

Schedule 4 clause 53AA: inserted, on 9 August 2017, by regulation 10(8) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 53AA(3): amended, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

53A Information for specified multi-fund investment option or specified life cycle stage

(1) The register entry must, in respect of each specified multi-fund investment option or specified life cycle stage, contain the information specified in clause 53 (applied with all necessary modifications as if the investment option or stage were a fund).

(2) However, the information specified in clause 53(1)(c)(vi) to (xi) need not be provided if it is provided on a per-fund basis on the register entry (that is, on a basis relating to the funds to which the investment option or stage relates).

Schedule 4 clause 53A: inserted, on 1 June 2016, by regulation 41(17) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Part 3
Updating register entry

54 Information to be lodged with Registrar for updating register

(1) The information to be lodged with the Registrar under regulation 51 is as follows:

(a) in respect of each fund update made publicly available under regulation 56, the information referred to in—

(i) clause 53(1)(c) to (i) as at the relevant date of the fund update or for a period or periods ending on that date or for the most recent scheme year (as the case may be):

(ii) clause 53(1)(k) for the period since the date on which the fund started accepting contributions and ending on the relevant date of the fund update:

(b) if trade allocation policies, trade execution policies, proxy voting policies, or a valuation and pricing methodology is applied to a fund, a statement that—

(i) specifies any material changes that have been made to those policies or that methodology during the relevant period; and

(ii) describes, in the case of a material change to a valuation and pricing methodology, the effect of the changes on the fund's net asset value and the value of investors' accounts:

(c) a statement that specifies any material changes to the conflicts of interest described in the register entry during the relevant period:

(d) the information referred to in clause 53(1)(j) (complete list of individual assets of the fund) as at 31 March or 30 September (whichever is more recent).

(1A) Subclause (1)(a)(i) does not apply to a relevant fund if the conditions set out in Part 7 are met.

(2) Subclause (1)(a)(ii) and (d) does not apply to—

(a) a restricted scheme; or

(b) a closed scheme; or

(c) a closed section (subject to subclause (2A)).

(2A) If a fund relates to both a closed section and an open section, subclause (1)(a)(ii) and (d)—

(a) applies to the register entry information for the open section; and

(b) does not apply to the register entry information for the closed section.

(2B) Subclause (1)(d) does not apply to a limited information scheme (as defined in clause 53AA).

(3) The manager must comply with regulation 51,—

(a) in the case of subclause (1)(a) to (c), at the same time as or before each fund update is lodged with the Registrar:

(b) in the case of subclause (1)(d), within 40 working days after 31 March and 30 September in each year.

(4) In this clause,—

conflict of interest has the same meaning as in clause 52(5)

relevant period means, in the case of a fund update to which—

(a) regulation 56(1) applies, the quarter ending on the relevant date of the fund update:

(b) regulation 56(2) applies, the 12-month period ending on the relevant date of the fund update.

Schedule 4 clause 54(1)(a): amended, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 54(1)(a)(ii): amended, on 28 October 2016, by regulation 16(9) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 54(1)(b)(i): amended, on 28 October 2016, by regulation 16(10) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 54(1)(c): amended, on 28 October 2016, by regulation 16(10) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 54(1A): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 54(2): replaced, on 28 October 2016, by regulation 16(11) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 54(2A): inserted, on 28 October 2016, by regulation 16(11) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 4 clause 54(2B): inserted, on 9 August 2017, by regulation 10(9) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 4 clause 54(3)(b): amended, on 17 December 2015, by regulation 41(18) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 54(4): replaced, on 28 October 2016, by regulation 16(12) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Part 4
Fund update

55 Sections of fund update

(1) The fund update must have sections that are headed up and ordered as follows:

What is the purpose of this update?

Description of this fund

What are the risks of investing?

How has the fund performed?

What fees are investors charged?

Example of how this applies to an investor

What does the fund invest in?

Key personnel

Further information

Notes

(2) Clauses 56 to 74 specify the information that must be contained in the fund update under each of the headings in subclause (1).

(3) The fund update may, after the section headed "Description of this fund", also have a section headed "Market update" that provides a brief update on market conditions relevant to the specified fund's performance and risks.

Schedule 4 clause 55(1): amended, on 17 December 2015, by regulation 41(19) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 55(1): amended, on 17 December 2015, by regulation 41(20) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 55(3): inserted, on 17 December 2015, by regulation 41(21) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

What is the purpose of this update?

56 What is the purpose of this update?

The fund update must include a statement in the following form:

"This document tells you how [*name of specified fund*] has performed and what fees were charged. The document will help you to compare the fund with other funds. [*Name of manager*] prepared this update in accordance with the Financial Markets Conduct Act 2013. This information is not audited and may be updated."

Description of this fund

57 Description of this fund

(1) The fund update must include—

(a) a brief description of the specified fund and its investment objective:

Example

The Conservative Fund invests mostly in assets with lower risks and returns, with some investment in growth assets that may give higher returns. The fund has a low to medium level of volatility.

(b) a table that states—

(i) the net asset value of the specified fund (rounded to a dollar value) as at the relevant date (with this value labelled "Total value of the fund"); and

(ii) the number of investors in the specified fund as at the relevant date; and

(iii) the date on which the specified fund started accepting contributions (with this date labelled "The date the fund started").

(2) Subclause (1)(b)(ii) applies only to a specified fund of a KiwiSaver scheme, superannuation scheme, or workplace savings scheme.

(3) Clause 18(1) of Schedule 1 of the Act applies for the purposes of subclause (1)(b)(ii) with all necessary modifications.

What are the risks of investing?

58 What are the risks of investing?

(1) The fund update must include the risk indicator for the specified fund as at the relevant date, which must be—

(a) labelled "Risk indicator for [*name of specified fund*]"; and

(b) presented, calculated, and filled in in accordance with clauses 5 to 8; and

(c) accompanied by a statement in the following form:

"The risk indicator is rated from 1 (low) to 7 (high). The rating reflects how much the value of the fund's assets goes up and down. A higher risk generally means higher potential returns over time, but more ups and downs along the way.

To help you clarify your own attitude to risk, you can seek financial advice or work out your risk profile at [*specify a URL for an appropriate page on an Internet site maintained by, or on behalf of, the manager or the Retirement Commissioner*].

Note that even the lowest category does not mean a risk-free investment, and there are other risks that are not captured by this rating.

This risk indicator is not a guarantee of a fund's future performance. The risk indicator is based on the returns data for [*insert time period*]. While risk indicators are usually relatively stable, they do shift from time to time. The risk indicator will continue to be updated in future fund updates."

(2) The statement under subclause (1)(c) must—

(a) include a sentence in the following form:

"See the product disclosure statement (PDS) for more information about the risks associated with investing in this fund."; or

(b) describe the specific risks for investing in the specified fund.

(3) If subclause (2)(b) applies, the fund update must include a description of the circumstances that the manager is aware of that exist or are likely to arise that significantly increase the risk to returns for investors, other than circumstances that are already reflected in the risk indicator.

(4) The description under subclause (3) of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular fund (as compared to other funds); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(5) The description under subclause (3) is required to include information about circumstances only to the extent that the information is material information.

Schedule 4 clause 58(3): amended, on 17 December 2015, by regulation 41(22) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

How has the fund performed?

59 How has the fund performed?

(1) The fund update must, in a table and otherwise in accordance with this clause and clauses 60 and 61, disclose—

(a) the return for the specified fund for each of the relevant periods,—

(i) in the case of a fund that is a PIE, net of fund charges, trading expenses, and accrued tax for a New Zealand resident individual

paying tax at the highest prescribed investor rate that applied throughout the period to which the return relates; and

(ii) in the case of a fund that is not a PIE, net of fund charges, trading expenses, and accrued tax; and

(b) the return for the specified fund for each of the relevant periods,—

(i) in the case of a fund that is a PIE, net of fund charges, trading expenses, and accrued tax and applying a 0% prescribed investor rate; and

(ii) in the case of a fund that is not a PIE, net of fund charges and trading expenses and before tax; and

(c) the return on the market index for each of the relevant periods.

(2) The **relevant periods** are—

(a) the 12-month period up to the relevant date; and

(b) if the fund has been in existence for 5 or more disclosure years, the 5-year period ending on the relevant date.

(3) The table must be in the following format:

	Average over past 5 years	**Past year**
Annual return (after deductions for charges and tax)	[*specify*]	[*specify*]
Annual return (after deductions for charges but before tax)	[*specify*]	[*specify*]
Market index annual return (reflects no deduction for charges and tax)	[*specify*]	[*specify*]

(4) If the fund has not been in existence for the whole of the 12-month period up to the relevant date,—

(a) returns for the specified fund for that period are not required; and

(b) the rows in the table relating to the returns for the specified fund must state "Not applicable" (but information for the market index must still be included in the table).

(5) If subclause (2)(b) does not apply, the column "**Average over past 5 years**" must be deleted.

(6) The fund update must, under the table, contain—

(a) a brief description of the market index on which the market index annual return is based; and

(b) if the market index has changed since the last fund update, a statement to that effect and of the reasons for the change; and

(c) a statement that additional information about the market index is available on the offer register.

(7) However, subclauses (1)(c), (3), (4)(b), and (6) do not apply to a relevant fund if the conditions set out in Part 7 are met.

Schedule 4 clause 59(1)(a)(i): amended, on 17 December 2015, by regulation 41(23) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 59(1)(a)(ii): amended, on 17 December 2015, by regulation 41(23) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 59(7): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

60 Meaning of return in relation to specified fund

For the purposes of providing the information required under clauses 59 and 62, **return**, in relation to a specified fund and a period,—

(a) means the percentage change in the value of an investment in the fund over the period; and

(b) must be calculated on the basis of the assumptions that a single investment is made at the beginning of the period and that all distributions are reinvested (a time-weighted return); and

(c) if the period is more than 1 year, must be calculated as the average annual compound return.

61 Market index returns

(1) A **return**, in relation to a market index and a period, is the percentage change in an appropriate market index over the period.

(2) However, for the purposes of subclause (1), the appropriate market index must be adjusted to take account of the following assumptions (to the extent that the market index does not already take account of these assumptions):

(a) that all income is reinvested:

(b) that there are no charges:

(c) other reasonable assumptions that reflect the operation of the specified fund.

(3) An **appropriate market index** is 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 any of the persons specified in subclause (4); 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.

(4) For the purposes of subclause (3)(a)(ii), the persons are—

(a) the manager, or an investment manager, of the registered scheme to which the fund relates:

(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.

62 Bar graph

(1) The fund update must contain a bar graph (an **annual return graph**) showing—

(a) the return for the specified fund, indicated by a bar on the graph and as a figure near the corresponding bar,—

(i) for each complete disclosure year since the date on which the fund started accepting contributions, if the fund has been in existence for less than 10 complete disclosure years; or

(ii) for each of the last 10 complete disclosure years, if the fund has been in existence for 10 or more complete disclosure years; and

(b) as the last bar on the graph, the return for the period beginning on the date on which the fund started accepting contributions and ending on the relevant date (or, if the fund has been in existence for 10 or more complete disclosure years, the return for the 10-year period ending on the relevant date).

(2) The return indicated on the bar graph must be,—

(a) in the case of a fund that is a PIE, net of fund charges, trading expenses, and accrued tax for a New Zealand resident individual paying tax at the highest prescribed investor rate that applied throughout the period to which the return relates; and

(b) in the case of a fund that is not a PIE, net of fund charges, trading expenses, and accrued tax.

(3) The information under subclause (1) must also be provided for the market index used for the purposes of clause 61 (and the bars relating to the market index must be clearly identified).

(3A) However, subclause (3) does not apply to a relevant fund if the conditions set out in Part 7 are met.

(4) The fund update must include a statement below the bar graph in the following form:

"This shows the return after fund charges and tax for each year ending 31 March since the fund started/for each of the last 10 years ending 31 March*. The last bar shows the average annual return since the fund started/for the last 10 years*, up to [*specify date*].

Important: This does not tell you how the fund will perform in the future.

†Returns in this update are after tax at the highest prescribed investor rate (PIR) of tax for an individual New Zealand resident. Your tax may be lower."

*Select one.

†Omit this paragraph if the fund is not a PIE.

(5) If there are matters that significantly affect the comparability of returns over the periods for which returns are stated, the fund update must include—

(a) a note indicator beside the bar graph; and

(b) an explanatory note, at the end of the fund update, that briefly describes those matters (including how those matters significantly affect the comparability of returns).

(6) This clause does not apply if the fund has been in existence for less than 1 complete disclosure year.

Schedule 4 clause 62(1)(b): amended, on 17 December 2015, by regulation 41(24) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 62(2)(a): amended, on 17 December 2015, by regulation 41(25) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 62(2)(b): amended, on 17 December 2015, by regulation 41(25) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 62(3A): inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 4 clause 62(4): amended, on 17 December 2015, by regulation 41(26) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

What fees are investors charged?

63 What fees are investors charged?

(1) The fund update must disclose the actual total fund charges for the specified fund, as a percentage of average net asset value, for the most recent scheme year.

(2) The fund update must show how the actual total fund charges for that period are made up by showing—

(a) the total management and administration charges:

(b) the amount of the total management and administration charges that is the manager's basic fee:

(c) the balance of the total management and administration charges after deducting the amount under paragraph (b):

(d) the total performance-based fees.

(3) For the purposes of calculating the information required under subclauses (1) and (2), the actual figures for fees and costs in the most recent scheme year must be used or, if actual figures are not available (for example, if underlying fund charges are not available), the best estimate of those figures must be used.

(4) If the specified fund has not been in existence for the whole of the most recent scheme year, the fund update must disclose the total fund charges as a percentage of the net asset value of the fund in the same way as is required for the PDS under clause 32 (applied with all necessary modifications as if the reference to the date of the PDS were a reference to the relevant date).

(5) If estimates are used,—

(a) the fund update must state, next to the fees table, which fees or costs are estimated; and

(b) the estimate must be made by the manager on the basis of the information available after the manager has made reasonable endeavours to obtain all relevant information for the purposes of preparing the fund update; and

(c) the fund update must include—

(i) a note indicator, beside the information containing the estimate, referring to an explanatory note at the end of the fund update; and

(ii) an explanatory note, at the end of the fund update, stating that an estimate has been used and describing the information and assumptions used to make the estimate.

(6) If, after the manager has made reasonable endeavours to obtain all relevant information, the manager cannot make a reasonable estimate of the fund charges charged in respect of 1 or more underlying funds because of a lack of information,—

(a) all known fund charges must be included in information under subclauses (1) and (2); and

(b) other fund charges charged in respect of the underlying funds may be omitted from information under subclauses (1) and (2); and

(c) the fund update must include a prominent statement, below the incomplete totals,—

(i) recording that the manager is unable to determine the fund charges charged by some underlying funds; and

(ii) specifying those underlying funds for which information is omitted under paragraph (b) and, if available, the proportion of the specified fund's net asset value that those underlying funds represent; and

(iii) if known, specifying which type of fund charges are omitted under paragraph (b).

(7) If the manager has reasonable grounds to believe that the fund charges for the next scheme year will be materially different from the fund charges disclosed in the fund update, the manager must include—

(a) a note indicator beside the fund charges information; and

(b) an explanatory note, under the table, briefly describing the expected differences in fund charges.

(7A) The fund update must—

(a) include a statement in the following form:

"See the product disclosure statement for more information about the basis on which performance fees are charged."; or

(b) set out the information required by clause 33 for the specified fund.

(8) In this clause and clause 64, **most recent scheme year** means,—

(a) if the relevant date is more than 60 working days after the scheme's most recent balance date, the 12-month period ending on that balance date; or

(b) in any other case, the 12-month period ending on the scheme's balance date that immediately precedes the scheme's most recent balance date (or the 12-month period ending on the scheme's most recent balance date).

Schedule 4 clause 63(2)(b): amended, on 17 December 2015, by regulation 41(27) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 63(7A): inserted, on 17 December 2015, by regulation 41(28) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

64 Other charges

(1) The fund update must disclose the actual total other charges for the most recent scheme year.

(2) For the purposes of subclause (1), the fund update must specify, to the extent that the other charges are fixed as dollar amounts at the relevant date,—

(a) an estimate of the total amount of those charges (calculated on an annualised basis per investor and expressed as a dollar amount); and

(b) a reference to the general nature of those charges (for example, "Administration and member fees").

Example

ABC fund has an administration fee of $2.50 per week per investor during the disclosure year. It also has a member fee of $10 per month. In total, during the disclosure year, this would be $250 ((2.50 × 52) + (10 × 12)).

The fund update would refer to administration and member fees of $250 per investor during the year.

(3) For the purposes of subclause (1), if a charge that is part of the other charges is not fixed as a dollar amount at the relevant date, the fund update must specify a description of the general nature of the charge and the basis or method of calculating the charge.

65 Fees table

(1) The information under clauses 63 and 64 must be displayed in a table in the following format:

Investors in [*name of specified fund*] are charged fund charges. In the year to [*specify date*] these were:

	% of net asset value
Total fund charges	[*specify*]
Which are made up of—	
Total management and administration charges	[*specify*]
Including—	
Manager's basic fee	[*specify*]
Other management and administration charges	[*specify*]
Total performance-based fees	[*specify*]

Other charges	**Dollar amount per investor or description of how charge is calculated**
[*Specify, for example, Administration and member fees*]	[*specify*]

(2) The fund update must contain a statement in the following form:

"Investors may also be charged individual action fees for specific actions or decisions (for example, for withdrawing from or switching funds). See [*specify document that contains full particulars of these fees*] for more information about those fees."

(3) The document referred to in subclause (2) is incorporated by reference and the requirements in regulation 33(2) and (3) apply with all necessary modifications as if the fund update were a PDS.

Example of how this applies to an investor

66 Example of how this applies to an investor

(1) The fund update must contain a written example of the return for a hypothetical investor in the specified fund who—

(a) invests only in the specified fund to which the fund update relates; and

(b) has $10,000 invested in the specified fund at the beginning of the period to which the fund update relates and does not make any investor-specific decisions, contributions, or withdrawals in that period; and

(c) in the case of a fund that is a PIE, is a New Zealand resident individual paying tax at the highest prescribed investor rate that applied throughout the period.

(2) The fund update must, before the example, include a statement in the following form:

"Small differences in fees and charges can have a big impact on your investment over the long term."

(3) The written example must be in the following format:

"**Example of how this applies to an investor**

[*Name*] had $10,000 in the fund at the start of the year and did not make any further contributions. At the end of the year, [*name*] received a return/incurred a loss* after fund charges were deducted of $[*specify*] (that is [*specify*]% of his/her* initial $10,000). [*Name*] also paid $[*specify*] in other charges. This gives [*name*] a total return/loss* after tax of $[*specify*] for the year."

*Select one.

(4) In the example,—

(a) the amount of the investment may be amended if the manager reasonably considers that another amount would provide more useful information to investors:

(b) references to the start of the year and the end of the year may be modified where the fund has not been in existence for a full disclosure year.

What does the fund invest in?

67 What does the fund invest in?

The fund update must include the statement "This shows the types of assets that the fund invests in".

68 Actual investment mix

Under the subheading "**Actual investment mix**", the fund update must contain a pie graph showing, as at the relevant date,—

(a) the composition of the specified fund's assets according to the asset categories specified in clause 1(4) but including the category "unknown" for assets for which the manager does not know, and cannot reliably assess, the appropriate category; and

(b) alongside each category in the pie graph, the percentage of the pie graph that the category represents.

Target investment mix

[Revoked]

Heading: revoked, on 17 December 2015, by regulation 41(29) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

69 Target investment mix

Under the subheading "**Target investment mix**", the fund update must contain a pie graph or table showing, as at the relevant date, the specified fund's target asset mix according to the asset categories specified in clause 1(4).

Top 10 investments

[Revoked]

Heading: revoked, on 17 December 2015, by regulation 41(30) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

70 Top 10 investments

(1) Under the subheading "**Top 10 investments**", the fund update must contain, as at the relevant date, a list of the 10 highest-value individual assets of the specified fund identified in accordance with subclause (2) and,—

(a) against that list, the following information about each individual asset:

(i) the name of the individual asset:

(ii) the country of the individual asset:

(iii) the type of the individual asset according to one of the categories specified in clause 1(4) (however, if subclause (5) applies, the type of the individual asset is an interest in a diversified fund):

(iv) if the individual asset is a debt security, the credit rating of the debt security that the manager reasonably considers to be reliable or, if there is no reliable credit rating of the security, the credit rating of its issuer that the manager reasonably considers to be reliable (or the classification "unrated" if neither the debt security nor the issuer has a reliable credit rating):

(v) the value of the individual asset as a percentage of the net asset value of the specified fund; and

(b) below the list, a statement of the total value of the 10 individual assets as a percentage of the net asset value of the fund.

(2) For the purposes of providing the information required under this clause, the manager must identify the specified fund's 10 highest-value individual assets, assessed as a percentage of the net asset value of the fund, based on—

(a) the individual assets directly held by the specified fund; and

(b) if any part of the specified fund is invested in a related underlying fund, treating the individual assets of that related underlying fund as if they were individual assets directly held by the specified fund.

(3) If the specified fund and any related underlying fund each have a holding of the same unique asset, then, under subclause (2), the aggregate of those holdings is treated as a single individual asset of the specified fund.

(4) If the category "other" is used in providing the information under subclause (1)(a)(iii), the fund update must include, as a note to the list, an explanation of the nature of each of the assets included in that category.

(5) For the purposes of subclause (1)(a)(iii), if an individual asset is an interest in a fund that is not a related underlying fund and there is no one asset type that is judged to be the most appropriate, the asset must be classified as an interest in a diversified fund.

Schedule 4 clause 70(1)(a)(iii): amended, on 17 December 2015, by regulation 41(31) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 70(5): replaced, on 17 December 2015, by regulation 41(32) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

71 Miscellaneous matters

(1) If the category "unknown" or "other" is used in providing the information specified in clauses 68 to 70, the fund update must include, as a note to the relevant pie graph or table, an explanation of the nature of each of the assets included in that category.

(2) A pie graph or table included under clause 68 or 69 must be based on the information that the manager judges to be the most appropriate to produce an accurate representation of the specified fund's assets (and not on the concept of individual assets that is used for the purposes of providing the information about the specified fund's 10 highest-value individual assets).

Example

If an underlying fund in which the specified fund invests is a US equities fund, then, for the purposes of the pie graph or table, the manager may judge the most appropriate classification of the specified fund's holdings of that underlying fund to be international equities with an allowance for some cash held by the underlying fund.

(3) The fund update must include a statement of the extent of currency hedging if that information is material information for the specified fund.

Schedule 4 clause 71(3): inserted, on 17 December 2015, by regulation 41(33) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Key personnel

72 Information about key personnel

(1) The fund update must disclose the following information in relation to each of the 5 persons who are directors or employees of the manager, of the investment manager, or of a related body corporate of either of them who have the most impact on investment decisions in relation to the specified fund as at the relevant date (for example, the chief investment officer, the chairperson of the investment committee, and the senior investment analyst in relation to the fund):

(a) the person's name:

(b) the person's position:

(c) how long the person has been in that position:

(d) if relevant, the person's previous position and with whom that position was held:

(e) how long the person was in that previous position.

(2) The requirements in subclause (1) are subject to the following qualifications:

(a) if there are fewer than 5 directors or employees referred to in subclause (1), the information must be disclosed in relation to each of those directors and employees:

(b) if a person has another current position that is not in relation to the registered scheme, and the manager is satisfied that information about that other current position is more relevant than information about the person's previous position, the manager may, in place of the information specified in subclause (1)(d) and (e),—

(i) disclose that person's other current position, with whom the position is held, and how long the person has been in that other position; and

(ii) indicate in the statement that the position is a current one.

(3) Periods of time that a person has been in a position must be expressed using a "YY years and XX months" format and rounded to the nearest whole month (for example, "John Smith has been in the position for 2 years and 5 months").

(4) In addition to the information required under subclause (1), the fund update must, unless it is the first fund update for the fund, also note any key personnel on the list who have not been named in a previous fund update for the fund.

Further information

73 Further information

The fund update must include a statement in the following form:

"You can also obtain this information, the PDS for [*name of registered scheme*], and some additional information from the offer register at [*specify Internet site address*]."

Notes

74 Notes

The fund update must include any explanatory notes required by the fund update requirements.

Part 5
Annual report

75 Interpretation

In this Part,—

accounting period means the accounting period to which the annual report relates

balance date means the balance date of the accounting period.

76 Annual report

(1) The annual report must have sections that are headed up and ordered as follows:

Details of scheme

Information on contributions and scheme participants

Changes relating to the scheme

Other information for particular types of managed funds

Changes to persons involved in the scheme

How to find further information

Contact details and complaints

(2) Clauses 77 to 83 specify the information that must be contained in the annual report under each of the headings in subclause (1).

77 Details of scheme

The annual report must include the following information as at the balance date:

(a) the name of the scheme:

(b) the type of scheme (for example, KiwiSaver scheme):

(c) the name of the manager:

(d) the name of the supervisor:

(e) the date and status of the latest PDS (*see* regulation 280):

(f) a reference to the date of the latest fund update for each fund to which the scheme relates:

(g) a reference to the scheme's latest financial statements that have been lodged with the Registrar and to the auditor's report.

78 Information on contributions and scheme participants

(1) The annual report must include, in the case of a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme, a statement of the numerical changes in the scheme participants during the accounting period, including the following:

(a) the total number of scheme participants at the start and at the end of the period:

(b) the total number of contributing scheme participants at the start and at the end of the period:

(c) the total number of non-contributing scheme participants at the start and at the end of the period:

(d) the total number of persons who became scheme participants during the period (divided into subtotals of transfers from other schemes and other new members):

(e) the total number of persons who ceased to be scheme participants during the period (divided into subtotals of persons who ceased to be members due to retirement, death, transfers to other schemes, or other reasons):

(f) the total amount of scheme participants' accumulations, and the number of scheme participants to which that relates, at the start of the period and at the end of the period:

(g) the total amount of contributions received during the period and the number of scheme participants to which this relates (divided into the types of contributions and the number of scheme participants to which each type relates).

(2) If subclause (1) does not apply to a managed fund, the annual report must include a statement of—

(a) the number of managed investment products on issue at the start of the accounting period; and

(b) the number of managed investment products on issue at the end of the accounting period.

(3) Subclause (1)(f) does not apply to a defined benefit scheme.

(4) For the purposes of subclause (1)(b) and (c), a contributing scheme participant is a scheme participant who is making contributions to the scheme or on whose behalf contributions are being made to the scheme.

(5) For the purposes of subclause (1)(g), the types of contributions are—

(a) member contributions:

(b) employer or other sponsor contributions:

(c) member voluntary additional contributions.

79 Changes relating to the scheme

(1) The annual report must contain a description of the material changes to the nature of the scheme, the investment objectives and strategy, or the management of the scheme over the accounting period, including—

(a) any material changes to the governing document; and

(b) any material changes to the terms of the offer of the managed investment products; and

(c) any material changes to the SIPO; and

(d) any material changes to the nature or scale of related party transactions (including a description of the changes).

(2) The description must include a statement as to whether any related party transactions entered into during the accounting period were not on arm's-length terms and, if so, a description of those transactions.

(3) In this clause,—

arm's-length terms means terms of a kind referred to in section 174(a) of the Act

related party transaction means a transaction that provides for a related party benefit to be given.

80 Other information for particular types of managed funds

(1) The annual report for a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme must include a statement of—

(a) the number of scheme participants who made a withdrawal that is permitted under the Act and the governing document during the accounting period; and

(b) the grounds on which those withdrawals were made.

(2) The annual report for a defined benefit scheme or a life benefit scheme (as defined in section 169(1)(b) of the Act) must include—

(a) a statement as to whether the rate or amounts of contributions paid have been in accordance with the recommendations contained in the most recent report of an actuary required under section 169 of the Act; and

(b) a summary of that report.

(3) If the scheme is operated on a unitised basis,—

(a) subclause (4) does not apply; and

(b) the annual report must state the unit prices for the funds under the scheme at the start and at the end of the accounting period.

(4) The annual report for a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme under which benefits payable from the scheme are based on the investment return of scheme property must include a statement of the crediting rate or rates applied to members' balances for the accounting period as at the end of that period.

(5) The annual report for a superannuation scheme or a workplace savings scheme must include a statement by the supervisor (or, in the case of a restricted scheme, the manager) as to whether all the contributions required to be made to the scheme in accordance with the terms of the governing document have been made.

(6) The annual report for a KiwiSaver scheme, a superannuation scheme, or a workplace savings scheme must include a statement by the manager as to whether—

(a) all the benefits required to be paid from the scheme in accordance with the terms of the governing document and (where applicable) the KiwiSaver scheme rules or the superannuation scheme rules have been paid; and

(b) the market value of the scheme property at the balance date equalled or exceeded the total value of benefits that would have been payable had all members of the scheme ceased to be members at that date and had provision been made for the continued payment of all benefits being paid to members and other beneficiaries as at the balance date.

(7) The annual report for a complying superannuation fund must include the following information:

(a) the market value of the assets subject to the complying fund rules:

(b) the number of scheme participants to which the assets relate:

(c) the value of withdrawals subject to the complying fund rules.

81 Changes to persons involved in the scheme

(1) The annual report must include details of any change during the accounting period to the following:

(a) the manager:

(b) the directors of the manager:

(c) key personnel of the manager:

(d) the supervisor or any of its directors:

(e) any administration manager or investment manager of the scheme:

(f) the securities registrar, custodian, or auditor of the scheme.

(2) In subclause (1)(c), **key personnel**, in relation to the manager, means—

(a) the executive directors of the manager; and

(b) those senior managers of the manager who perform duties in connection with the scheme.

(3) The annual report must include details of any change in control of the manager during the accounting period (within the meaning of clause 48 of Schedule 1 of the Act).

82 How to find further information

The annual report must include a statement—

(a) describing the type of information that relates to the scheme or the managed investment products that is required to be, or otherwise will be, available—

(i) in the register entry; or

(ii) in the scheme register; or

(iii) on request from the manager; and

(b) explaining—

(i) how information can be obtained from the register entry or scheme register; and

(ii) how a request for information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

83 Contact details and complaints

(1) The annual report must state the contact details of—

(a) the manager; and

(b) the supervisor; and

(c) the securities registrar (if the register for the managed investment products under subpart 4 of Part 4 of the Act is or will be kept on behalf of the manager); and

(d) 1 or more employees or agents of the manager to whom queries or complaints about the managed investment products or the offer can be made.

(2) The annual report must include a statement as to whether complaints about the managed investment products or the scheme can be made to 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the manager:

(b) the supervisor:

(c) an approved dispute resolution scheme.

(3) The contact details must include an address and a business telephone number.

(4) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Part 6
Modifications for funds passport recognition regime

Schedule 4 Part 6: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

84 Interpretation

In this Part, unless the context otherwise requires,—

independent oversight entity, in relation to a foreign passport fund, means the entity that is the independent oversight entity of the fund under section 14 of the passport rules

recognised offer means a recognised offer of managed investment products under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019.

Schedule 4 clause 84: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

85 General modifications

(1) If interests in a foreign passport fund are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, clauses 1 to 8C and Parts 1 to 5 of this schedule apply with all necessary modifications as if—

(a) the fund were a registered scheme that is a managed fund; and

(b) the operator of the fund under the passport rules were the manager; and

(c) the constituent document (within the meaning of the passport rules) were the governing document.

(2) This clause does not limit the modifications that must be made under clauses 86 to 93.

Schedule 4 clause 85: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

86 Modification relating to GAAP

In the case of interests in a foreign passport fund that are offered under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019, the reference to GAAP in clause 3 applies as if it were a reference to relevant accounting standards (as defined in section 7(4) of the passport rules).

Schedule 4 clause 86: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

PDS

Schedule 4 heading: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

87 Application

Clauses 88 to 91 apply to a PDS for a recognised offer.

Schedule 4 clause 87: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

88 Multiple-participant schemes provisions do not apply

Clause 8B does not apply.

Schedule 4 clause 88: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

89 Modification relating to SIPO

The PDS is not required to have a summary under clause 23(3)(a).

Schedule 4 clause 89: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

90 Modifications relating to supervisor

(1) This clause modifies clause 44 (who else is involved?) and clause 46 (how to complain).

(2) The PDS—

(a) is not required to refer to a supervisor in the table under clause 44; but

(b) must instead refer in the table to the independent oversight entity, including—

(i) the name of the entity or, if the entity consists of a number of individuals, the name of each individual; and

(ii) a brief description of the role of the entity.

(3) The PDS—

(a) is not required to include information about the supervisor under clause 46; but

(b) must instead include a statement as to whether complaints about the managed investment products or the scheme can be made to the independent oversight entity and, if so, the contact details of the entity.

Schedule 4 clause 90: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

91 Modifications relating to scheme register

(1) This clause modifies clause 48 (where you can find more information).

(2) The PDS—

(a) is not required to refer to the scheme register; but

(b) must instead refer to the register on which the foreign passport fund is registered.

Schedule 4 clause 91: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Register entry

Schedule 4 heading: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

92 Modifications to register entry

(1) Clause 51(1)(e), (ea), (f), (g), (ga), (h), and (k) and (2) does not apply to a register entry for a recognised offer.

(2) A register entry for a recognised offer must also contain the following:

(a) confirmation of the fact that the offer is made under Part 1 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019:

(b) the address required by regulation 21 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019:

(c) the dates on which the offer opens and, if applicable, closes in New Zealand:

(d) if the operator is relying on section 17(a) of the passport rules, the dates on which the offer opens and, if applicable, closes in the home economy (within the meaning of regulation 3 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019):

(e) the manager's Internet site address.

(3) The information required by clauses 51, 53, 53A, and 54 must be lodged in PDF format.

Schedule 4 clause 92: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Annual report

Schedule 4 heading: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

93 Modifications to annual report

(1) This clause applies to an annual report of a foreign passport fund.

(2) Clauses 78(1), 79(1)(c), 80, and 82(a)(ii) do not apply.

(3) Clauses 77(d), 81(1)(d), and 83(1)(b) and (2)(b) apply as if the references to the supervisor were references to the independent oversight entity.

(4) Clause 77(g) applies as if the reference to the latest financial statements were a reference to the latest financial reporting statements lodged under regulation 18 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019.

(5) The annual report—

(a) is not required to refer to the scheme register under clause 82(b)(i); but

(b) must instead refer to the register on which the foreign passport fund is registered.

(6) The annual report must contain the contact details of the securities registrar under clause 83(1)(c) regardless of the words in brackets in that paragraph.

Schedule 4 clause 93: inserted, on 14 June 2019, by regulation 16 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Part 7
Conditions for relevant fund

Schedule 4 Part 7: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

94 Overview of Part

This Part sets out the conditions that must be met in order to rely on clauses 6(2A), 7(2), 33(5), 52(3)(b), 53(1A)(a), 54(1A), 59(7), and 62(3A).

Schedule 4 clause 94: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

95 Interpretation

(1) In this Part, unless the context otherwise requires,—

composite index means a composite used in accordance with clause 97(3)(e)(ii) or (iii)

cryptocurrency or commodity index or benchmark means an index or a price benchmark that is—

(a) either or both of the following:

(i) widely recognised and widely used in the financial markets:

(ii) administered by a person who is not a person specified in clause 61(4); and

(b) appropriate in terms of assessing movements in the market in relation to the returns from the cryptocurrencies and commodities in which the relevant fund directly or indirectly invests

peer group index means an index that—

(a) is based on the performance of a group of funds that invest in a particular sector or particular sectors; and

(b) is either or both of the following:

(i) widely recognised and widely used in the financial markets:

(ii) administered by a person who is not a person specified in clause 61(4); and

(c) is likely to be useful to investors when assessing the performance of the relevant assets (other than relevant assets that are cryptocurrencies or commodities) and the relevant fund as a whole for all relevant periods

relevant index or benchmark means,—

(a) in the case of a relevant asset that is a cryptocurrency or commodity, a cryptocurrency or commodity index or benchmark; and

(b) in the case of any other relevant asset, a peer group index

relevant periods has the same meaning as in clause 59(2).

(2) In this Part, a **return**, in relation to a peer group index, cryptocurrency or commodity index or benchmark, or composite index and a period, is the percentage change in the index or benchmark over the period.

(3) However, for the purposes of subclause (2), the peer group index, cryptocurrency or commodity index or benchmark, or composite index must be adjusted to take account of reasonable assumptions (to the extent that the index or benchmark does not already take account of these assumptions) that reflect the operation of the relevant fund.

Schedule 4 clause 95: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

96 Condition relating to identifying relevant index or benchmark

It is a condition that the manager of the relevant fund must use reasonable endeavours to identify—

(a) a cryptocurrency or commodity index or benchmark for each relevant asset that is a cryptocurrency or commodity; and

(b) a peer group index for each other relevant asset.

Schedule 4 clause 96: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

97 Conditions if relevant index or benchmark is identified

(1) This clause applies if the manager identifies a relevant index or benchmark for 1 or more of the relevant assets.

(2) However, this clause does not apply if the manager of the relevant fund reasonably considers that disclosure of a relevant index or benchmark or composite index annual return as required by subclause (3)(e) is not likely to be useful to investors when assessing the performance of the relevant fund as a whole.

(3) The following conditions apply:

Risk indicator

(a) if, but for clause 6(2A), clause 6(2) would otherwise apply, the risk indicator for the relevant fund must be calculated and filled in using—

(i) the returns on the relevant index or benchmark, or the composite index, for the part of the 5-year period during which the invest-

ment policy of the relevant fund was significantly different from the current investment policy or during which the relevant fund was not in existence; and

(ii) the available returns data for the fund for the rest of the 5-year period not covered by subparagraph (i); and

Performance-based fee

(b) if a performance-based fee may be paid even if the relevant fund does not achieve (after fees but before tax) the return on the relevant index or benchmark or the composite index, section 5 of the PDS for the offer of interests in the relevant fund must contain a statement to that effect; and

Register entry

(c) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, the following information as at the relevant date of the fund update or for the period or periods ending on that date or for the most recent scheme year (as the case may be):

(i) the information referred to in paragraph (e):

(ii) the numbers used to generate the bar graph under paragraph (g):

(iii) the numbers used to generate a bar graph under clause 62 (but disregarding clause 62(3)):

(iv) the information referred to in clause 53(1)(c)(ii) (but with the risk indicator presented, calculated, and filled in in accordance with paragraph (a), if it applies):

(v) the information referred to in clause 53(1)(c)(v) to (xi) and (d) to (i); and

(d) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, the following information:

(i) a description of the relevant index or benchmark that has been used to calculate the relevant index or benchmark annual return published in the fund update or, if a composite index has been used, a description of the appropriate market index (if any) and each relevant index or benchmark that has been used to calculate the composite index annual return published in the fund update:

(ii) a statement on where more information can be obtained about—

(A) each relevant index or benchmark; and

(B) the appropriate market index (if a composite index has been used in accordance with paragraph (e)(ii)):

(iii) if a relevant index or benchmark cannot be identified for some of the relevant assets of the relevant fund, a statement to that effect:

(iv) an explanation of why the relevant index or benchmark or indices or benchmarks are likely to be useful to investors when assessing the performance of the relevant assets and the relevant fund as a whole; and

Fund update

(e) each fund update for the relevant fund must, in a table in the format set out in subclause (5) and otherwise in accordance with clauses 59(4) and (5) and 60, disclose for each of the relevant periods the information required by clause 59(1)(a) and (b) and the return on one of the following:

(i) the relevant index or benchmark, if there is only 1 relevant index or benchmark identified under clause 96 for any of the relevant assets and there are no assets in the relevant fund that are not relevant assets:

(ii) a composite that reflects—

(A) the relevant indices or benchmarks for the relevant assets in respect of which a relevant index or benchmark has been identified under clause 96; and

(B) an appropriate market index for the assets (if any) that are not relevant assets (and clause 61 applies for that purpose):

(iii) a composite that reflects the relevant indices or benchmarks for the relevant assets in respect of which a relevant index or benchmark has been identified under clause 96, if there are different relevant indices or benchmarks for different relevant assets and there are no assets that are not relevant assets; and

(f) each fund update for the relevant fund must include an explanatory note that—

(i) explains that the annual return on a relevant index or benchmark, or a composite index, has been used in the following ways because there is no appropriate market index for the relevant fund as a whole:

(A) in the table relating to how the relevant fund has performed as required under paragraph (e):

(B) in the bar graph required by clause 62:

(C) to calculate and fill in the risk indicator (if paragraph (a) applies); and

(ii) explains that a relevant index or benchmark, or a composite index, may be a less reliable indicator of performance than an appropriate market index; and

(iii) if the relevant fund has relevant assets that have no identified relevant index or benchmark, explains that the annual return on the relevant index or benchmark, or composite index, used in the fund update is not directly relevant for all of the relevant assets of the relevant fund; and

(iv) if paragraph (a) applies,—

(A) explains that the risk indicator may provide a less reliable indicator of the potential future volatility of the relevant fund because a relevant index or benchmark, or a composite index, has been used; and

(B) states the period for which the returns on a relevant index or benchmark, or a composite index, have been used; and

(v) if a relevant index or benchmark, or composite index, has changed since the last fund update, explains the reasons for the change; and

(vi) states whether the return for the relevant index or benchmark reflected in the table and the bar graph is net of fund charges, trading expenses, and tax; and

(vii) states that additional information about the relevant index or benchmark is available on the offer register; and

(viii) if a composite index has been used in accordance with paragraph (e)(ii), states that additional information about the appropriate market index is available on the offer register; and

(g) the information provided in each fund update for the relevant fund under clause 62(1) must be provided for the relevant index or benchmark or composite index used for the purposes of paragraph (e) (and the bars relating to the relevant index or benchmark or composite index must be clearly identified).

(4) Subclause (3)(a) does not apply if the risk indicator calculated and filled in in accordance with that paragraph would be likely to deceive or mislead with regard to any particular that is material to the offer of the managed investment products because of the nature of the fund, and, in that case, the risk indicator must be calculated and filled in in accordance with clause 8(2).

(5) The table under subclause (3)(e) must be in the following format:

	Average over past 5 years	**Past year**
Annual return (after deductions for charges and tax)	[*specify*]	[*specify*]
Annual return (after deductions for charges but before tax)	[*specify*]	[*specify*]

	Average over past 5 years	Past year
***Relevant index or benchmark annual return** (after deductions for charges but before tax/reflects no deduction for charges and tax†)	[*specify*]	[*specify*]
or		
***Composite of market index annual return** (reflects no deduction for charges and tax) **and annual return for relevant [*specify index, benchmark, indices, or benchmarks (as applicable)*]** (*see* the note below this table about deductions for charges and tax)	[*specify*]	[*specify*]
or		
***Composite annual return for relevant [*specify index, benchmark, indices, or benchmarks (as applicable)*]** (*see* the note below this table about deductions for charges and tax)	[*specify*]	[*specify*]

*Select one.

†If the relevant index or benchmark is a peer group index, select "after deductions for charges but before tax". If the relevant index or benchmark is a cryptocurrency or commodity index or benchmark, select "reflects no deduction for charges and tax".

(6) If the table under subclause (3)(e) includes a return for a composite index, a note must be included below the table that briefly explains the extent (if any) to which the return for a relevant index or benchmark is—

(a) before or after deductions for charges; and

(b) before or after deductions for tax.

Example

The table includes a return for a composite of a peer group index and a cryptocurrency or commodity index or benchmark.

The brief explanation is: "The composite annual return is before tax. The return on the peer group index part of the composite is after deductions for charges. However, the cryptocurrency or commodity index or benchmark part of the composite reflects no deduction for charges."

(7) For the purposes of subclause (3)(e), if the relevant fund has not been in existence for the whole of the 12-month period up to the relevant date, the rows in the table relating to the returns for the relevant fund must state "Not applicable" (but the information for the relevant index or benchmark or composite index must still be included in the table).

(8) If the manager cannot, under clause 96, identify a relevant index or benchmark for a particular relevant asset, an index or a benchmark need not be disclosed under this clause in respect of that asset.

Schedule 4 clause 97: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

98 Conditions if relevant index or benchmark is not identified but appropriate market index is likely to be useful

(1) This clause applies if—

(a) the manager of a relevant fund—

(i) determines, under clause 96, that none of the relevant assets have a relevant index or benchmark; or

(ii) considers that clause 97(2) applies; and

(b) there are assets of the relevant fund that are not relevant assets; and

(c) the manager considers that the appropriate market index for the assets that are not relevant assets is likely to be useful to investors when assessing the performance of the relevant fund as a whole for all relevant periods.

(2) The following conditions apply:

Risk indicator

(a) if, but for clause 6(2A), clause 6(2) would otherwise apply, the risk indicator for the relevant fund must be calculated and filled in using—

(i) the returns on the appropriate market index for those assets of the relevant fund that are not relevant assets for the part of the 5-year period during which the investment policy of the relevant fund was significantly different from the current investment policy or during which the relevant fund was not in existence; and

(ii) the available returns data for the fund for the rest of the 5-year period not covered by subparagraph (i); and

Performance-based fee

(b) if a performance-based fee may be paid even if the relevant fund does not achieve (after fees but before tax) the return on the appropriate market index used for the assets of the relevant fund that are not relevant assets, section 5 of the PDS for the offer of interests in the relevant fund must contain a statement to that effect; and

Register entry

(c) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, the following information as at the relevant date of the fund update or for the period or periods ending on that date or for the most recent scheme year (as the case may be):

(i) the information referred to in clause 59(1)(a) and (b) and (6)(a), and the return on the market index for assets that are not relevant assets, for each of the relevant periods:

(ii) the numbers used to generate the bar graph under paragraph (h):

(iii) the numbers used to generate a bar graph under clause 62 (but disregarding clause 62(3)):

(iv) the information referred to in clause 53(1)(c)(ii) (but with the risk indicator presented, calculated, and filled in in accordance with paragraph (a), if it applies):

(v) the information referred to in clause 53(1)(c)(v) to (xi) and (d) to (i); and

(d) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, the following information:

(i) a description of the appropriate market index that has been used to calculate the market index annual return published in the fund update:

(ii) a statement on where more information on the appropriate market index can be obtained:

(iii) an explanation of why neither a market index nor a relevant index or benchmark has been used to calculate the return on relevant assets of the relevant fund:

(iv) an explanation of why the appropriate market index used to calculate the market index annual return is likely to be useful to investors when assessing the performance of the relevant fund as a whole; and

Fund update

(e) each fund update for the relevant fund must, in a table in the format set out in subclause (4) and otherwise in accordance with clauses 59(4) and (5), 60, and 61, disclose for each of the relevant periods the information required by clause 59(1)(a) and (b) and the return on the appropriate market index for those assets of the relevant fund that are not relevant assets; and

(f) each fund update for the relevant fund must, under the table, contain the information specified in clause 59(6) in respect of those assets of the relevant fund that are not relevant assets; and

(g) each fund update for the relevant fund must include an explanatory note that—

(i) explains that, because there is no appropriate market index for all of the assets of the relevant fund, the annual return on a market index that has been used in the following ways has been calculated based on the appropriate market index for some, but not all, of the assets of the relevant fund:

(A) in the table relating to how the relevant fund has performed as required under paragraph (e):

(B) in the bar graph required by clause 62:

(C) to calculate and fill in the risk indicator (if paragraph (a) applies); and

(ii) explains that, as a result, the annual return on the market index used may be a less reliable indicator of performance of the fund as a whole than in circumstances where the market index used is appropriate for all of the assets of the fund; and

(iii) if paragraph (a) applies,—

(A) explains that the risk indicator may provide a less reliable indicator of the potential future volatility of the relevant fund than in circumstances where the market index used is appropriate for all of the assets of a fund; and

(B) states the period for which the market index return has been used; and

(h) the information provided in each fund update for the relevant fund under clause 62(1) must also be provided for the market index used for the purposes of clause 61 in respect of those assets of the relevant fund that are not relevant assets (and the bars relating to the market index must be clearly identified).

(3) Subclause (2)(a) does not apply if the risk indicator calculated and filled in in accordance with that paragraph would be likely to deceive or mislead with regard to any particular that is material to the offer of the managed investment products because of the nature of the fund, and, in that case, the risk indicator must be calculated and filled in in accordance with clause 8(2).

(4) The table under subclause (2)(e) must be in the following format:

	Average over past 5 years	**Past year**
Annual return (after deductions for charges and tax)	[*specify*]	[*specify*]
Annual return (after deductions for charges but before tax)	[*specify*]	[*specify*]
Market index annual return (reflects no deduction for charges and tax)	[*specify*]	[*specify*]

(5) For the purposes of subclause (2)(e), if the relevant fund has not been in existence for the whole of the 12-month period up to the relevant date, the rows in the table relating to the returns for the relevant fund must state "Not applicable" (but the information for the market index must still be included in the table).

Schedule 4 clause 98: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

99 Conditions if there is neither market index nor relevant index or benchmark for any assets of relevant fund

(1) This clause applies if—

(a) the manager of a relevant fund—

(i) determines, under clause 96, that none of the relevant assets have a relevant index or benchmark; or

(ii) considers that clause 97(2) applies; and

(b) clause 98 does not apply.

(2) The following conditions apply:

Risk indicator

(a) the risk indicator for the relevant fund must be calculated and filled in in accordance with clause 8(2); and

Performance-based fee

(b) if a performance-based fee may be paid even though there is no market index and no relevant index or benchmark against which to measure performance, section 5 of the PDS for the offer of interests in the relevant fund must contain a statement to that effect; and

Register entry

(c) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, the following information as at the relevant date of the fund update or for the period or periods ending on that date or for the most recent scheme year (as the case may be):

(i) the information referred to in clause 59(1)(a) and (b):

(ii) the information referred to in clause 53(1)(c)(ii) presented, calculated, and filled in in accordance with paragraph (a):

(iii) the information referred to in clause 53(1)(c)(v) to (xi) and (d) to (i):

(iv) the numbers used to generate a bar graph under clause 62(1), (2), and (4) to (6); and

(d) the register entry for the offer of interests in the relevant fund must contain, in respect of each fund update, at the same time as or before each fund update is lodged with the Registrar, a document that explains why there is no appropriate market index and no suitable relevant index or benchmark for the relevant fund; and

Fund update

(e) each fund update for the relevant fund must, in a table in the format set out in subclause (3) and otherwise in accordance with clause 59(4) and (5), disclose for each of the relevant periods the information required by clause 59(1)(a) and (b); and

(f) each fund update for the relevant fund must include an explanatory note that explains that there is no appropriate market index and no suitable index or benchmark for the relevant fund against which to assess either

movements in the market in relation to the returns from the assets in which the relevant fund invests or the performance of the relevant fund as a whole.

(3) The table under subclause (2)(e) must be in the following format:

	Average over past 5 years	**Past year**
Annual return (after deductions for charges and tax)	[*specify*]	[*specify*]
Annual return (after deductions for charges but before tax)	[*specify*]	[*specify*]

(4) For the purposes of subclause (2)(e), the requirement for information for the market index in clause 59(4)(b) must be disregarded.

Schedule 4 clause 99: inserted, on 12 June 2025, by regulation 22 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 5
Managed investment products in other schemes

rr 24(3), 40(2), 55(1)(c), 63(b)

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1 Interpretation

(1) In this schedule,—

financial measure means a numerical measure of a scheme's historical or future financial performance, financial position, or cash flows

managed investment products means the managed investment products that are being offered under the PDS

most recent period means the scheme's most recently completed accounting period before the date of the PDS

P_{+1} means the scheme's accounting period that will immediately follow the most recent period

P_{+2} means the scheme's accounting period that will immediately follow P_{+1}

relevant period—

(a) means the most recent period (unless the scheme was not in existence during that period); and

(b) includes, if the most recent period ended more than 9 months before the date of the PDS, an interim accounting period from the balance date of the most recent period and ending on a stated date (being an interim accounting period that is not less than 6 months); and

(c) includes, if there is no relevant period under paragraph (a) or (b) but the scheme has commenced business and has acquired an asset or has incurred a debt on or before the date of the PDS, the period from the

date of commencement of business and ending on a stated date that is not more than 4 months before the date of the PDS; and

(d) includes P_{+1} and P_{+2} (but *see* clause 30(1)(c))

scheme means the managed investment scheme to which the managed investment products relate.

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the managed investment products that are being offered under the PDS.

Part 1
PDS for managed investment products in other schemes

PDS sections

2 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Key information summary
2 What [*name of scheme*] invests in
3 Key dates and offer process
4 Terms of the offer
5 How [*name of scheme*] works
6 [*Name of scheme*]'s financial information
7 Risks to returns from [*name of scheme*]
8 What are the fees?
9 Tax
10 About [*name of manager*] and others involved in [*name of scheme*]
11 How to complain
12 Where you can find more information
13 How to apply

(2) The sections of the PDS must be numbered sequentially.

Key information summary

3 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

Who manages this scheme?

What are you investing in?

Key terms of the offer

How you can get your money out

Key drivers of returns

[*Name of scheme*]'s financial information

Key risks of this investment

What fees will you pay?

How will your investment be taxed?

(2) Clauses 4 to 13 specify the information that must be contained in the KIS under each of the headings in subclause (1).

4 What is this?

(1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products*]. Your money will be pooled with other investors' money and invested. [*Name of manager*] invests the money in assets, such as [*specify relevant examples*], and takes fees. The assets and fees are described in this document. By investing in this scheme, you are relying on the investment decisions of [*name of manager*] and returns from the assets that the scheme invests in. There is a risk that you may lose some or all of the money you invest."

(2) In the case of convertibles, the statement in subclause (1) must be modified with the effect that the statement—

(a) identifies the managed investment products as being convertible; and

(b) includes the name of the new products and the name of the issuer of the new products; and

(c) briefly specifies how or when the conversion may or will occur (for example, at the investor's option, at the manager's option, on a specified date, or on the occurrence of a particular event); and

(d) briefly specifies how the conversion will affect the form of returns.

Schedule 5 clause 4(2): inserted, on 1 December 2015, by regulation 42(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

5 Who manages this scheme?

The KIS must—

(a) state the name of the manager of the scheme; and

(b) contain a reference to section 10 of the PDS (about [*name of manager*] and others involved in [*name of scheme*]).

6 What are you investing in?

(1) The KIS must describe the scheme.

(2) The description must include a brief summary of—

(a) the general nature of scheme; and

Example

This is a proportionate ownership scheme.

(b) the investment objectives and strategy of the scheme; and

Example

The investments in the scheme will be used to acquire and manage a property.

(c) the key existing and proposed scheme property; and

Example

The main assets of the scheme will be the land and buildings at 35 XYZ Street, Wellington and 26 ABC Street, Auckland.

(d) the key sources of borrowings used, or that are able in the future to be used, to acquire scheme property.

7 Key terms of the offer

(1) The KIS must contain the key terms of the offer briefly summarised in a table, including—

(a) a brief description of the managed investment products; and

(b) the fixed price of, or other consideration for, the managed investment products (if any) or the (fixed or indicative) range within which that price or consideration may be fixed (if any); and

(c) the intended dates on which the offer opens and closes; and

(d) if a holder of the managed investment products will or may be liable to make further payments relating to those products, a brief description of the nature of the liability.

(2) If there is no fixed price of, or other consideration for, the managed investment products and no fixed or indicative range within which that price or consideration may be fixed, the KIS must contain a statement to that effect.

(3) Subclause (1)(d) does not apply to payments of fees and expenses of a kind that are disclosed under section 8 of the PDS (what are the fees?).

(4) In the case of convertibles, the table in subclause (1) must also include a brief description of—

(a) the new products; and

(b) the circumstances in which the conversion may or will occur; and

(c) the terms of the conversion.

Schedule 5 clause 7(4): inserted, on 1 December 2015, by regulation 42(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

8 How you can get your money out

(1) The KIS must—

(a) state whether the investment is redeemable; and

(b) briefly describe how the redemption price will be determined, any restrictions on redemption, and the fees payable on redemption.

(2) The KIS must include whichever of the following statements best applies:

(a) "[*Name of manager*] intends to quote these [*name of managed investment products*] on [*name of licensed market*]. This means you may be able to sell your investment on [*name of licensed market*] if there are interested buyers. The amount you get may be less than the amount that you invested.":

(b) "[*Name of manager*] does not intend to quote the [*name of managed investment products*] on a market licensed in New Zealand. However, those financial products will be able to be traded on the [*describe established market available for trading*]. This means that you can sell your investment on [*name of established market*] if there are interested buyers. You may receive less than the amount that you invested.":

(c) "Your investment in these [*name of managed investment products*] can be sold but there is no established market for trading these financial products. This means that you may not be able to find a buyer for your investment.":

(d) "Your investment in [*name of managed investment products*] cannot be sold or transferred to anyone else."

(3) For the purposes of subclause (2)(a), if the manager intends that the managed investment products will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(4) In the case of convertibles, the statement in subclause (2) must be modified with the effect that the statement also—

(a) states whether or not the new products are quoted or approved for trading, or the manager intends that those products will be quoted or approved for trading, on a market licensed in New Zealand or on another established market; and

(b) if the manager does not intend that the new products will be quoted or approved for trading on an established market, includes a statement that the investor may not be able to sell those new products; and

(c) if the new products cannot be sold or transferred, includes a statement to that effect.

Schedule 5 clause 8(4): inserted, on 1 December 2015, by regulation 42(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

9 Key drivers of returns

(1) The KIS must give a brief summary of what the manager considers to be—

(a) the current and future aspects of the scheme that have, or may have, the most impact on its financial performance; and

(b) the key strategies and plans for those aspects of the scheme.

(2) The summary may refer to a PDS page or provide another PDS cross-reference to where information about the matters referred to in subclause (1) may be found.

10 [*Name of scheme*]'s financial information

(1) The KIS must include a brief summary of the ratios or other measures that the manager considers provide the most useful indication of the ongoing financial position and performance of the scheme (the **key financial metrics**), which must include the following ratios if those ratios are required under clause 29:

(a) the gearing ratio or ratios calculated in accordance with clause 29:

(b) the interest cover ratio or ratios calculated in accordance with clause 29.

(2) The information under subclause (1)(a) and (b) must be accompanied by a brief explanation of what each ratio measures.

(3) If the key property described under clause 6 is proposed to be acquired (or was acquired since the last balance date of the scheme), the KIS must include—

(a) the value of that property as at a date no more than 4 months before the date of the PDS; and

(b) a statement of whether an independent valuation or other objective mechanism has been obtained to support that valuation; and

(c) if an independent valuation or objective mechanism has been obtained, a brief description of the valuation or mechanism; and

(d) if paragraph (c) does not apply, a statement as to why an independent valuation or objective mechanism has not been obtained to support the valuation.

11 Key risks of this investment

(1) The KIS must include a statement in the following form:

"Investments in managed investment schemes are risky. You should consider whether the degree of uncertainty about [*name of scheme*]'s future performance and returns is suitable for you. The price of these [*name of financial products*] should reflect the potential returns and the particular risks of these [*name of financial products*]. [*Name of manager*] considers that the most significant risk factors that could affect the value of the [*name of financial products*] are: [*brief summary of the circumstances that must be disclosed under clause 32 (risks) that the manager considers most significantly increase the risk to the value of the financial products*]."

(2) The brief summary must include particulars that make it clear why each circumstance is of particular significance in relation to the particular scheme or the particular managed investment products (as compared to other managed investment schemes or managed investment products).

(3) The KIS must include a statement in the following form after the statement in subclause (1):

"This summary does not cover all of the risks. You should also read [*references to section 7 of the PDS (risks to returns from [name of scheme]) and to other places in the PDS that describe risk factors (for example, risks arising for investors from the nature of the product)*]."

12 What fees will you pay?

(1) The KIS must include a statement in the following form:

"The table below summarises the fees and expenses that you will be charged to invest in this scheme. Further information about fees is set out in [*specify PDS cross-reference*]."

(2) The KIS must briefly summarise, in a table, the fees and expenses charged by any person in respect of the scheme or any underlying fund.

(3) The table must identify separately, and provide an aggregate estimate of,—

(a) the fees and expenses to be charged by the manager and its associated persons for the periods for which aggregate estimates are provided under clause 35(4); and

(b) the fees and expenses charged by other persons for the periods for which aggregate estimates are provided under clause 35(4).

(4) The KIS may also describe, or provide an estimate of, total fees and expenses for subsequent periods.

(5) Estimates of fees and expenses must be made in accordance with clause 35.

13 How will your investment be taxed?

(1) If the scheme is a PIE, the KIS must contain—

(a) a statement that the scheme is a portfolio investment entity (PIE); and

(b) a statement in the following form:

"The amount of tax you pay in respect of a PIE is based on your prescribed investor rate (PIR). *This can be [*specify current rates*]. See section 9 of the PDS (tax) on [*specify PDS cross-reference*] for more information."

*This sentence may be replaced with "To determine your PIR, go to [*refer to an application form (if it contains information about how a person can work out his or her PIR) or specify a URL for the page on the Inland Revenue Department's Internet site on which a person can work out his or her PIR*]."

(2) If the scheme is not a PIE, the KIS must contain a statement to that effect and a reference to section 9 of the PDS (tax).

14 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

What [name of scheme] invests in

15 Application

Clauses 16 to 18 apply to section 2 of the PDS (what [*name of scheme*] invests in).

16 Key features of the scheme

(1) The PDS must describe the scheme property, and the key features of the scheme, including—

(a) a summary of the SIPO, of the investment strategy of the scheme, and of how changes can be made to the SIPO and the strategy; and

(b) a description of the property that the scheme is invested in and proposes to invest in; and

(c) a brief description of how the scheme property will be managed, including—

(i) the names of the key personnel of the manager responsible for managing the scheme property; and

(ii) the name of each entity (other than the manager) that is, or is expected to be, responsible for managing the scheme property and a reference to section 10 of the PDS (about [*name of manager*] and others involved in [*name of scheme*]); and

(iii) a brief description of the role of the persons referred to in subparagraphs (i) and (ii); and

(d) a description of the purpose of the offer and of how the money raised under the offer together with other sources of finance (if any) is expected to be allocated to each intended use, including—

(i) particulars of how each intended use relates to the objectives and strategy of the scheme; and

(ii) information about whether (and, if so, how) the use of the money raised under the offer may change depending on the total amount that is raised; and

(iii) a statement as to whether a minimum amount must be raised before the managed investment products are issued or transferred (*see* section 77(1)(b) of the Act); and

(iv) a statement as to the extent to which the offer is underwritten; and

(e) a brief description of the current and future aspects of the scheme that have, or may have, the most impact on its financial performance; and

(f) a brief description of the key strategies and plans for those aspects of the scheme; and

(g) a brief description of—

(i) the nature of the returns to investors from the managed investment products; and

(ii) the key factors that determine the returns.

(2) The PDS may include information about the skills, experience, or background of a person referred to in subclause (1)(c)(i) if it is material information.

17 Acquisition of key property

(1) If the key property described under clause 6 is proposed to be acquired (or was acquired since the last balance date of the scheme) and financial information about the property is material information, the PDS must include—

(a) the value of that property as at a stated date no more than 4 months before the date of the PDS; and

(b) a statement of whether an independent valuation or other objective mechanism has been obtained to support that valuation; and

(c) if an independent valuation or objective mechanism has been obtained, a brief description of the valuation or mechanism, including, in the case of an independent valuation,—

(i) the basis upon which the valuer's valuation is made and any assumptions used in making the valuation; and

(ii) a reference to where the valuation report (if any) can be found on the offer register; and

(d) if paragraph (c) does not apply, a statement as to why an independent valuation or objective mechanism has not been obtained to support the valuation; and

(e) if the property is tangible property, a summary of any rights of occupation, possession, or use to which the property is subject, whether by lease, licence, or otherwise, including—

(i) the term of each agreement that confers that right (an **agreement**); and

(ii) any rights of renewal; and

(iii) any rent reviews; and

(iv) the financial standing of tenants or occupiers or any other person on whom those rights are conferred; and

(v) a statement as to whether any of those persons has failed to meet any material obligations under the terms of an agreement; and

(vi) a statement that each agreement is available on the offer register; and

(f) if the asset is real property,—

(i) a summary of any contracts relating to proposed building on, or improvements to, the property; and

(ii) a summary of any existing or proposed covenants, conditions, restrictions, and easements in respect of the property; and

(iii) a summary of any matters referred to in a land information memorandum under section 44A of the Local Government Official Information and Meetings Act 1987; and

(iv) if there are existing buildings on the property, a statement as to whether a building inspection report has been obtained and, if so, a reference to its availability on the offer register; and

(g) if the property is tangible property, a summary of any option, buyback, or similar arrangement, and of any rental guarantees, in relation to the property.

(2) Subclause (1)(e), (f), and (g) applies only to the extent that information about a matter is material information.

18 Borrowings

(1) If money has been or will be borrowed for the purposes of the scheme and information about the borrowings of the scheme is material information, the PDS must include—

(a) a description of the nature of the current or proposed sources of borrowings, including, in respect of each of those borrowings, the size, the term, and the creditor; and

(b) for each of the borrowings referred to in paragraph (a),—

(i) a statement of the assets that are or will be subject to a security interest to secure the borrowings; and

(ii) a description of the interest rate; and

(iii) a summary of any financial covenants; and

(iv) if the borrowings will become due for repayment before the scheme is wound up, a statement as to whether the manager considers that refinancing is likely to be needed; and

(c) a statement identifying which borrowings referred to in paragraph (a) (if any) or any other liabilities of the scheme rank equally with, or in

priority to, the managed investment products on a winding up of the scheme; and

(d) if any liabilities referred to in paragraph (c) are not borrowings referred to in paragraph (a), a brief description of the nature of those liabilities.

(2) The information about the size, the term, and the creditor referred to in subclause (1)(a) applies in respect of a particular borrowing only to the extent that the information is material information.

(3) Subclause (1)(b) applies only to the extent that information about a matter is material information.

Key dates and offer process

19 Application

(1) Clause 20 applies to section 3 of the PDS (key dates and offer process).

(2) However, section 3 of the PDS does not apply to a continuous issue PDS.

20 Key dates and offer process

(1) The PDS must include—

(a) a table showing the key dates for the offer and the issue or transfer of the managed investment products, including the intended dates on which—

(i) the offer opens:

(ii) the offer closes:

(iii) the managed investment products are issued or transferred:

(iv) the managed investment products are quoted:

(b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 4 of the PDS (terms of the offer).

(2) The table may specify other dates relating to the managed investment products.

(3) If an investor is required to make payments on specified dates or at a specified frequency, the PDS must specify the payment dates or frequency and the consequences of failing to make the payments.

(4) Subclause (3) does not apply to payments of fees and expenses of a kind that are disclosed under section 8 of the PDS (what are the fees?).

(5) In relation to subclause (1)(a)(iv), *see* section 78 of the Act (which provides that an issue or a transfer is void if a quotation condition is not fulfilled).

Terms of the offer

21 Application

Clause 22 applies to section 4 of the PDS (terms of the offer).

22 Terms of the offer

(1) The PDS must include a table that sets out the terms of the offer (including the terms that are summarised under clause 7).

(2) The following information must be provided in or below the table:

(a) a summary of how an investor can make investments in the scheme and any restrictions or conditions relating to that matter that apply:

(b) a summary relating to whether and, if so, how an investor can withdraw (in whole or in part) the investor's investment from the scheme and any restrictions or conditions relating to that matter that apply, including information about—

(i) whether withdrawals are allowed under the governing document; and

(ii) any time frame within which withdrawals are permitted; and

(iii) any limits on withdrawals (for example, scheme liquidity requirements that must be satisfied); and

(iv) if withdrawals are to be funded from an external liquidity facility, the terms of the facility, including any rights the provider of the facility has to suspend or cancel the facility (to the extent that that information is material information):

(c) if there is a minimum amount that an investor who applies for the managed investment products is required to invest, a statement to that effect and a statement of the minimum amount:

(d) if some or all of the managed investment products are offered by way of sale (rather than by way of issue), the name of the offerors and the number of managed investment products that each offeror is offering:

(e) the nature and frequency of returns or other financial benefits and how those returns or benefits are made:

(f) if the manager intends to make distributions to scheme participants,—

(i) a description of how it is proposed to fund each distribution or proposed distribution (for example, from money derived from operations, from capital, or from unrealised revaluation gains); and

(ii) if a distribution or proposed distribution is not, or is not to be, solely funded from money derived from operations (excluding borrowings), a description of the sources of funding, a statement of the reasons for making the distribution from those sources, and a statement as to whether use of those sources is commercially sustainable over the life of the scheme:

(g) if no distributions to scheme participants are expected to be made, a statement to that effect:

(h) if terms of the offer will be determined during the course of the offer (for example, the price or the number of managed investment products to be issued), a description of the process by which those terms will be determined.

(3) The PDS may, rather than setting out a particular term or particular terms of the offer in the table under subclause (1), refer to a PDS page or provide another PDS cross-reference to where the term or terms are described.

(4) The PDS must—

(a) refer to the governing document and any other deed or agreement that sets the terms of the managed investment products or other terms of the offer; and

(b) include a statement to the effect that those documents may be obtained from the offer register or the scheme register.

(5) Subclause (1) does not apply—

(a) to any terms implied by law; or

(b) to a term set by the governing document or any other deed or agreement that the manager considers is not a key term of the offer.

(6) In the case of convertibles, if the new products are of the same class as financial products that are quoted at the time of the offer, the PDS must include a statement that those products are already quoted.

Schedule 5 clause 22(6): inserted, on 1 December 2015, by regulation 42(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

How [name of scheme] works

23 Application

Clauses 24 and 25 apply to section 5 of the PDS (how [*name of scheme*] works).

24 How [*name of scheme*] works

(1) The PDS must describe—

(a) how the scheme works; and

(b) the significant benefits of investing in the scheme.

(2) The description under subclause (1) must include the following:

(a) a summary of the significant features of the scheme:

(b) the nature of the interests that investors acquire:

(c) a brief description of the legal structure of the scheme (for example, whether the scheme is established as a trust).

(3) Subclauses (1) and (2) apply only to the extent that information about a matter is not already disclosed under section 2 of the PDS (what [*name of scheme*] invests in) or section 4 of the PDS (terms of the offer).

25 Related party benefits

(1) The PDS must include a brief description of each transaction or proposed transaction under which—

(a) a related party benefit has been given to, or received by, a related party at any time in the 2-year period before the date of the PDS; or

(b) a related party may be entitled to receive a related party benefit in the future.

(2) The PDS must include a brief description of the nature and extent of the related party benefit referred to in subclause (1).

(3) In this clause,—

related party has the same meaning as in section 172(2) and (3) of the Act

related party benefit, in relation to a scheme, is a benefit that either is given out of scheme property or creates an exposure to loss for scheme property (other than fees or expenses disclosed under section 8 of the PDS (what are the fees?)).

[Name of scheme]'s financial information

26 Application

Clauses 27 to 30 apply to section 6 of the PDS ([*name of scheme*]'s financial information).

27 Selected financial information

(1) The PDS must include a statement in the following form:

"This table provides selected financial information about [*name of scheme*]. Full financial statements are available on the offer register at [*specify Internet site address*]. If you do not understand this sort of financial information, you can seek professional advice."

(2) The PDS must include 1 or more tables that contain the financial measures, in respect of the relevant periods, that the manager considers provide a useful indication of the ongoing financial position and performance of the scheme.

28 Prospective income, expenses, and returns

(1) The PDS may provide in a table a summary of prospective financial information relating to the scheme's income and expenses and returns to investors over the expected life of the scheme (or for any shorter period).

(2) The summary must—

(a) include a brief summary of the principal assumptions on which the prospective financial information is based; and

(b) refer to where information about those assumptions can be obtained on the offer register.

(3) If the PDS includes a financial measure of prospective returns to investors (whether in section 6 or elsewhere in the PDS), the amounts on which that financial measure is based must be prepared in accordance with GAAP.

29 Financial measures for scheme borrowings

(1) If the scheme property has been, or will be, acquired (in whole or in part) using borrowing, and financial information about the borrowing is material information, the PDS must disclose—

(a) a gearing ratio as at each of the following dates:

(i) if the scheme has completed an accounting period, the balance date of the most recent period:

(ii) the later of—

(A) the date of the issue or sale; and

(B) the date on which the property is acquired or is proposed to be acquired:

(iii) the balance date of each of P_{+1} and P_{+2} (unless prospective financial information for that period is not required under clause 30(1)(c)); and

(b) an interest cover ratio for each of the following periods:

(i) if the scheme has completed an accounting period, the most recent period:

(ii) P_{+1} and P_{+2} (unless prospective financial information for that period is not required under clause 30(1)(c)).

(2) The gearing ratio must be calculated using the following formula:

$$\text{Gearing ratio} = \frac{\text{total interest-bearing liabilities}}{\text{total assets}}$$

(3) For the purposes of subclause (2),—

(a) the **total interest-bearing liabilities** is the total interest-bearing liabilities of the scheme at the date referred to in subclause (1)(a) as determined in accordance with GAAP:

(b) the **total assets** is the total assets of the scheme at the date referred to in subclause (1)(a) as determined in accordance with GAAP:

(c) the ratio must be accompanied by a brief explanation of what the ratio measures and what a higher or lower gearing ratio means in terms of the risk created by gearing within the scheme.

(4) The interest cover ratio for the scheme must be calculated using the following formula:

$$\text{Interest cover ratio} = \frac{(\text{EBITDA} - \text{unrealised gains}) + \text{unrealised losses}}{\text{interest expense}}$$

(5) For the purposes of subclause (4),—

(a) **EBITDA** is the net profit after tax plus interest, tax, depreciation, and amortisation (as each of those items is determined in accordance with GAAP) for the scheme for the periods referred to in subclause (1)(b):

(b) **unrealised gains**, **unrealised losses**, and **interest expense** are those amounts for the scheme for the periods referred to in subclause (1)(b) (as each of those items is determined in accordance with GAAP):

(c) the ratio must be accompanied by a brief explanation of—

(i) what the ratio measures; and

(ii) how scheme participants can use the ratio to assess the scheme's ability to meet its interest obligations.

(6) The PDS must include a table that summarises, in aggregate, when the amounts of the borrowings referred to in clause 18(1)(a) are due for repayment (the maturity profile) over at least the longest term of those borrowings.

30 Miscellaneous rules relating to financial information

(1) The following rules apply to information that is prepared under clauses 27 to 29:

(a) the information must be prepared in accordance with an applicable framework or methodology (if any):

(b) the PDS must—

(i) identify any information derived from financial statements or other information that has not been prepared in accordance with GAAP; and

(ii) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register:

(c) the prospective financial information is not required in relation to a period or any part of a period if—

(i) the manager considers, after having made reasonable endeavours to obtain all relevant information, that prospective financial information for that period or part would be likely to deceive or mislead with regard to any particular that is material to the offer of the managed investment products (for example, because it is not practicable to formulate reasonable assumptions on which to base the prospective financial information); and

(ii) the register entry contains a statement to that effect together with a statement of the manager's reasons for its opinion.

(2) If a PDS includes a non-GAAP profit measure, the PDS must—

(a) state that the measure is not determined in accordance with GAAP; and

(b) refer to where reconciliations to information prepared in accordance with GAAP can be obtained on the offer register.

(3) If a PDS includes a GAAP financial measure or a non-GAAP financial measure and either of the following applies, the PDS must include a statement to that effect:

(a) any information used to calculate the financial measure is derived from financial statements, or group financial statements, that have not been audited by a qualified FMC auditor:

(b) any information used to calculate the financial measure is derived from audited financial statements, or audited group financial statements, in respect of which the auditor's report was qualified or referred to a fundamental matter in any respect.

(4) If subclause (3)(b) applies, the PDS must explain what the qualification or fundamental matter was.

(5) If the information required by subclause (3) would, but for this subclause, be required to be specified in 2 or more places in the PDS, the PDS may include the information in 1 or more of those places and in other places include a cross-reference to where the information may be found in the PDS.

(6) In this clause,—

determined in accordance with GAAP, in relation to a measure, means that the measure may be calculated and presented in accordance with GAAP

GAAP financial measure means a numerical measure of a scheme's historical or future financial performance, financial position, or cash flows that is determined in accordance with GAAP

non-GAAP financial measure means a numerical measure of a scheme's historical or future financial performance, financial position, or cash flows that is used as an alternative to, or to supplement, a GAAP financial measure

non-GAAP profit measure means a non-GAAP financial measure that is used as an alternative to, or to supplement, net profit after tax.

Schedule 5 clause 30(3)(a): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Risks to returns from [name of scheme]

31 Application

Clauses 32 and 33 apply to section 7 of the PDS (risks to returns from [*name of scheme*]).

32 Risks to returns from [*name of scheme*]

(1) The PDS must include a description of the circumstances that the manager is aware of that exist or are likely to arise that significantly increase the risk to returns for investors.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular scheme or the particular managed investment products (as compared to other schemes or managed investment products); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

33 Risks otherwise disclosed in PDS or register entry

(1) To the extent that information about a risk is included elsewhere in the PDS (other than the KIS) or in the register entry, that information is not required to be repeated in section 7 of the PDS for the purposes of clause 32.

(2) However, if information about a risk is not included in section 7 of the PDS as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 32; and

(b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

What are the fees?

34 Application

Clause 35 applies to section 8 of the PDS (what are the fees?).

35 What are the fees?

(1) The PDS must set out, in 1 or more tables,—

(a) the fees and expenses charged by any person in respect of the scheme or any underlying fund; and

(b) how the fees referred to in paragraph (a) can be changed, including whether and how notice of any changes to those fees will be given to investors.

(2) For the purposes of subclause (1), the table or tables must,—

(a) if a fee or an expense, or the minimum or maximum amount of a fee or an expense, is fixed at the date of the PDS as a dollar amount (or as a percentage of another dollar amount), state the dollar amount (or the percentage and a description of the other dollar amount):

(b) if a fee or an expense, or the minimum or maximum amount of a fee or an expense, is not fixed at the date of the PDS as a dollar amount (or as a percentage of another dollar amount), state the basis or method of calculating the fee or expense.

(3) The PDS must, under the table or tables, briefly describe what each fee or expense category covers, how it is charged, and, if it is not charged to the scheme, when the fee or expense is charged to investors.

(4) The PDS must, in 1 or more tables, identify and provide an aggregate estimate of—

(a) the fees and expenses charged or to be charged, in respect of the scheme, by the manager and its associated persons for—

(i) the most recent period; and

(ii) each of P_{+1} and P_{+2} (unless prospective financial information for that period is not required under clause 30(1)(c)); and

(b) the fees and expenses charged or to be charged, in respect of the scheme, by other persons for—

(i) the most recent period; and

(ii) each of P_{+1} and P_{+2} (unless prospective financial information for that period is not required under clause 30(1)(c)).

(5) The aggregate estimates under subclause (4) must be expressed—

(a) in dollar amounts; and

(b) as a percentage of net assets of the scheme (as determined in accordance with GAAP).

(6) The PDS may include information about fees and expenses for subsequent periods.

(7) The estimate must be made by the manager on the basis of—

(a) information in the financial statements or prospective financial statements (if any) that are contained in the register entry under clause 49(1)(a) or (b); and

(b) other information available after the manager has made reasonable endeavours to obtain all relevant information for the purposes of preparing the PDS.

(8) If, after the manager has made reasonable endeavours to obtain all relevant information, the manager cannot make a reasonable estimate of particular fees or expenses because of a lack of information, the PDS must include—

(a) information for the fees and expenses that can reasonably be estimated; and

(b) a description of the fees and expenses that cannot reasonably be estimated.

Tax

36 Application

Clause 37 applies to section 9 of the PDS (tax).

37 Tax

(1) If the scheme is a PIE, the PDS must include a statement in the following form:

"[*Name of scheme*] is a portfolio investment entity. The amount of tax you pay is based on your prescribed investor rate (PIR). To determine your PIR, go to [*refer to an application form (if it contains information about how a person can work out his or her PIR) or specify a URL for the page on the Inland Revenue Department's Internet site on which a person can work out his or her PIR*]. If you are unsure of your PIR, we recommend you seek professional advice or contact the Inland Revenue Department. It is your responsibility to tell [*name of manager*] your PIR when you invest or if your PIR changes. If you do not tell [*name of manager*], a default rate may be applied. If the rate applied to your PIE income is lower than your correct PIR, you will be required to pay any tax shortfall as part of the income tax year-end process. If the rate applied to your PIE income is higher than your PIR, any tax over-withheld will be used to reduce any income tax liability you may have for the tax year and any remaining amount will be refunded to you."

(2) If the scheme is not a PIE, the PDS must include a statement to the effect that—

(a) tax can have significant consequences for investments; and

(b) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(3) Section 9 of the PDS may do either or both of the following:

(a) include other information on the tax consequences of the investment:

(b) incorporate by reference a publicly available document that contains information about the tax consequences of the investment.

Schedule 5 clause 37(1): amended, on 18 January 2021, by regulation 30 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

About [name of manager] and others involved in [name of scheme]

38 Application

Clauses 39 and 40 apply to section 10 of the PDS (about [*name of manager*] and others involved in [*name of scheme*]).

39 About [*name of manager*]

(1) The PDS may contain a description of the manager and its business to the extent that that information is material information.

(2) The PDS must state the manager's contact details.

(3) The contact details must include an address and a business telephone number.

40 Who else is involved?

Under the subheading "**Who else is involved?**", the PDS must include the following table:

	Name	**Role**
Supervisor	[*specify*]	[*brief description of role*]
Custodian	[*specify*]	[*brief description of role*]
[*Other person(s) involved in the scheme, eg, an investment manager or an administration manager*]	[*specify*]	[*brief description of role*]

How to complain

41 Application

Clause 42 applies to section 11 of the PDS (how to complain).

42 How to complain

(1) The PDS must include a statement as to whether complaints about the managed investment products or the scheme can be made to 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the manager:

(b) the supervisor:

(c) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

43 Application

Clause 44 applies to section 12 of the PDS (where you can find more information).

44 Where you can find more information

(1) The PDS must include a statement to the effect that—

(a) further information relating to the scheme and the managed investment products is available on the offer register and the scheme register (for example, financial statements); and

(b) a copy of information on the offer register or scheme register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The PDS must include a statement—

(a) briefly describing any information relating to the scheme or the managed investment products that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register or the scheme register; or

(ii) on request to the manager; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

45 Application

Clause 46 applies to section 13 of the PDS (how to apply).

46 How to apply

The PDS—

(a) must include a short statement explaining how to apply for the managed investment products; and

(b) may include a link or reference to the application form.

Part 2
Register entry for managed investment products in other schemes when PDS is lodged

47 General register entry information

(1) The register entry must contain the following:

(a) the name of each of the following (as selected from another register kept by the Registrar) or, if the person or scheme does not have an entry on such a register, the unique identifying information of the person or scheme:

(i) the manager:

(ii) the scheme:

(iii) each offeror:

(b) the address for communications from the Registrar—

(i) to the manager:

(ii) to each offeror:

(ba) a New Zealand Business Number (if any) for—

(i) the manager; and

(ii) each offeror:

(c) a brief description of the managed investment products:

(d) if a holder of the managed investment products will or may be liable to make further payments or to pay fees or charges relating to those products, confirmation of that fact:

(e) if the managed investment products are quoted or the manager intends for the managed investment products to be quoted,—

(i) confirmation of that fact; and

(ii) a link to or URL for the page of the Internet site maintained by the licensed market operator that relates to the managed investment products or the manager (if a link or URL is known by the manager at the date of the PDS):

(f) the dates on which the offer opens and, if applicable, closes:

(g) if there is a minimum amount that an investor who applies for the managed investment products is required to invest, a statement of the minimum amount:

(h) if the managed investment products will not be issued or transferred unless a minimum amount is raised, a statement of the minimum amount:

(i) if the managed investment products are not transferable or there are restrictions on the right to transfer, confirmation of that fact:

(j) if a managed investment product is or may become convertible into a financial product of another kind, confirmation of that fact and a brief description of the new product:

(k) if the offer is made in reliance on an exemption granted under subpart 2 of Part 9 of the Act, confirmation of that fact and the name of the exemption notice:

(l) if a declaration under subpart 3 of Part 9 of the Act applies to the managed investment products, confirmation of that fact:

(m) if the offer is made under subpart 3 of Part 9 of these regulations (mutual recognition), confirmation of that fact.

(2) Subclause (1)(i) does not apply to the following restrictions:

(a) a restriction in connection with a lien that the manager has over a managed investment product:

(b) a restriction to prevent a product holder from having less than a minimum holding:

(c) a restriction that is otherwise expressly permitted by the market rules of a licensed market on which the managed investment product is quoted.

Schedule 5 clause 47(1)(ba): inserted, on 31 December 2017, by regulation 10 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

Schedule 5 clause 47(1)(j): amended, on 1 December 2015, by regulation 42(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

48 Material contracts and information about issue expenses to be lodged on register entry

(1) The register entry must contain,—

(a) if the existence, or any of the terms, of a contract entered into in respect of the scheme is material information,—

(i) a copy of that contract; or

(ii) a summary of the key terms of that contract (including the terms that are material information); and

(b) an estimate of the sum of the following (labelled as "Total estimated costs of offer and issue" or "Total estimated costs of offer and sale"):

(i) the total of the amounts paid or agreed to be paid by, or on behalf of, 1 or more relevant persons in connection with the offer of the managed investment products or the issue or sale of those products (or both); and

(ii) the total value of all benefits given or agreed to be given by, or on behalf of, 1 or more relevant persons in connection with the offer

of the managed investment products or the issue or sale of those products (or both); and

(c) if an amount paid or agreed to be paid, or a value of a benefit given or agreed to be given, as referred to in paragraph (b) is contingent on, or will differ according to, the price of, or other consideration for, the managed investment products, the amount raised under the offer, or the number of those products that are issued or sold,—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided); and

(d) if the person to whom an amount has been paid or will be paid, or to whom a benefit has been or will be given, as referred to in paragraph (b) is a person A as defined in section 60 of the Act (an expert or a person who has made an endorsement),—

(i) an estimate of the amount or of the value of the benefit (and, in the case of a benefit, a brief description of the nature of the benefit); and

(ii) the name of the person to whom the amount has been paid or will be paid or to whom the benefit has been or will be given; and

(iii) the name of the person who has made or agreed to make the payment or who has given or agreed to give the benefit; and

(iv) a brief explanation of the reasons for the payment or benefit (including a brief description of any services provided).

(2) Subclause (1)(a) does not apply to a contract if—

(a) all of the key terms of the contract (including the terms that are material information) are summarised or otherwise disclosed in the PDS; or

(b) it is entered into in the ordinary course of business of the manager.

(3) Subclause (1)(b) to (d) does not apply to a continuous issue PDS.

(4) In subclause (1)(b), **relevant person** means the manager, an offeror, or an associated person of a manager or an offeror.

49 Financial information on register entry

(1) The register entry must contain the following:

(a) the financial statements for the scheme for each relevant period for which financial information is required under clauses 27 to 30 (other than P_{+1} and P_{+2}) together with any auditor's report on those statements:

(b) prospective financial statements prepared in accordance with FRS-42 for the scheme for at least the following periods (if prospective financial information for that period is included under clauses 27 to 30):

(i) P_{+1}:

(ii) P_{+2}.

(2) For the purposes of subclause (1)(a),—

(a) the financial statements for the most recent period must be prepared in accordance with GAAP; and

(b) those financial statements must be audited by a qualified FMC auditor; and

(c) the register entry must include a copy of the auditor's report on those statements.

(3) Financial statements included in the register entry are not required to include comparative information for any period before P_{-2}.

(4) The interim financial statements included in the register entry must be—

(a) prepared in accordance with NZ IAS 34 (but need not be audited); and

(b) accompanied by the audit or review report on those statements (if any).

(5) This clause does not require financial statements to be included in the register entry if those statements are on the scheme register.

Schedule 5 clause 49(2)(b): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

50 Additional scheme information to be lodged on register entry

The register entry must contain the following:

(a) the assumptions referred to in clause 28(2):

(b) if the PDS refers to an independent valuer's report, a copy of that report and the following information as at the date of the report:

(i) the name and address of the valuer and a brief description of that valuer's qualifications:

(ii) a statement that the report is made by the valuer as an independent valuer:

(iii) a statement that the valuer is making the report for the purposes of the scheme and for use by prospective investors in the scheme:

(iv) a statement that the valuer has consented to the distribution of the valuer's report to prospective investors in the scheme and that, as at the date of the PDS, the valuer has not withdrawn that consent:

(c) each agreement referred to in clause 17(1)(e):

(d) a building inspection report referred to in clause 17(1)(f)(iv):

(e) a statement of the principal assumptions upon which the estimates referred to in clause 35 are based.

Part 3
Ongoing disclosure

Schedule 5 Part 3 heading: amended, on 1 December 2015, by regulation 42(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

51 Event disclosures to be made publicly available

(1) If any of the following events occur, the information required by clause 52 must be made publicly available under regulation 55:

(a) the manager enters into a major transaction in relation to the scheme or changes the essential nature of the scheme's business:

(b) the manager proposes to resign or change an investment manager for the scheme:

(c) the manager or the scheme becomes subject to an insolvency event.

(2) Subclause (1) does not apply in respect of quoted managed investment products.

(3) The manager must comply with regulation 55 within 5 working days after the date of the event.

(4) In this clause,—

insolvency event has the same meaning as in section 6(4) of the Act (applied as if the scheme were a person)

major transaction has the same meaning as in section 129 of the Companies Act 1993 (applied as if the scheme were a company).

52 Information to be made publicly available

For the purposes of clause 51, the information is—

(a) a statement of the managed investment products to which the information relates; and

(b) a brief description of the event; and

(c) a brief description of the implications of the event to assist an investor to assess its potential significance in terms of its impact on the investor's investment.

Part 4
Annual report

53 Interpretation

In this Part,—

accounting period means the accounting period to which the annual report relates

balance date means the balance date of the accounting period.

54 Annual report

(1) The annual report must have sections that are headed up and ordered as follows:

Details of the scheme

Description of the scheme

Information on composition of the scheme

Changes relating to the scheme

Financial condition and performance of the scheme

Fees

Scheme property

Changes to persons involved in the scheme

How to find further information

Contact details and complaints

(2) Clauses 55 to 64 specify the information that must be contained in the annual report under each of the headings in subclause (1).

55 Details of the scheme

The annual report must include the following information as at the balance date:

(a) the name of the scheme:

(b) the name of the manager:

(c) the name of the supervisor:

(d) the date and status of the latest PDS (*see* regulation 280):

(e) a reference to the scheme's latest financial statements that have been lodged with the Registrar and auditor's report.

56 Description of the scheme

The annual report must include the following information:

(a) a brief description of the scheme; and

(b) the date on which the scheme started.

57 Information on composition of the scheme

The annual report must include a statement of—

(a) the number of managed investment products on issue at the start of the accounting period; and

(b) the number of managed investment products on issue at the end of the accounting period.

58 Changes relating to the scheme

(1) The annual report must contain a description of the material changes to the nature of the scheme, the scheme property, or the management of the scheme over the accounting period, including any material changes—

(a) to the SIPO; and

(b) to the governing document; and

(c) to the nature or scale of related party transactions; and

(d) to the terms of the offer of the managed investment products; and

(e) to valuation and pricing methodologies and the effect of those changes on—

(i) the scheme's net asset value; and

(ii) the value of scheme participants' interests.

(2) The description must include a statement as to whether any related party transactions entered into during the accounting period were not on arm's-length terms and, if so, a description of those transactions.

(3) In this clause,—

arm's-length terms means terms of a kind referred to in section 174(a) of the Act

related party transaction means a transaction that provides for a related party benefit to be given.

59 Financial condition and performance of the scheme

(1) The annual report must include a description of the scheme's financial condition, any changes in its financial condition over the accounting period, and its financial performance over that period.

(2) The description must include—

(a) an analysis of the scheme's financial statements for the accounting period; and

(b) information from those financial statements if this is needed to support or provide a clear understanding of the matters covered.

(3) The annual report must include—

(a) a comparison between—

(i) any prospective information about returns on the managed investment products that was included in a disclosure document, the register entry, or any advertisement for those products; and

(ii) actual returns on the managed investment products; and

(b) a comparison between—

(i) any prospective financial information about the scheme that was included in a disclosure document, the register entry, or any advertisement for the managed investment products; and

(ii) actual results.

(4) Each comparison must be presented in the same form and for the same period as the prospective information (if this is reasonably practicable).

60 Fees

(1) The annual report must set out, in 1 or more tables, the fees and expenses charged by any person in respect of the scheme or any underlying fund during the accounting period.

(2) The table or tables must identify separately, and provide a total of,—

(a) the fees and expenses charged by the manager and its associated persons for the accounting period; and

(b) the fees and expenses charged by other persons for the accounting period.

(3) The information must be expressed in dollar terms and as a percentage of scheme property.

(4) The annual report may include information about fees and expenses charged after the accounting period.

(5) The annual report must state how fees and expenses referred to in subclause (1) can be changed, including whether and how notice will be given to investors of any changes to those fees and expenses.

61 Scheme property

The annual report must include a description of—

(a) the scheme property; and

(b) any changes to the composition or value of the scheme property over the accounting period.

62 Changes to persons involved in the scheme

(1) The annual report must include details of any change during the accounting period to the following:

(a) the manager:

(b) the directors of the manager:

(c) key personnel of the manager:

(d) the supervisor or any of its directors:

(e) any administration manager or investment manager of the scheme:

(f) the securities registrar, custodian, or auditor of the scheme.

(2) In subclause (1)(c), **key personnel**, in relation to the manager, means—

(a) the executive directors of the manager; and

(b) those senior managers of the manager who perform duties in connection with the scheme.

(3) The annual report must include details of any change in control of the manager during the accounting period (within the meaning of clause 48 of Schedule 1 of the Act).

63 How to find further information

The annual report must include a statement—

(a) describing the type of information that relates to the scheme or the managed investment products that is required to be, or otherwise will be, available—

(i) in the register entry; or

(ii) in the scheme register; or

(iii) on request from the manager; and

(b) explaining—

(i) how information can be obtained from the register entry or scheme register; and

(ii) how a request for information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

64 Contact details and complaints

(1) The annual report must state the contact details of—

(a) the manager; and

(b) the supervisor; and

(c) the securities registrar (if the register for the managed investment products under subpart 4 of Part 4 of the Act is or will be kept on behalf of the manager); and

(d) 1 or more employees or agents of the manager to whom queries or complaints about the managed investment products or the offer can be made.

(2) The annual report must include a statement as to whether complaints about the managed investment products or the scheme can be made to any 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the manager:

(b) the supervisor:

(c) an approved dispute resolution scheme.

(3) The contact details must include an address and a business telephone number.

(4) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Schedule 6
Derivatives

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Register entry for derivatives on lodging of PDS

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1 Interpretation

In this schedule, **derivatives** means the derivatives that are being offered under the PDS.

Part 1
PDS for derivatives

PDS sections

2 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Key information summary
2 Key features of the derivatives
3 Risks of these derivatives
4 Fees
5 How [*name of issuer*] treats funds and property received from you
6 About [*name of issuer*]
7 How to complain
8 Where you can find more information
9 How to enter into client agreement

(2) The sections of the PDS must be numbered sequentially.

Key information summary

3 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

Warning

About [*name of issuer*]

Which derivatives are covered by this PDS?

(2) Clauses 4 to 7 specify the information that must be contained in the KIS under each of the headings in subclause (1).

4 What is this?

The KIS must include a statement in the following form:

"This is a product disclosure statement for [*name of financial products or description of types of derivatives*] provided by [*name of issuer*]. [*Name of financial products*] are derivatives, which are contracts between you and [*name of issuer*] that may require you or [*name of issuer*] to [*refer to making payments or delivering a commodity, currency, financial product, or other asset (as the case may be)*]. The value of the contract* will depend on the [*refer to price, value, or level (as the case may be)*] of the underlying [*specify the kind or kinds of underlying (for example, commodity, currency, financial product, index, interest rate, or other asset)*]. The contract specifies the terms on which those [*include a reference to payments or deliveries or payments and deliveries*] must be made."

*The words "The value of the contract" may be replaced with a reference to the amounts that must be paid or received (or both).

5 Warning

(1) If the risk or risks described in 1 or more of the following statements are applicable to the derivatives, the KIS must contain that statement or those statements:

(a) "If the [*refer to price, value, or level (as the case may be)*] of the underlying [*specify the kind of underlying (for example, commodity, currency, financial product, index, interest rate, or other asset)*] changes, you may suffer losses. In particular, unlike most other kinds of financial products, you may end up owing significant amounts of money. You should carefully read [*specify PDS cross-reference*] on how payments are calculated.":

(b) "[*Name of issuer*] may require you to make additional payments ([*refer to margins or collateral (as the case may be)*]) to contribute towards your future obligations under these derivatives/some of these derivatives/[*name of relevant types of derivatives*]*. These payments may be required at short notice and can be substantial. You should carefully read [*specify PDS cross-reference*] about your obligations.":

*Select one.

(c) "When you enter into derivatives with [*name of issuer*], you are exposed to a risk that [*name of issuer*] cannot [*refer to make payments or deliver*

a commodity, currency, financial product, or other asset (as the case may be)] as required. You should carefully read section 3 of the PDS (risks of these derivatives) and consider [*name of issuer*]'s creditworthiness. If [*name of issuer*] runs into financial difficulty, the [*refer to margins or collateral (as the case may be)*] you provide may be lost.*"

*Omit if inapplicable.

(2) For the purposes of subclause (1),—

(a) if the statement in subclause (1)(a) is included, the statement must have the heading "**Risk that you may owe money under the derivative**":

(b) if the statement in subclause (1)(b) is included, the statement must have the heading "**Your liability to make [*refer to either margin or collateral*] payments**":

(c) if the statement in subclause (1)(c) is included, the statement must have the heading "**Risks arising from issuer's creditworthiness**".

(3) If none of the risks described in the statements in subclause (1) are applicable to the derivatives, the section "Warning" may be omitted.

6 About [*name of issuer*]

The KIS must contain a brief description of the issuer's business.

Example

ABC Limited is a provider of contracts for difference and foreign exchange through online trading platforms.

7 Which derivatives are covered by this PDS?

(1) The KIS must contain a summary of the types of derivatives offered under the PDS.

(2) The summary must briefly describe—

(a) the nature or effect of the derivatives; and

(b) the key benefits or main uses of the derivatives.

Example

This PDS covers interest rate swaps. Under an interest rate swap, one party agrees to pay a fixed interest rate (based on a specified notional principal amount, for example $5 million) in exchange for receiving a floating interest rate from the other party. The principal amount is not exchanged.

Interest rate swaps may allow you to manage interest rate risk associated with your borrowings, without affecting any obligations that you have under those borrowings. Note that hedging interest rate risk also means that you may not receive the benefit of rate movements in your favour.

8 Table of contents

After the KIS, the PDS must include a table of contents showing the number of each section of the PDS, the heading of each section of the PDS, and the page number of, or cross-reference in, the PDS on which or to where that section starts.

Key features of the derivatives

9 Application

Clauses 10 and 11 apply to section 2 of the PDS (key features of the derivatives).

10 Key features

(1) The PDS must include a description of the significant features of the derivatives.

(2) The description must be sufficient to make it clear why a feature is of significance to investors.

(3) The description must include—

(a) a summary of the nature and effect of the derivatives; and

(b) a description of the key benefits or main uses of the derivatives; and

(c) a description of the amounts payable, the method of calculating the amounts payable, or the delivery obligations of each party in respect of the derivatives; and

(d) a description of the term of the derivatives or how that term will be set; and

(e) an example of paragraphs (c) and (d) for 1 or more of the types of derivative offered under the PDS; and

(f) a statement to the effect that each example provides an example of one situation only and does not reflect the specific circumstances or the obligations that may arise under a derivative entered into by the investor.

11 Entering derivative and rights to alter terms or terminate derivative

The PDS must describe—

(a) how an investor may enter into a derivative; and

(b) any rights of either party to alter the terms of a derivative or to terminate the derivative.

Risks of these derivatives

12 Application

Clauses 13 to 15 apply to section 3 of the PDS (risks of these derivatives).

13 Product risks

(1) The PDS must include the subheading "**Product risks**" and a brief description of the significant risks for an investor that arise from the contractual terms of the derivative and from the client agreement.

(2) The description must include a brief description of the kinds of circumstances that may give rise to the risk or an example of how the risk arises (or both).

(3) Subclauses (1) and (2) apply only to the extent that information about a matter is material information.

(4) The risks referred to in this clause include (as applicable) risks relating to the following:

(a) changes in the price, value, or level of the underlying:

(b) other variables that lead to losses for investors:

(c) the consequences of a failure by the investor to make a payment or delivery:

(d) the consequences of altering the terms of a derivative or terminating a derivative.

14 Issuer risks

(1) The PDS must include the subheading "**Issuer risks**" and a statement to the effect that the investor is exposed to the risk that the issuer becomes insolvent and is unable to meet its obligations under the derivatives.

(2) The PDS must state or refer to information that assists investors to assess the creditworthiness of the issuer.

(3) For the purposes of subclause (2),—

(a) in the case of a registered bank, the information must include a link to the page on its Internet site where its disclosure statements (within the meaning of the Banking (Prudential Supervision) Act 1989) are published:

(b) in the case of an issuer with a current credit rating from an approved rating agency, the PDS must include the credit rating, a statement in the following form, and a diagram referred to in subclause (5):

"A credit rating is an independent opinion of the capability and willingness of an entity to meet its financial obligations (in other words, its creditworthiness). It is not a guarantee that the issuer will be able to meet its obligations under derivatives.":

(c) in any other case, the PDS must include a statement in the following form:

"[*Name of issuer*]'s creditworthiness has not been assessed by an approved rating agency. This means that [*name of issuer*] has not

received an independent opinion of its capability and willingness to repay its debts from an approved source."

(4) Subclause (3)(a) does not limit subclause (3)(b).

(5) For the purposes of subclause (3)(b),—

(a) **approved rating agency** has the same meaning as in section 60(3) of the Act:

(b) the PDS must include a diagram—

(i) showing the range of credit ratings given by the approved rating agency; and

(ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and

(iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics as to the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and

(iv) indicating the placement on this range of the issuer's credit rating:

(c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), the diagram must disclose that statement:

(d) if the issuer has been given credit ratings by more than 1 approved rating agency,—

(i) the diagram under paragraph (b) may include information for any of those ratings; and

(ii) the information under paragraphs (b)(i) and (iv) and (c) for the other ratings must be given in or under the diagram.

Schedule 6 clause 14(3)(a): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

15 Risks when entering or settling the derivatives

The PDS must include the subheading "**Risks when entering or settling the derivatives**" and a brief description of the significant risks that arise from the processes by which the derivatives are entered into or settled (for example, risks associated with order execution through an electronic platform).

Fees

16 Application

Clause 17 applies to section 4 of the PDS (fees).

17 Fees

(1) The PDS must describe the types of fees or charges that are or may be payable to the issuer or any other person in respect of the derivatives by an investor (whether directly or indirectly, including by deduction).

(2) If the fee or charge, or the minimum or maximum amount of the fee or charge, is fixed at the date of the PDS as a dollar amount (or as a percentage of another dollar amount), the PDS must state the dollar amount (or the percentage and a description of the other dollar amount).

(3) If the fee or charge, or the minimum or maximum amount of the fee or charge, is not fixed at the date of the PDS as a dollar amount (or as a percentage of another dollar amount), the PDS must—

(a) state the basis or method of calculating the fee or charge; or

(b) if the fee or charge is determined on an individual client basis,—

(i) state the factors that are relevant to determining the amount of the fee or charge; and

(ii) state when the fee or charge will be determined; and

(iii) briefly describe the impact of each of those factors on the cost of acquiring the derivative.

(4) The PDS must state when each fee or charge referred to in subclause (1) is payable.

(5) The fees or charges referred to in subclause (1) include spreads or commissions that are incorporated into rates, prices, or other amounts specified by the issuer.

(6) Information required by subclauses (2) and (3) may be incorporated by reference.

How [name of issuer] treats funds and property received from you

18 Application

Clause 19 applies to section 5 of the PDS (how [*name of issuer*] treats funds and property received from you).

19 How [*name of issuer*] treats funds and property received from you

(1) The PDS must contain a description of the issuer's processes for receiving, holding, and otherwise dealing with money paid, or property provided, to the issuer in connection with the derivatives (including those processes in relation to any margin or collateral paid to the issuer in connection with the derivatives).

(2) If the money or property referred to in subclause (1) is derivatives investor money or derivatives investor property, the PDS must state whether the issuer may use the money or property for the purposes of authorised hedging activity.

(3) If the issuer may use the money or property for the purposes of authorised hedging activity, the PDS must—

(a) briefly describe the authorised hedging activity; and

(b) state the names of each hedging counterparty that the issuer expects will be involved in that activity; and

(c) in respect of each of those hedging counterparties, include a link to or URL for an Internet site maintained by or on behalf of the hedging counterparty.

(4) In this clause, **authorised hedging activity**, **derivatives investor money**, **derivatives investor property**, and **hedging counterparty** have the same meanings as in regulation 238.

About [name of issuer]

20 Application

Clause 21 applies to section 6 of the PDS (about [*name of issuer*]).

21 About [*name of issuer*]

(1) The PDS may contain a description of the issuer and its business to the extent that that information is material information.

(2) The PDS must state the contact details of the issuer (which must include an address and a business telephone number).

How to complain

22 Application

Clause 23 applies to section 7 of the PDS (how to complain).

23 How to complain

(1) The PDS must include a statement as to whether complaints about the derivatives can be made to either of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the issuer:

(b) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

24 Application

Clause 25 applies to section 8 of the PDS (where you can find more information).

25 Where you can find more information

(1) The PDS must include a statement to the effect that—

(a) further information relating to the issuer and the derivatives is available from the offer register (for example, financial statements); and

(b) a copy of information on the offer register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The PDS must include a statement—

(a) briefly describing any information relating to the issuer or the derivatives that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register; or

(ii) on request to the issuer; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to enter into client agreement

26 Application

Clause 27 applies to section 9 of the PDS (how to enter into client agreement).

27 How to enter into client agreement

The PDS—

(a) must include a short statement as to how an investor may enter into a client agreement; and

(b) may include a link or reference to an application form.

Part 2
Register entry for derivatives on lodging of PDS

28 General register entry information

The register entry must contain the following:

(a) the name of each of the following (as selected from another register kept by the Registrar) or, if the person does not have an entry on such a register, the unique identifying information of the person:

(i) the issuer:

(ii) each guarantor of the issuer's obligations under the derivatives:

(b) the address for communications from the Registrar to the issuer:

(ba) a New Zealand Business Number (if any) for—

(i) the issuer; and

(ii) each guarantor of the issuer's obligations under the derivatives:

(c) a brief description of the derivatives or types of derivatives:

(d) if a holder of the derivatives will or may be liable to make further payments or to pay fees or charges relating to those products, confirmation of that fact:

(e) the dates on which the offer opens and, if applicable, closes:

(f) if the PDS is a continuous issue PDS, confirmation of the fact that the derivatives are continuously offered:

(g) if the offer is made in reliance on an exemption granted under subpart 2 of Part 9 of the Act, confirmation of that fact and the name of the exemption notice:

(h) if a declaration under subpart 3 of Part 9 of the Act applies to the derivatives, confirmation of that fact:

(i) if the derivatives are offered for the purposes of a registered scheme, the name of the scheme (as selected from another register kept by the Registrar).

Schedule 6 clause 28(ba): inserted, on 31 December 2017, by regulation 11 of the Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287).

29 Documents to be lodged or referred to on register entry

The register entry must contain—

(a) a copy of—

(i) the issuer's financial statements or group financial statements for the most recently completed accounting period before the date of the PDS that comply with GAAP and have been audited by a qualified FMC auditor; and

(ii) the qualified FMC auditor's report on those statements; and

(b) if the issuer is a registered bank, a link to the page on its Internet site where its disclosure statements are published (and in this paragraph **disclosure statements** has the same meaning as in the Banking (Prudential Supervision) Act 1989).

Schedule 6 clause 29(a): amended, on 1 December 2015, by regulation 43(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 6 clause 29(a)(i): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 6 clause 29(a)(ii): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 6 clause 29(b): replaced, on 1 December 2015, by regulation 43(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 6 clause 29(b): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Schedule 7
Simple NBDT debt securities

r 22(2)

Schedule 7 heading: replaced, on 15 March 2021, by regulation 31 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

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1 Interpretation

(1) In this schedule,—

debt securities means the debt securities that are being offered under the PDS

relevant period has the same meaning as in Schedule 2

specified period has the same meaning as in Schedule 2.

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the debt securities that are being offered under the PDS.

PDS sections

2 PDS sections

(1) The PDS must have sections that are headed up and ordered as follows:

1 Which products are offered under this PDS?

2 [*Name of borrowing group*] and what it does

3 What is [*name of issuer*]'s credit rating?/What is [*name of borrowing group*]'s credit rating/What is [*name of issuer's holding company*]'s credit rating?/No credit rating*

4 [*Name of issuer*]'s financial information

5 Guarantors

6 Specific risks of investing

7 Register entry

*Select one.

(2) The sections of the PDS must be numbered sequentially.

(3) Clauses 3 to 15 specify the information that must be contained in the PDS under each of the headings in subclause (1).

Which products are offered under this PDS?

3 Which products are offered under this PDS?

(1) The PDS must contain a brief description of the debt securities.

(2) The PDS must contain a link to or URL for a publicly available document that sets out the terms of the offer.

(3) Subclause (2) does not apply to any terms implied by law.

(4) The following information must be provided in the document referred to in subclause (2):

(a) the dates on which, or frequency with which, the interest from the debt securities will be due and paid:

(b) a description of the ranking of the debt securities on a liquidation of the issuer:

(c) a description of any provision for repayment of the debt securities to occur before the end of their term.

(5) If the PDS is for an offer of debt securities that are protected deposits, the PDS must contain a statement in the following form:

"[*Name of financial products*] are protected deposits under the depositor compensation scheme, which protects up to $100,000 per eligible depositor per deposit taker. For more information about the scheme, please refer to the Reserve Bank of New Zealand's internet site at www.rbnz.govt.nz/dcs".

Schedule 7 clause 3(5): inserted, on 1 July 2025, by regulation 8(1) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

[Name of borrowing group] and what it does

4 [*Name of borrowing group*] and what it does

(1) The PDS must give an overview of the business of the borrowing group.

(2) The overview—

(a) must cover the specified period (or any shorter period for which the borrowing group has been in business); and

(b) may cover a longer period if information about a longer period involves material information.

(3) The overview must,—

(a) if the borrowing group includes subsidiaries, include a diagram or brief description of the borrowing group, which must—

(i) identify the most significant members of the group; and

(ii) if New Zealand is not the place of incorporation of any member of the group identified under subparagraph (i), specify the place of incorporation of that member; and

(iii) identify which members of the borrowing group are guarantors; and

(b) describe the nature of the operations, and the main activities, of the borrowing group and specify how long it has been undertaking that kind of business; and

(c) briefly describe, in relation to the period covered by the overview, the purchase or sale of any assets by any member of the borrowing group if—

(i) information about the purchase or sale is material information; and

(ii) the purchase or sale is not carried out in the ordinary course of business of the member; and

(d) briefly describe the main industry or sector or industries or sectors in which the borrowing group operates; and

(e) identify the current, and (if relevant to the payment of the principal or interest under the debt securities) any future, aspects of the business that are key to generating income; and

(f) if any of the following have occurred in respect of any member of the borrowing group or other relevant party of the issuer, include a statement to that effect:

(i) the member or relevant party has, in the 10-year period preceding the date of the PDS, breached any financial covenant on any debt securities:

(ii) the member or relevant party has, in the 10-year period preceding the date of the PDS, defaulted on the payment of any obligations under any debt securities (whether of principal or interest):

(iii) the member or relevant party has, in the 10-year period preceding the date of the PDS, been an issuer of any debt securities in respect of which there has been a moratorium:

(iv) the member or relevant party has at any time been subject to an insolvency event or been convicted of a crime involving dishonesty:

(v) the member or relevant party has, in the 10-year period preceding the date of the PDS, been the subject of a successful relevant proceeding or action; and

(g) if any relevant proceeding or action is pending in respect of any member of the borrowing group or other relevant party of the issuer at the date of the PDS, include a statement to that effect.

(4) If, after the issue or sale, the membership of the borrowing group is likely to change, the information under subclause (3)(a) must include information about the likely changes if that information is material information.

(5) Subclause (3)(f) and (g) is not limited by subclause (2).

(6) In subclause (3)(f)(i) to (iii), **debt securities** means any debt securities (and not only those being offered under the PDS).

(7) Subclause (3)(f)(iii) and (v) and (g) applies only to the extent that information about a matter is material information.

(8) Subclause (3)(f) and (g) applies in relation to a relevant party—

(a) only to the extent that information about the matter is material information; and

(b) only to the extent that the issuer is aware of information about the relevant party after having made reasonable endeavours to obtain all relevant information; and

(c) only if the relevant party is an entity.

What is [name of issuer]'s credit rating?/What is [name of borrowing group]'s credit rating/What is [name of issuer's holding company]'s credit rating?/No credit rating

5 What is [*name of issuer*]'s credit rating?/What is [*name of borrowing group*]'s credit rating/What is [*name of issuer's holding company*]'s credit rating?/No credit rating

(1) The PDS must include—

(a) the heading "**What is [*name of issuer*]'s credit rating?**" or "**What is [*name of borrowing group*]'s credit rating?**" or "**What is [*name of issuer's holding company*]'s credit rating?**" or "**No credit rating**" (whichever heading best applies); and

(b) whichever of the statements specified in subclauses (2) and (5) that better applies.

(2) A statement under this subclause must be in the following form (and must be accompanied by the diagram required by subclause (3)(b)):

"A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.

[*Specify either the name of the issuer, the borrowing group, or the issuer's holding company*] has been rated by [*name of approved rating agency*]. [*Name of approved rating agency*] gives ratings from [*specify the top rating*] through to [*specify the lowest rating, excluding ratings attaching to entities in default*]."

(3) For the purposes of subclause (2),—

(a) **approved rating agency** means an approved rating agency within the meaning of the Non-bank Deposit Takers Act 2013:

(b) the PDS must include a diagram—

(i) showing the range of credit ratings given by the approved rating agency; and

(ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and

(iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics on the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and

(iv) indicating the placement within that range of the issuer's, borrowing group's, or holding company's current credit rating (as the case may be):

(c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), that statement must be disclosed with the diagram:

(d) a credit rating for the issuer's holding company may be given only if the holding company is an unconditional guarantor:

(e) if a credit rating is given for the issuer, the borrowing group, or the issuer's holding company but the debt securities (if those securities were to be given a credit rating by an approved rating agency) would be likely to be given a lower credit rating, the diagram under paragraph (b) must include—

(i) a statement to that effect; and

(ii) a brief explanation as to why the rating would be likely to be lower:

(f) if this paragraph applies under subclause (4),—

(i) the statement under subclause (2) must be amended to refer to the ratings given by each approved rating agency; and

(ii) the diagram under paragraph (b) must include, at a minimum, the information under paragraphs (b)(i) to (iv) and (c) for any one of those ratings; and

(iii) the information under paragraphs (b)(i) and (iv) and (c) for each other current credit rating must be given in or under the diagram.

(4) Subclause (3)(f) applies if the rating to be referred to in the statement under subclause (2) is a credit rating for—

(a) the issuer and another current credit rating for the issuer has been given by another approved rating agency:

(b) the borrowing group and another current credit rating for the borrowing group has been given by another approved rating agency:

(c) the issuer's holding company and another current credit rating for the holding company has been given by another approved rating agency.

(5) In the case of an NBDT that does not have a credit rating because of an exemption from section 23 of the Non-bank Deposit Takers Act 2013 that is granted under that Act, a statement under this subclause must be in the following form:

"[*Name of issuer*] is exempt from the requirement to have its creditworthiness assessed by an approved rating agency. This is because [*briefly state the reason for the exemption*]. This means that [*name of issuer*] has not received an

independent opinion of its capability and willingness to repay its debts from an approved source."

[Name of issuer]'s financial information

6 [*Name of issuer*]'s financial information

The PDS must include a statement in the following form:

"[*Name of issuer*] is required by law and its trust deed to meet certain financial requirements. This table shows how [*name of issuer*] is currently meeting those requirements. These are minimum requirements. Meeting them does not mean that [*name of issuer*] is safe. The section on specific risks of investing sets out risk factors that could cause its financial position to deteriorate. The offer register provides a breakdown of how the figures in this table are calculated, as well as full financial statements."

7 Key ratios table

(1) The PDS must include a table headed "**Key ratios**" that contains, at a minimum, the following information as at the end of each of the relevant periods:

(a) the issuer's capital ratio as calculated in accordance with the 2010 regulations:

(b) the minimum capital ratio that the issuer must maintain under the trust deed:

(c) the minimum capital ratio that must be included in the trust deed under regulation 8(2) of the 2010 regulations:

(d) the amount of the issuer's aggregate exposures to related parties as calculated in accordance with the 2010 regulations:

(e) the maximum limit on aggregate exposures to related parties that the issuer must not exceed that is included in the trust deed:

(f) the maximum limit on aggregate exposures to related parties that the issuer must not exceed that must be included in the trust deed under regulation 23(3)(b) of the 2010 regulations:

(g) the liquidity of the issuer calculated in accordance with the quantitative liquidity requirements included in the trust deed:

(h) the minimum liquidity requirements required by the trust deed.

(2) Under the rows for capital ratios in the table, a statement in the following form must be included:

"The capital ratio is a measure of the extent to which [*name of issuer*] is able to absorb losses without becoming insolvent. The lower the capital ratio, the fewer financial assets [*name of issuer*] holds relative to its financial exposure."

(3) Under the rows for exposures to related parties in the table, a statement in the following form must be included:

"Related party exposures are financial exposures that [*name of issuer*] has to related parties. A related party is an entity that is related to [*name of issuer*] through common control or some other connection that may give the party influence over [*name of issuer*] (or [*name of issuer*] over the related party). These related parties include [*specify examples of related parties*]."

(4) Under the rows for liquidity requirements in the table, a statement in the following form must be included:

"Liquidity requirements ensure that [*name of issuer*] has sufficient realisable assets on hand to pay its debts as they become due in the ordinary course of business. Failure to comply with liquidity requirements may mean that [*name of issuer*] is unable to repay investors on time, and may indicate other financial problems in its business."

(5) For the purposes of this clause and clause 8,—

(a) **2010 regulations** means the Deposit Takers (Credit Ratings, Capital Ratios, and Related Party Exposures) Regulations 2010:

(b) any term or expression that is defined in the Non-bank Deposit Takers Act 2013 or the 2010 regulations and used, but not defined, in this clause has the same meaning as in that Act or the 2010 regulations.

8 Other financial information table

The PDS must include a table headed "**Selected financial information**" that contains, at a minimum, the following information for the issuer for each of the relevant periods:

(a) total assets as determined in accordance with GAAP:

(b) total liabilities as determined in accordance with GAAP:

(c) net profit after tax as determined in accordance with GAAP:

(d) net cash flows from operating activities as determined in accordance with GAAP:

(e) cash and cash equivalents as determined in accordance with GAAP:

(f) capital as calculated in accordance with the 2010 regulations.

9 Miscellaneous rules relating to financial information

Clause 39 of Schedule 2 (other than subclause (1)(c) and (d)) applies to information that is prepared under clauses 7 and 8 of this schedule (applied with all necessary modifications as if the reference to clause 37 were a reference to clause 8 of this schedule and the reference to clause 37(1)(a) to (d) were a reference to clause 8(c) and (d) of this schedule).

10 Other limitations, restrictions, and prohibitions

The PDS must set out the following information (unless the information is stated elsewhere in the PDS):

(a) a description of any terms of the trust deed that impose any financial covenant:

(b) a description of any restrictions on the ability of any member of the borrowing group to borrow that result from any agreement entered into by the member:

(c) a description of any prohibitions or restrictions on the issuer entering into transactions with any of its associated persons.

11 Continuous issue PDS

If the PDS is a continuous issue PDS, the following apply:

(a) the information required by clauses 7 to 9 may be incorporated by reference to a document that is publicly available:

(b) that document must be included in the offer register.

Guarantors

12 Guarantors

(1) The PDS must include a description of the guarantees (if any), including for each guarantee—

(a) the name of the guarantor; and

(b) a description of the nature and amount of the guarantee; and

(c) a statement as to whether the guarantee is subject to limits or conditions and, if so, a description of the principal limits or conditions; and

(d) a statement as to whether the guarantee is secured by a security interest and, if so,—

(i) a description of the nature and amount of the security interest; and

(ii) whichever of the statements specified in subclause (2)(a), (b), and (c) that best applies; and

(e) a statement as to whether the guarantor is a member of the borrowing group; and

(f) if the guarantor is not a member of the borrowing group but is an associated person of the issuer, a statement to that effect and a brief description of the nature of the association.

(2) The statements are—

(a) a statement that the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to—

(i) repay the liability of the guarantee; and

(ii) pay all other liabilities that a security interest over the property secures and that rank in priority to, or equally with, the guarantee; or

(b) a statement that the security interest is insufficient to repay the liability of the guarantee; or

(c) a statement that there is a real risk that the security interest is insufficient to repay the liability of the guarantee.

(3) This clause does not require any disclosure in relation to the depositor compensation scheme.

Schedule 7 clause 12(3): inserted, on 1 July 2025, by regulation 8(2) of the Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136).

Specific risks of investing

13 Specific risks

(1) The PDS must include a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk that the issuer may default on any of its payment obligations under the debt securities.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular debt securities (as compared to other issuers or debt securities); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

14 Risks otherwise disclosed in PDS or register entry

(1) To the extent that information about a risk is included elsewhere in the PDS or in the register entry, that information is not required to be repeated in section 6 of the PDS for the purposes of clause 13.

(2) However, if information about a risk is not included in section 6 of the PDS as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 13; and

(b) refer to where the information about the risk is elsewhere included in the PDS or register entry.

Register entry

15 Register entry

The PDS must include a link to or URL for further information about the issuer or the offer on the offer register.

Schedule 7A
Additional information to accompany KiwiSaver confirmation information

r 71AA

Schedule 7A: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Part 1
Retirement savings and income projections information

Schedule 7A Part 1: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

1 Retirement savings and income projections

(1) For the purposes of regulation 71AA(2)(a), A's retirement savings and income projections must be in substantially the following form:

"**What you are on track to receive at age 65**

$[*lump sum amount*] as a lump sum,

which would be about

$[*weekly amount*] a week until age 90.

These figures only relate to KiwiSaver and do not take into account any other retirement savings or income you may have or be entitled to.

These figures are estimates only. They are calculated based on your current balance, contribution rate, and fund choice, and an assumed rate of investment returns of [*x%*].

The calculation uses a number of assumptions, including some about future events such as what investment returns and inflation are likely to be.

The assumptions are set by the government and are important because they affect the result of the calculation. Find out more on the Financial Markets Authority website at [*website*]."

(2) The lump sum amount and weekly amount must be calculated in accordance with Part 2 of this schedule.

(3) The assumed rate of investment returns, *x%*, is rate g (as defined in clause 4(1)).

(4) However, if A's balance in the scheme is invested in a multi-fund investment option, instead of specifying a single rate g, the statement must specify a separate rate g for each fund in which part of A's balance is invested (*see* clause 6(4) and (5)).

Schedule 7A clause 1: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

2 "Consider your choices" statement

For the purposes of regulation 71AA(2)(b), a "Consider your choices" statement must be in substantially the following form:

"**Will your retirement savings be enough?**

A number of choices affect the size of your retirement savings. These include:

- your choice of fund
- your contribution rate
- how long you contribute for.

These are things you can change, so you may wish to consider if your current choices are right for you and your stage of life.

For help to work out what is right for you, contact [*scheme manager name and contact details*], visit www.sorted.org.nz, or seek advice from a financial advice provider."

Schedule 7A clause 2: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Schedule 7A clause 2: amended, on 15 March 2021, by regulation 32 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

3 Statement for participants under 18 years of age

For the purposes of regulation 71AA(3)(b)(ii), the statement must be in substantially the following form:

"**Saving for your retirement**

A little saving over a long period of time can add up to significant retirement savings.

For help to work out what is right for you, contact [*scheme manager name and contact details*], visit www.sorted.org.nz, or seek advice from a financial advice provider."

Schedule 7A clause 3: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Schedule 7A clause 3: amended, on 15 March 2021, by regulation 32 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Part 2
Formulas and assumptions

Schedule 7A Part 2: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

4 Definitions of variables

(1) In the formulas in clauses 6 and 7 and in this Part,—

b is the amount calculated under clause 6(2) (being the estimate of A's balance in the scheme at age 65 expressed in real terms as a current dollar amount)

c is the amount calculated under clause 6(3) to (5) (being the estimate of A's balance in the scheme at age 65)

d is the assumed rate of inflation, being 2%

e is the assumed age of eligibility for A to withdraw his or her balance from the scheme, being age 65

f is A's age at the end of the accounting period, rounded to the nearest whole number

g is the assumed rate of investment returns applying to A's balance in the scheme up to age e, being,—

(a) if A's balance in the scheme is invested in a life cycle investment option,—

(i) if A is under age 50, 3.5%; or

(ii) if A is age 50 or over, 2.5%; or

(b) if A's balance in the scheme is invested in a self-select option, the rate determined under subclause (4); or

(c) in any other case, the rate determined under subclauses (2) and (3)

h is the assumed rate of investment returns applying to A's balance in the scheme after age e, being 2.5%

k is the assumed rate of wage and salary inflation, being 3.5%

m is the total of contributions to the scheme in respect of A during the accounting period (including any one-off voluntary payments up to a total of $1,500 in one-off payments for the period)

n is the amount of government contributions for the accounting period in respect of contributions to the scheme for A

p is A's balance in the scheme at the end of the accounting period

r is the amount calculated under clause 7(2) (being the estimate of A's weekly amount expressed in real terms as a current dollar amount)

s is the assumed age at which payment of the weekly amount ceases, being age 90.

(2) For the definition of variable g, the assumed rate of investment returns for A's balance is to be determined from the following table depending on the type of fund in which A's balance is invested at the end of the accounting period:

Type of fund	Assumed rate of return
Defensive	1.5%
Conservative	2.5%
Balanced	3.5%

Type of fund	Assumed rate of return
Growth	4.5%
Aggressive	5.5%

(3) If the fund in which A's balance is invested (**A's fund**) is not named or described as being of a type listed in the table, for the purposes of subclause (2),—

(a) if, having regard to the following, A's fund is equivalent to a type listed in the table, then A's fund is taken to be a fund of that type:

(i) the scheme's governing documents:

(ii) the relevant SIPO:

(iii) the nature of the investments:

(iv) generally accepted market practice:

(b) if paragraph (a) does not apply,—

(i) the scheme manager must determine which type of fund listed in the table is most closely comparable to A's fund; and

(ii) A's fund is taken to be a fund of that type.

(4) If A's balance in the scheme is invested in a self-select option,—

(a) the scheme manager must determine which type of fund listed in the table is most closely comparable to the portfolio of assets that represent A's balance in the scheme; and

(b) for the definition of variable g, the assumed rate of investment returns for A's balance is the rate specified in the table in subclause (2) for a fund of that type.

(5) A determination under subclause (3)(b) or (4) must be made—

(a) on the basis of how A's balance in the scheme is invested at the end of the accounting period; and

(b) on reasonable grounds and having regard to the matters set out in subclause (3)(a)(i) to (iv).

(6) In this clause,—

government contribution means a tax credit under subpart MK of the Income Tax Act 2007

one-off voluntary payment means a voluntary payment that is not part of a periodic or regular series of payments and that is not an employer contribution or a Crown contribution (both as defined in section 4(1) of the KiwiSaver Act 2006)

self-select option means an investment option that involves investment in 1 or more funds, securities, and other assets in combinations and allocations selected by an investor from a range of funds, securities, and other assets made available by the manager.

Schedule 7A clause 4: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

5 Rounding

For the purposes of this Part, if an amount is required to be rounded, an amount at the midpoint is to be rounded up.

Schedule 7A clause 5: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

6 Calculation of lump sum amount

(1) For the purposes of clause 1, A's lump sum amount is amount b calculated in accordance with subclause (2) and rounded to the nearest $1,000.

(2) Amount b (which is the estimate of A's balance in the scheme at age 65 expressed in real terms as a current dollar amount) is calculated using the following formula:

$$b = c \times \{1 \div [(1 + d)^{(e - f)}]\}$$

(3) Amount c (which is the estimate of A's balance in the scheme at age 65) is calculated using the following formulas:

(a) if $g \neq k$,—

$$c = (m \times \{[(1 + g)^{(e - f)} - (1 + k)^{(e - f)}] \div (g - k)\}) + (n \times \{[(1 + g)^{(e - f)} - 1] \div g\}) + [p \times (1 + g)^{(e - f)}]$$

(b) if $g = k$,—

$$c = \{m \times [(e - f) \times (1 + g)^{(e - f - 1)}]\} + (n \times \{[(1 + g)^{(e - f)} - 1] \div g\}) + [p \times (1 + g)^{(e - f)}]$$

(4) However, if A's balance in the scheme is invested in a multi-fund investment option, the value of amount c is to be calculated under subclause (5) instead of subclause (3).

(5) When this subclause applies, amount c (which is the estimate of A's balance in the scheme at age 65) is to be calculated by—

(a) using the formulas in subclause (3)(a) and (b) to calculate an amount c in relation to each fund in which part of A's balance is invested; and

(b) adding together the amounts calculated under paragraph (a).

(6) For the purpose of making the calculations under subclause (5)(a),—

(a) the references to the scheme in the definitions of the variables of g, m, n, and p are taken to be references to the relevant fund; but

(b) the $1,500 limit on voluntary payments in the definition of variable m applies as a single limit on the total of voluntary payment to the scheme (not as separate limits on voluntary payments to each fund).

(7) If A's balance in the scheme is invested in a self-select option,—

(a) amount c is to be calculated under subclause (3)—

(i) as if all of A's balance were invested in a single fund; and

(ii) with variable g (the assumed rate of investment returns) being determined under clause 4(4); and

(b) subclause (4) of this clause does not apply (even if the available investments include a multi-fund investment option).

Schedule 7A clause 6: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

7 Calculation of weekly amount

(1) For the purposes of clause 1, A's weekly amount is amount r calculated in accordance with subclause (2) and rounded to the nearest $10.

(2) Amount r (which is the estimate of A's weekly amount expressed in real terms as a current dollar amount) is calculated using the following formulas:

(a) if $h \neq d$,—

$$r = b \times (7 \div 365.25) \times ([(h - d) \times (1 + h)^{(s - e - 0.5)}] \div \{(1 + d)^{0.5} \times [(1 + h)^{(s - e)} - (1 + d)^{(s - e)}]\})$$

(b) if $h = d$,—

$$r = [b \div (s - e)] \times (7 \div 365.25)$$

Schedule 7A clause 7: inserted, on 13 June 2019, by regulation 6 of the Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104).

Schedule 8
Provisions relating to exclusions and other Schedule 1 of Act matters

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Part 1
Limited disclosure and other requirements and conditions

1 Limited disclosure and other requirements and conditions

(1) This Part prescribes limited disclosure and other requirements and conditions for the purposes of clause 26 of Schedule 1 of the Act.

(2) *See* clause 26(6) of Schedule 1 of the Act (which provides that a contravention of those requirements does not prevent an exclusion in Schedule 1 of the Act from continuing to apply but may give rise to consequences under Part 8 of the Act).

(3) If a provision of this schedule requires a limited disclosure document to be provided, that document is a disclosure document for the purposes of clause 26 of Schedule 1 of the Act.

2 Interpretation

In this Part,—

application, in relation to an investor (**B**), means an application for the financial products that is made by B

equivalent PDS, in relation to an offer of financial products made in reliance upon an exclusion in Schedule 1 of the Act, means—

(a) a PDS for a regulated offer of financial products of the same kind as those being offered under the exclusion:

(b) in the case of a variation of the terms or conditions of a financial product, a PDS for a regulated offer of those financial products as varied

group means an issuer and its subsidiaries

overseas company means a body corporate that is incorporated outside New Zealand

register entry, in relation to an offer referred to in this schedule, means the entry for the offer in the offer register

relevant financial statements means—

(a) the financial statements or group financial statements for the relevant reporting entity that comply with generally accepted accounting practice and that are prepared for the most recently completed accounting period; or

(b) if the financial statements referred to in paragraph (a) have not been prepared, the issuer's financial statements for its most recently completed income year that are prepared under sections 21B and 21C of the Tax Administration Act 1994 (if any); or

(c) if the financial statements or group financial statements referred to in paragraph (a) or (b) have not been prepared and the issuer is an overseas company (or, in the case of an offer of managed investment products, the scheme is established outside New Zealand), financial statements or group financial statements for the relevant reporting entity that are prepared—

(i) for the most recently completed accounting period; and

(ii) in accordance with the laws of the jurisdiction in which the issuer is incorporated or established or in which the scheme is established, or in accordance with the listing rules of a financial product market on which the issuer or scheme is listed

relevant reporting entity means,—

(a) in the case of an offer of managed investment products, the scheme and its subsidiaries (if any):

(b) in the case of any other offer, the issuer's group or, if the issuer has no subsidiaries, the issuer.

Wholesale investor exclusion: $750,000 minimum investment

3 Application

(1) Clauses 4 and 5 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 3 of Schedule 1 of the Act on the basis that B is a wholesale investor under clause 3(3)(b)(i) or (ii) of that schedule.

(2) However, clauses 4 and 5 do not apply in relation to an offer if—

(a) B is a wholesale investor under clause 3(2) or (3)(a) or (b)(iii) of Schedule 1 of the Act; or

(b) the offer is of Kauri bonds.

(3) In this clause,—

Kauri bond means an unsubordinated debt security that—

(a) is denominated in New Zealand dollars and recorded in a financial products register kept under subpart 4 of Part 4 of the Act; and

(b) is issued by an issuer that is incorporated, formed, or established outside New Zealand

unsubordinated debt security means a debt security that is not, under its terms, subordinated to any of the issuer's other debts to unsecured creditors.

Schedule 8 clause 3(2): replaced, on 12 June 2025, by regulation 23(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 8 clause 3(3): inserted, on 12 June 2025, by regulation 23(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

4 Offeror must provide warning statement

(1) A must ensure that a warning statement is included at the front (in a prominent position) of every document provided to B that contains the key terms of the offer of the financial products.

(2) However, if a document referred to in subclause (1) is not provided to B, A must not accept an application, or issue or transfer the financial products to B, if a warning statement was not, before the application was made, given to B or delivered or sent to B's address (whether the warning statement is provided for this offer or a different offer).

(3) The warning statement must be in the following form:

"**Warning**

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This requires those offering financial products to have disclosed information that is important for investors to make an informed decision.

The usual rules do not apply to this offer because there is an exclusion for offers where the amount invested upfront by the investor (plus any other investments the investor has already made in the financial products) is $750,000 or more. As a result of this exclusion, you may not receive a complete and balanced set of information. You will also have fewer other legal protections for this investment.

Investments of this kind are not suitable for retail investors.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself."

Schedule 8 clause 4(3): amended, on 1 December 2016, by regulation 9(1) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

5 Offeror must obtain acknowledgement

(1) A must not accept an application, or issue or transfer the financial products to B, if B has not provided a written acknowledgement to A before or at the same time as the application was made (whether for this offer or a different offer).

(2) The acknowledgement must be in the following form:

"I confirm that I understand that—

- the usual legal rules that require information to be given to investors for offers of financial products do not apply if the amount invested upfront by me (plus any other investments I have already made in those financial products) is $750,000 or more; and
- I may not receive a complete and balanced set of information about this investment; and
- I have fewer legal protections for this investment; and
- this investment is not suitable for retail investors; and
- I have been advised to ask questions, read all documents carefully, and seek independent financial advice.

"

Offers through licensed intermediaries

6 Application

Clauses 7 and 8 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 6 of Schedule 1 of the Act.

7 Offeror must not breach $2 million aggregate limit

(1) A must not breach the $2 million aggregate limit under subclause (2), whether before or after—

(a) the offer; or

(b) the issue of the financial products.

(2) The $2 million aggregate limit is breached if the amount that is raised by A from the issue or transfer of financial products of the issuer under 1 or more relevant offers exceeds $2 million in any 12-month period.

Example

ABC Limited offers debt securities through a peer-to-peer lending facility in June 2015. ABC Limited raises $700,000 under this offer.

ABC Limited also offers ordinary shares through a crowd funding facility in November 2015. ABC Limited raises a further $400,000 under this offer.

ABC Limited also offers ordinary shares through a small offer under clause 12 of Schedule 1 of the Act in February 2016. ABC Limited raises a further $1.5 million under this offer.

In total, ABC Limited has raised $2.6 million from relevant offers. ABC Limited does not breach the small offer requirements in clause 12 of Schedule 1 of the Act. However, the $2 million aggregate limit condition under this clause has been breached and, accordingly, there may be consequences under Part 8 of the Act.

(3) In this clause,—

financial products of the issuer, in relation to an offer of a financial product (**product A**), means equity securities and debt securities issued by the issuer of product A (regardless of whether those products are of the same class or kind as those under the offer)

relevant offer means an offer made in reliance on either of the following:

(a) clause 6 of Schedule 1 of the Act (whether or not it is the same as or separate from the offer to B):

(b) clause 12 of Schedule 1 of the Act (small offers).

8 Matters relating to calculation

In calculating the amount of money raised by A by issuing financial products, the following must be included:

(a) the amount payable for the products at the time when the products are issued:

(b) if the products are shares issued partly paid, any amount payable at a future time if a call is made:

(c) if the product is an option, any amount payable on the exercise of the option:

(d) if the products carry a right to convert the products into other financial products, any amount payable on the exercise of that right.

Employee share purchase schemes exclusion

9 Application

Clauses 10 to 12 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 8 of Schedule 1 of the Act.

10 Offeror must provide description of scheme, warning, and access to annual report and financial statements

(1) A must not accept an application, or issue or transfer the financial products to B, if the following were not provided to B before the application was made:

(a) a document that contains, in a prominent position, the warning statement referred to in clause 11; and

(b) a document that contains a description of the employee share purchase scheme and its terms and conditions; and

(c) the document or documents referred to in clause 12.

(2) One or more of the documents specified in subclause (1) may be combined in a single document.

(3) A must, if B requests a document referred to in subclause (1) or clause 12(1)(a), provide B with that document within 5 working days after A receives the request.

(4) A document must be provided by giving it to B or delivering or sending it to B's address.

11 Warning statement

(1) The warning statement must be in the following form:

"**Warning**

This is an offer of [*name of financial products, for example, ordinary shares*]. [*Name of financial products*] give you a stake in the ownership of [*name of issuer*]. You may receive a return if dividends are paid*.

If [*name of issuer*] runs into financial difficulties and is wound up, you will be paid only after all creditors and holders of preference shares† have been paid. You may lose some or all of your investment.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors to make an informed decision.

The usual rules do not apply to this offer because it is made under an employee share purchase scheme. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself."

*Omit the sentence about dividends if it is inapplicable or may be false, misleading, deceptive, or confusing.

†Omit the words "and holders of preference shares" if those words are inapplicable or may be false, misleading, deceptive, or confusing.

(2) The warning statement must also—

(a) include a statement as to whether the financial products are quoted; and

(b) include whichever of the following statements better applies:

(i) "The trading market for the investment is likely to be limited and you may not be able to sell it.":

(ii) "[*Name of issuer*] intends to quote these [*name of financial products*] on [*name of licensed market or other established market available for trading*]. This means you may be able to sell them on the [*name of market*] if there are interested buyers. You may get less than you invested. The price will depend on the demand for the [*name of financial products*].": and

(c) explain any other arrangements under which the investor may redeem or sell the investor's investment (if any) and any restrictions on their ability to do so.

12 Annual report and financial statements

(1) The document or documents are—

(a) each of the following:

(i) a copy of the issuer's latest annual report prepared under any enactment or overseas law (if any):

(ii) a copy of the relevant financial statements and, if those statements are not audited or reviewed by an auditor, a statement to that effect:

(iii) a copy of the auditor's report on those financial statements (if any); or

(b) a notice that contains—

(i) a statement to the effect that the investor has a right to receive from the issuer, free of charge, a copy of the documents referred to in paragraph (a) if the investor makes a request to the issuer to receive a copy of those documents; and

(ii) a statement to the effect that the investor may obtain a copy of those documents by electronic means; and

(iii) a statement as to how the investor may obtain a copy of those documents by electronic means (for example, from a specified Internet site address).

(2) Subclause (1)(a)(ii) does not apply if, at the date on which the application from B is made, the issuer has not completed its first accounting period or has not prepared its financial statements for that first accounting period.

Dividend reinvestment plan exclusion

13 Application

Clauses 14 and 15 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 10 of Schedule 1 of the Act.

14 Offeror must provide description of plan and access to annual report and financial statements

(1) A must not accept an application, or issue or transfer the financial products to B, if the following were not provided to B before the application was made:

(a) a document that contains a description of the dividend reinvestment plan and its terms and conditions:

(b) the document or documents referred to in clause 15.

(2) One or more of the documents specified in subclause (1) may be combined in a single document.

(3) A must, if B requests a document referred to in subclause (1) or clause 15(1)(a), provide B with that document within 5 working days after A receives the request.

(4) A document must be provided by giving it to B or delivering or sending it to B's address.

15 Annual report and financial statements

(1) The document or documents are—

(a) each of the following:

(i) a copy of the relevant annual report (if any):

(ii) a copy of the relevant financial statements and, if those statements are not audited or reviewed by an auditor, a statement to that effect:

(iii) a copy of the auditor's report on those financial statements (if any); or

(b) a notice that contains—

(i) a statement to the effect that the investor has a right to receive from the issuer, free of charge, a copy of the documents referred to in paragraph (a) if the investor makes a request to the issuer to receive a copy of those documents; and

(ii) a statement to the effect that the investor may obtain a copy of those documents by electronic means; and

(iii) a statement as to how the investor may obtain a copy of those documents by electronic means (for example, from a specified Internet site address).

(2) Subclause (1)(a)(ii) does not apply if, at the date on which the application from B is made,—

(a) the scheme has not completed its first accounting period or financial statements for the scheme for that first accounting period have not been prepared (in the case of an offer of managed investment products):

(b) the issuer has not completed its first accounting period or has not prepared its financial statements for that first accounting period (in the case of any other offer).

(3) In this clause, **relevant annual report** means,—

(a) in the case of an offer of managed investment products, the managed investment scheme's latest annual report prepared under any enactment or overseas law:

(b) in the case of any other offer, the issuer's latest annual report prepared under any enactment or overseas law.

Small offer exclusion

16 Application

Clauses 17 and 18 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 12 of Schedule 1 of the Act.

17 Offeror must give notice to FMA

(1) If A makes an offer in reliance upon clause 12 of Schedule 1 of the Act during an accounting period, A must, within 1 month after the end of that period, give a written notice to the FMA that states—

(a) that A relied on the exclusion in clause 12 of Schedule 1 of the Act during that period; and

(b) the type of financial products to which the offer relates and, if A is not the issuer, the name of the issuer; and

(c) the opening date and closing date for the offer (if known); and

(d) whether A has distributed to 1 or more investors, within that period, a document that contains the key terms of the offer and, if so, the date during that period on which the document was first distributed to an investor; and

(e) the number of persons to whom financial products of the issuer have been issued or sold by A within that period in reliance upon the exclusion in clause 6 or 12 of Schedule 1 of the Act; and

(f) the amount raised by A from issuing or selling financial products of the issuer during that period in reliance upon the exclusion in clause 6 or 12 of Schedule 1 of the Act.

(2) If A has, during the accounting period, relied upon both clauses 6 and 12 of Schedule 1 of the Act, the notice must state the information in subclause (1)(e) and (f) separately in respect of each exclusion.

(3) Despite subclauses (1) and (2), this clause does not apply to an accounting period if A proves that A did not knowingly act in reliance on clause 12 of Schedule 1 of the Act in making an offer in that period.

(4) In this clause, **financial products of the issuer** has the same meaning as in clause 12 of Schedule 1 of the Act.

18 Small offer warning

(1) A must ensure that a warning statement is included at the front (in a prominent position) of every document provided to B that contains the key terms of the offer of the financial products.

(2) However, if a document referred to in subclause (1) is not provided to B, A must not accept an application, or issue or transfer the financial products to B, if a warning statement was not, before the application was made, given to B or delivered or sent to B's address.

(3) The warning statement must be in the following form:

"**Warning**

You are being offered [*name of financial product type (for example, ordinary shares)*] in [*name of issuer*].

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This requires those offering financial products to have disclosed information that is important for investors to make an informed decision.

The usual rules do not apply to this offer because it is a small offer. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself."

(4) Despite subclauses (1) and (2), this clause does not apply to an offer to B if A proves that A did not knowingly act in reliance upon clause 12 of Schedule 1 of the Act in making the offer to B.

Quoted financial products exclusion

19 Application

(1) Clauses 20 to 22 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 19 of Schedule 1 of the Act.

(2) *See also* clause 46, which provides that the exclusion for quoted financial products does not apply in certain circumstances.

20 Issuer must give notice to licensed market operator and be in compliance with continuous disclosure and financial reporting obligations

(1) A must not offer the financial products, or issue or transfer those products, unless—

(a) the issuer has, at a relevant time, provided a notice to the licensed market operator that operates the licensed market on which the quoted financial products are quoted for the purpose of that notice being notified to the market; and

(b) the issuer, as at the date of the notice, is in compliance with the continuous disclosure obligations that apply to it in relation to the quoted financial products; and

(c) the issuer, as at the date of the notice, is in compliance with its financial reporting obligations.

(2) The notice under subclause (1)(a) must—

(a) state that an offer for issue or sale is being made to investors in reliance upon the exclusion in clause 19 of Schedule 1 of the Act; and

(b) state that the notice is provided under subclause (1)(a); and

(c) state that, as at the date of the notice, the issuer is in compliance with the continuous disclosure obligations that apply to it in relation to the quoted financial products; and

(d) state that, as at the date of the notice, the issuer is in compliance with its financial reporting obligations; and

(e) set out the information (if any) that is excluded information as at the date of the notice; and

(f) in the case of financial products that are equity securities, describe—

(i) the potential effect that the offer and acquisition of the equity securities will have on the control of the issuer; and

(ii) the consequences of those effects; and

(g) in the case of financial products that are debt securities that have a different redemption date or interest rate from that of the quoted financial products, set out the information that would (if the quoted financial products had had the same redemption date or interest rate) be—

(i) required to be disclosed under a continuous disclosure obligation; or

(ii) excluded information.

(3) The notice provided under subclause (1)(a) must contain information under subclause (2)(e), (f), and (g) only to the extent to which it is material information within the meaning of section 59 of the Act (applied as if the offer were a regulated offer).

(4) *[Revoked]*

(5) In this clause,—

control has the same meaning as in clause 48 of Schedule 1 of the Act

excluded information means information to which a continuous disclosure obligation would apply but which has not been disclosed under such an obligation as a result of an exclusion in, or a waiver given under, the listing rules for the licensed market upon which the financial products are quoted

financial reporting obligations, in relation to an issuer, means requirements imposed under—

(a) the Act or another enactment to prepare financial statements or group financial statements in relation to the issuer, its group, or (if it is a

manager) a scheme of which it is a manager for the most recently completed accounting period, to have those statements audited, and to lodge or register those statements; and

(b) the listing rules of the licensed market in relation to providing financial statements for release to the market in relation to any more recent interim accounting period than the period referred to in paragraph (a)

quoted financial products means the quoted financial products that are of the same class as those that are being offered

relevant time, in relation to an offer of financial products, means—

(a) a time within the 24-hour period before the offer is made; or

(b) an earlier time required by the licensed market operator; or

(c) if a similar notice is also being given for the purposes of an offer of the financial products in Australia, an earlier time required by ASX Limited (a company incorporated in Australia) for giving the similar notice.

Schedule 8 clause 20(1)(a): amended, on 1 December 2015, by regulation 44(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 20(4): revoked, on 28 July 2022, by regulation 9(1) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 20(5) **NXT market**: revoked, on 28 July 2022, by regulation 9(2) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 20(5) **relevant time**: inserted, on 1 December 2015, by regulation 44(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

21 Obligation to correct defective notice

(1) This clause applies if—

(a) the notice given under clause 20(1)(a) is defective; and

(b) A becomes aware of the defect in the notice,—

(i) in the case of subclause (3)(a)(i) or (ii), within 12 months after the relevant financial products are issued or transferred; or

(ii) in the case of subclause (3)(a)(iii), before the offer closes.

(2) A must, within a reasonable time after becoming aware of the defect, provide a notice to the licensed market operator that sets out the information necessary to correct the defect (for the purpose of the licensed market operator notifying that information to the market).

(3) The notice is **defective** if—

(a) there is—

(i) a statement in the notice that is false or misleading or is likely to mislead; or

(ii) an omission from the notice of information that is required to be contained in the notice by clause 20; or

(iii) a circumstance that has arisen since the notice was given but before the offer closes that would have been required by clause 20 to be disclosed or otherwise contained in the notice if it had arisen before the notice was given, and the circumstance is not so disclosed or contained in the notice; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

Schedule 8 clause 21(1): replaced, on 17 December 2015, by regulation 44(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 21(3)(a)(ii): replaced, on 17 December 2015, by regulation 44(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 4 clause 21(3)(a)(iii): inserted, on 17 December 2015, by regulation 44(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

22 Further requirements for offers of debt securities

(1) This clause applies if the offer made in reliance upon clause 19 of Schedule 1 of the Act is an offer of debt securities.

(2) A must ensure that a statement under subclause (4) is included at the front (in a prominent position) of every document provided to B that contains the key terms of the offer of the debt securities.

(3) However, if a document referred to in subclause (2) is not provided to B, A must not accept an application, or issue or transfer the debt securities to B, if a statement under subclause (4) was not, before the application was made, given to B or delivered or sent to B's address.

(4) The statement must—

(a) clearly identify the offer as an offer of debt securities that are of the same class as certain quoted debt securities of the issuer:

(b) contain a statement to the effect that the issuer is subject to a disclosure obligation that requires it to notify certain material information to a named licensed market operator for the purpose of that information being made available to participants in the market and that that information can be found from a specified link or URL (being a link to or a URL for the page of the Internet site maintained by the licensed market operator that relates to the debt securities or the issuer):

(c) provide a list that identifies the debt securities of the issuer that are currently quoted and are in the same class as the offered debt securities (where the securities are identified by reference to the interest rates and redemption dates of those securities and in any other way that the issuer thinks fit):

(d) contain a statement to the effect that investors should look at the market price of the quoted debt securities referred to in paragraph (c) to find out how the market assesses the returns and risk premium for those debt securities.

(5) The statement may include (or incorporate by reference) comparable pricing information that complies with clause 23 of Schedule 2.

Registered bank exclusion

23 Application

(1) Clauses 24 to 26 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 21(b) of Schedule 1 of the Act.

(2) However, those clauses do not apply if—

(a) the debt securities are—

(i) bank notice products; or

(ii) call building society shares; or

(iii) call debt securities; or

(iv) fixed term deposit products; or

(v) fixed term redeemable building society shares; or

(b) the debt securities have previously been offered for issue or sale under an offer for which a disclosure document was required to be provided under clause 26 of Schedule 1 of the Act (or would have been required but for an exemption granted under subpart 2 of Part 9 of the Act).

Schedule 8 clause 23(2): replaced, on 1 December 2015, by regulation 44(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 23(2)(a): replaced, on 15 March 2021, by regulation 33(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

24 Offeror must provide limited disclosure document and comply with ongoing disclosure duties

(1) A must not accept an application, or issue or transfer the financial products to B, if a limited disclosure document was not provided to B before the application was made.

(2) The limited disclosure document must be provided by giving it to B or delivering or sending it to B's address.

(3) A must comply with the following provisions (including any regulations relating to those provisions) in respect of the financial products issued or transferred to B:

(a) section 97 of the Act:

(b) sections 96 (other than in respect of regulation 51) and 100 of the Act:

(c) sections 95, 96 (in respect of regulation 51), and 98 of the Act.

(3A) For the purposes of subclause (3), the provisions referred to in that subclause apply with all necessary modifications as if the financial products were regulated products.

(4) *See* clauses 37 to 43 (which provide for other disclosure requirements).

Schedule 8 clause 24(3): replaced, on 9 August 2017, by regulation 11(1) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 8 clause 24(3)(b): amended, on 28 July 2022, by regulation 9(3) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 24(3)(c): amended, on 28 July 2022, by regulation 9(3) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 24(3A): inserted, on 9 August 2017, by regulation 11(1) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

25 Limited disclosure document must comply with Schedule 9 and requirements that apply to equivalent PDS

(1) The limited disclosure document must comply with the following provisions (including any regulations relating to those provisions) as if the limited disclosure document were an equivalent PDS and the offer were a regulated offer:

(a) sections 57(1)(a) and 60 of the Act:

(b) section 62 of the Act:

(c) sections 49 and 61(1) of the Act.

(2) However, the limited disclosure document must contain all of the information specified in Schedule 9 that is applicable (rather than the information specified in Part 1 of Schedule 2).

(3) For the purposes of regulation 34, the **relevant section**, in relation to the limited disclosure document, is section 7 of that document.

Schedule 8 clause 25(1): replaced, on 9 August 2017, by regulation 11(2) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

26 Register entry for debt securities issued by registered bank

(1) Clause 64 of Schedule 2 (which requires the register entry to contain certain financial information) does not apply for the purposes of clause 38(1)(c) and (2)(b) of this schedule if A lodges with the Registrar a notice referring to the availability of its disclosure statements (including a link to the page on its Internet site where its disclosure statements are published).

(1A) Clause 65(1)(c) of Schedule 2 (which requires the register entry to contain information about material contracts) does not apply for the purposes of clause 38(1)(c) and (2)(b) of this schedule.

(1B) Despite clause 38(1)(c) and (2)(b) of this schedule, information contained in a disclosure statement is not required to be supplied to the Registrar or contained in the register entry under those provisions if that information would otherwise

be required to be supplied or contained only as a result of the application of section 57(1)(b)(ii) of the Act (which relates to material information).

(2) In this clause, **disclosure statements** has the same meaning as in the Banking (Prudential Supervision) Act 1989.

Schedule 8 clause 26(1A): inserted, on 1 December 2015, by regulation 44(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 26(1B): inserted, on 1 December 2015, by regulation 44(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 26(2): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

26A Application

(1) Clauses 26B to 26E apply to a person (**A**) who offers bank perpetual preference shares to another person (**B**) in reliance on clause 21(a) of Schedule 1 of the Act (*see* clause 44(1A)(h) of this schedule).

(2) However, those clauses do not apply if the bank perpetual preference shares have previously been offered for issue or sale under an offer for which a disclosure document was required to be provided under clause 26 of Schedule 1 of the Act (or would have been required but for an exemption granted under subpart 2 of Part 9 of the Act).

Schedule 8 clause 26A: inserted, on 28 July 2022, by regulation 9(4) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

26B Offeror must provide limited disclosure document and comply with ongoing disclosure duties

(1) A must not accept an application, or issue or transfer the bank perpetual preference shares to B, if a limited disclosure document was not provided to B before the application was made.

(2) The limited disclosure document must be provided by giving it to B or delivering or sending it to B's address.

(3) A must comply with the following provisions (including any regulations relating to those provisions) in respect of the bank perpetual preference shares issued or transferred to B:

(a) section 97 of the Act:

(b) sections 96 (other than in respect of regulation 51) and 100 of the Act:

(c) sections 95, 96 (in respect of regulation 51), and 98 of the Act.

(4) Subclause (3) is subject to clause 26E.

(5) For the purposes of subclause (3), the provisions referred to in that subclause apply with all necessary modifications as if the bank perpetual preference shares were regulated products.

(6) *See* clauses 37 to 43 (which provide for other disclosure requirements).

Schedule 8 clause 26B: inserted, on 28 July 2022, by regulation 9(4) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

26C Limited disclosure document must comply with Schedule 9A and requirements that apply to equivalent PDS

(1) The limited disclosure document must comply with the following provisions (including any regulations relating to those provisions) as if the limited disclosure document were an equivalent PDS and the offer were a regulated offer:

(a) sections 57(1)(a) and 60 of the Act:

(b) section 62 of the Act:

(c) sections 49 and 61(1) of the Act.

(2) However, the limited disclosure document must contain all of the information specified in Schedule 9A that is applicable (rather than the information specified in Part 1 of Schedule 3).

(3) For the purposes of regulation 34, the **relevant section**, in relation to the limited disclosure document, is section 7 of that document.

Schedule 8 clause 26C: inserted, on 28 July 2022, by regulation 9(4) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

26D Register entry for bank perpetual preference shares

(1) For the purposes of clause 38(1)(c) and (2)(b) of this schedule, the following provisions in Part 2 of Schedule 3 do not apply:

(a) clause 53 of Schedule 3 (which requires the register entry to contain certain financial information):

(b) clause 54(1)(b) of Schedule 3 (which requires the register entry to contain information about material contracts).

(2) However, subclause (1)(a) is subject to A lodging with the Registrar a notice referring to the availability of its disclosure statements (including a link to the page on its Internet site where its disclosure statements are published).

(3) Clause 52(1)(d) of Schedule 3 applies for the purposes of clause 38(1)(c) and (2)(b) of this schedule as if it required the brief description of the bank perpetual preference shares to include a statement of—

(a) the distribution rate or rates that may be earned by holding the shares (if the rate or rates are fixed at the date of the limited disclosure document); or

(b) the basis on which or the method by which the distribution rate or rates will be ascertained.

(4) The register entry must also contain a copy of each report that gives a credit rating referred to in clause 11 of Schedule 9A.

(5) Subclause (4) does not apply to a report if—

(a) lodging the report with the Registrar or otherwise making the report available on the register entry would breach a legal obligation that is binding on the issuer under a contract with the rating agency; and

(b) the rating agency has expressly refused to waive the legal obligation to the extent necessary to allow it to be contained on the register entry.

(6) Despite clause 38(1)(c) and (2)(b) of this schedule, information contained in a disclosure statement is not required to be supplied to the Registrar or contained in the register entry under those provisions if that information would otherwise be required to be supplied or contained only as a result of the application of section 57(1)(b)(ii) of the Act (which relates to material information).

(7) In this clause, **disclosure statements** has the same meaning as in the Banking (Prudential Supervision) Act 1989.

Schedule 8 clause 26D: inserted, on 28 July 2022, by regulation 9(4) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

26E Additional information to be lodged with Registrar for updating register

(1) Regulation 51(b) applies for the purposes of clause 26B(3) of this schedule as if clause 55 of Schedule 3 also required A to lodge the following information with the Registrar within the time specified in subclause (2):

(a) if the distribution rate or rates are fixed after the date of the limited disclosure document, a statement of those rates:

(b) if the basis on which or the method by which the distribution rate or rates will be ascertained involves a variable and that variable is fixed after the date of the limited disclosure document, a statement of the amount at which the variable has been fixed:

(c) if the price of, or other consideration for, the bank perpetual preference shares is fixed after the date of the limited disclosure document, a statement of that price or consideration.

(2) The time specified is within 5 working days after the distribution rate or rates are fixed, or the variable, or the price or other consideration, is fixed.

Schedule 8 clause 26E: inserted, on 28 July 2022, by regulation 9(4) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

27 Application

(1) Clause 28 applies to a person (**A**) who offers managed investment products to another person (**B**) in reliance upon clause 21(a) or (c) of Schedule 1 of the Act.

(2) *See* clause 44, which prescribes various financial products for the purposes of clause 21(a) and (c) of Schedule 1 of the Act.

Schedule 8 clause 27(1): replaced, on 30 June 2016, by regulation 9(2) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Schedule 8 clause 27(2): replaced, on 15 March 2021, by regulation 33(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

28 Governance requirements for certain managed investment products

(1) The following requirements must be complied with in respect of the managed investment scheme to which the managed investment products relate:

(a) the governing document of the scheme must comply with sections 135 to 137 of the Act (applied as if the scheme were a registered scheme):

(b) the governing document of the scheme must contain terms that impose the requirements contained in sections 143, 144, and 146 of the Act (applied as if the scheme were a registered scheme):

(c) the scheme must have a licensed supervisor designated or appointed under the governing document whose licence covers supervision of managed investment schemes:

(d) the manager and the supervisor of the scheme must not be the same or associated persons.

(2) Subclause (1) does not apply if the managed investment scheme to which the managed investment products relate is a unit trust to which the Unit Trusts Act 1960 continues to apply under Schedule 4 of the Act or these regulations.

Schedule 8 clause 28 heading: amended, on 30 June 2016, by regulation 9(3) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Schedule 8 clause 28(1): amended, on 30 June 2016, by regulation 9(4) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Schedule 8 clause 28(2): amended, on 30 June 2016, by regulation 9(4) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Exclusion for the Crown, etc

29 Application

(1) Clauses 30 and 31 apply to the Crown or a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 22(1) of Schedule 1 of the Act.

(2) However, those clauses do not apply—

(a) to an offer of financial products by the Board of Trustees of the National Provident Fund continued under the National Provident Fund Restructuring Act 1990; or

(b) to an offer of call debt securities or fixed term deposit products by Public Trust in reliance on clause 22(1)(f) of Schedule 1 of the Act; or

(b) *[Revoked]*

(c) if the financial products have previously been offered for issue or sale under an offer for which a disclosure document was required to be

provided under clause 26 of Schedule 1 of the Act (or would have been required but for an exemption granted under subpart 2 of Part 9 of the Act); or

(d) to an offer for the sale of debt securities issued by the Crown if—

(i) the Crown continuously offers the debt securities by way of issue as referred to in regulation 72A; and

(ii) the offer for sale is made by a wholesale investor to a retail investor; and

(iii) unless the debt securities have previously been held by a retail investor, the wholesale investor has provided the retail investor with an LDD before the wholesale investor accepted an application or transferred the debt securities to the retail investor.

(3) Subclause (2)(c) does not apply to an offer for the sale of debt securities issued by the Crown if—

(a) the Crown continuously offers the debt securities by way of issue as referred to in regulation 72A; and

(b) the offer for sale is made by a wholesale investor to a retail investor.

(4) The following apply for the purposes of subclause (2)(d):

(a) **LDD** means the most recent limited disclosure document that is lodged on the register by the Crown for the offer referred to in subclause (2)(d)(i) and that contains the statement referred to in regulation 72A(c):

(b) **application** means an application for the debt securities that is made by the retail investor:

(c) the LDD must be provided by giving it to the retail investor or delivering or sending it to the retail investor's address:

(d) subclause (2)(d)(iii) is not a requirement to provide a disclosure document for the purposes of clause 26 of Schedule 1 of the Act.

Schedule 8 clause 29(2): replaced, on 1 December 2015, by regulation 44(7) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 29(2)(b): inserted, on 28 July 2022, by regulation 9(5) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 29(2)(b): revoked, on 15 March 2021, by regulation 33(3) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 8 clause 29(2)(c): amended, on 28 October 2016, by regulation 17(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 8 clause 29(2)(d): inserted, on 28 October 2016, by regulation 17(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 8 clause 29(3): inserted, on 28 October 2016, by regulation 17(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 8 clause 29(4): inserted, on 28 October 2016, by regulation 17(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

30 Offeror must provide limited disclosure document and comply with ongoing disclosure duties

(1) A must not accept an application, or issue or transfer the financial products to B, if a limited disclosure document was not provided to B before the application was made.

(2) The limited disclosure document must be provided by giving it to B or delivering or sending it to B's address.

(3) A must comply with the following provisions (including any regulations relating to those provisions) in respect of the financial products issued or transferred to B:

(a) section 97 of the Act:

(b) sections 96 (other than in respect of regulation 51) and 100:

(c) sections 95, 96 (in respect of regulation 51), and 98 of the Act.

(3A) For the purposes of subclause (3), the provisions referred to in that subclause apply with all necessary modifications as if the financial products were regulated products.

(4) *See* clauses 37 to 43 (which provide for other disclosure requirements).

Schedule 8 clause 30(3): replaced, on 9 August 2017, by regulation 11(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 8 clause 30(3)(b): amended, on 28 July 2022, by regulation 9(6) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 30(3)(c): amended, on 28 July 2022, by regulation 9(6) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 30(3A): inserted, on 9 August 2017, by regulation 11(3) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

31 Limited disclosure document and register entry

(1) The limited disclosure document must comply with the following provisions (including any regulations relating to those provisions) as if the limited disclosure document were an equivalent PDS and the offer were a regulated offer:

(a) sections 57(1)(a) and 60 of the Act:

(b) section 62 of the Act:

(c) sections 49 and 61(1) of the Act.

(2) However, in the case of an offer of debt securities issued by the Crown (whether those securities are offered by way of issue or sale), the limited disclosure document must contain all of the information specified in Schedule 9 that is applicable (rather than the information specified in Part 1 of Schedule 2).

(3) For the purposes of regulation 34, the **relevant section**, in relation to the limited disclosure document, is section 7 of that document.

(4) Clause 64 of Schedule 2 (which requires the register entry to contain certain financial information) does not apply for the purposes of clause 38(1)(c) and (2)(b) of this schedule if A lodges with the Registrar a notice referring to the availability of the Crown's financial statements published under the Public Finance Act 1989.

(5) Despite clause 38(1)(c) and (2)(b) of this schedule, in the case of an offer of debt securities issued by the Crown (whether those securities are offered by way of issue or sale), information is not required to be supplied to the Registrar or contained in the register entry under those provisions if that information would otherwise be required to be supplied or contained only as a result of the application of section 57(1)(b)(ii) of the Act (which relates to material information).

Schedule 8 clause 31(1): replaced, on 9 August 2017, by regulation 11(4) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

Schedule 8 clause 31(5): inserted, on 1 December 2015, by regulation 44(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Variations exclusion

32 Application

(1) Clauses 33 to 35 apply to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 24 of Schedule 1 of the Act in relation to a variation of the terms or conditions of a financial product.

(2) However, those clauses do not apply if the financial products (as varied) have previously been offered for issue or sale under an offer for which a disclosure document was required to be provided under clause 26 of Schedule 1 of the Act (or would have been required but for an exemption granted under subpart 2 of Part 9 of the Act).

Schedule 8 clause 32(2): inserted, on 1 December 2015, by regulation 44(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

33 Offeror must provide limited disclosure document for variations

(1) A must not accept an application, or issue or transfer the financial products to B, if a limited disclosure document was not provided to B before the application was made.

(2) The limited disclosure document must be provided by giving it to B or delivering or sending it to B's address.

(3) *See* clauses 37 to 43 (which provide for other disclosure requirements).

34 Content of limited disclosure document for moratorium or change of issuer

(1) This clause applies to an offer of a variation of the terms or conditions of a financial product that does either or both of the following:

(a) proposes a moratorium:

(b) changes the issuer of the financial product.

(2) The limited disclosure document must—

(a) state—

(i) the terms of the proposed variation; and

(ii) the purpose and effect of the proposed variation; and

(iii) the steps necessary to bring the proposed variation into effect; and

(iv) particulars of any other matters relating to the proposed variation that are material information; and

(b) comply with the following provisions (including any regulations relating to those provisions) as if the limited disclosure document were an equivalent PDS and the offer were a regulated offer:

(i) sections 57(1)(a) and 60 of the Act:

(ii) section 62 of the Act:

(iii) sections 49 and 61(1) of the Act.

(3) In this clause and clause 35, **material information**, in relation to a proposed variation, means information—

(a) that a reasonable person would expect to, or to be likely to, influence persons who commonly invest in financial products in deciding whether to accept the offer of the variation; and

(b) that relates to the particular financial products that are proposed to be varied or the particular issuer, rather than to financial products generally or issuers generally.

(4) However, **material information** does not include—

(a) information about the specific terms of a financial product that have been customised for a particular investor; or

(b) information about an identifiable investor.

Schedule 8 clause 34(2)(b): replaced, on 9 August 2017, by regulation 11(5) of the Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181).

35 Content of limited disclosure document for other variations

(1) This clause applies to an offer of a variation of the terms or conditions of a financial product (other than a variation to which clause 34 applies).

(2) The limited disclosure document must state—

(a) the terms of the proposed variation; and

(b) the purpose and effect of the proposed variation; and

(c) the steps necessary to bring the proposed variation into effect; and

(d) particulars of any other matters relating to the proposed variation that are material information.

Renewal exclusion

36 Supplementary disclosure to correct deficiency for renewal offers

(1) This clause applies to a person (**A**) who offers financial products to another person (**B**) in reliance upon clause 24 of Schedule 1 of the Act in relation to a renewal of the terms or conditions of a financial product if the PDS or register entry in relation to the financial products is deficient.

(2) A must not accept an application for renewal, or renew the terms or conditions of the financial products of B, unless—

(a) a supplementary document was given to B before the application was made; or

(b) B has been given a supplementary document and subsequently confirmed to A that B wishes to proceed with the renewal.

(3) The PDS or register entry is **deficient** if—

(a) A is aware—

(i) that a statement in the PDS or register entry is false or misleading or is likely to mislead; or

(ii) that there is an omission from the PDS or register entry of information that is required to be contained in the PDS or register entry by the Act or these regulations; or

(iii) of a circumstance that has arisen since the PDS was lodged with the Registrar that would have been required by the Act or these regulations to be disclosed or otherwise contained in the PDS or register entry if it had arisen before the PDS was lodged, and the circumstance is not so disclosed or otherwise contained in the PDS or register entry; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

(4) The supplementary document must,—

(a) at the beginning,—

(i) state that it is a supplementary document; and

(ii) identify the PDS or register entry (or both) that it supplements; and

(iii) state that it is to be read together with the PDS or register entry that it supplements; and

(b) contain information to correct the deficiency; and

(c) state that the investor may make a request to A for a copy of the PDS without charge.

Limited disclosure process requirements for banks, the Crown, and certain variations

37 Application

(1) Clauses 38 to 43 apply to the offers referred to in any of the following:

(a) clause 23 (registered bank exclusion relating to certain debt securities):

(aa) clause 26A (registered bank exclusion relating to bank perpetual preference shares):

(b) clause 29 (exclusion for the Crown, etc):

(c) clause 34 (moratorium or change of issuer).

(2) However, clauses 38 to 43 do not apply to—

(a) offers made in reliance upon clause 21(b) of Schedule 1 of the Act if the debt securities—

(i) are bank notice products, call building society shares, call debt securities, fixed term deposit products, or fixed term redeemable building society shares; or

(ii) have previously been offered for issue or sale as referred to in clause 23(2)(b):

(b) offers made in reliance upon clause 22(1) of Schedule 1 of the Act if—

(i) the offer is of a kind referred to in clause 29(2)(a) or (b) or (d); or

(ii) the financial products have previously been offered for issue or sale as referred to in clause 29(2)(c).

Schedule 8 clause 37(1)(a): replaced, on 28 July 2022, by regulation 9(7) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 37(1)(aa): inserted, on 28 July 2022, by regulation 9(7) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 37(2): replaced, on 28 October 2016, by regulation 17(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 8 clause 37(2)(a)(i): replaced, on 15 March 2021, by regulation 33(4) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

38 Limited disclosure document and register entry requirements

(1) An offeror must not make an offer, or distribute an application form for an offer, unless the issuer of the financial products has—

(a) prepared a limited disclosure document for the offer; and

(b) lodged the limited disclosure document with the Registrar; and

(c) supplied to the Registrar all of the information that would be required to be supplied under section 48(1)(c) of the Act if the offer were a regulated offer.

(2) The offeror must ensure that, as at the date on which the limited disclosure document is lodged with the Registrar,—

(a) the limited disclosure document—

(i) contains all of the information that it is required to contain by these regulations (*see* clause 25, 26C,31, or 34 as the case may be); and

(ii) is accompanied by all of the documents that these regulations would require it to be accompanied by if it were a PDS; and

(iii) satisfies the requirements of section 57(1)(a) of the Act as if it were a PDS (subject to clauses 25(2), 26C(2), and 31(2)); and

(b) there is a register entry for the offer that—

(i) contains a confirmation of the fact that the offer is made in reliance on an exclusion under Schedule 1 of the Act and identifies the exclusion that is being relied on; and

(ii) satisfies the requirements of section 57(1)(b) of the Act applied as if the offer were a regulated offer.

(3) *See* regulation 37, which provides for the content of the register entry.

(4) This clause is subject to clauses 26, 26D, and 31(4) and (5).

Schedule 8 clause 38(2)(a)(i): amended, on 28 July 2022, by regulation 9(8) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 38(2)(a)(iii): amended, on 28 July 2022, by regulation 9(9) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 38(4): amended, on 28 July 2022, by regulation 9(10) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 38(4): amended, on 1 December 2015, by regulation 44(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

39 Certain situations in which requirement to provide limited disclosure document does not need to be complied with

(1) An offeror does not have to comply with clause 24(1), 26B(1),30(1), or 33 (as the case may be) in respect of an offer of financial products to a person (**B**) if—

(a) B has already been provided with a PDS or limited disclosure document (for the same or a different offer) that contains all of the information that the limited disclosure document referred to in clause 24, 26B,30, or 33 would be required to contain; or

(b) the offeror believes on reasonable grounds that paragraph (a) applies; or

(c) regulation 15 or 17 applies (where regulations 15 to 17 are applied with all necessary modifications as if the references to section 50 of the Act

were references to clause 24, 26B,30, or 33 and references to the PDS were references to the limited disclosure document).

(2) For the purposes of subclause (1)(a), immaterial differences in the information that is contained in the PDS or limited disclosure document that has been provided to B and the limited disclosure document referred to in clause 24, 26B,30, or 33 may be disregarded.

Schedule 8 clause 39(1): amended, on 28 July 2022, by regulation 9(11) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 39(1)(a): amended, on 28 July 2022, by regulation 9(12) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 39(1)(c): amended, on 28 July 2022, by regulation 9(12) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 39(2): amended, on 28 July 2022, by regulation 9(12) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

40 Limited disclosure document treated as having been provided if application form used was included in, or accompanied by, limited disclosure document

(1) An offeror must be treated as having complied with clause 24(1), 26B(1),30(1), or 33 (as the case may be) in respect of an offer of financial products to a person (**B**) if—

(a) the offeror issues or transfers the financial products to B in response to an application form; and

(b) the application form identifies the limited disclosure document to which it relates; and

(c) B confirms in the application form that B has received the limited disclosure document; and

(d) the offeror has reasonable grounds to believe that—

(i) the application form was included in, or accompanied by, the limited disclosure document when the form was distributed by or on behalf of the offeror; or

(ii) the form was copied, or directly derived, by the person making the application from a form referred to in subparagraph (i).

(2) The identification of the limited disclosure document under subclause (1)(b) must be reasonably prominent.

Schedule 8 clause 40(1): amended, on 28 July 2022, by regulation 9(13) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

40A Supplementary document or replacement limited disclosure document

Sections 71 to 73 of the Act apply to a limited disclosure document with all necessary modifications as if it were a PDS and the offer to which it relates were a regulated offer.

Schedule 8 clause 40A: inserted, on 1 December 2015, by regulation 44(11) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

41 Application of provision relating to defective disclosure

(1) An offeror must, if either subclause (2) or (3) applies, deal under clause 42 with any applications for the financial products offered under an offer to which this clause applies that have not resulted in an issue or a transfer of the products.

(2) This subclause applies if—

(a) the offeror becomes aware—

(i) that a statement in the limited disclosure document is false or misleading or is likely to mislead; or

(ii) that there is an omission from the limited disclosure document of information that is required to be contained in the document by these regulations; or

(iii) of a circumstance that has arisen since the limited disclosure document was lodged with the Registrar that would have been required by these regulations to be disclosed or otherwise contained in the document if it had arisen before the document was lodged, and the circumstance is not so disclosed or otherwise contained in the document; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

(3) This subclause applies if—

(a) the offeror becomes aware—

(i) that a statement in the register entry is false or misleading or is likely to mislead; or

(ii) that there is an omission from the register entry of information that is required to be contained in the register entry by these regulations; or

(iii) of a circumstance that has arisen since the limited disclosure document was lodged with the Registrar that would have been required by these regulations to be disclosed or otherwise contained in the register entry if it had arisen before the document was lodged, and the circumstance is not so disclosed or otherwise contained in the register entry; and

(b) the matter referred to in paragraph (a) is materially adverse from the point of view of an investor.

42 Offeror must comply with section 80 of Act

If this clause applies, the offeror must comply with section 80 of the Act applied with all necessary modifications as if—

(a) the offer were a regulated offer; and

(b) the limited disclosure document were a PDS; and

(c) the register entry (as defined in clause 2) were a register entry (as defined in the Act) for a regulated offer; and

(d) the references to a supplementary document were references to a supplementary document for a limited disclosure document and the references to a replacement PDS were references to a replacement limited disclosure document.

43 Limited disclosure document must be provided on request

(1) The offeror under an offer to which this clause applies must, at the request of an investor, provide the investor with a limited disclosure document within 5 working days after the offeror receives the request.

(2) A document must be provided by giving it to the investor or delivering or sending it to the investor's address.

Part 2
Other matters prescribed for purposes of Schedule 1 of Act

44 Certain products and currency forwards prescribed

(1A) The following kinds of financial products are prescribed for the purposes of clause 21(a) of Schedule 1 of the Act:

(a) a bank notice product:

(b) a call building society share:

(c) a call debt security:

(d) a fixed term deposit product:

(e) a fixed term redeemable building society share:

(f) a PIE call fund unit:

(g) a PIE term fund unit:

(h) a bank perpetual preference share.

(1) The following kinds of financial products are prescribed for the purposes of clause 21(c) of Schedule 1 of the Act:

(a) a PIE call fund unit:

(b) a PIE term fund unit:

(c) a bank notice product that is a specified unit.

(2) A currency forward for which settlement is at a time no later than 12 months and 3 working days after the time at which the currency forward is entered into is prescribed for the purposes of clause 21(d) of Schedule 1 of the Act.

(3) In this clause,—

bank notice product means a debt security issued by a registered bank in New Zealand or a specified unit under which—

(a) the product holder has the right to demand, at any time, repayment in full of the principal sum or withdrawal in full of the unit price or value of the units; and

(b) the issuer has an obligation to pay the amount demanded not later than any period (specified in the terms of issue) after the demand being made; and

(c) no fee or other amount is payable as a result of the amount demanded not having been held by the issuer for a particular period of time

PIE call fund unit means a specified unit in respect of which—

(a) the unit holder has a right to withdraw the unit price or value of the units in full at any time, subject only to the following rights and requirements to the extent that they are described in the terms of issue for the PIE call fund units:

(i) the right of the specified issuer to suspend withdrawals if the withdrawal would prejudice the interests of unit holders in the PIE call fund as a whole or would threaten the relevant specified PIE's eligibility as a multi-rate PIE as defined in section YA 1 of the Income Tax Act 2007:

(ii) the right of the specified issuer to use some or all of the unit price or value to meet any amounts that are owing by the unit holder to the specified bank:

(iii) the right of the specified issuer, on a demand for withdrawal of the unit price or value, to pay less than the unit price or value in full because of any default or impairment of debt securities of the specified bank in which the specified PIE invests:

(iv) a requirement to maintain a minimum account balance:

(v) the right of the specified issuer to withhold payment if the consideration for the units has not been received or cleared:

(vi) a requirement to withdraw a minimum amount:

(vii) the right of the specified issuer, or the trustee of the PIE call fund, to be indemnified for expenses, costs, and liabilities incurred in

acting as the specified issuer or trustee of the PIE call fund, to the extent that they relate to, or are attributable to, the relevant units:

(viii) the right of the specified issuer to deduct from the unit price amounts due, or to become due, on account of tax; and

(b) no fee or other amount is payable as a result of the specified unit not having been held by the unit holder for a particular period of time

PIE term fund unit means a specified unit that has—

(a) a fixed term; and

(b) a fixed principal amount; and

(c) a potential penalty if the unit price or value is withdrawn before the expiry of the fixed term

registered bank parent means a registered bank that is the holding company of a specified issuer (within the meaning of section 5 of the Companies Act 1993)

specified bank means,—

(a) if the specified issuer is a registered bank,—

(i) the registered bank; or

(ii) a related company of the registered bank that is also a registered bank; or

(b) if the specified issuer is not a registered bank,—

(i) the specified issuer's registered bank parent; or

(ii) a related company of the specified issuer's registered bank parent that is also a registered bank

specified issuer means an issuer, in respect of 1 or more specified PIEs, that—

(a) is a registered bank that, in the ordinary course of its business, continuously offers specified units; or

(b) is a subsidiary of its registered bank parent that—

(i) is controlled by its registered bank parent within the meaning of section 7 of the Companies Act 1993; and

(ii) in the ordinary course of its business, continuously offers specified units

specified PIE means a unit trust or group investment fund—

(a) that is a multi-rate PIE as defined in section YA 1 of the Income Tax Act 2007; and

(b) in respect of which all of the money received from the public by way of subscriptions for specified units is invested in fixed term deposit products issued by a registered bank, debt securities that are bank notice

products, call building society shares, or call debt securities issued by a specified bank

specified unit means a unit in a specified PIE or in a fund of a specified PIE

working day, in relation to a currency forward,—

(a) has the same meaning as in section 13 of the Legislation Act 2019; but

(b) if a payment or delivery under the currency forward is made or received in an overseas jurisdiction, does not include a day that, under the law of that jurisdiction, is a public holiday or a bank holiday in that jurisdiction.

(4) Paragraphs (a) to (c) of the definition of **bank notice product** in subclause (3) may, in the case of a specified unit, be subject to the rights and requirements set out in paragraph (a)(i) to (viii) of the definition of PIE call fund unit in subclause (3) to the extent that they are described in the terms of issue for the specified units.

Schedule 8 clause 44 heading: amended, on 15 March 2021, by regulation 33(5) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 8 clause 44(1A): inserted, on 15 March 2021, by regulation 33(6) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 8 clause 44(1A)(h): inserted, on 28 July 2022, by regulation 9(14) of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 8 clause 44(1): amended, on 15 March 2021, by regulation 33(7) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 8 clause 44(2): amended, on 1 December 2015, by regulation 44(12) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 8 clause 44(3): replaced, on 15 March 2021, by regulation 33(8) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 8 clause 44(4): inserted, on 15 March 2021, by regulation 33(8) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

45 Matters relating to sale offers

For the purposes of clauses 31(1)(c)(ii) and (2)(d)(ii) and 34(1)(d)(ii) of Schedule 1 of the Act, a prescribed circumstance is where the offer is made in compliance with clauses 19 to 22 of this schedule.

46 Exclusion for quoted financial products of same class does not apply in certain circumstances

(1) This clause applies for the purpose of clause 29 of Schedule 1 of the Act.

(2) The exclusion under clause 19 of Schedule 1 of the Act does not apply if—

(a) the offer is made within 3 months after a change to the essential nature of the issuer's business; or

(b) the offer is made within 3 months after a transaction for which the issuer has provided disclosure to the licensed market as if it were listing on that market; or

(c) the offer is made in connection with enabling—

(i) a change to the essential nature of the issuer business; or

(ii) a transaction for which the issuer will be required to provide disclosure to the licensed market as if it were listing on that market.

46A Wholesale investor's definition: investment activity criteria

(1) The following are prescribed for the purposes of clause 38(4)(a) of Schedule 1 of the Act (which provides for products that are not specified financial products for the purposes of the investment activity test):

(a) bank notice products:

(b) bonus bonds:

(c) call building society shares:

(d) call credit union shares:

(e) call debt securities:

(f) credit union fixed term deposit products:

(g) credit union savings account products:

(h) fixed term deposit products issued by a registered bank:

(i) fixed term redeemable building society shares:

(j) co-operative shares:

(k) PIE call fund units or PIE term fund units.

(2) In this clause,—

bonus bond means a unit in an approved unit trust within the meaning of section 3(1) of the Finance Act (No 2) 1990

call building society share means a share issued by a building society under which—

(a) the shareholder has a right to demand repayment of the value of the share in full at any time; and

(b) the building society has an obligation to repay the value of the share in full not later than 1 working day after the demand is made; and

(c) the rate of dividend or interest payable or any other benefit provided does not alter as a result of the demand being made; and

(d) no fee or other amount is payable as a result of the principal sum not having been held by the building society for a particular period of time

call credit union share means a share referred to in section 107 of the Friendly Societies and Credit Unions Act 1982, and issued by a credit union, under which—

(a) the member has a right to demand repayment of the value of the share in full at any time; and

(b) the credit union has an obligation to repay the value of the share in full in accordance with section 107(4) of the Friendly Societies and Credit Unions Act 1982; and

(c) the rate of dividend or interest payable or any other benefit provided does not alter as a result of the demand being made; and

(d) no fee or other amount is payable as a result of the principal sum not having been held by the credit union for a particular period of time

fixed term redeemable building society share means a share issued by a building society that is a registered bank if—

(a) it is redeemable in cash at the end of a fixed term or on the liquidation of the building society; and

(b) it bears a rate of dividend set on the issue of the share; and

(c) on liquidation of the building society, the former holder ranks ahead of all other classes of shareholders for the consideration payable on redemption.

Schedule 8 clause 46A: inserted, on 15 March 2021, by regulation 33(9) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Certificate requirements

47 Eligible investor certificate

(1) A certificate under clause 41 of Schedule 1 of the Act must include a warning statement at the front and in a prominent position.

(2) In relation to an offer of financial products (or a class of those transactions), the warning statement must be in the following form:

"**Warning**

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors make an informed decision.

If you give this certificate, the usual rules do not apply to offers of financial products made to you. As a result, you may not receive a complete and balanced set of information. You will also have fewer other legal protections for these investments.

Make sure you understand these consequences.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

Offence

It is an offence to give a certificate knowing that it is false or misleading in a material particular. The offence has a penalty of a fine not exceeding $50,000."

(3) In relation to the supply of a discretionary investment management service (or a class of those services), the warning statement must be in the following form:

"New Zealand law normally requires people who offer to provide discretionary investment management services to give information to investors before they invest. This information is designed to help investors to make an informed decision.

If you give this certificate, the usual rules do not apply to offers to provide these services to you. As a result, you may not receive a complete and balanced set of information. You will also have fewer other legal protections for these investments.

Make sure you understand these consequences.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

Offence

It is an offence to give a certificate knowing that it is false or misleading in a material particular. The offence has a penalty of a fine not exceeding $50,000."

Schedule 8 clause 47(2): amended, on 1 December 2016, by regulation 9(5) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

48 Safe harbour certificate

(1) A certificate under clause 44 of Schedule 1 of the Act must include a warning statement at the front and in a prominent position.

(2) In relation to an offer of financial products (or a class of those transactions), the warning statement must be in the following form:

"**Warning**

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This information is designed to help investors make an informed decision.

If you are a wholesale investor, the usual rules do not apply to offers of financial products made to you. As a result, you may not receive a complete and balanced set of information. You will also have fewer other legal protections for these investments.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

Offence

It is an offence to give a certificate knowing that it is false or misleading in a material particular. The offence has a penalty of a fine not exceeding $50,000."

(3) In relation to the supply of a discretionary investment management service (or a class of those services), the warning statement must be in the following form:

"New Zealand law normally requires people who offer to provide discretionary investment management services to give information to investors before they invest. This information is designed to help investors to make an informed decision. If you are a wholesale investor, the usual rules do not apply to offers to provide these services to you. As a result, you may not receive a complete and balanced set of information. You will also have fewer other legal protections for these investments.

Ask questions, read all documents carefully, and seek independent financial advice before committing yourself.

Offence

It is an offence to give a certificate knowing that it is false or misleading in a material particular. The offence has a penalty of a fine not exceeding $50,000."

Schedule 8 clause 48(2): amended, on 1 December 2016, by regulation 9(6) of the Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118).

Schedule 9
Limited disclosure document for debt securities issued by registered bank or the Crown

r 72(2)

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1 Interpretation

(1) In this schedule,—

bank hybrid products means debt securities issued by a registered bank if either or both of the following may occur in connection with an event or a circumstance relating to the insolvency or a financial difficulty of the registered bank:

(a) the debt securities are converted into another financial product:

(b) the principal or interest under the debt securities is reduced or cancelled

continuous issue LDD means an LDD that relates to debt securities that the issuer, in the ordinary course of its business, continuously offers

Crown debt securities means debt securities issued by the Crown

debt securities means the debt securities that are being offered under the LDD

LDD means a limited disclosure document for an offer of—

(a) debt securities made in reliance on clause 21(b) of Schedule 1 of the Act; or

(b) Crown debt securities made in reliance on clause 22 of Schedule 1 of the Act.

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the debt securities that are being offered under the LDD.

(3) If the debt securities are redeemable shares (*see* section 8(1)(b)(iii) of the Act),—

(a) the requirements relating to interest or the interest rate apply in relation to dividends or the dividend rate under those shares; and

(b) the LDD or register entry may refer to dividends or the dividend rate rather than interest or the interest rate.

Schedule 9 clause 1(1) **bank hybrid products**: inserted, on 1 December 2015, by regulation 45(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

2 LDD may describe debt securities as secured only in specified circumstances

(1) This clause applies to an LDD for an offer of debt securities unless—

(a) the repayment of all money that has been, or may be, deposited or lent under the debt securities has been secured by a security interest over the whole or any part of the property of the issuer or of any of the guarantors; and

(b) the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to—

(i) repay the debt securities; and

(ii) pay all other liabilities that a security interest over the property secures and that rank in priority to, or equally with, the debt securities.

(2) The LDD must not use the term "secured" in—

(a) the name of the financial products in the information under regulation 20; or

(b) the description of the financial products in the KIS.

(3) The LDD must not elsewhere describe or refer to the debt securities as "secured".

(4) Subclause (3) does not prevent an LDD from stating that the repayment obligations under the debt securities are secured by a security interest if, and only if, that statement is accompanied by—

(a) a statement that the security interest is insufficient to repay the debt securities; or

(b) a statement that there is a real risk that the security interest is insufficient to repay the debt securities.

LDD sections

3 LDD sections

(1) The LDD must have sections that are headed up and ordered as follows:

1 Key information summary

2 Key dates and offer process

3 Terms of the offer

4 Purpose of the offer

5 Key features of [*name of financial products*]

6 Risks of investing

7 Tax

8 How to complain

9 Where you can find more information

10 How to apply

11 Contact information

(2) The sections of the LDD must be numbered sequentially.

(3) Nothing in this schedule prevents the LDD from being called a PDS or a product disclosure statement if the issuer thinks fit.

Key information summary

4 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

About [*name of issuing group*]

Purpose of this offer

Key terms of the offer

No guarantee/Who is responsible for repaying you?*

How you can get your money out early/No early withdrawal or transfer*

How [*name of financial products*] rank for repayment

No security/What assets are these [*name of financial products*] secured against?*

Key risks affecting this investment

What is [*name of issuer*]'s credit rating?/What is [*name of issuer's holding company*]'s credit rating?/What is [*name of financial product*]'s credit rating?/No credit rating*

*Select one.

(2) Subclause (1) is subject to clauses 9(2) and 11(2).

(3) Clauses 5 to 14 specify the information that must be contained in the KIS under each of the headings in subclause (1).

5 What is this?

(1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products*]. [*Name of financial products*] are debt securities issued by [*name of issuer*]. You give [*name of issuer*] money, and in return [*name of issuer*] promises to pay you interest and repay the money at the end of the term. If [*name of issuer*] runs into financial trouble, you might lose some or all of the money you invested."

(2) In the case of convertibles, the statement in subclause (1) must be modified with the effect that the statement—

(a) identifies the debt securities as being convertible; and

(b) includes the name of the new products and the name of the issuer of the new products; and

(c) briefly specifies how or when the conversion may or will occur (for example, at the investor's option, at the issuer's option, on a specified date, or on the occurrence of a particular event); and

(d) briefly specifies how the conversion will affect the form of returns.

(3) In the case of bank hybrid products, the KIS must include a statement in the following form after the statement in subclause (1):

"**Warning**

These [*name of debt securities*] carry similar risks to shares but do not have the same opportunity for growth as shares. If [*name of issuer*] experiences financial difficulty, [*name of debt securities*] can be converted into [*name of new products*] (which may be worth less than your investment) or even written off completely. This means you could lose all of your investment."

Schedule 9 clause 5(2): inserted, on 1 December 2015, by regulation 45(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 9 clause 5(3): inserted, on 1 December 2015, by regulation 45(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

6 About [*name of issuing group*]

(1) The KIS must contain a brief description of the issuing group's business.

(2) In the case of an offer made in reliance on clause 21(b) of Schedule 1 of the Act, the KIS must include—

(a) a statement to the effect that information about the issuer and the issuer's financial statements are published in disclosure statements required under the Banking (Prudential Supervision) Act 1989; and

(b) a link to the page on the issuer's Internet site where its disclosure statements are published.

(3) In the case of an offer made in reliance on clause 22 of Schedule 1 of the Act, the KIS must include a statement referring to the availability of the Crown's financial statements published under the Public Finance Act 1989.

(4) In this clause, **disclosure statement** has the same meaning as in the Banking (Prudential Supervision) Act 1989.

Schedule 9 clause 6(2)(a): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Schedule 9 clause 6(2)(a): amended, on 7 June 2018, by regulation 19 of the Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66).

Schedule 9 clause 6(4): amended, on 1 July 2022, by section 300(2) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

7 Purpose of this offer

The KIS must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for).

8 Key terms of the offer

(1) The KIS must contain the key terms of the offer briefly summarised in a table, including—

(a) a brief description of the debt securities (for example, an unsecured, unsubordinated bond); and

(b) a brief description of the term of the debt securities; and

(c) a statement—

(i) of the interest rate or rates that may be earned by holding the debt securities (if the rate or rates are fixed at the date of the LDD); or

(ii) of the basis on which or the method by which the interest rate or rates will be ascertained; and

(d) the intended dates on which the offer opens and closes; and

(e) the dates on which, or frequency with which, the interest from the debt securities will be due and paid; and

(f) if a holder of the debt securities will or may be liable to make further payments or to pay fees or charges relating to those securities, a brief description of the nature of that liability or of those fees or charges; and

(g) if the issuer has the right to extend the time for payment of the principal or interest, or to reduce or cancel the principal or interest, under the debt securities, a statement to that effect and a reference to the section of the LDD where more information on that matter can be found.

(2) In the case of convertibles, the table must also include a brief description of—

(a) the new products; and

(b) the circumstances in which the conversion may or will occur; and

(c) the terms of the conversion.

Schedule 9 clause 8(2): inserted, on 1 December 2015, by regulation 45(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

9 No guarantee/Who is responsible for repaying you?

(1) The KIS must—

(a) include the heading "**No guarantee**" and a statement to the effect that the debt securities are not guaranteed by any member of the issuing group or any other person and that the issuer is solely responsible for the repayment of the securities; or

(b) include the heading "**Who is responsible for repaying you?**" and the following information:

(i) a statement as to who is responsible for the repayment of the securities (including an identification of the guarantor or guarantors, whether by name or a description):

(ii) if the guarantee of a guarantor is conditional or subject to limits, a statement to that effect and a reference to the section of the LDD where more information on that matter can be found:

(iii) a statement to the effect that no other members of the issuing group are guarantors of the securities (if there are members who are not guarantors).

(2) This clause does not apply to an offer of Crown debt securities.

10 How you can get your money out early/No early withdrawal or transfer

(1) The KIS must—

(a) contain a brief description of the ability to redeem the debt securities before the end of the term of the securities; or

(b) if there is no ability to do so, contain a statement to that effect.

(2) If the debt securities are transferable and have a term of 1 year or more, the KIS must include whichever of the following statements best applies:

(a) "[*Name of issuer*] intends to quote these [*name of financial products*] on [*name of licensed market*]. This means you may be able to sell them on the [*name of licensed market*] before the end of their term if there are interested buyers. If you sell your [*name of financial products*], the price

you get will vary depending on factors such as the financial condition of the [*name of issuing group*] and movements in the market interest rates. You may receive less than the full amount that you paid for them.":

(b) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a licensed market in New Zealand but they will be able to be traded on the [*describe established market available for trading*]. This means you may be able to sell them on [*name of established market*] before the end of their term if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of the [*name of issuing group*] and movements in the market interest rates. You may receive less than the full amount that you paid for them.":

(c) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a market licensed in New Zealand and there is no other established market for trading them. This means that you may not be able to sell your [*name of financial products*] before the end of their term."

(3) For the purposes of subclause (2)(a), if the issuer intends that the debt securities will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(4) If the debt securities are not transferable and have a term of 1 year or more, the KIS must include a statement to the following effect:

"These [*name of financial products*] cannot be sold to anyone else."

(5) In the case of convertibles, the statement in subclause (2) must be modified with the effect that the statement—

(a) states whether or not the new products are quoted or approved for trading, or the issuer intends that those products will be quoted or approved for trading, on a market licensed in New Zealand or on another established market; and

(b) if the issuer does not intend that the new products will be quoted or approved for trading on an established market, includes a statement that the investor may not be able to sell those new products; and

(c) if the new products cannot be sold or transferred, includes a statement to that effect.

Schedule 9 clause 10(5): inserted, on 1 December 2015, by regulation 45(4) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

11 How [*name of financial products*] rank for repayment

(1) The KIS must include—

(a) a brief summary of the ranking of the debt securities on a liquidation of the issuer; and

(b) a reference to the section of the LDD where more information on that matter can be found.

(2) This clause does not apply to an offer of Crown debt securities.

12 No security/What assets are these [*name of financial products*] secured against?

The KIS must—

(a) include the heading "**No security**" and a statement to the effect that the debt securities are unsecured; or

(b) include the heading "**What assets are these [*name of financial products*] secured against?**" and the following information:

(i) a brief description of the assets that are subject to a security interest that secures the payment or performance of an obligation under the debt securities:

(ii) if, under clause 2, the debt securities must not be described or referred to as "secured", a statement to the effect that there is a security interest to secure the repayment of the debt securities accompanied by the statement referred to in clause 2(4)(a) or (b):

(iii) a reference to the section of the LDD where more information on that matter can be found.

13 Key risks affecting this investment

(1) In the case of an offer made in reliance on clause 21(b) of Schedule 1 of the Act, the KIS must include a statement in the following form:

"Investments in debt securities have risks. A key risk is that [*name of issuer*] does not meet its commitments to repay you or pay you interest (credit risk). Section 6 of this document (risks of investing) discusses the main factors that give rise to the risk. You should consider if the credit risk of these debt securities is suitable for you.

The interest rate for these [*name of financial products*] should also reflect the degree of credit risk. In general, higher returns are demanded by investors from businesses with higher risk of defaulting on their commitments. You need to decide whether the offer is fair. [*Name of issuer*] considers that the most significant risk factors are: [*brief summary of the circumstances that must be disclosed under clause 31 (specific risks) that the issuer considers most significantly increase the risk that the issuer defaults on its payment obligations*]."

(2) The brief summary must include particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular debt securities (as compared to other issuers or debt securities).

(3) The KIS must, in the case of subclause (1), include a statement in the following form after the statement in subclause (1):

"This summary does not cover all of the risks of investing in [*name of financial products*]. You should also read [*references to section 6 of the LDD (risks of investing) and to other places in the LDD that describe risk factors (for example, the key features of the product)*]."

(4) In the case of an offer made in reliance on clause 22 of Schedule 1 of the Act, the KIS must include a statement in the following form:

"Investments in debt securities have risks. A key risk is that the Crown does not meet its commitments to repay you or pay you interest (credit risk). Section 6 of this document (risks of investing) discusses this risk. You should also read [*references to other places in the LDD that describe risk factors (for example, the key features of the product)*]."

(5) In the case of convertibles (other than bank hybrid products) where the new products are equity securities, the KIS must include a statement in the following form after the statement in subclause (1) and before the statement in subclause (3) (or after the statement in subclause (4)):

"If/When* these [*name of financial products*] convert into shares, these risks will change significantly. You should consider whether the degree of uncertainty about [*name of issuing group*]'s future performance and returns is suitable for you."

*Select one.

(6) In the case of bank hybrid products, the KIS must include a statement in the following form before the statement in subclause (1):

"If [*name of issuer*] experiences financial difficulty, the [*name of debt securities*] may be converted into [*name of new products*] or written off. You will not have any choice as to whether a conversion or write-off occurs, and you may not have a chance to sell your [*name of debt securities*] before the conversion or write-off. The value of the [*new products*] that you receive if this occurs is likely to be less than the amount you invest in the [*name of debt securities*]. If conversion is required but is not possible, the [*name of debt securities*] will be immediately written off in part or in whole and you will lose some or all of your investment.

Interest may not always be paid on [*name of debt securities*] and missed payments will not accumulate."

Schedule 9 clause 13(5): inserted, on 1 December 2015, by regulation 45(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 9 clause 13(6): inserted, on 1 December 2015, by regulation 45(5) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

14 What is [*name of issuer*]'s credit rating?/What is [*name of issuer's holding company*]'s credit rating?/What is [*name of financial product*]'s credit rating?/No credit rating

(1) The KIS must include—

(a) the heading "**What is [*name of issuer*]'s credit rating?**" or "**What is [*name of issuer's holding company*]'s credit rating?**" or "**What is [*name of financial product*]'s credit rating?**" or "**No credit rating**" (whichever heading best applies); and

(b) whichever of the statements specified in subclauses (2) and (5) that better applies.

(2) A statement under this subclause must be in the following form (and must be accompanied by the diagram required by subclause (3)(b)):

"A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.

[*Specify either the name of the issuer or its holding company or, in the case of an issue rating, the name of the financial products*] has/have* been rated by [*name of approved rating agency*]. [*Name of approved rating agency*] gives ratings from [*specify the top rating*] through to [*specify the lowest rating, excluding ratings attaching to entities in default*]."

*Select one.

(3) For the purposes of subclause (2),—

(a) **approved rating agency** has the same meaning as in section 60(3) of the Act:

(b) the KIS must include a diagram—

(i) showing the range of credit ratings given by the approved rating agency; and

(ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and

(iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics on the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and

(iv) indicating the placement within that range of the issuer's, holding company's, or issue's current credit rating:

(c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), that statement must be disclosed with the diagram:

(d) if the debt securities have been given a credit rating by an approved rating agency, that rating must be used (rather than a credit rating for the issuer or its holding company):

(e) a credit rating for the issuer's holding company may be given only if the holding company is an unconditional guarantor:

(f) if a credit rating is given for the issuer or its holding company but the debt securities (if those securities were to be given a credit rating by an approved rating agency) would be likely to be given a lower credit rating, the diagram under paragraph (b) must include—

(i) a statement to that effect; and

(ii) a brief explanation as to why the rating would be likely to be lower:

(g) if this paragraph applies under subclause (4),—

(i) the statement under subclause (2) must be amended to refer to the ratings given by each approved rating agency; and

(ii) the diagram under paragraph (b) must include, at a minimum, the information under paragraph (b)(i) to (iv) and (c) for any one of those ratings; and

(iii) the information under paragraphs (b)(i) and (iv) and (c) for each other current credit rating must be given in or under the diagram.

(4) Subclause (3)(g) applies if the rating to be referred to in the statement under subclause (2) is a credit rating for—

(a) the debt securities and another current credit rating for the debt securities has been given by another approved rating agency:

(b) the issuer and another current credit rating for the issuer has been given by another approved rating agency:

(c) the issuer's holding company and another current credit rating for the holding company has been given by another approved rating agency.

(5) A statement under this subclause must be in the following form:

"[*Name of issuer*]'s creditworthiness has not been assessed by an approved rating agency. This means that [*name of issuer*] has not received an independent opinion of its capability and willingness to repay its debts from an approved source."

15 Table of contents

After the KIS, the LDD must include a table of contents showing the number of each section of the LDD, the heading of each section of the LDD, and the

page number of, or cross-reference in, the LDD on which or to where that section starts.

Key dates and offer process

16 Application

(1) Clause 17 applies to section 2 of the LDD (key dates and offer process).

(2) However, this LDD section does not apply to a continuous issue LDD.

17 Key dates and offer process

(1) The LDD must include—

(a) a table showing the key dates for the offer and the issue or transfer of the debt securities, including the intended dates on which—

(i) the offer opens:

(ii) the offer closes:

(iii) the debt securities are issued or transferred:

(iv) the debt securities are quoted:

(b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 3 of the LDD (terms of the offer).

(2) The table may specify other dates relating to the debt securities (for example, the first interest payment date).

(3) If an investor is required to make payments on specified dates or at a specified frequency, the LDD must specify the payment dates or frequency and the consequences of failing to make the payments.

(4) *[Revoked]*

Schedule 9 clause 17(4): revoked, on 1 December 2015, by regulation 45(6) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Terms of the offer

18 Application

(1) Clauses 19 and 20 apply to section 3 of the LDD (terms of the offer).

(2) However, clauses 19(2)(b) and 20 do not apply to an offer of Crown debt securities.

19 Terms of the offer

(1) The LDD must include a table that sets out the terms of the offer (including the terms that are summarised under clause 8).

(2) The following information must be provided in or below the table:

(a) the dates on which, or frequency with which, the interest from the debt securities will be due and paid:

(b) a description of the ranking of the debt securities on a liquidation of the issuer:

(c) a description of any provision for repayment of the debt securities to occur before the end of their term.

(3) The LDD may, rather than setting out a particular term or particular terms of the offer in the table under subclause (1), refer to an LDD page or provide another LDD cross-reference to where the term or terms are described.

(4) The LDD must—

(a) refer to any deed or agreement that sets the terms of the debt securities or other terms of the offer; and

(b) include a statement to the effect that these documents may be obtained from the offer register.

(5) Subclause (1) does not apply—

(a) to any terms implied by law; or

(b) to a term set by any deed or agreement that the issuer considers is not a key term of the offer.

20 Comparable pricing

(1) The purpose of this clause is to enable information to be provided to assist investors to assess whether the returns offered under the debt securities adequately compensate for the risks of investing (by comparing the risk premium offered with market pricing information).

(2) The LDD may, under the table referred to in clause 19, include either or both of the following:

(a) a diagram that assists investors to compare the yield of the debt securities with 1 or more of the following (for example, by plotting points on a graph):

(i) the yield of other securities of the issuer:

(ii) the yield of the securities of other issuers (if the issuer considers that information about those securities provides a useful comparison for investors):

(iii) the New Zealand Government bond market reference rate or other rates that the issuer considers provide a relevant benchmark:

(b) a reference to a URL for an Internet site on which a tool can be found to enable a comparison of the yields of various debt securities (within the meaning of section 8 of the Act).

(3) The information under—

(a) subclause (2)(a) must be accompanied by information to assist investors to use the diagram:

(b) subclause (2)(b) must be accompanied by information about the debt securities to assist investors to use the tool.

Schedule 9 clause 20(1): replaced, on 1 December 2015, by regulation 45(7) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Purpose of the offer

21 Application

Clause 22 applies to section 4 of the LDD (purpose of the offer).

22 Purpose of the offer

(1) The LDD must give a brief description of the purpose of the offer and of how the money raised under the offer is expected to be allocated to each intended use, including—

(a) information about whether (and, if so, how) the use of the money raised under the offer may change depending on the total amount that is raised; and

(b) if a minimum amount must be raised before the debt securities are issued or transferred, a statement to that effect and of the minimum amount; and

(c) a statement as to the extent to which the offer is underwritten.

(2) However, a continuous issue LDD is not required to contain information under subclause (1)(a), (b), and (c).

(3) If the purpose of the offer is to provide finance for a particular capital project, the LDD must include—

(a) a brief description of the project; and

(b) an indication of the expected financial benefits of the project.

(4) If it is expected that 1 or more persons will become a recipient of money from a conduit issuer (within the meaning of section 453 of the Act) in respect of the debt securities, the LDD must—

(a) state the name of each of those persons; and

(b) state the proportion of the amount that is raised under the offer that is expected to be provided, directly or indirectly and whether by 1 transaction or a series of transactions, for the use of each of those persons; and

(c) briefly describe how each of those persons intends to use the money that is provided.

Schedule 9 clause 22(1)(b): amended, on 1 December 2015, by regulation 45(8) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Key features of [name of financial products]

23 Application

(1) Clauses 24 to 28 apply to section 5 of the LDD (key features of [*name of financial products*]).

(2) However, clauses 24(2)(b), (4), and (5), 25, and 27 do not apply to an offer of Crown debt securities.

24 Key features

(1) The LDD must include a description of the features of the debt securities (to the extent those features are not already disclosed in section 3 of the LDD (terms of the offer)).

(2) The description under subclause (1) must—

(a) be sufficient to make it clear why a feature is of significance to investors; and

(b) include a description of the ranking of the debt securities on a liquidation of the issuer, including a diagram showing the total liabilities and total equity of the issuer; and

(c) include a description of each security interest that secures the payment or performance of an obligation under the debt securities.

(3) The information under subclause (2)(b) and (c) must be under the subheading "**Ranking and security**", "**Ranking**", or "**Security**" (as the case may be).

(4) The description under subclause (2)(b) must—

(a) state whether, after the issue or sale, further liabilities that rank equally with, or in priority to, the debt securities on a liquidation of the issuer can arise and, if so, include a description of the circumstances in which this may occur; and

(b) briefly describe any terms of a trust deed or other covenants with third parties that impose limitations relating to—

(i) the creation of new security interests that rank equally with, or in priority to, any security interest securing the debt securities; or

(ii) the creation of further liabilities that rank equally with, or in priority to, the debt securities on a liquidation of the issuer; and

(c) if there are no terms of the kind described in paragraph (b), include a statement to that effect.

(5) If, in relation to subclause (2)(b), the issuer reasonably considers that information about the liabilities and equity of the issuing group provides more useful information to investors about the ranking of the debt securities (as compared to information about the issuer's liabilities and equity), information about the liabilities and equity of the issuing group may replace or be added to the information required by subclause (2)(b) and clause 25 (and, in that case,

references to the issuer's liabilities, equity, or financial position must be treated as references to the issuing group's liabilities, equity, or financial position).

(6) In the case of convertibles, the following apply:

(a) if the new products are of the same class as financial products that are quoted at the time of the offer, the LDD must include a statement that those products are already quoted:

(b) if the new products are equity securities that are not quoted at the time of the offer, the LDD must include a description of the key features of the equity securities (to the extent that those features are not already disclosed in section 3 of the LDD (terms of the offer) and are not features that apply to ordinary shares in a company generally).

(7) The description under subclause (6)(b) must be sufficient to make it clear why a feature is of significance to investors.

Schedule 9 clause 24(6): inserted, on 1 December 2015, by regulation 45(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 9 clause 24(7): inserted, on 1 December 2015, by regulation 45(9) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

25 Diagram showing ranking of debt securities

(1) The diagram under clause 24(2)(b) must be prepared in accordance with the following rules:

(a) the diagram must state the amount of the issuer's liabilities, divided into 3 classes that are listed vertically and labelled as follows:

(i) the liabilities that rank in priority to the debt securities on a liquidation of the issuer:

(ii) the liabilities that rank equally with the debt securities on a liquidation of the issuer:

(iii) the liabilities that rank below the debt securities on a liquidation of the issuer:

(b) the division of the issuer's liabilities into 3 classes may be subdivided further:

(c) the diagram must include the total amount of the issuer's equity below the liabilities specified under paragraph (a)(iii), and that amount must be labelled as "Equity":

(d) the amounts must be indicative amounts based on the financial position of the issuer at its most recent balance date or any more recent stated date that is adjusted to reflect the changes in the value of the issuer's assets and liabilities that the issuer reasonably expects to result from the issue or sale:

(e) if it is not reasonably practicable to classify certain liabilities within a particular ranking due to the nature of the liabilities (for example,

where there is uncertainty concerning the application of priority rules), the liabilities may be—

(i) classified into an assumed ranking that the issuer considers is reasonable (and, in this case, the diagram must be accompanied by a statement of this assumption); or

(ii) omitted from the diagram (and, in this case the diagram must be accompanied by a statement of the indicative amount, and general nature, of those liabilities, an explanation for the omission, and a statement of the possible priority ranking of the liabilities):

(f) the amounts must be calculated on the basis of an assumption as to the number of debt securities on issue, being a number that the issuer reasonably considers is likely to provide the most useful information for investors.

(2) The diagram under clause 24(2)(b) must be prepared in accordance with an applicable framework or methodology (if any).

(3) The LDD must—

(a) disclose the number of debt securities that is used for the purposes of subclause (1)(f); and

(b) briefly explain the effect of using that number.

26 Description of each security interest

(1) The description under clause 24(2)(c) must—

(a) describe the nature of the security interest (including its priority as against other security interests in the collateral); and

(b) state the amount of the liability that is secured; and

(c) describe the nature of the assets that are subject to the security interest; and

(d) state the total value of those assets; and

(e) if clause 2 applies, include a statement referred to in clause 2(4)(a) or (b).

(2) The amounts under subclause (1)(b) and (d) must be estimated amounts based on the financial position of the issuer at its most recent balance date or any more recent stated date that is adjusted to reflect the changes in the value of the issuer's assets and liabilities that the issuer reasonably expects to result from the issue or sale.

27 Guarantors

(1) The LDD must, under the subheading "**Guarantees**", include a description of the guarantees (if any), including for each guarantee—

(a) the name of the guarantor; and

(b) a description of the nature and amount of the guarantee; and

(c) a statement as to whether the guarantee is subject to limits or conditions and, if so, a description of the principal limits or conditions; and

(d) a statement as to whether the guarantee is secured by a security interest and, if so,—

(i) a description of the nature and amount of the security interest; and

(ii) whichever of the statements specified in subclause (2)(a), (b), and (c) that best applies; and

(e) a statement as to whether the guarantor is a member of the issuing group; and

(f) if the guarantor is not a member of the issuing group but is an associated person of the issuer, a statement to that effect and a brief description of the nature of the association.

(2) The statements are—

(a) a statement that the property that constitutes the security for the security interest is sufficient and is reasonably likely to be sufficient to—

(i) repay the liability of the guarantee; and

(ii) pay all other liabilities that a security interest over the property secures and that rank in priority to, or equally with, the guarantee; or

(b) a statement that the security interest is insufficient to repay the liability of the guarantee; or

(c) a statement that there is a real risk that the security interest is insufficient to repay the liability of the guarantee.

28 Continuous issue LDD

If the LDD is a continuous issue LDD, the following apply:

(a) the diagram required by clause 24(2)(b) that is included in the LDD does not need to include the amounts referred to in clause 25 if the LDD incorporates by reference a publicly available document that contains those amounts in a diagram:

(b) the LDD does not need to include the amounts referred to in clause 26(1)(b) and (d) if the LDD incorporates by reference a publicly available document that contains those amounts:

(c) the amounts stated in the publicly available document—

(i) for clause 25 must be indicative amounts based on the financial position of the issuer at its most recent balance date (and clause 25(1)(d) and (f) and (3) does not apply):

(ii) for clause 26 must be estimated amounts based on the financial position of the issuer at its most recent balance date (and clause 26(2) does not apply):

(d) the publicly available document must be included in the offer register.

Risks of investing

29 Application

(1) Clauses 30 to 32 apply to section 6 of the LDD (risks of investing).

(2) However, clauses 31 and 32 do not apply to an offer of Crown debt securities.

30 General risks

(1) The LDD must include the subheading "**General risks**" and a statement to the effect that the investor's investment is subject to the general risk or risks summarised under subclause (2).

(2) For the purposes of subclause (1), the LDD must include a summary relating to the following risks (if applicable):

(a) the risk that the issuer becomes insolvent and is unable to meet its obligations under the debt securities; and

(b) if the investor wishes to sell the debt securities before maturity, the risk that the investor is unable to find a buyer or that the amount received is less than the principal amount paid for the debt securities.

(3) In the case of an offer made in reliance on clause 22 of Schedule 1 of the Act, the LDD must also include a brief description of the consequences of the Crown defaulting on its obligations under the debt securities.

(4) In the case of convertibles (other than bank hybrid products), the LDD must—

(a) include a statement to the effect that if or when the debt securities convert into other financial products, the risks will change significantly; and

(b) identify the following general risks if the new products are equity securities:

(i) that an investor may receive a return only if dividends are paid or the issuer increases in value and the investor is able to sell his or her equity securities at a higher price than the investor paid for the convertibles:

(ii) that the price of the equity securities may go up or down:

(iii) that if the issuer of the equity securities runs into financial difficulties and is wound up, an investor will be paid only after all creditors and, if applicable, holders of preference shares have been paid:

(iv) that an investor may lose some or all of his or her investment.

(5) In the case of bank hybrid products, the LDD must—

(a) include a statement to the effect that if or when the debt securities convert into other financial products, the risks will change significantly; and

(b) identify the following general risks if the new products are equity securities:

(i) that if the issuer of the equity securities is wound up, an investor will be paid only after all creditors and, if applicable, holders of preference shares have been paid:

(ii) that an investor may lose some or all of his or her investment:

(iii) an investor may not have a chance to sell his or her equity securities.

Schedule 9 clause 30(4): inserted, on 1 December 2015, by regulation 45(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 9 clause 30(5): inserted, on 1 December 2015, by regulation 45(10) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

31 Specific risks

(1) The LDD must include the subheading "**Specific risks relating to [*name of issuer*]'s creditworthiness**" and a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk that the issuer may default on any of its payment obligations under the debt securities.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular debt securities (as compared to other issuers or debt securities); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

32 Risks otherwise disclosed in LDD or register entry

(1) To the extent that information about a risk is included elsewhere in the LDD (other than the KIS) or in the register entry, that information is not required to be repeated in section 6 of the LDD for the purposes of clause 31.

(2) However, if information about a risk is not included in section 6 of the LDD as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 31; and

(b) refer to where the information about the risk is elsewhere included in the LDD or register entry.

Tax

33 Application

Clause 34 applies to section 7 of the LDD (tax).

34 Taxation

(1) The LDD must include a statement to the effect that—

(a) New Zealand residents will have resident withholding tax deducted from interest that is payable under the debt securities; and

(b) there may be other tax consequences from acquiring or disposing of the debt securities; and

(c) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(2) This LDD section may include other information on the tax consequences of the investment if, and only if, the information relates to the particular debt securities on offer (rather than to debt securities, or classes of debt securities, generally).

How to complain

35 Application

Clause 36 applies to section 8 of the LDD (how to complain).

36 How to complain

(1) The LDD must include a statement as to whether complaints about the debt securities can be made to any of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the issuer:

(b) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

37 Application

Clause 38 applies to section 9 of the LDD (where you can find more information).

38 Where you can find more information

(1) The LDD must include a statement to the effect that—

(a) further information relating to the issuer and the debt securities is available on the offer register (for example, financial statements); and

(b) a copy of information on the offer register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The LDD must include a statement—

(a) briefly describing any information relating to the issuer or the debt securities that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register; or

(ii) on request to the issuer; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to apply

39 Application

Clause 40 applies to section 10 of the LDD (how to apply).

40 How to apply

The LDD—

(a) must include a short statement as to how to apply for the debt securities; and

(b) may include a link or reference to the application form.

Contact information

41 Application

Clause 42 applies to section 11 of the LDD (contact information).

42 Contact details

(1) The LDD must state the contact details of—

(a) the issuer; and

(b) the offeror (if the offeror is not the issuer).

(2) The contact details must include an address and a business telephone number.

Schedule 9A
Limited disclosure document for bank perpetual preference shares

r 72(3)

Schedule 9A: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

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1 Interpretation

(1) In this schedule,—

bank perpetual preference shares means the bank perpetual preference shares that are being offered under the LDD

LDD means a limited disclosure document for an offer of bank perpetual preference shares made in reliance on clause 21(a) of Schedule 1 of the Act (*see* clause 44(1A)(h) of Schedule 8 of these regulations).

(2) In this schedule, a reference to the **issue** or **sale** means the issue or sale of the bank perpetual preference shares that are being offered under the LDD.

Schedule 9A clause 1: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

LDD sections

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

2 LDD sections

(1) The LDD must have sections that are headed up and ordered as follows:

1 Key information summary

2 Purpose of the offer

3 Key dates and offer process

4 Terms of the offer

5 Key features of [*name of financial products*]

6 Risks of investing

7 Tax

8 Where you can find more information

9 How to apply

10 Contact information

(2) The sections of the LDD must be numbered sequentially.

(3) Nothing in this schedule prevents the LDD from being called a PDS or a product disclosure statement if the issuer thinks fit.

Schedule 9A clause 2: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Key information summary

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

3 Key information summary

(1) The KIS must have sections that are headed up and ordered as follows:

What is this?

About [*name of issuer*]

Purpose of this offer

Key terms of the offer

How you can get your money out

How [*name of financial products*] rank for repayment

Key risks affecting this investment

What is [*name of issuer*]'s credit rating?/What is [*name of financial product*]'s credit rating?*

*Select one.

(2) Clauses 4 to 11 specify the information that must be contained in the KIS under each of the headings in subclause (1).

Schedule 9A clause 3: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

4 What is this?

(1) The KIS must contain a statement in the following form:

"This is an offer of [*name of financial products*]. [*Name of financial products*] are equity securities issued by [*name of issuer*]. You give [*name of issuer*]

money, and in return you may receive scheduled distributions. If [*name of issuer*] runs into financial trouble, you might lose some or all of the money you invested."

(2) The KIS must include a statement in the following form after the statement in subclause (1):

"**Warning**

These [*name of financial products*] do not have the same rights (including voting rights)* or privileges, or the same opportunity to increase in value, as ordinary shares. Scheduled distributions may be cancelled and those cancelled distributions will not be paid at a later date/the issuer is under no obligation to pay cancelled distributions at a later date†. The [*name of financial products*] are perpetual and have no fixed term. You have no right to require repayment for any reason."

*Omit "(including voting rights)" if inapplicable.

†Select one.

Schedule 9A clause 4: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

5 About [*name of issuer*]

(1) The KIS must contain a brief description of the issuer's business.

(2) The KIS must include—

(a) a statement to the effect that information about the issuer and the issuer's financial statements are published in disclosure statements required under the Banking (Prudential Supervision) Act 1989; and

(b) a link to the page on the issuer's Internet site where its disclosure statements are published.

(3) In this clause, **disclosure statement** has the same meaning as in the Banking (Prudential Supervision) Act 1989.

Schedule 9A clause 5: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

6 Purpose of this offer

The KIS must contain a brief description of the purpose of the offer (including what the money raised under the offer is to be used for and that the money raised under the offer will help the issuer meet regulatory capital requirements).

Schedule 9A clause 6: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

7 Key terms of the offer

(1) The KIS must contain the key terms of the offer briefly summarised in a table, including—

(a) a brief description of the equity securities; and

(b) the fixed price of, or other fixed consideration for, the bank perpetual preference shares (if any) or the (fixed or indicative) range within which that price or consideration may be fixed (if any); and

(c) the number or amount of the bank perpetual preference shares being offered; and

(d) a statement that the investor has no right to redeem the bank perpetual preference shares; and

(e) if the bank perpetual preference shares are redeemable by the issuer in certain circumstances, a statement to that effect and a reference to the section of the KIS where the statement required by clause 8(4) is located; and

(f) a statement—

(i) of the distribution rate or rates that may be earned by holding the bank perpetual preference shares (if the rate or rates are fixed at the date of the LDD); or

(ii) of the basis on which or the method by which the distribution rate or rates will be ascertained; and

(g) the dates on which, or frequency with which, distributions are scheduled to be paid; and

(h) a statement explaining that distributions may be cancelled and a reference to section 4 of the LDD (terms of offer) where more information on that matter can be found; and

(i) whichever of the following statements better applies:

(i) a statement explaining that cancelled distributions will not be paid at a later date:

(ii) a statement explaining that the issuer is under no obligation to pay cancelled distributions at a later date; and

(j) the intended dates on which the offer opens and closes; and

(k) if a holder of the bank perpetual preference shares will or may be liable to make further payments or to pay fees or charges relating to those shares, a brief description of the nature of that liability or of those fees or charges.

(2) If, at the date of the LDD, there is no fixed price of, or other fixed consideration for, the bank perpetual preference shares and no fixed or indicative range within which that price or consideration may be fixed, the KIS must contain a statement to that effect.

Schedule 9A clause 7: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

8 How you can get your money out

(1) The KIS must include whichever of the following statements best applies:

(a) "[*Name of issuer*] intends to quote these [*name of financial products*] on the [*name of licensed market*]. This means you may be able to sell them on the [*name of licensed market*] if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of [*name of issuer*], demand for the [*name of financial products*], and movements in the market interest rates. You may get less than the full amount that you paid for them.":

(b) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a licensed market in New Zealand but they will be able to be traded on the [*describe established market available for trading*]. This means you may be able to sell them on the [*name of established market*] if there are interested buyers. If you sell your [*name of financial products*], the price you get will vary depending on factors such as the financial condition of [*name of issuer*], demand for the [*name of financial products*], and movements in the market interest rates. You may get less than the full amount that you paid for them.":

(c) "[*Name of issuer*] does not intend to quote these [*name of financial products*] on a market licensed in New Zealand and there is no other established market for trading them. This means that you may not be able to sell your [*name of financial products*].":

(d) "These [*name of financial products*] cannot be sold or transferred."

(2) For the purposes of subclause (1)(a), if the issuer intends that the bank perpetual preference shares will be approved for trading on an overseas market (as well as being quoted on a licensed market), the statement in that paragraph may be amended to refer to the name of the overseas market as well as the name of the licensed market.

(3) The KIS must contain a statement that the investor has no right to redeem the bank perpetual preference shares.

(4) If the bank perpetual preference shares are redeemable by the issuer in certain circumstances, the KIS must contain a statement to that effect and a brief description of those circumstances and the intended redemption price.

(5) If the bank perpetual preference shares are not redeemable by the issuer, the KIS must contain a statement to that effect.

Schedule 9A clause 8: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

9 How [*name of financial products*] rank for repayment

(1) The KIS must include—

(a) a brief summary of the ranking of the bank perpetual preference shares on a liquidation of the issuer; and

(b) a reference to the section of the LDD where more information on that matter can be found; and

(c) a statement that, on a liquidation of the issuer, the maximum entitlement of the holder of the bank perpetual preference shares is the issue price of those shares.

(2) The brief summary referred to in subclause (1)(a) must include—

(a) a statement that, on a liquidation of the issuer, the bank perpetual preference shares rank below all liabilities and other financial products of the issuer other than the financial products described for the purposes of paragraph (b) or (c) (if any); and

(b) if any financial products of the issuer rank equally with the bank perpetual preference shares on a liquidation of the issuer,—

(i) a description of those financial products; and

(ii) a statement that the bank perpetual preference shares rank equally with those financial products on a liquidation of the issuer; and

(c) a statement that the bank perpetual preference shares rank above [*specify (for example, ordinary shares of the issuer)*] on a liquidation of the issuer.

Schedule 9A clause 9: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

10 Key risks affecting this investment

(1) The KIS must include a statement in the following form:

"Investments in equity securities of this nature have risks. A key risk is that you will not be paid a distribution on your investment or that your investment will not be repaid (credit risk). Cancelled distributions will not be paid at a later date/the issuer is under no obligation to pay cancelled distributions at a later date*.

Section 6 of this document (risks of investing) discusses the main factors that give rise to the risk. You should consider whether the credit risk of these shares is suitable for you.

The distribution rate for these [*name of financial products*] should also reflect the degree of credit risk. In general, higher returns are demanded by investors from businesses with higher risk of defaulting on their commitments. You need to decide whether the offer is fair. [*Name of issuer*] considers that the most significant risk factors are: [*brief summary of the circumstances that must be*

disclosed under clauses 24 and 25 that the issuer considers most significantly increase the risk that the issuer will cancel distributions or that the investor will lose some or all of the money they have invested.]

[*Name of issuer*] can also redeem the [*name of financial products*] in certain circumstances.† *See* the "How you can get your money out" section for a brief description of those circumstances and the intended redemption price.† You have no right to redeem the [*name of financial products*]."

*Select one.

†Omit this sentence if it is inapplicable.

(2) The brief summary must include particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities).

(3) The KIS must include a statement in the following form after the statement in subclause (1):

"This summary does not cover all of the risks of investing in [*name of financial products*]. You should also read [*references to section 6 of the LDD (risks of investing) and to other places in the LDD that describe risk factors (for example, risks arising for investors from the nature of the product)*]."

Schedule 9A clause 10: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

11 What is [*name of issuer*]'s credit rating?/What is [*name of financial product*]'s credit rating?

(1) The KIS must include—

(a) the heading "**What is [*name of issuer*]'s credit rating?**" or "**What is [*name of financial product*]'s credit rating?**" (whichever heading better applies); and

(b) the statement specified in subclause (2).

(2) A statement under this subclause must be in the following form (and must be accompanied by the diagram required by subclause (3)(b)):

"A credit rating is an independent opinion of the capability and willingness of an entity to repay its debts (in other words, its creditworthiness). It is not a guarantee that the financial product being offered is a safe investment. A credit rating should be considered alongside all other relevant information when making an investment decision.

[*Specify either the name of the issuer or, in the case of a financial product rating, the name of the financial products*] has/have* been rated by [*name of approved rating agency*]. [*Name of approved rating agency*] gives ratings

from [*specify the top rating*] through to [*specify the lowest rating, excluding ratings attaching to entities in default*]."

*Select one.

(3) For the purposes of subclause (2),—

(a) **approved rating agency** has the same meaning as in section 60(3) of the Act:

(b) the KIS must include a diagram—

(i) showing the range of credit ratings given by the approved rating agency; and

(ii) showing, for each of those credit ratings, the approved rating agency's summary description of the rating (for example, AAA—"Extremely strong"); and

(iii) showing, for each of those credit ratings that are entity ratings, the approved rating agency's statistics on the rate of default for entities with that rating over a period of at least 5 years (if the agency provides those statistics) (for example, "1 in 600"); and

(iv) indicating the placement within that range of the issuer's or issue's current credit rating:

(c) if the approved rating agency has given a statement relating to future changes to the rating (for example, a credit outlook of "stable"), that statement must be disclosed with the diagram:

(d) if the bank perpetual preference shares have been given a credit rating by an approved rating agency, that rating must be used (rather than a credit rating for the issuer):

(e) if a credit rating is given for the issuer but the bank perpetual preference shares (if those shares were to be given a credit rating by an approved rating agency) would be likely to be given a lower credit rating, the diagram under paragraph (b) must include—

(i) a statement to that effect; and

(ii) a brief explanation as to why the rating would be likely to be lower:

(f) if this paragraph applies under subclause (4),—

(i) the statement under subclause (2) must be amended to refer to the ratings given by each approved rating agency; and

(ii) the diagram under paragraph (b) must include, at a minimum, the information under paragraphs (b)(i) to (iv) and (c) for any one of those ratings; and

(iii) the information under paragraphs (b)(i) and (iv) and (c) for each other current credit rating must be given in or under the diagram.

(4) Subclause (3)(f) applies if the rating to be referred to in the statement under subclause (2) is a credit rating for—

(a) the bank perpetual preference shares and another current credit rating for the bank perpetual preference shares has been given by another approved rating agency:

(b) the issuer and another current credit rating for the issuer has been given by another approved rating agency.

Schedule 9A clause 11: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

12 Table of contents

After the KIS, the LDD must include a table of contents showing the number of each section of the LDD, the heading of each section of the LDD, and the page number of, or cross-reference in, the LDD on which or to where that section starts.

Schedule 9A clause 12: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Purpose of the offer

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

13 Application

Clause 14 applies to section 2 of the LDD (purpose of the offer).

Schedule 9A clause 13: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

14 Purpose of the offer

The LDD must give a brief description of the purpose of the offer, and must—

(a) state whether a minimum amount must be raised before the bank perpetual preference shares are issued or transferred (*see* section 77(1)(b) of the Act); and

(b) state the extent to which the offer is underwritten.

Schedule 9A clause 14: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Key dates and offer process

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

15 Application

Clause 16 applies to section 3 of the LDD (key dates and offer process).

Schedule 9A clause 15: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

16 Key dates and offer process

(1) The LDD must include—

(a) a table showing the key dates for the offer and the issue or transfer of the bank perpetual preference shares, including the intended dates on which—

(i) the offer opens:

(ii) the offer closes:

(iii) the bank perpetual preference shares are issued or transferred:

(iv) the bank perpetual preference shares are quoted:

(b) a brief summary of any other information needed to understand those key dates (to the extent not otherwise disclosed in section 4 of the LDD (terms of the offer).

(2) The table may specify other dates relating to the bank perpetual preference shares (for example, the intended date of the payment of the first distribution).

(3) In relation to subclause (1)(a)(iv), *see* section 78 of the Act (which provides that an issue or a transfer is void if a quotation condition is not fulfilled).

Schedule 9A clause 16: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Terms of the offer

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

17 Application

Clause 18 applies to section 4 of the LDD (terms of the offer).

Schedule 9A clause 17: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

18 Terms of the offer

(1) The LDD must include a table that sets out the terms of the offer or provides a cross-reference to where those terms can be found in the LDD (including the terms that are summarised under clause 7).

(2) The following information must be provided in or below the table:

(a) either—

(i) the distribution rate or rates (if fixed at the date of the LDD); or

(ii) the basis on which or the method by which the distribution rate or rates will be ascertained:

(b) the dates on which, or the frequency with which, distributions from the bank perpetual preference shares are scheduled to be paid:

(c) a statement explaining that distributions may be cancelled and the circumstances in which they may be cancelled:

(d) a statement that the investor has no right to redeem the bank perpetual preference shares and a description of the circumstances (if any) in which the issuer may redeem the bank perpetual preference shares.

(3) The LDD must—

(a) refer to the constitution (if any) and any other document that sets the terms of the bank perpetual preference shares or other terms of the offer; and

(b) include a statement to the effect that those documents may be obtained from the offer register.

(4) Subclause (1) does not apply—

(a) to any terms implied by law; or

(b) to a term set by the constitution (if any) or any other document that the issuer considers is not a key term of the offer.

Schedule 9A clause 18: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Key features of [name of financial products]

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

19 Application

Clauses 20 and 21 apply to section 5 of the LDD (key features of [*name of financial products*]).

Schedule 9A clause 19: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

20 Key features

(1) The LDD must include—

(a) a description of the key features of the bank perpetual preference shares (to the extent that those features are not already disclosed in section 4 of the LDD (terms of the offer) and are not features that apply to ordinary shares in a company generally); and

(b) a statement that the bank perpetual preference shares do not have the same opportunity to increase in value as ordinary shares; and

(c) a statement to the effect that—

(i) distributions may be cancelled; and

(ii) the issuer has a discretion to cancel distributions and, in certain circumstances, cancellation of distributions may be required by the issuer's conditions of registration as a bank; and

(d) whichever of the following better applies:

(i) a statement to the effect that cancelled distributions will not be paid at a later date:

(ii) a statement to the effect that the issuer is under no obligation to pay cancelled distributions at a later date; and

(e) a reference to section 4 of the LDD (terms of the offer) if key features of the bank perpetual preference shares are disclosed in that section (rather than in section 5).

(2) The description under subclause (1)(a) must—

(a) be sufficient to make it clear why a feature is of significance to investors; and

(b) include particulars of any voting rights or pre-emptive rights attaching to the bank perpetual preference shares; and

(c) include a description of the ranking of the bank perpetual preference shares on a liquidation of the issuer, including a diagram showing the total liabilities and total equity of the issuer.

(3) The description under subclause (2)(c) must—

(a) be under the subheading "**Ranking**"; and

(b) state that, after the date of the LDD, the issuer may incur liabilities that rank equally with, or in priority to, the bank perpetual preference shares on a liquidation of the issuer.

(4) If any equity securities that would rank equally with, or in priority to, the bank perpetual preference shares could be issued by the issuer (for example, under its constitution), the description under subclause (2)(c) must—

(a) state that fact; and

(b) briefly describe the circumstances in which those securities could be issued.

Schedule 9A clause 20: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

21 Diagram showing ranking of bank perpetual preference shares

(1) The diagram under clause 20(2)(c) must be prepared in accordance with the following rules:

(a) the diagram must state the amount of the issuer's liabilities and equity, divided into 3 classes that are listed vertically and labelled as follows:

(i) the liabilities and equity that rank in priority to the bank perpetual preference shares on a liquidation of the issuer:

(ii) the liabilities and equity that rank equally with the bank perpetual preference shares on a liquidation of the issuer:

(iii) the equity that ranks below the bank perpetual preference shares on a liquidation of the issuer:

(b) the division of the issuer's liabilities and equity into 3 classes may be subdivided further:

(c) the amounts must be indicative amounts based on the financial position of the issuer at its most recent balance date or any more recent stated date that is adjusted to reflect the changes in the value of the issuer's assets, liabilities, and equity that the issuer reasonably expects to result from the issue or sale:

(d) the amounts must be calculated on the basis of an assumption as to the number of bank perpetual preference shares on issue, which must be a number that the issuer reasonably considers is likely to provide the most useful information for investors.

(2) The diagram under clause 20(2)(c) must be prepared in accordance with an applicable framework or methodology (if any).

(3) The LDD must—

(a) disclose the number of bank perpetual preference shares that is used for the purposes of subclause (1)(d); and

(b) briefly explain the effect of using that number.

Schedule 9A clause 21: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Risks of investing

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

22 Application

Clauses 23 to 26 apply to section 6 of the LDD (risks of investing).

Schedule 9A clause 22: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

23 General risks

(1) The LDD must include the subheading "**General risks**" and a statement to the effect that the investor's investment is subject to the general risk or risks summarised under subclause (2).

(2) For the purposes of subclause (1), the LDD must include a summary relating to the following risks (if applicable):

(a) the risk that the investor will not be paid a distribution on their investment or will lose some or all of the money they invested; and

(b) the risk that, if the investor wishes to sell the bank perpetual preference shares, the investor will be unable to find a buyer or that the amount received will be less than the amount paid for the shares.

Schedule 9A clause 23: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

24 Specific risks

(1) The LDD must include the subheading "**Specific risks relating to [*name of issuer*]'s creditworthiness**" and a description of the circumstances that the issuer is aware of that exist or are likely to arise that significantly increase the risk that investors in the bank perpetual preference shares will not be paid a distribution on their investment or will lose some or all of the money they invested.

(2) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular issuer or the particular equity securities (as compared to other issuers or equity securities); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those circumstances, the nature of that impact, and the potential magnitude of that impact.

(3) The description is required to include information about circumstances only to the extent that the information is material information.

Schedule 9A clause 24: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

25 Risks related to investing in bank perpetual preference shares

(1) The LDD must include the subheading "**Risks related to investing in bank perpetual preference shares**" and a description of the risks of investing in bank perpetual preference shares (as compared to other types of equity securities).

(2) The description of the risks must include—

(a) a description of the features of bank perpetual preference shares that are listed in subclause (3) (as applicable); and

(b) particulars that make it clear what risk or risks may arise in relation to a particular feature; and

(c) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those features and risks, the nature of that impact, and the potential magnitude of that impact.

(3) The features referred to in subclause (2)(a) are—

(a) that the investor has no right to redeem bank perpetual preference shares:

(b) that scheduled distributions may be cancelled:

(c) that the issuer either will not, or is not required to, pay cancelled distributions at a later date:

(d) that the issuer may redeem bank perpetual preference shares in certain circumstances:

(e) that, on a liquidation of the issuer, bank perpetual preference shares rank behind all liabilities of the issuer and all equity other than the liabilities or equity (or both) of the type referred to in clause 21(1)(a)(ii) and (iii).

(4) The description of the risk is required to include information about features and risks only to the extent that the information is material information.

Schedule 9A clause 25: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

26 Risks otherwise disclosed in LDD or register entry

(1) To the extent that information about a risk is included elsewhere in the LDD (other than the KIS) or in the register entry, that information is not required to be repeated in section 6 of the LDD for the purposes of clause 24 or 25.

(2) However, if information about a risk is not included in section 6 of the LDD as a result of subclause (1), that section must—

(a) at least include a brief summary of the circumstances referred to in clause 24, or the features and risks referred to in clause 25, as applicable; and

(b) refer to where the information about the risk is elsewhere included in the LDD or register entry.

Schedule 9A clause 26: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Tax

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

27 Application

Clause 28 applies to section 7 of the LDD (tax).

Schedule 9A clause 27: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

28 Taxation

(1) The LDD must include a statement to the effect that—

(a) tax can have significant consequences for investments; and

(b) if an investor has queries relating to the tax consequences of the investment, the investor should obtain professional advice on those consequences.

(2) If New Zealand residents will have resident withholding tax deducted from distributions that are made under the bank perpetual preference shares, the LDD must include a statement to that effect.

(3) This LDD section may include other information on the tax consequences of the investment if, and only if, the information relates to the particular bank perpetual preference shares on offer (rather than to equity securities, or classes of equity securities, generally).

Schedule 9A clause 28: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Where you can find more information

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

29 Application

Clause 30 applies to section 8 of the LDD (where you can find more information).

Schedule 9A clause 29: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

30 Where you can find more information

(1) The LDD must include a statement to the effect that—

(a) further information relating to the issuer and the bank perpetual preference shares is available on the offer register (for example, the issuer's constitution); and

(b) a copy of information on the offer register is available on request to the Registrar.

(2) The statement must be accompanied by a reference to the Internet site address for the offer register.

(3) The LDD must include—

(a) a link to, or URL for, an Internet site for a register kept by the Registrar on which there is an entry for the issuer (for example, the New Zealand register or the overseas register kept under the Companies Act 1993); and

(b) a statement to the effect that further information relating to the issuer is available from that Internet site.

(4) The LDD must include a statement—

(a) briefly describing any information relating to the issuer or the bank perpetual preference shares that is required to be, or otherwise will be, available—

(i) to the public by any means other than on the offer register or the register referred to in subclause (3)(a); or

(ii) on request to the issuer; and

(b) explaining—

(i) how that information can be obtained; and

(ii) how a request for that information should be made; and

(c) specifying whether any charge may be made for the information that is requested and the amount of the charge.

Schedule 9A clause 30: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

How to apply

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

31 Application

Clause 32 applies to section 9 of the LDD (how to apply).

Schedule 9A clause 31: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

32 How to apply

The LDD—

(a) must include a short statement as to how to apply for the bank perpetual preference shares; and

(b) may include a link or reference to the application form.

Schedule 9A clause 32: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Contact information

Heading: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

33 Application

Clause 34 applies to section 10 of the LDD (contact information).

Schedule 9A clause 33: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

34 Contact details

(1) The LDD must state the contact details of—

(a) the issuer; and

(b) the offeror (if the offeror is not the issuer); and

(c) the securities registrar.

(2) The contact details must include an address and a business telephone number.

Schedule 9A clause 34: inserted, on 28 July 2022, by regulation 10 of the Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/206).

Schedule 10
Clauses treated as implied into trust deed

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Clauses treated as implied into all trust deeds

1 Duty concerning appointment, etc, of auditors

(1) The issuer must, before recommending the appointment or reappointment of a person as an auditor of the issuer,—

(a) consult with the supervisor on the appointment or reappointment; and

(b) ensure that any comments of the supervisor concerning the proposed auditor are brought to the attention of the person or persons appointing or reappointing the auditor.

(2) The issuer must notify the supervisor if an auditor resigns from appointment, or declines to accept appointment or reappointment, and must pass on to the supervisor any explanation provided by the auditor for resigning from appointment or declining to accept appointment or reappointment.

(3) The issuer must not attempt to prevent a person who has resigned from appointment as an auditor, or declined to accept appointment or reappointment as an auditor, from offering an explanation, or disclosing to the supervisor the reason, for resigning or declining appointment or reappointment.

2 Duty concerning giving opportunity for auditor reporting to supervisor

(1) The issuer must, before recommending the appointment or reappointment of a person as an auditor of the issuer,—

(a) give the supervisor an opportunity to be a party to a specified engagement for the purpose of the supervisor obtaining assurance of matters relevant to the exercise or performance of the powers or duties of the supervisor; and

(b) consult with the supervisor on the nature and scope of the specified engagement (if any).

(2) In this clause, **specified engagement** means an assurance engagement carried out by an auditor in relation to the issuer's compliance with the trust deed.

3 Terms of appointment of auditor

(1) The issuer must ensure that the terms set out in subclause (2) are included in the terms of appointment of an auditor in its capacity as an auditor, whether the auditor is conducting an audit, a review, or any other engagement.

(2) The terms are as follows:

(a) that the auditor will, at the beginning of the audit, review, or engagement, give the supervisor an opportunity to meet with the auditor, with-

out any representative of the issuer being present, in order to allow the supervisor an opportunity to raise any issues or concerns relevant to the exercise or performance of the powers or duties of the supervisor; and

(b) that the auditor will give the supervisor an opportunity to meet with the auditor, without any representative of the issuer being present, to discuss matters arising in the performance of the audit, review, or engagement and to answer any questions the supervisor may have concerning the audit, review, or engagement.

Clauses treated as implied into trust deeds for NBDTs

4 Duty to audit or review half-yearly financial statements

(1) The issuer must have the half-yearly financial statements of the issuing group audited by a qualified FMC auditor, unless the supervisor expressly waives this requirement.

(2) If the supervisor waives the requirement for half-yearly audits, the issuer must instead have the half-yearly financial statements of the issuing group reviewed by a qualified FMC auditor.

Schedule 10 clause 4(1): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 10 clause 4(2): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

5 Duty to provide financial statements to supervisor

(1) The issuer must provide the supervisor with copies of—

(a) the annual financial statements of the issuing group within 4 months after the end of the relevant accounting period; and

(b) the half-yearly financial statements of the issuing group within 3 months after the end of the relevant half-year.

(2) The financial statements given to the supervisor must be signed by at least 2 directors on behalf of the board of the issuer or, if there is only 1 director, by that director.

Schedule 11
Default provisions for proceedings at meetings of product holders

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1 Chairperson

The product holders present may choose one of their number to be chairperson of the meeting if—

(a) no chairperson has been appointed by the supervisor; or

(b) at the meeting, the chairperson appointed by the supervisor is not present within 15 minutes of the time appointed for the start of the meeting; or

(c) there is no supervisor.

2 Notice of meetings

(1) The issuer must ensure that written notice of the time and place of a meeting of product holders is sent to the following at least 15 working days before the meeting:

(a) every product holder entitled to receive notice of the meeting:

(b) the supervisor:

(c) every director and an auditor of the issuer.

(2) The notice must state—

(a) the nature of the business to be transacted at the meeting in sufficient detail to enable a product holder to form a reasoned judgment in relation to it; and

(b) the text of any special resolution to be submitted to the meeting; and

(c) the right of a product holder to appoint a proxy.

(3) If a special resolution is to be submitted to the meeting,—

(a) a draft of the proposed notice of the meeting (including any explanatory memorandum under clause 3) must be given to the supervisor at least 10 working days before the notice is given under subclause (1) (or any lesser period approved by the supervisor); and

(b) the notice of the meeting must be accompanied by a document containing the supervisor's comments on the proposed special resolution (but only if the supervisor has provided those comments in writing to the issuer at least 5 working days before the notice is given under subclause (1), or any lesser period approved by the manager).

(4) Subclause (3) does not apply to a restricted scheme.

(5) An irregularity in a notice of a meeting is waived if—

(a) all the product holders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such product holders agree to the waiver; or

(b) the supervisor indicates at the meeting that the supervisor is satisfied that the irregularity has not resulted in and is unlikely to result in any material prejudice to the product holders.

(6) The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a product holder does not invalidate the proceedings at that meeting.

(7) If a meeting of product holders is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting that is adjourned.

3 Notice of meeting to approve related party benefit

If a special resolution is to be submitted to the meeting, for the purposes of section 173(3)(b) or (4)(c) of the Act, to approve a transaction or series of transactions that provides for a related party benefit to be given, the notice of the meeting must contain an explanatory memorandum that sets out the following:

(a) if the monetary value of the related party benefit can be quantified, the nature and monetary value of that benefit:

(b) if the monetary value of the related party benefit cannot be quantified, the nature and extent of that benefit:

(c) the related party or parties to whom the related party benefit is proposed to be given:

(d) all other information that is known to the manager that scheme participants would reasonably require to decide whether it is in the scheme participants' best interest to pass the proposed resolution.

4 Methods of holding meetings

A meeting of product holders may be held by a quorum of the product holders—

(a) being assembled together at the time and place appointed for the meeting; or

(b) participating in the meeting by means of audio, audio and visual, or electronic communication; or

(c) by a combination of both of the methods described in paragraphs (a) and (b).

5 Quorum

(1) No business may be transacted at a meeting of product holders if a quorum is not present.

(2) A quorum for a meeting of product holders at which a special resolution is to be submitted is present if, in relation to—

(a) holders of credit union products, members of the credit union or their proxies are present or have cast votes under clause 11 who—

(i) represent no less than the percentage of the number of members of the credit union who are entitled to vote that is specified in the governing document for the purposes of this subparagraph; or

(ii) consist of no less than the number of members of the credit union who are entitled to vote that is specified in the governing document for the purposes of this subparagraph; or

(iii) if a percentage or number is not so specified, represent no less than 25% of the number of members of the credit union who are entitled to vote:

(ab) holders of debt securities issued by a building society, product holders or their proxies are present or have cast votes under clause 11 who—

(i) consist of no less than the number of product holders who are entitled to vote that is specified in the governing document for the purposes of this subparagraph; or

(ii) hold debt securities with a combined nominal value of no less than the percentage of the nominal value of the debt securities held by those persons who are entitled to vote that is specified in the governing document for the purposes of this subparagraph; or

(iii) if a number or percentage is not so specified, hold debt securities with a combined nominal value of no less than 25% of the nominal value of the debt securities held by those persons who are entitled to vote:

(b) holders of other debt securities, product holders or their proxies are present or have cast votes under clause 11 who hold debt securities with a combined nominal value of no less than 25% of the nominal value of the debt securities held by those persons who are entitled to vote:

(c) holders of managed investment products in a retirement scheme, scheme participants or their proxies are present or have cast votes under clause 11 who represent no less than 25% of the number of scheme participants who are entitled to vote:

(d) holders of other managed investment products, scheme participants or their proxies are present or have cast votes under clause 11 who hold managed investment products with a combined value of no less than 25% of the value of the managed investment products held by those persons who are entitled to vote.

(3) In subclause (2), **entitled to vote** means entitled to vote on the business to be transacted by the meeting.

(4) A quorum for any other business at a meeting of product holders is present if at least 2 product holders or their proxies (or any higher quorum set by the governing document) are present.

(5) Despite subclause (1), if a quorum is not present within 30 minutes after the time appointed for the meeting,—

(a) in the case of a meeting called under section 120(1)(b) or (c) or 161(1)(b) or (c) of the Act, the meeting is dissolved:

(b) in the case of any other meeting, the meeting is adjourned to the day that is 10 working days after the date appointed for the meeting at the same time and place, or to such other date, time, and place as the supervisor or (in the case of a restricted scheme) the manager may appoint, and, subject to the governing document, if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the product holders or their proxies present are a quorum.

(6) To avoid doubt, a product holder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

Schedule 11 clause 5(2)(a): replaced, on 28 October 2016, by regulation 18 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 11 clause 5(2)(ab): inserted, on 28 October 2016, by regulation 18 of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

6 Product holder participation by electronic means

(1) For the purposes of this schedule, a product holder, or the product holder's proxy or representative, may participate in a meeting by means of audio, audio and visual, or electronic communication if—

(a) the supervisor approves those means; and

(b) the product holder, proxy, or representative complies with any conditions imposed by the supervisor in relation to the use of those means (including, for example, conditions relating to the identity of the product holder, proxy, or representative and that person's approval or authentication (including electronic authentication) of the information communicated by electronic means).

(2) To avoid doubt, participation in a meeting includes participation in any manner specified in this schedule or permitted by the governing document.

7 Voting

(1) In the case of a meeting of product holders held under clause 4(a), unless a poll is demanded, voting at the meeting must be by whichever of the following methods is determined by the chairperson of the meeting:

(a) voting by voice; or

(b) voting by show of hands.

(2) In the case of a meeting of product holders held under clause 4(b) or (c), unless a poll is demanded, voting at the meeting must be by any method permitted by the chairperson of the meeting.

(3) However, in the case of a vote on a special resolution, a poll must be taken.

(4) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority is conclusive evidence of that fact unless a poll is demanded in accordance with clause 8.

(5) The chairperson of a product holders' meeting is not entitled to a casting vote.

8 Who may demand poll and how poll is taken

(1) At a meeting of product holders, a poll may be demanded by—

(a) the supervisor; or

(b) product holders who are entitled to request a meeting to be called under section 120 or 161 of the Act; or

(c) the chairperson of the meeting.

(2) A poll may be demanded either before or after the vote is taken on a resolution.

(3) For the purposes of this clause, the instrument appointing a proxy to vote at a meeting confers authority to demand or join in demanding a poll and a demand by a person as proxy for a product holder has the same effect as a demand by the product holder.

(4) If a poll is taken, votes must be counted according to the proportion of value or nominal value of the financial products held by each product holder present and voting or casting a vote under clause 11 (but, in the case of members of a credit union or holders of managed investment products in a retirement scheme, each member or scheme participant has 1 vote).

9 When entitlement to receive notice of meeting and to vote is determined

(1) A product holder's entitlement to receive a notice of meeting and to vote under this schedule must be determined by reference to the product holder's holdings as recorded in the register kept under subpart 4 of Part 4 of the Act as at the close of the record date for the purposes of the meeting.

(2) The **record date** for the purposes of a meeting is—

(a) a date determined in accordance with the governing document; or

(b) if no date is determined under paragraph (a), the day immediately preceding the day on which the notice of meeting is sent under clause 2(1).

10 Proxies

(1) A product holder may exercise the right to vote either by being present in person or by proxy.

(2) A proxy for a product holder is entitled to attend and be heard at a meeting of product holders as if the proxy were the product holder.

(3) A proxy must be appointed by notice in writing signed by or, in the case of an electronic notice, sent by the product holder and the notice must state whether the appointment is for a particular meeting or a specified term.

(4) A product holder may appoint more than 1 proxy for a particular meeting, provided that more than 1 proxy is not appointed to exercise the rights relating to a particular financial product held by the product holder.

(5) Subclause (4) does not apply to members of a credit union or holders of managed investment products in a retirement scheme.

(6) No proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the issuer at an address specified in the issuer's proxy appointment form (or otherwise as permitted by that form) by the time specified in that form before the start of the meeting (which must not be earlier than 48 hours before the start of the meeting).

(7) However, a proxy is effective despite a failure to comply with a requirement in subclause (6) if the person who is authorised to receive and count the votes at the meeting waives the requirement.

11 Votes sent by post, email, or other electronic means

(1) A product holder may, in accordance with this clause, exercise the right to vote at a meeting by casting a postal vote, a vote by email, or a vote using any other electronic means permitted by the supervisor.

(2) The notice of a meeting at which product holders are entitled to cast a vote under this clause must state the name of the person authorised by the supervisor to receive and count those votes at that meeting.

(3) If no person has been authorised to receive and count those votes at a meeting, or if no person is named as being so authorised in the notice of the meeting, the supervisor is deemed to be so authorised.

(4) A product holder may cast a vote under this clause on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which the product holder's products are to be voted to a person authorised to receive and count those votes at that meeting. The notice must reach that person not less than 48 hours before the start of the meeting.

(5) It is the duty of a person authorised to receive and count votes under this clause at a meeting—

(a) to collect together all of those votes received by him or her or by the issuer; and

(b) in relation to each resolution to be voted on at the meeting, to count—

(i) the number of product holders voting in favour of the resolution and the number of votes cast by each product holder in favour of the resolution; and

(ii) the number of product holders voting against the resolution and the number of votes cast by each product holder against the resolution; and

(c) to sign a certificate that he or she has carried out the duties set out in paragraphs (a) and (b) and that sets out the results of the counts required by paragraph (b); and

(d) to ensure that the certificate required by paragraph (c) is presented to the chairperson of the meeting.

(6) If a vote is taken at a meeting on a resolution on which votes under this clause have been cast, the chairperson of the meeting must,—

(a) on a vote by show of hands, count each product holder who has submitted a vote under this clause for or against the resolution:

(b) on a poll, count the votes cast by each product holder who has submitted a vote under this clause for or against the resolution.

(7) The chairperson of a meeting must call for a poll on a resolution on which he or she holds sufficient votes under this clause that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.

(8) The chairperson of a meeting must ensure that a certificate of votes under this clause held by him or her is attached to the minutes of the meeting.

12 Minutes

(1) The issuer must ensure that minutes are kept of all proceedings at meetings of product holders.

(2) Minutes that have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

13 Product holder proposals

(1) This clause applies if these regulations or the governing document provides for annual meetings (or meetings at any other regular interval set by the governing document).

(2) A product holder may give written notice to the issuer of a matter the product holder proposes to raise for discussion or resolution at the next meeting of product holders at which the product holder is entitled to vote.

(3) If the notice is received by the issuer not less than 20 working days before the last day on which notice of the relevant meeting of product holders is required to be given by the issuer, the issuer must, at the expense of the issuer, give notice of the product holder proposal and the text of any proposed resolution to all product holders entitled to receive notice of the meeting.

(4) If the notice is received by the issuer not less than 5 working days and not more than 20 working days before the last day on which notice of the relevant meeting of product holders is required to be given by the issuer, the issuer must, at the expense of the product holder, give notice of the product holder proposal and the text of any proposed resolution to all product holders entitled to receive notice of the meeting.

(5) If the notice is received by the issuer less than 5 working days before the last day on which notice of the relevant meeting of product holders is required to be given by the issuer, the issuer must, if practicable, and at the expense of the product holder, give notice of the product holder proposal and the text of any proposed resolution to all product holders entitled to receive notice of the meeting.

(6) If the issuer intends that product holders may vote on the proposal by proxy or by a vote under clause 11, the issuer must give the proposing product holder the right to include in or with the notice given by the issuer a statement of not more than 1 000 words prepared by the proposing product holder in support of the proposal, together with the name and address of the proposing product holder.

(7) The issuer is not required to include in or with the notice given by the issuer—

(a) any part of a statement prepared by a product holder that the issuer considers to be defamatory (within the meaning of the Defamation Act 1992), frivolous, or vexatious; or

(b) any part of a proposal or resolution prepared by a product holder that the issuer considers to be defamatory (within the meaning of the Defamation Act 1992).

(8) If the costs of giving notice of the product holder proposal and the text of any proposed resolution are required to be met by the proposing product holder, the proposing product holder must, on giving notice to the issuer, deposit with the issuer or tender to the issuer a sum sufficient to meet those costs.

14 Corporations may act by representatives

A body corporate that is a product holder may appoint a representative to attend a meeting of product holders on its behalf in the same manner as that in which it could appoint a proxy.

15 Votes of joint holders

(1) If 2 or more persons are registered as the holder of a financial product, the vote of the person named first in the register kept under subpart 4 of Part 4 of the Act and voting on a matter must be accepted to the exclusion of the votes of the other joint holders.

(2) This clause does not apply to a meeting of holders of credit union products or managed investment products in a retirement scheme.

16 Loss of voting right if calls unpaid

If a sum due to an issuer in respect of a financial product has not been paid, that product may not be voted at a product holder's meeting.

17 Other proceedings

Except as provided in this schedule, a meeting of product holders may regulate its own procedure.

Schedule 12
Superannuation scheme rules

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1 Interpretation

(1) In this schedule,—

New Zealand superannuation qualification age means the age specified in section 7(1) of the New Zealand Superannuation and Retirement Income Act 2001, irrespective of whether or not the particular person qualifies for New Zealand superannuation at that or any other age

permitted withdrawals means withdrawals permitted by this schedule

restricted superannuation scheme means a superannuation scheme that is a restricted scheme

UK pension fund means a registered pension scheme for the purposes of Part 4 of the Finance Act 2004 (UK).

(2) In this schedule, a scheme is a **ROPS** if—

(a) it is a recognised overseas pension scheme for the purposes of the Finance Act 2004 (UK) or, at any time after this subclause came into force, it has been such a scheme; or

(b) the manager and the supervisor have agreed that steps will be taken for the scheme to become a recognised overseas pension scheme for the purposes of that Act.

(3) However, in this schedule, a scheme is not a ROPS if it is a restricted scheme.

Schedule 12 clause 1(1) **UK pension fund**: inserted, on 28 October 2016, by regulation 19(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 12 clause 1(2): inserted, on 28 October 2016, by regulation 19(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 12 clause 1(3): inserted, on 28 October 2016, by regulation 19(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

2 Lock-in of funds to end payment date

(1) A scheme participant may not make a withdrawal from the superannuation scheme until the end payment date or a date after that date.

(2) Subclause (1) is subject to other permitted withdrawals.

(3) In this clause, the **end payment date** is the earlier of—

(a) the date on which the scheme participant reaches the New Zealand superannuation qualification age; or

(b) the date that is 5 years before the date referred to in paragraph (a) if the scheme participant meets the requirements in clause 3.

(4) Subclause (3)(b) applies only if the governing document permits a withdrawal on or after the date referred to in that paragraph if the scheme participant meets the requirements in clause 3.

3 Permanent early retirement

A scheme participant meets the requirements of this clause if the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme) is reasonably satisfied that the scheme participant has—

(a) permanently retired from business or employment; and

(b) reached an age that is 5 years before the New Zealand superannuation qualification age.

4 Permitted withdrawal for transition to retirement

(1) This clause applies only if the governing document permits a withdrawal under this clause.

(2) If the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme) is reasonably satisfied of the matters specified in subclause (3), the scheme participant may, on application to the manager or supervisor, make a withdrawal in accordance with this clause.

(3) The matters are—

(a) the scheme participant has reached an age that is 10 years before the New Zealand superannuation qualification age; and

(b) the withdrawals are to be made through periodic payments that relate to each other and are made over an identifiable period of time in accordance with the governing document.

(4) The maximum amount of a withdrawal under this clause in a relevant period is the amount determined in accordance with the following formula:

$$m = \frac{a}{y + 1}$$

where—

m is the maximum amount

a is the amount of the scheme participant's accumulation at the start of the relevant period

y is the number of remaining relevant periods that commence before the scheme participant reaches the New Zealand superannuation qualification age calculated at the start of the relevant period

Example

An investor (**A**) will reach the New Zealand superannuation qualification age on 1 July 2018.

A applies for a withdrawal under this clause on 1 January 2015.

The first relevant period is 1 January 2015 to 31 December 2015.

On 1 January 2015, A's scheme accumulation is $100,000. The number of relevant periods that commence before 1 July 2018 is 4 (the relevant periods that commence on 1 January 2015, 1 January 2016, 1 January 2017, and 1 January 2018).

The maximum amount that can be withdrawn in the first relevant period is $20,000.

On 1 January 2016, A's scheme accumulation is $85,000 (because A only withdrew $18,000 and returns were $3,000). The number of remaining relevant periods is 3.

The maximum amount that can be withdrawn in the second relevant period is $21,250.

(5) In subclause (4), **relevant period** means—

(a) the 12-month period commencing on the date of the first application to make a withdrawal under this clause:

(b) a 12-month period commencing on any successive anniversary of the date referred to in paragraph (a):

(c) the period (that is less than 12 months) that—

(i) starts on the anniversary of the date referred to in paragraph (a) that immediately precedes the date on which the scheme partici-

pant reaches the New Zealand superannuation qualification age; and

(ii) ends on the date on which the scheme participant reaches the New Zealand superannuation qualification age.

(6) However, if the scheme participant first applies to make a withdrawal under this clause less than 12 months before the scheme participant reaches the New Zealand superannuation qualification age, the **relevant period** is the period that—

(a) starts on the date of that application; and

(b) ends on the date on which the scheme participant reaches the New Zealand superannuation qualification age.

(7) The application for a withdrawal must be in the form required by the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme).

(8) The manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme) may require that any other documents, things, or information produced in support of the application be verified by oath, statutory declaration, or otherwise.

5 Manager or supervisor may reasonably require evidence to establish right to make permitted withdrawal

A manager or supervisor to whom an application for a permitted withdrawal is made may reasonably require a scheme participant who makes the application to provide evidence of the facts necessary to establish the scheme participant's right to make the withdrawal.

6 Release of funds required under other enactments

(1) The manager must comply with the provisions of any enactment that requires the manager to release funds from the superannuation scheme in accordance with that enactment.

(2) A requirement to release funds from the superannuation scheme under any enactment includes a requirement by order of any court under any enactment (including an order made under section 31 of the Property (Relationships) Act 1976).

7 Permitted withdrawal on death

If a scheme participant dies, the manager must,—

(a) on application by the scheme participant's personal representative, pay to that person the benefit or withdrawal permitted by the governing document at the date on which the application is accepted as part of the scheme participant's estate; or

(b) if the requirements of section 65 of the Administration Act 1969 are met, pay to the relevant person any sum authorised by that section, subject to that Act.

8 Permitted withdrawal in cases of significant financial hardship

(1) If the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme) is reasonably satisfied that a scheme participant is suffering or is likely to suffer from significant financial hardship, the scheme participant may, on application to that manager or supervisor in accordance with clause 11, make a significant financial hardship withdrawal in accordance with this clause.

(2) The amount of that significant financial hardship withdrawal may, subject to the manager's approval (in the case of a restricted superannuation scheme) or the supervisor's approval (in the case of any other superannuation scheme) under subclause (3), be up to the value permitted by the governing document.

(3) The manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme)—

(a) must be reasonably satisfied that reasonable alternative sources of funding have been explored and have been exhausted; and

(b) may direct that the amount withdrawn be limited to a specified amount that, in the manager's or supervisor's opinion, is required to alleviate the particular hardship.

9 Meaning of significant financial hardship

(1) For the purposes of these rules, **significant financial hardship** includes significant financial difficulties that arise because of—

(a) a scheme participant's inability to meet minimum living expenses; or

(b) a scheme participant's inability to meet mortgage repayments on his or her principal family residence resulting in the mortgagee seeking to enforce the mortgage on the residence; or

(c) the cost of modifying a residence to meet special needs arising from a disability of a scheme participant or a scheme participant's dependant; or

(d) the cost of medical treatment for an illness or injury of a scheme participant or a scheme participant's dependant; or

(e) the cost of palliative care for a scheme participant or a scheme participant's dependant; or

(f) the cost of a funeral for a scheme participant's dependant; or

(g) the scheme participant suffering from a serious illness.

(2) In this clause, **serious illness** has the meaning given to it by clause 10(3).

10 Permitted withdrawal in cases of serious illness

(1) In addition to a withdrawal on the grounds of serious illness under clause 9(1)(g), if the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme) is reasonably satisfied that a scheme participant is suffering from serious illness, the scheme participant may, on application to the manager or supervisor in accordance with clause 11, make a serious illness withdrawal in accordance with this clause.

(2) The amount of that serious illness withdrawal may be up to the value permitted by the governing document.

(3) In this clause, **serious illness** means an injury, illness, or disability—

(a) that results in the scheme participant being totally and permanently unable to engage in work for which he or she is suited by reason of experience, education, or training, or any combination of those things; or

(b) that poses a serious and imminent risk of death.

11 Application for withdrawal for significant financial hardship or serious illness

(1) The application for a withdrawal under clause 8 or 10 must be in the form required by the manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme).

(2) The application for a withdrawal under clause 8 must include a completed statutory declaration in respect of the scheme participant's assets and liabilities.

(3) The manager (in the case of a restricted superannuation scheme) or the supervisor (in the case of any other superannuation scheme)—

(a) may require that any medical matter asserted in support of the application for withdrawal be verified by medical evidence:

(b) may require that any other documents, things, or information produced in support of the application be verified by oath, statutory declaration, or otherwise.

11A Further restriction on withdrawal for ROPS

(1) This clause applies if—

(a) the scheme is a ROPS; and

(b) the scheme participant's accumulation includes money that was transferred from a UK pension fund or otherwise has previously been invested in a UK pension fund.

(2) A withdrawal may not be made under clause 4, 8, or 10, or under clause 2 in reliance on meeting the requirements in clause 3, if—

(a) the governing document contains limits or restrictions on a scheme participant's ability to make a withdrawal under that clause (being limits or

restrictions that have the purpose of ensuring that the scheme complies with the requirements for a ROPS); and

(b) the withdrawal that has been applied for does not comply with those limits or restrictions.

Schedule 12 clause 11A: inserted, on 28 October 2016, by regulation 19(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

11B Permitted withdrawal of former UK pension fund money from ROPS

(1) This clause applies if—

(a) the scheme is a ROPS; and

(b) the scheme participant's accumulation includes money that was transferred from a UK pension fund or otherwise has previously been invested in a UK pension fund; and

(c) the governing document permits a withdrawal under this clause in the manner and circumstances set out in the governing document; and

(d) the manner and circumstances set out in the governing document are consistent with the requirements for being a ROPS.

(2) If the manager is reasonably satisfied that a withdrawal is in accordance with the manner and circumstances referred to in subclause (1)(c), the scheme participant may, on application to the manager, make a withdrawal in accordance with this clause.

(3) The maximum amount of a withdrawal under this clause is the amount that, in the manager's opinion, is equivalent to the money that was transferred from a UK pension fund or otherwise has previously been invested in a UK pension fund.

(4) For the purposes of subclause (3), any loss or return on the money referred to in that subclause must be disregarded unless the governing document provides otherwise (and, if the governing document does so provide, the maximum amount may take into account any loss or return on the money).

Schedule 12 clause 11B: inserted, on 28 October 2016, by regulation 19(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

12 Transfer of scheme participants

(1) A scheme participant may, at any time during that person's membership of a superannuation scheme, apply to have the manager transfer the scheme participant's accumulation to any of the following schemes:

(a) another superannuation scheme:

(b) a KiwiSaver scheme:

(c) an equivalent overseas retirement scheme.

(2) In subclause (1)(c), **equivalent overseas retirement scheme** means any trust or other arrangement established in a country other than New Zealand that has

the purpose of providing retirement benefits directly or indirectly to individuals.

(3) For the purposes of that definition, a scheme may be considered to be for the purpose of providing retirement benefits even if it permits redemptions, withdrawals, or the provision of benefits in limited circumstances (provided that those permitted redemptions, withdrawals, and benefits are incidental or secondary to the purpose of providing retirement benefits).

(4) On application by a scheme participant, the manager must, if the other scheme referred to in subclause (1) indicates it will accept that person as a member, transfer the scheme participant's accumulation to the other scheme.

(5) A transfer may not be made if—

(a) the scheme from which the transfer is proposed to be made is a ROPS; and

(b) the scheme participant's accumulation includes money that was transferred from a UK pension fund or otherwise has previously been invested in a UK pension fund; and

(c) the governing document contains limits or restrictions on a scheme participant's ability to transfer the scheme participant's accumulation (being limits or restrictions that have the purpose of ensuring that the scheme complies with the requirements for a ROPS); and

(d) the transfer that has been applied for does not comply with those limits or restrictions.

Schedule 12 clause 12(5): inserted, on 28 October 2016, by regulation 19(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Schedule 13
Clauses treated as implied into governing documents for registered schemes

r 84

Clauses treated as implied into all governing documents (other than restricted schemes)

1 Duty concerning appointment, etc, of auditors

(1) The manager must, before recommending the appointment or reappointment of a person as an auditor of the financial statements of the manager or the scheme (or both),—

(a) consult with the supervisor on the appointment or reappointment; and

(b) ensure that any comments of the supervisor concerning the proposed auditor are brought to the attention of the person or persons appointing or reappointing the auditor.

(2) The manager must notify the supervisor if an auditor resigns from appointment, or declines to accept appointment or reappointment, and must pass on to the supervisor any explanation provided by the auditor for resigning from appointment or declining to accept appointment or reappointment.

(3) The manager must not attempt to prevent a person who has resigned from appointment as an auditor, or declined to accept appointment or reappointment as an auditor, from offering an explanation, or disclosing to the supervisor the reason, for resigning or declining appointment or reappointment.

2 Duty concerning giving opportunity for auditor reporting to supervisor

(1) The manager must, before recommending the appointment or reappointment of a person as an auditor of the financial statements of the manager or the scheme (or both),—

(a) give the supervisor an opportunity to be a party to a specified engagement for the purpose of the supervisor obtaining assurance of matters relevant to the exercise or performance of the powers or duties of the supervisor; and

(b) consult with the supervisor on the nature and scope of the specified engagement (if any).

(2) In this clause, **specified engagement** means an assurance engagement carried out by an auditor in relation to the manager's compliance with the governing document.

3 Terms of appointment of auditor

(1) The manager must ensure that the terms set out in subclause (2) are included in the terms of appointment of an auditor in its capacity as an auditor, whether the auditor is conducting an audit, a review, or any other engagement.

(2) The terms are as follows:

(a) that the auditor will, at the beginning of the audit, review, or engagement, give the supervisor an opportunity to meet with the auditor, without any representative of the manager being present, in order to allow the supervisor an opportunity to raise any issues or concerns relevant to the exercise or performance of the powers or duties of the supervisor; and

(b) that the auditor will give the supervisor an opportunity to meet with the auditor, without any representative of the manager being present, to discuss matters arising in the performance of the audit, review, or engagement and to answer any questions the supervisor may have concerning the audit, review, or engagement.

Clause implied into governing documents for restricted schemes

4 Independent trustee protected in relation to reports or disclosure to FMA

No trustee nor any other party to the governing document may take any action against an independent trustee by reason of the independent trustee having made a report or disclosure to the FMA under the conditions of the independent trustee's licence.

Schedule 14
Default forms for event disclosure

rr 133, 134

Default form 1
Disclosure of beginning to have substantial holding

Section 276, Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To [*name of licensed market operator*]

and

To [*name of listed issuer*]

Date this disclosure made:

Date on which substantial holding began:

Substantial product holder(s) giving disclosure

Full name(s):

Summary of substantial holding

Class of quoted voting products: [*eg, ordinary share, mandatory convertible note, and, if known, security code issued by licensed market operator for financial products*]

Summary for [*name of substantial product holder(s)*]

For this disclosure,—

(a) total number held in class: [*number*]

(b) total in class: [*number*]

(c) total percentage held in class: [*%*]

Details of relevant interests

Details for [*name of substantial product holder(s)*]

Nature of relevant interest(s): [*eg, registered holder and beneficial owner of financial products, conditional put option with X Limited, derivative relevant interest over quoted underlying. State whether a relevant agreement document is attached (with the number of pages) or need not be attached under regulation 139.*]

For that relevant interest,—

(a) number held in class: [*number*]

(b) percentage held in class: [*%*]

(c) current registered holder(s): [*name(s), or state "unknown"*]

(d) registered holder(s) once transfers are registered: [*name(s), or state "unknown"*]

For a derivative relevant interest, also—

(a) type of derivative: [*eg, option or swap agreement*]

(b) details of derivative: [*specify details required by the instructions to this form*]

(c) *[Revoked]*

(d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative:

Details of transactions and events giving rise to substantial holding

Details of the transactions or other events requiring disclosure: [*specify details required by the instructions to this form*]

Additional information

Address(es) of substantial product holder(s): [*address(es)*]

Contact details: [*name of person for queries (if not substantial product holder) and telephone and email details*]

*Nature of connection between substantial product holders: [*names and nature of connection*]

*Omit if disclosure is made for only 1 substantial product holder.

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates: [*full name*]

***Disclosure has effect for purposes of directors' and senior managers' disclosure**

[*Name*] is also a [*specify either director or senior manager*] of [*name of listed issuer*]. This disclosure also constitutes disclosure for the purposes of the directors' and senior managers' disclosure obligations.

*Omit if inapplicable (*see* section 302 of the Financial Markets Conduct Act 2013).

Certification

I, [*full name of individual completing form*], certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Instructions

General directions on how to use this form

To use this form,—

- replace the text in [*square brackets*] with the relevant information or with "not applicable"; and
- type the information required (it must not be handwritten); and
- remove italicised instructions; and
- attach the relevant agreement documents required by regulation 139 (if any).

You need not set out the disclosure in the same format as this form, but the format you use must—

- use a font and font size that are easily readable; and
- include the same headings and words that are in this form (other than the italicised instructions); and
- present the information in the same order as in this form; and
- not be misleading in any way.

If you have a substantial holding in more than 1 class of quoted voting products, you must make a separate disclosure for each substantial holding.

If you have a substantial holding in 1 class of quoted voting products of a listed issuer and other relevant interests in less than 5% of another class, you do not need to disclose the non-substantial holding.

Disclosure to the licensed market operator using this form must be sent (if reasonably possible) by email in the electronic format required by the operator for dissemination, or otherwise by email in another electronic format, by another electronic method consented to by the operator, or (if none of these is reasonably possible) by delivery.

Disclosure to the listed issuer using this form must be sent by email or another electronic method consented to by the issuer or by delivery.

Specific instructions on disclosure required by form

The **date on which substantial holding began** is the date of the relevant event for disclosure in this form, and it may be relevant to subsequent disclosures for this substantial holding.

Substantial product holder(s) giving disclosure

You may give 1 disclosure for 2 or more substantial product holders if—

- they have a similar or related substantial holding in the same listed issuer; and
- they are disclosing the same type of event disclosure; and
- they are associates under section 12(1) of the Financial Markets Conduct Act 2013 or connected in the ways set out in section 237(a) to (e) of that Act (and this association or connection is set out in this form under the heading "**Additional information**"); and
- it is clear which information relates to which substantial product holder(s) in the disclosure, and the disclosure is not confusing in any other way as a consequence.

Summary of substantial holding

Under this heading, state the name(s) of the substantial product holder(s) to which the summary relates. Separate summaries should be given (repeated within this form or attached to this form) for each substantial product holder for whom the information differs.

The **total number held in class** is the total number of quoted voting products, in the class, in which the named substantial product holder has a relevant interest at the time that that person began to have the substantial holding.

If the person has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the person is treated as having a relevant interest in a number of those products that is calculated under regulation 132 (and, accordingly, the **total number held in class** must include this number of products).

The **total in class** is the total number of quoted voting products in the class that was most recently published in a document published by the listed issuer and distributed to holders of that class or on the licensed market operator's Internet site (*see* section 283 of the Financial Markets Conduct Act 2013), unless you know that number is not correct.

The **total percentage held in class** is the total number held in class (including any derivative relevant interests) divided by the total in class multiplied by 100 (rounded to 3 decimal places).

Details of relevant interests

Under this heading, state the name(s) of the substantial product holder(s) to which the details relate. Separate details should be given (repeated within this form or attached to this form) for each substantial product holder for whom the information differs.

The disclosure for **nature of relevant interest(s)** requires you to describe, as at the date on which the person began to have the substantial holding, the nature of each relevant interest in the substantial holding, and to—

- state that the relevant interest is "qualified" or "conditional" if there is any qualification on the substantial product holder's relevant interest power to exercise, or control the exercise of, a right to vote, acquire, or dispose of any of the financial products in the substantial holding; and
- include the details of any trust, arrangement, agreement, or understanding under which, or by virtue of which, the relevant interest or that qualification arises (**relevant agreement**); and
- if there is a relevant agreement for a relevant interest or qualification, attach to the disclosure the relevant agreement (if in writing) or (if the relevant agreement is not in writing) a document setting out its material terms (a **relevant agreement document**) unless—
    - the exemption for ownership relevant interests under regulation 141 applies; or

- the investment management contract exemption under regulation 142 applies; or
- the Financial Markets Authority has granted an exemption from regulation 139.

If you have more than 1 relevant interest in the substantial holding, you must provide the details for each type of relevant interest (by separately repeating it within the form, or attaching it to the form, for each relevant interest for which the information differs) and clearly indicate to which relevant interest the information relates.

The **number held in class** is the number of quoted voting products, in the class, in which the named substantial product holder has the described relevant interest.

If the person has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the person is treated as having a relevant interest in a number of those products that is calculated under regulation 132 (and, accordingly, the **number held in class** must include this number of products).

The **percentage held in class** is the number held in class divided by the total in class multiplied by 100 (rounded to 3 decimal places).

The **current registered holder** is the person who is the current registered holder of the financial products to which the relevant interest relates. If this person is not known, state "unknown". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

The **registered holder once transfers are registered** is the person who will be the registered holder once all transfers (if any) disclosed in the form are registered. If this person is not known, state "unknown". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

If the substantial product holder has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the **details of derivative** requires the following details to be given:

- the notional value of the derivative (if any) (which is the face value or the notional amount in respect of the derivative as at the date on which the relevant agreement is entered into) or the notional number of underlying financial products (if any):
- a statement as to whether the derivative is cash-settled or physically settled:
- the maturity date of the derivative (if any):
- the expiry date of the derivative (if any):
- any prices specified in the terms of the derivative (if any) (eg, the strike price of an option or the price at which a contract for difference was acquired):

- any other details needed to understand how the amount of the consideration payable under the derivative or the value of the derivative is affected by the value of the underlying quoted voting products.

Example

ABC Limited enters into a pre-bid agreement with Y Limited to acquire 10% of the shares of a listed issuer. ABC Limited already holds 4% of those shares. So the disclosure might state—

Details for ABC Limited

Nature of relevant interest: power to acquire financial products under pre-bid agreement with Y Limited dated 1 March 2014 (attached as document A, 30 pages).

For that relevant interest,—

(a) number held in class: 1 000 000

(b) percentage held in class: 10%

(c) current registered holder of financial products: Y Limited

(d) registered holder of financial products once transfer is registered: ABC Limited

Nature of relevant interest: beneficial owner of financial products. No relevant agreement document needs to be attached under regulation 139.

For that relevant interest,—

(a) number held in class: 400 000

(b) percentage held in class: 4%

(c) current registered holder of financial products: ABC Limited

(d) registered holder of financial products once transfer is registered: not applicable

If ABC Limited is a wholly owned subsidiary of X Limited, the disclosure might also include—

Details for X Limited

Nature of relevant interest: deemed relevant interest arising from shareholding in ABC Limited. No relevant agreement document needs to be attached under regulation 139.

For that relevant interest,—

(a) number held in class: 1 400 000

(b) percentage held in class: 14%

(c) current registered holder of financial products: Y Limited as to 1 000 000, ABC Limited as to 400 000

(d) registered holder of financial products once transfer is registered: ABC Limited as to 1 400 000.

Details of transactions and events giving rise to substantial holding

Disclosure is required for the transactions or events under which each relevant interest in the substantial holding was acquired—

- in the 4 months before the date on which the person began to have the substantial holding; or
- if the listed issuer listed less than 4 months before that date, in the period between listing and that date.

For each of those transactions or events, or for on-market trades that may be aggregated under these instructions, insert the following details as a narrative or list, clearly indicating which relevant interest or interests were affected and (if disclosure is given for more than 1 substantial product holder) who was the substantial product holder:

- the date of the transaction or event (or the date of the beginning and end of the period of aggregated on-market trades):
- the nature of the transaction or event. This is the means by which the relevant interest was acquired (for example, "exercise of options", "entry into pre-bid agreement"):
- the name of any other party or parties to the transaction or event (if known, not an on-market trade, and not relating to a derivative relevant interest):
- the consideration, expressed in New Zealand dollars, paid for the acquisition of the relevant interest (or the total consideration paid for aggregated on-market trades). If the consideration was not in cash, and cannot readily be converted into a cash value, describe that consideration:
- the number of financial products to which the transaction or event related (or the total number of financial products to which the aggregated on-market trades related).

On-market trades may be aggregated for the purposes of this disclosure (but acquisitions and dispositions must be separately aggregated). An **on-market trade** is an acquisition or a disposition of a quoted voting product that is traded on, or reported through, the trading system operated by the licensed market operator or a financial product market in a jurisdiction set out in Schedule 15.

Additional information

The disclosure relating to the **nature of connection between substantial product holders** is the justification for giving the disclosure for more than 1 holder (if 1 disclosure is made for 2 or more holders).

Certification

Under section 512 of the Financial Markets Conduct Act 2013, it is an offence if a person makes, or authorises the making of, a materially false or misleading statement in this form knowing it to be false or misleading.

Schedule 14 Default form 1: amended, on 12 June 2025, by regulation 24(1) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 14 Default form 1: amended, on 12 June 2025, by regulation 24(2) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Default form 2
Disclosure of movement of 1% or more in substantial holding or change in nature of relevant interest, or both

Sections 277 and 278, Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To [*name of licensed market operator*]

and

To [*name of listed issuer*]

Relevant event being disclosed: [*specify relevant event*]

Date of relevant event:

Date this disclosure made:

Date last disclosure made:

Substantial product holder(s) giving disclosure

Full name(s):

Summary of substantial holding

Class of quoted voting products: [*eg, ordinary share, mandatory convertible note, and, if known, security code issued by licensed market operator for financial products*]

Summary for [*name of substantial product holder(s)*]

For **this** disclosure,—

(a) total number held in class: [*number*]

(b) total in class: [*number*]

(c) total percentage held in class: [*%*]

For **last** disclosure,—

(a) total number held in class: [*number*]

(b) total in class: [*number*]

(c) total percentage held in class: [*%*]

Details of transactions and events giving rise to relevant event

Details of the transactions or other events requiring disclosure: [*specify details required by the instructions to this form*]

Details after relevant event

Details for [*name of substantial product holder(s)*]

Nature of relevant interest(s): [*eg, registered holder and beneficial owner of financial products, conditional put option with X Limited, derivative relevant interest over quoted underlying. State whether a relevant agreement document is attached (with the number of pages) or was attached to a previous disclosure (with date of that disclosure) or need not be attached under regulation 139.*]

For that relevant interest,—

(a) number held in class: [*number*]

(b) percentage held in class: [*%*]

(c) current registered holder(s): [*name(s), or state "unknown" or that no change since last disclosure*]

(d) registered holder(s) once transfers are registered: [*name(s), or state "unknown"*]

For a derivative relevant interest, also—

(a) type of derivative: [*eg, option or swap agreement*]

(b) details of derivative: [*specify details required by instructions to this form*]

(c) *[Revoked]*

(d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative:

Additional information

Address(es) of substantial product holder(s): [*address(es)*]

Contact details: [*name of person for queries (if not substantial product holder) and telephone and email details*]

*Nature of connection between substantial product holders: [*names and nature of connection*]

*Omit if disclosure is made for only 1 substantial product holder.

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates: [*full name*]

***Disclosure has effect for purposes of directors' and senior managers' disclosure**

[*Name*] is also a [*specify either director or senior manager*] of [*name of listed issuer*]. This disclosure also constitutes disclosure for the purposes of the directors' and senior managers' disclosure obligations.

*Omit if inapplicable (*see* section 302 of the Financial Markets Conduct Act 2013).

Certification

I, [*full name of individual completing form*], certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Instructions

General directions on how to use this form

To use this form,—

- replace the text in [*square brackets*] with the relevant information or with "not applicable"; and
- type the information required (it must not be handwritten); and
- remove italicised instructions; and
- attach the relevant agreement documents required by regulation 139 (if any).

You need not set out the disclosure in the same format as this form, but the format you use must—

- use a font and font size that are easily readable; and
- include the same headings and words as this form (other than the italicised instructions); and
- present the information in the same order as in this form; and
- not be misleading in any way.

If you have a substantial holding in more than 1 class of quoted voting products of a listed issuer, you must make a separate disclosure for each substantial holding.

If you have a substantial holding in 1 class of quoted voting products of a listed issuer and other relevant interests in less than 5% of another class, you do not need to disclose the non-substantial holding.

Disclosure to the licensed market operator using this form must be sent (if reasonably possible) by email in the electronic format required by the operator for dissemination, or otherwise by email in another electronic format, by another electronic method consented to by the operator, or (if none of these is reasonably possible) by delivery.

Disclosure to the listed issuer using this form must be sent by email or another electronic method consented to by the issuer or by delivery.

Specific instructions on disclosure required by form

The **relevant event being disclosed** is a movement of 1% or more in the substantial holding or a change in the nature of any relevant interest in the substantial holding, or both. Both types of relevant events may be disclosed in 1 disclosure only if they relate to the same substantial holding.

The **date of relevant event** is the date of the relevant event for disclosure in this form, and it may be relevant to subsequent disclosures for this substantial holding.

The **date last disclosure made** is the date on which the last disclosure was given to the licensed market operator and listed issuer for the same substantial holding.

Substantial product holder(s) giving disclosure

You may give 1 disclosure for 2 or more substantial product holders if—

- they have a similar or related substantial holding in the same listed issuer; and
- they are disclosing the same type of event disclosure; and
- they are associates under section 12(1) of the Financial Markets Conduct Act 2013 or connected in the ways set out in section 237(a) to (e) of that Act (and this association or connection is set out in this form under the heading "**Additional information**"); and
- it is clear which information relates to which substantial product holder(s) in the disclosure, and the disclosure is not confusing in any other way as a consequence.

Summary of substantial holding

Under this heading, state the name(s) of the substantial product holder(s) to which the summary relates. Separate summaries should be given (repeated within this form or attached to this form) for each substantial product holder for whom the information differs.

For **this** disclosure, the **total number held in class** is the total number of quoted voting products, in the class, in which the named substantial product holder has a relevant interest at the time of the relevant event for this disclosure.

For the **last** disclosure, the **total number held in class** is the total number of quoted voting products, in the class, in which the named substantial product holder had a relevant interest on the date of the relevant event for that disclosure (*see* the date given for the relevant event in default form 1 or for the relevant event in default form 2, whichever form was used for the last disclosure).

If the person has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the person is treated as having a relevant interest in a number of those products that is calculated under regulation 132. Accordingly, the **total number held in class** (for **this** disclosure or the **last** disclosure or both, as the case may be) must include this number of products.

For **this** disclosure, the **total in class** is the total number of quoted voting products in the class that was most recently published in a document published by the listed issuer and distributed to holders of that class, or on the licensed market operator's Internet site (*see* section 283 of the Financial Markets Conduct Act 2013), unless you know that number is not correct.

For the **last** disclosure, the **total in class** is the total stated in the last disclosure, unless you know that number was not correct.

The **total percentage held in class** is the total number held in class (for the relevant disclosure) divided by the total in class (for the relevant disclosure) multiplied by 100 (rounded to 3 decimal places).

Details of transactions and events giving rise to relevant event

Disclosure is required for the transactions or events as a result of which (together or alone)—

- there was a movement of 1% or more in the substantial holding; or
- there was a change in nature of any relevant interest in the substantial holding.

For each of those transactions or events, or for on-market trades that may be aggregated under these instructions, insert the following details as a narrative or list, clearly indicating which relevant interest or interests were affected and (if disclosure is given for more than 1 substantial product holder) who was the substantial product holder:

- the date of the transaction or event (or the date of the beginning and end of the period of aggregated on-market trades):
- the nature of the transaction or event. This is the means by which the relevant interest was acquired, disposed of, or changed in nature (for example, "exercise of options", "entry into pre-bid agreement"):
- the name of any other party or parties to the transaction or event (if known, not an on-market trade, and not relating to a derivative relevant interest):
- the consideration, expressed in New Zealand dollars, paid or received for the acquisition, disposal, or change in nature of the relevant interest (or the total consideration paid or received for aggregated on-market trades). If the consideration was not in cash, and cannot readily be converted into a cash value, describe that consideration:
- the number of financial products to which the transaction or event related (or the total number of financial products to which the aggregated on-market trades related).

On-market trades may be aggregated for the purposes of this disclosure (but acquisitions and dispositions must be separately aggregated). An **on-market trade** is an acquisition or a disposition of a quoted voting product that is traded on, or reported through, the trading system operated by the licensed market operator or a financial products market in a jurisdiction set out in Schedule 15.

Details after relevant event

Under this heading, state the name(s) of the substantial product holder(s) to which the details relate. Separate details should be given (repeated within this form or attached to this form) for each substantial product holder for whom the information differs.

The disclosure for **nature of relevant interest** requires you to describe, as at the date of the relevant event, the nature of each relevant interest in the substantial holding, and to—

- state that the relevant interest is "qualified" or "conditional" if there is any qualification on the substantial product holder's relevant interest power to exercise, or control the exercise of, a right to vote, acquire, or dispose of any of the financial products in the substantial holding; and
- include the details of any trust, arrangement, agreement, or understanding under which, or by virtue of which, the relevant interest or that qualification arises (**relevant agreement**); and
- if there is a relevant agreement for a relevant interest or qualification, attach to the disclosure the relevant agreement (if in writing) or (if the relevant agreement is not in writing) a document setting out its material terms (a **relevant agreement document**) unless—
  - the relevant agreement document has been attached to a previous disclosure and you state this fact and give the date of the previous event disclosure; or
  - the exemption for ownership relevant interests under regulation 141 applies; or
  - the investment management contract exemption under regulation 142 applies; or
  - the Financial Markets Authority has granted an exemption from regulation 139.

If you have more than 1 relevant interest in the substantial holding, you must provide this information for each type of relevant interest (by separately repeating it within this form, or attaching it to this form, for each relevant interest for which the information differs) and clearly indicate to which relevant interest the information relates.

The **number held in class** is the number of quoted voting products, in the class, in which the named substantial product holder has the described relevant interest.

If the person has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the person is treated as having a relevant interest in a number of those products that is calculated under regulation 132 (and, accordingly, the **number held in class** must include this number of products).

The **percentage held in class** is the number held in class divided by the total in class multiplied by 100 (rounded to 3 decimal places).

The **current registered holder** is the person who is the current registered holder of the financial products to which the relevant interest relates. If this person is not known, state "unknown". If there is no change since the last disclosure, state "no change". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

The **registered holder once transfers are registered** is the person who will be the registered holder once all transfers (if any) disclosed in the form are registered. If this person is not known, state "unknown". If there is no change since the last disclosure, state "no change". If there are different registered holders for different parcels of

financial products, clearly indicate which registered holder relates to which financial products.

If the substantial product holder has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the **details of derivative** requires the following details to be given:

- the notional value of the derivative (if any) (which is the face value or the notional amount in respect of the derivative as at the date on which the relevant agreement is entered into) or the notional number of underlying financial products (if any):
- a statement as to whether the derivative is cash-settled or physically settled:
- the maturity date of the derivative (if any):
- the expiry date of the derivative (if any):
- the prices specified in the terms of the derivative (if any) (eg, the strike price of an option or the price at which a contract for difference was acquired):
- any other details needed to understand how the amount of the consideration payable under the derivative or the value of the derivative is affected by the value of the underlying quoted voting products.

Additional information

The disclosure relating to the **nature of connection between substantial product holders** is the justification for giving the disclosure for more than 1 holder (if 1 disclosure is made for 2 or more holders).

Certification

Under section 512 of the Financial Markets Conduct Act 2013, it is an offence if a person makes, or authorises the making of, a materially false or misleading statement in this form knowing it to be false or misleading.

Schedule 14 Default form 2: amended, on 12 June 2025, by regulation 24(3) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 14 Default form 2: amended, on 12 June 2025, by regulation 24(4) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Default form 3
Disclosure of ceasing to have substantial holding

Section 279, Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To [*name of licensed market operator*]

and

To [*name of listed issuer*]

Date this disclosure made:

Date last disclosure made:

Date on which substantial holding ceased:

Substantial product holder(s) giving disclosure

Full name(s):

Summary of previous substantial holding

Class of quoted voting products: [*eg, ordinary share, mandatory convertible note, and, if known, security code issued by licensed market operator for financial products*]

Summary for [*name of substantial product holder(s)*]

For **last** disclosure,—

(a) total number held in class: [*number*]

(b) total in class: [*number*]

(c) total percentage held in class: [*%*]

For current holding **after** ceasing to have substantial holding,—

(a) total number held in class: [*number*]

(b) total in class: [*number*]

(c) total percentage held in class: [*%*]

Details of transactions and events giving rise to ceasing of substantial holding

Details of the transactions or other events requiring disclosure: [*specify details required by the instructions to this form*]

Additional information

Address(es) of substantial product holder(s): [*address(es)*]

Contact details: [*name of person for queries (if not substantial product holder) and telephone and email details*]

*Nature of connection between substantial product holders: [*names and nature of connection*]

*Omit if disclosure is made for only 1 substantial product holder.

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates: [*full name*]

***Disclosure has effect for purposes of directors' and senior managers' disclosure**

[*Name*] is also a [*specify either director or senior manager*] of [*name of listed issuer*]. This disclosure also constitutes disclosure for the purposes of the directors' and senior managers' disclosure obligations.

*Omit if inapplicable (*see* section 302 of the Financial Markets Conduct Act 2013).

Certification

I, [*full name of individual completing form*], certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Instructions

General directions on how to use this form

To use this form,—

- replace the text in [*square brackets*] with the relevant information or with "not applicable"; and
- type the information required (it must not be handwritten); and
- remove italicised instructions; and
- attach the relevant agreement documents required by regulation 139 (if any).

You need not set out the disclosure in the same format as this form, but the format you use must—

- use a font and font size that are easily readable; and
- include the same headings and words as this form (other than the italicised instructions); and
- present the information in the same order as in this form; and
- not be misleading in any way.

In this form, a reference to a **substantial product holder** includes a reference to a person who has ceased to have a substantial holding.

If you had a substantial holding in more than 1 class of quoted voting products of a listed issuer, you must make a separate disclosure for each substantial holding.

Disclosure to the licensed market operator using this form must be sent (if reasonably possible) by email in the electronic format required by the operator for dissemination, or otherwise by email in another electronic format, by another electronic method consented to by the operator, or (if none of these is reasonably possible) by delivery.

Disclosure to the listed issuer using this form must be sent by email or another electronic method consented to by the issuer or by delivery.

Specific instructions on disclosure required by form

The **date last disclosure made** is the date on which the last disclosure was given to the licensed market operator and listed issuer for the same substantial holding.

Substantial product holder(s) giving disclosure

You may give 1 disclosure for 2 or more substantial product holders if—

- they have a similar or related substantial holding in the same listed issuer; and
- they are disclosing the same type of event disclosure; and
- they are associates under section 12(1) of the Financial Markets Conduct Act 2013 or connected in the ways set out in section 237(a) to (e) of that Act (and this association or connection is set out in this form under the heading "**Additional information**"); and
- it is clear which information relates to which substantial product holder(s) in the disclosure, and the disclosure is not confusing in any other way as a consequence.

Summary of previous substantial holding

Under this heading, state the name(s) of the substantial product holder(s) to which the summary relates. Separate summaries should be given (repeated within this form or attached to this form) for each substantial product holder for whom the information differs.

For the **last** disclosure,—

- the **total number held in class** is the total number of quoted voting products, in the class, in which the named substantial product holder had a relevant interest at the time of the relevant event for the last disclosure (*see* the date given for the relevant event in default form 1 or for the relevant event in default form 2, whichever form was used for the last disclosure):
- the **total in class** is the total number of quoted voting products in the class stated in the last disclosure, unless you know that number was incorrect:
- the **total percentage held in class** is the total number held in class divided by the total in class multiplied by 100 (rounded to 3 decimal places).

For current holding **after** ceasing to have substantial holding,—

- the **total number held in class** is the total number of quoted voting products, in the class, in which the named financial product holder had a relevant interest immediately after ceasing to have a substantial holding:
- the **total in class** is the total number of quoted voting products in the class stated immediately after the named financial product holder ceases to have a substantial holding:
- the **total percentage held in class** is the total number held in class divided by the total in class multiplied by 100 (rounded to 3 decimal places).

If the person has a relevant interest in a derivative where the underlying is a quoted voting product of a listed issuer, the person is treated as having a relevant interest in a number of those products that is calculated under regulation 132. Accordingly, the **total number held in class** (for the **last** disclosure or the current holding **after** ceasing to have a substantial holding or both, as the case may be) must include this number of products.

Details of transactions and events giving rise to ceasing of substantial holding

Disclosure is required for the transactions or events as a result of which (together or alone) the person ceased to have the substantial holding.

For each of those transactions or events, or for on-market trades that may be aggregated under these instructions, insert the following details as a narrative or list, clearly indicating which relevant interest or interests were affected and (if disclosure is given for more than 1 substantial product holder) who was the substantial product holder:

- the date of the transaction or event (or the date of the beginning and end of the period of aggregated on-market trades):
- the nature of the transaction or event. This is the means by which the relevant interest was acquired, disposed of, or changed in nature (for example, "exercise of options", "entry into pre-bid agreement"):
- the name of any other party or parties to the transaction or event (if known, not an on-market trade, and not relating to a derivative relevant interest):
- the consideration, expressed in New Zealand dollars, received for the disposal of the relevant interest (or the total consideration received for aggregated on-market trades). If the consideration was not in cash, and cannot readily be converted into a cash value, describe that consideration:
- the number of financial products to which the transaction or event related (or the total number of financial products to which the aggregated on-market trades related).

On-market trades may be aggregated for the purposes of this disclosure (but acquisitions and dispositions must be separately aggregated). An **on-market trade** is an acquisition or a disposition of a quoted voting product that is traded on, or reported through, the trading system operated by the licensed market operator or a financial product market in a jurisdiction set out in Schedule 15.

Additional information

The disclosure relating to the **nature of connection between substantial product holders** is the justification for giving the disclosure for more than 1 holder (if 1 disclosure is made for 2 or more holders).

Certification

Under section 512 of the Financial Markets Conduct Act 2013, it is an offence if a person makes, or authorises the making of, a materially false or misleading statement in this form knowing it to be false or misleading.

Schedule 14 Default form 3: amended, on 12 June 2025, by regulation 24(5) of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 15
Exemption for substantial holdings in issuers with listing on financial product markets in overseas jurisdictions

r 144

Australia

Canada

Hong Kong

Ireland

Singapore

United Kingdom

United States of America

Schedule 16
Forms for listed issuer requiring disclosure

r 148

Form 1
Notice to registered holder or relevant interest holder requiring disclosure of relevant interests

Section 290, Financial Markets Conduct Act 2013

Note: This form must be given by a listed issuer under section 290 of the Financial Markets Conduct Act 2013 for the purpose of requiring either of the following (a **relevant person**) to disclose relevant interests in the financial products (regardless of whether those persons are substantial product holders):

- a registered holder of quoted voting products of that listed issuer:
- a person who was named in a previous disclosure under section 290 as having a relevant interest in quoted voting products of that listed issuer.

*You are registered as the holder of the following quoted voting products in [*name of listed issuer*]:

- class of quoted voting products:
- number of quoted voting products:

or

*You are named in a previous disclosure under section 290 of the Financial Markets Conduct Act 2013 as having a relevant interest in the following quoted voting products in [*name of listed issuer*]:

- class of quoted voting products:
- number of quoted voting products:

*Select one.

You are required under section 290 of the Financial Markets Conduct Act 2013 to disclose—

- the name and address of every person who has a relevant interest in those quoted voting products; and
- the nature of that relevant interest.

This disclosure is required regardless of whether those persons are substantial product holders.

To the extent that you are unable to disclose any of the information required by this notice in relation to a person who has a relevant interest in those quoted voting products, you are required to supply other details that will, or are likely to, assist in identifying that person and the nature of that interest.

You must disclose the information required by this notice in writing as soon as practicable to [*name of listed issuer*] at [*address*].

If you fail to disclose the information required by this notice, the contravention may give rise to civil liability, including a pecuniary penalty, under the Financial Markets Conduct Act 2013 (*see* section 385(4)(a) of that Act).

This notice is given on behalf of [*name of listed issuer*] by [*name of person giving notice*], [*job description*], who is duly authorised to give this notice.

Date:

Signature of person giving notice for listed issuer:

Form 2

Notice to person who has relevant interests requiring disclosure of information

Section 291, Financial Markets Conduct Act 2013

Note: This form must be given by a listed issuer under section 291 of the Financial Markets Conduct Act 2013 for the purpose of requiring a person who the listed issuer believes has, or may have, a relevant interest in quoted voting products of that listed issuer to disclose information for the purpose of ascertaining who is, or may be, a substantial product holder.

To [*full name*]

[*Name of listed issuer*] believes that you have, or may have, a relevant interest in its quoted voting products.

You are required under section 291 of the Financial Markets Conduct Act 2013 to disclose information for the purpose of assisting [*listed issuer*] to ascertain who is, or may be, a substantial product holder in [*listed issuer*].

You are required to disclose the following information: [*describe the information to be disclosed for the purpose stated in the preceding paragraph*].

You must disclose the information required by this notice in writing as soon as practicable to [*name of listed issuer*] at [*address*].

If you fail to disclose the information required by this notice, the contravention may give rise to civil liability, including a pecuniary penalty, under the Financial Markets Conduct Act 2013 (*see* section 385(4)(a) of that Act).

This notice is given on behalf of [*name of listed issuer*] by [*name of person giving notice*], [*job description*], who is duly authorised to give this notice.

Date:

Signature of person giving notice for listed issuer:

Schedule 17
Default forms for disclosure of relevant interests in quoted financial products or specified derivatives by directors and senior managers of listed issuers

r 150

Default form 1
Disclosure of relevant interest on listing of issuer or appointment of director or senior manager

Sections 297(1) and 298(1), Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To [*name of licensed market operator*]

and

To [*name of listed issuer*]

Date this disclosure made:

Date on which issuer listed or appointment made:

Director(s) or senior manager(s) giving disclosure

Full name(s):

Name of listed issuer:

Name of related body corporate (if applicable):

Position held in listed issuer:

Summary of relevant interest (excluding specified derivatives)

Class of quoted financial products: [*eg, ordinary shares in XYZ Limited. Include name of issuer and, if known, security code issued by licensed market operator for financial products*]

Nature of relevant interest(s): [*eg, registered holder and beneficial owner of financial product*]

For that relevant interest,—

(a) number held in class: [*number excluding any specified derivatives*]

(b) current registered holder(s): [*name(s), or state "unknown"*]

***Summary of specified derivatives relevant interest**

Type of derivative: [*type of derivative agreement (eg, option to buy or option to sell or swap agreement). State whether or not the derivative is quoted.*]

Class of underlying financial products: [*eg, ordinary shares in XYZ Limited. Include name of issuer and, if known, security code issued by licensed market operator for financial products, and state whether or not the products are quoted*]

Details of derivative: [*specify details required by the instructions to this form*]

For that derivative,—

(a) parties to the derivative:

(b) if the director or senior manager is not a party to the derivative, the nature of the relevant interest in the derivative:

*Omit this summary if inapplicable.

Certification

I, [*full name of individual completing form*], certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Instructions

General directions on how to use this form

Use this form to disclose the relevant interests that a director or senior manager of a listed issuer has in quoted financial products of the listed issuer or a related body corporate or in specified derivatives. The disclosure must be made within 5 trading days of—

(a) the listing of the listed issuer; or

(b) the person's appointment as a director or senior manager.

A **specified derivative** is a type of financial product that is defined in section 298(3) of the Financial Markets Conduct Act 2013.

To use this form,—

- replace the text in [*square brackets*] with the relevant information or with "not applicable"; and
- type the information required (it must not be handwritten); and
- remove italicised instructions.

You need not set out the disclosure in the same format as this form, but the format you use must—

- use a font and font size that are easily readable; and
- include the same headings and words as this form (other than the italicised instructions); and
- present the information in the same order as in this form; and
- not be misleading in any way.

Disclosure using this form must be sent to the licensed market operator and the listed issuer. It must be sent to the recipient's address by any electronic means to which the recipient has given its consent, or by delivery.

Specific instructions

Director(s) or senior manager(s) giving disclosure

Under this heading, state the name(s) of the director(s) or senior manager(s) to which the disclosure relates. Separate summaries or details should be given (repeated within this form or attached to this form) for each of those directors or senior managers.

Summary of relevant interest (excluding specified derivatives)

The **class of quoted financial products** is the class of financial products in which the named director or senior manager has a relevant interest at the time of the listing of the issuer or the appointment of the director or senior manager. This summary should exclude derivatives covered by the next summary.

Describe, as at the date that the issuer listed or the appointment is made, the nature of each relevant interest held and include the details of any deed, contract, arrangement, or understanding under which, or by virtue of which, the relevant interest arises.

If you have more than 1 class of financial products, you must provide this information for each class of financial product identified in the summary (by separately repeating it within the form, or attaching it to the form, for each class of product for which the information differs) and clearly indicate to which class of product the information relates.

The **current registered holder** is the person who is the current registered holder of the financial products to which the relevant interest relates. If this person is not known, state "unknown". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

Summary of specified derivatives relevant interest

This summary covers the following derivatives in which the director or senior manager has a relevant interest:

- quoted derivatives, if the underlying is a financial product of the listed issuer or a related body corporate:
- derivatives (whether quoted or not), if the underlying is a quoted financial product of the listed issuer.

The **details of derivative** requires the following details to be given:

- the notional value of the derivative (if any) (which is the face value or the notional amount in respect of the derivative as at the date on which the relevant agreement is entered into) or the notional number of underlying financial products (if any):

- a statement as to whether the derivative is cash-settled or physically settled:
- the maturity date of the derivative (if any):
- the expiry date of the derivative (if any):
- the prices specified in the terms of the derivative (if any) (eg, the strike price of an option or the price at which a contract for difference was acquired):
- any other details needed to understand how the amount of the consideration payable under the derivative or the value of the derivative is affected by the value of the underlying financial products.

Certification

Under section 512 of the Financial Markets Conduct Act 2013, it is an offence if a person makes, or authorises the making of, a materially false or misleading statement in this form knowing it to be false or misleading.

Default form 2
Disclosure of acquisition or disposal of relevant interest by director or senior manager

Sections 297(2) and 298(2), Financial Markets Conduct Act 2013

Note: This form must be completed in accordance with the instructions at the end of the form.

To [*name of licensed market operator*]

and

To [*name of listed issuer*]

Date this disclosure made:

Date of last disclosure:

Director(s) or senior manager(s) giving disclosure

Full name(s):

Name of listed issuer:

Name of related body corporate (if applicable):

Position held in listed issuer:

Summary of acquisition or disposal of relevant interest (excluding specified derivatives)

Class of affected quoted financial products: [*eg, ordinary shares in XYZ Limited. Include name of issuer and, if known, security code issued by licensed market operator for financial products*]

Nature of the affected relevant interest(s): [*eg, registered holder and beneficial owner of financial product*]

For that relevant interest,—

(a) number held in class **before** acquisition or disposal: [*number, excluding any specified derivatives*]:

(b) number held in class **after** acquisition or disposal: [*number, excluding any specified derivatives*]:

(c) current registered holder(s): [*name(s), or state* "*unknown*"]

(d) registered holder(s) once transfers are registered: [*name(s), or state* "*unknown*"].

*Summary of acquisition or disposal of specified derivatives relevant interest

Type of affected derivative: [*type of derivative agreement (eg, option to buy or option to sell or swap agreement). State whether or not the derivative is quoted.*]

Class of underlying financial products: [*eg, ordinary shares in XYZ Limited. Include name of issuer and, if known, security code issued by licensed market operator for financial products, and state whether or not the products are quoted*]

Details of affected derivative: [*specify details required by the instructions to this form*]

For that derivative,—

(a) the parties to the derivative:

(b) if the director or senior manager is not a party to the derivative, the nature of the relevant interest in the derivative:

*Omit this summary if inapplicable.

Details of transactions giving rise to acquisition or disposal

Total number of transactions to which notice relates: [*number*]

Details of the transactions requiring disclosure: [*specify details required by the instructions to this form, including whether relevant interests were acquired or disposed of during a closed period where prior written clearance was required and, if so, details of the prior written clearance*]

Summary of other relevant interests after acquisition or disposal

Class of quoted financial products: [*eg, ordinary shares in XYZ Limited. Include name of issuer and, if known, security code issued by licensed market operator for financial products*]

Nature of relevant interest(s): [*eg, registered holder and beneficial owner of financial products, conditional put option with X Limited, derivative relevant interest over quoted underlying*]

For that relevant interest,—

(a) number held in class: [*number*]

(b) current registered holder(s): [*name(s) or state "unknown"*]

For a derivative relevant interest,—

(a) type of derivative: [*eg, option or swap agreement*]

(b) details of derivative: [*specify details required by instructions to this form*]

(c) parties to the derivative:

(d) if the director or senior manager is not a party to the derivative, the nature of the relevant interest in the derivative:

Certification

I, [*full name of individual completing form*], certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Instructions

General directions on how to use this form

Use this form to disclose all the acquisitions and disposals by a director or senior manager of a listed issuer of relevant interests in quoted financial products of the listed issuer, or of a related body corporate, or in specified derivatives. The disclosure must be made within—

- 20 working days after the first acquisition or disposal disclosed in this notice if the acquisitions or disposals are of a kind referred to in section 297(2)(a) of the Financial Markets Conduct Act 2013; or
- in any other case, 5 trading days after the first acquisition or disposal disclosed in this notice.

A **specified derivative** is a type of financial product that is defined in section 298(3) of the Financial Markets Conduct Act 2013.

To use this form,—

- replace the text in [*square brackets*] with the relevant information or with "not applicable"; and
- type the information required (it must not be handwritten); and
- remove italicised instructions.

You need not set out the disclosure in the same format as this form, but the format you use must—

- use a font and font size that are easily readable; and
- include the same headings and words as this form (other than the italicised instructions); and
- present the information in the same order as in this form; and
- not be misleading in any way.

Disclosure using this form must be sent to the licensed market operator and the listed issuer. It must be sent to the recipient's address by electronic means to which the recipient has consented, or by delivery.

Specific instructions

Director(s) or senior manager(s) giving disclosure

Under this heading, state the name(s) of the director(s) or senior manager(s) to which the disclosure relates. Separate summaries or details should be given (repeated within this form or attached to this form) for each of those directors or senior managers.

Summary of acquisition or disposal of relevant interest

Describe the nature of the relevant interest acquired or disposed of and include the details of any deed, contract, arrangement, or understanding under which, or by virtue of which, the relevant interest arises.

If you have more than 1 class of financial product in which relevant interests have been acquired or disposed of, you must provide this information for each class of financial product identified in the summary (by separately repeating it within the form, or attaching it to the form, for each class of product for which the information differs) and clearly indicate to which class of product the information relates.

The **current registered holder** is the person who is the current registered holder of the financial products to which the relevant interest relates. If this person is not known, state "unknown". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

The **registered holder once transfers are registered** is the person who will be the registered holder once all transfers (if any) disclosed in the form are registered. If this person is not known, state "unknown". If there are different registered holders for different parcels of financial products, clearly indicate which registered holder relates to which financial products.

Summary of acquisition or disposal of specified derivatives relevant interest

This disclosure covers—

- quoted derivatives held by the director or senior manager, if the underlying is a financial product of the listed issuer or a related body corporate; or
- derivatives (whether quoted or not), if the underlying is a quoted financial product of the listed issuer.

The **details of affected derivative** requires the following details to be given for the derivative in which the relevant interest is acquired or disposed of:

- the notional value of the derivative (if any) (which is the face value or the notional amount in respect of the derivative as at the date on which the relevant agreement is entered into) or the notional amount of underlying financial products (if any):
- a statement as to whether the derivative is cash-settled or physically settled:
- the maturity date of the derivative (if any):
- the expiry date of the derivative (if any):
- the prices specified in the terms of the derivative (if any) (eg, the strike price of an option or the price at which a contract for difference was acquired):
- any other details needed to understand how the amount of the consideration payable under the derivative or the value of the derivative is affected by the value of the underlying financial products.

Details of transactions giving rise to acquisition or disposal

In this form, **transaction** means the agreement pursuant to which, or the circumstances in which, the acquisition or disposal of the financial product to which the relevant interest relates or related took place, and includes (without limitation)—

(a) an on-market trade:

(b) an off-market trade:

(c) an exercise of options:

(d) an issue of financial products under a dividend reinvestment plan:

(e) participation in a buy-back scheme.

For each of the transactions requiring disclosure, insert the following details as a narrative or list, clearly indicating which relevant interest or interests were affected and (if disclosure is given for more than 1 director or senior manager) who was the director or senior manager:

(a) the date of the transaction:

(b) the nature of the transaction. This is the means by which the relevant interest was acquired or disposed of (eg, "exercise of put option"):

(c) the name of any other party or parties to the transaction (if known):

(d) the consideration, expressed in New Zealand dollars, paid or received for the acquisition or disposal. If the consideration was not in cash and cannot readily be converted into a cash value, describe that consideration:

(e) the number of financial products to which the transaction related.

If multiple acquisitions or disposals of relevant interests are disclosed in the form, the above details must be disclosed both for each transaction and for all the transactions in aggregate.

If the listed issuer has a financial products trading policy that prohibits directors or senior managers from trading during any period without prior written clearance (a **closed period**), include the following details:

(a) whether relevant interests were acquired or disposed of during a closed period; and

(b) whether prior written clearance was provided to allow the acquisition or disposal to proceed during the closed period; and

(c) the date of the prior written clearance (if any).

Summary of other relevant interests after acquisition or disposal

Under this heading, describe other relevant interests that the director or senior manager holds in the listed issuer or related body corporate covered by the disclosure.

Include the details of any deed, contract, arrangement, or understanding under which, or by virtue of which, the relevant interest arises.

The **details of derivative** requires the following details to be given:

- the notional value of the derivative (if any) (which is the face value or the notional amount in respect of the derivative as at the date on which the relevant agreement is entered into) or the notional amount of underlying financial products (if any):

- a statement as to whether the derivative is cash-settled or physically settled:
- the maturity date of the derivative (if any):
- the expiry date of the derivative (if any):
- the prices specified in the terms of the derivative (if any) (eg, the strike price of an option or the price at which a contract for difference was acquired):
- any other details needed to understand how the amount of the consideration payable under the derivative or the value of the derivative is affected by the value of the underlying financial products.

Certification

Under section 512 of the Financial Markets Conduct Act 2013, it is an offence if a person makes, or authorises the making of, a materially false or misleading statement in this form knowing it to be false or misleading.

Schedule 18
Financial products transfer forms

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Form 1
Products transfer

Sections 372 and 373(1)(a), Financial Markets Conduct Act 2013

Details of financial products transferred

Full name of issuer:

Full description of financial products:

Number or amount: [*specify number or amount of financial products*]

Registered holder(s) of financial products transferred

Full name(s) of registered holder(s): [*specify full name of each registered holder*]

Address recorded on register:

If the transfer is executed by a person or persons other than the owner(s), full name(s) and capacity of the person(s) executing the transfer:

I/We* transfer the financial products described above to the person(s) named below or the persons named in the brokers transfers relating to the financial products described above.

*Select one.

Signatures of transferor(s):

Date:

Signature place*:

Date:

Signature place*:

*Transfer must be signed in New Zealand.

Transferee(s) of financial products

Full name(s) of transferee(s): [*specify full name of each transferee*]

Full postal address to be recorded on register: [*specify address, including postal zone*]

Consideration: [*specify consideration in both figures and words*]

I/We* confirm that the financial products described above have been acquired in an authorised transaction (as defined in section 372 of the Financial Markets Conduct

Act 2013), and I/we* request that the entries be made in the register that are necessary to give effect to this transfer.

*Select one.

Date:

Signature of authorised agent:

Name and title of authorised agent:

Form 2
Brokers transfer

Section 373(1)(b), Financial Markets Conduct Act 2013

Details of financial products transferred

Full name of issuer:

Full description of financial products:

Number or amount: [*specify number or amount of financial products*]

Consideration: [*specify consideration*]

Registered holder(s) of financial products transferred

Full name(s) of registered holder(s): [*specify full name of each registered holder*]

Address recorded on register:

Transferee(s) of financial products

Full name(s) of transferee(s): [*specify full name of each transferee*]

Full postal address to be recorded on register: [*specify address, including postal zone*]

I/We* confirm that the financial products described above have been acquired in a licensed market transaction (as defined in section 373 of the Financial Markets Conduct Act 2013), and I/we* request that the entries be made in the register that are necessary to give effect to this transfer.

*Select one.

Date:

Signature of authorised agent:

Name and title of authorised agent:

Schedule 19
Form of information and statements at front of unsolicited offer disclosure document

r 168

Form

Information and statements at front of disclosure document

Important information

This is an unsolicited offer by [*full name of offeror*] to buy your investment in [*describe financial product*]/to buy the power to dispose of your investment in [*describe financial product*]/to buy [*describe interests in or rights attaching to financial products*] in your [*describe financial product*]*.

*Select one.

Financial Markets Authority warnings

*[*List Financial Markets Authority warnings required to be contained in the document under an order made under section 49 of the Financial Markets Authority Act 2011*.]

*Omit this text (and the heading above it) if no warnings are required under section 49 of the Financial Markets Authority Act 2011.

Make sure you read carefully and understand all of the terms of this unsolicited offer, including any fine print in this document or in any other documents or forms relating to the offer. Find out what your investment is really worth before selling it. You can find out how much your investment is likely to be worth from a financial advice provider or the company or other entity that offers the investment.

***You may be able to sell your investment to other buyers on [*specify licensed market on which financial products are quoted*].**

*Include this sentence only if the financial products are quoted.

Offer price compared with market price/with fair estimate of value*

*Select one.

Offer price: **$**[*specify* **in bold** *the amount referred to in regulation 168(1)(a)(i) or (b)(i)*] per [*name of financial product*]

Market price/Fair estimate of value*: **$** [*specify* **in bold** *the amount referred to in regulation 168(1)(a)(ii) or (b)(ii)*] per [*name of financial product*]

Total offer price: **$**[*specify* **in bold** *the amount referred to in regulation 168(1)(a)(iii) or (b)(iii)*] for [*number*] [*name of financial products*]

Total market price/Total fair estimate of value*: **$**[*specify* **in bold** *the amount referred to in regulation 168(1)(a)(iv) or*

(b)(iv)] for [*number*] [*name of financial products*]

*Select one.

Note: The information relating to prices and values to be disclosed above relates to the information that must be contained in the disclosure document under regulation 168(1)(a)(i) to (iv) or (b)(i) to (iv) (if those provisions apply).

Total offer price: **$**[*specify* **in bold** *the amount referred to in regulation 168(1)(c)(i)*] for [*describe power to dispose or interest or right to be acquired*] in respect of [*number*] [*name of financial products*]

Total fair estimate of value: **$**[*specify* **in bold** *the amount referred to in regulation 168(1)(c)(ii)*] for [*describe power to dispose or interest or right to be acquired*] in respect of [*number*] [*name of financial products*]

Note: The information relating to prices and values to be disclosed above relates to the information that must be contained in the disclosure document under regulation 168(1)(c)(i) and (ii) (if those provisions apply).

*The market price specified above is the average market price of the [*name of financial product*] over a 20-working-day period ending at [*specify time not earlier than 10 working days before the offer date*] on [*specify the licensed market on which the financial products are quoted*], which is operated by [*name of relevant licensed market operator*].

*Include this paragraph if regulation 168(1)(a) applies.

*You can check the current market price for [*name of financial product*] on NZX Limited's Internet site at https://www.nzx.com or in newspapers. The stock code for [*name of issuer*] is [*unique identification code issued by the relevant licensed market operator*].

*Include this paragraph if regulation 168(1)(a) applies. If the relevant licensed market operator is not NZX Limited, the references to NZX Limited and its Internet site must be replaced with references to the relevant licensed market operator and its Internet site.

*The estimates of value specified above are fair estimates of the value as at [*specify time not earlier than 10 working days before the offer date*]. The estimates are based on [*set out the basis for making the estimates (including the main assumptions on which the estimates are based)*].

*Include this paragraph if regulation 168(1)(b) or (c) applies.

*The estimates have been reviewed by an independent third party acting in his or her professional capacity (and his or her name is [*full name*]).

or

*The estimates are only in the opinion of [*full name of offeror*] (and have not been reviewed by an independent third party).

*Include the applicable paragraph if regulation 168(1)(b) or (c) applies.

You can find out how much your investment is likely to be worth from a financial advice provider or the company or other entity that offers the investment.

*If the company or other entity you invested in is in receivership, such information may be obtained from the receivers. Receivers' reports can give a good indication of how much you are likely to receive for your investment. You can find copies of the receivers' reports by searching under the company's name on the Companies Office Internet site http://www.business.govt.nz/companies/

*Include this paragraph only if the issuer is in receivership.

The offer to you must remain open for a minimum of 30 days from the date of the offer. You have time to think about whether or not to accept the offer.

Terms of payment

[*Include the information and statements required by regulation 168(1)(d) and (3).*]

Key dates

Date of the offer: [*specify date of unsolicited offer*]

Expiry date of the offer: [*specify expiry date of unsolicited offer*]

***Right to cancel**

If you accept the offer but then change your mind, you have the legal right to cancel the agreement under the Financial Markets Conduct Regulations 2014 (provided you do so within the time frames referred to below).

To cancel the agreement, you must—

- do both of the following:
  - contact the offeror (*see* the offeror details below) and state that you want to cancel or withdraw from the agreement. You must do this within 10 working days after the date on which you accepted the offer; and
  - repay to the offeror the amount paid by the offeror to you under the agreement (if any). You must do this within 20 working days after the date on which you accepted the offer; or
- repay to the offeror the amount paid by the offeror to you under the agreement within 10 working days after the date on which you accepted the offer.

Note: A **working day** is a day of the week other than—

- a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- if 1 January falls on a Friday, the following Monday or, if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and

- if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.

*Omit the heading "**Right to cancel**" and the paragraphs relating to the right if—

- the FMA has granted an exemption from regulation 176 or 177 (as the case may be); and
- the exemption applies to the unsolicited offer; and
- the offeror has complied with all of the terms and conditions of that exemption that are required to be complied with on or before the time at which the disclosure document is given.

Offeror details

[*Specify full name of offeror, postal address of offeror, and email address of offeror.*]

Further important information

The Financial Markets Authority (the **FMA**) regulates New Zealand's financial markets, which includes monitoring and enforcing compliance with the law relating to unsolicited offers. The FMA's main objective is to promote fair, efficient, and transparent financial markets. Further guidance for investors, including in relation to unsolicited offers and on how to find a financial advice provider, is available on the FMA's Internet site http://www.fma.govt.nz

Schedule 19: amended, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Schedule 19: amended, on 15 March 2021, by regulation 34(1) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 19: amended, on 15 March 2021, by regulation 34(2) of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 20
Statement in unsolicited offer disclosure document if payment to be made more than 90 days after date of offer

r 168

Part 1
Statement in disclosure document

If you accept this offer, you will be paid by a single payment on [*date*]./If you accept this offer, you will be paid in [*number*] instalments over [*time period*].*

*Select one.

If you are receiving a payment in the future/payments over a period of time*, you are taking the risk that the offeror will become insolvent or might otherwise not be able to pay you. You will also lose the right to receive dividends or other distributions during the payment period, because you will no longer own the investment.

*Select one.

Money loses value over time. In this case, the value of the payment/payments* being offered to you is approximately the same as a single payment of $[*amount calculated in accordance with clause 1 of Part 2*] today. $[*amount calculated in accordance with clause 1 of Part 2*] represents the present-day value of the payment/payments*.

*Select one.

New Zealand financial markets legislation sets out a method for calculating the present-day value of the offer using the rate of interest of [*annual rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before the date of the offer*].

You can assess this offer by comparing the present-day value of the payment/payments* referred to above with the total current value of your financial products/the power to dispose of your financial products/the interests in or rights attaching to your financial products* ($[*amount specified in clause 2 of Part 2*]).

*Select one.

In general, if the present-day value of the payment/payments* being offered is less than the current value of your financial products/the power to dispose of your financial products/the interests in or rights attaching to your financial products*, then this offer may not be fair to you.

*Select one.

Schedule 20 Part 1: amended, on 1 January 2018, by section 29 (transitional provision applies, see Schedule 1 clause 8) of the Interest on Money Claims Act 2016 (2016 No 51).

Part 2
Amounts to be referred to in statement

1 Total present-day value

The total present-day value of the payment or payments being offered is the amount calculated in accordance with the following formula:

$$\sum_{p=1}^{n} \frac{R_p}{(1+i)^{tp}}$$

where—

n is the number of payments to be made

R_p is the amount of payment number p, where each payment is assigned a number from l to n

i is the annual rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before the date of the offer (expressed as a decimal) divided by 12

tp is the number of whole months between the date of offer and the date on which the payment is due.

Example 1: Offer of single payment

A makes an offer to B on 1 January.

A's offer involves a payment of $1,000 on 1 November. This is 10 whole months after the date of the offer, therefore variable tp is 10.

On the date of the offer, the annual rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand is 5%. Accordingly, the variable i in the formula is 0.0041667 (0.05 divided by 12).

The present-day value of this payment is $959.27.

Example 2: Offer of payments in instalments

A makes an offer to B on 1 January.

A's offer involves a payment of $300 on 15 March, a further payment of $300 on 1 June, and a final payment of $400 on 1 November.

On the date of the offer, the Judicature (Prescribed Rate of Interest) Order 2011 prescribes 5% per year for the purposes of section 87(3) of the Judicature Act 1908. Accordingly, the variable i in the formula is 0.0041667 (0.05 divided by 12).

In the case of the 15 March payment, the number of whole months between the date of the offer and the date that the payment is due is 2 (which is variable tp for this payment). The present-day value of this payment is $297.52.

In the case of the 1 June payment, the number of whole months between the date of the offer and the date that the payment is due is 5 (which is variable tp for this payment). The present-day value of this payment is $293.83.

In the case of the 1 November payment, the number of whole months between the date of the offer and the date that the payment is due is 10 (which is variable tp for this payment). The present-day value of this payment is $383.71.

The total present-day value of the payments is $975.06 ($297.52 + $293.83 + $383.71).

Schedule 20 Part 2 clause 1: amended, on 1 January 2018, by section 29 (transitional provision applies, see Schedule 1 clause 8) of the Interest on Money Claims Act 2016 (2016 No 51).

2 Total current value

The total current value is, in the case of an unsolicited offer to acquire—

(a) quoted financial products, the amount referred to in regulation 168(1)(a)(iv):

(b) non-quoted financial products, the amount referred to in regulation 168(1)(b)(iv):

(c) a power to dispose of financial products or to acquire other interests in or rights attaching to financial products, the amount referred to in regulation 168(1)(c)(ii).

Schedule 21
Disclosure statement and investment proposal for discretionary investment management service

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1 Interpretation

(1) In this schedule,—

individual asset means the total holdings of a class of financial products, unless otherwise provided

Example

Ordinary shares in ABC Limited

model portfolio of assets means 1 or more lists of the financial products, and proportions of the financial products, that are used as a model on which to base an investment strategy

provider means the person who is in the business of providing the service

service means the discretionary investment management service to which the SDS relates.

(2) The categories of assets for the purposes of this schedule are the following:

(a) cash and cash equivalents:

(b) New Zealand fixed interest (which are fixed-interest assets the country of which is New Zealand):

(c) international fixed interest (which are fixed-interest assets the country of which is not New Zealand):

(d) Australasian equities (which are those equities the country of which is Australia or New Zealand):

(e) international equities (which are equities the country of which is not Australia or New Zealand):

(f) listed property:

(g) unlisted property:

(h) commodities:

(i) other.

(3) The country of an asset is,—

(a) if the asset is approved for trading on 1 or more financial product markets, the country of the financial product market that has primary jurisdiction for the listing requirements for the asset; and

(b) if the asset is not approved for trading on a financial product market but is issued by an entity that is incorporated, the country in which the entity is incorporated; and

(c) in any other case, the country in which the issuer or asset is located.

(3A) However, New Zealand may be treated as being the country of a fixed-interest asset if—

(a) the asset is denominated in New Zealand currency; or

(b) both of the following apply:

(i) the asset is issued by an entity that is incorporated or located in New Zealand; and

(ii) the asset is denominated in a currency other than New Zealand currency but 1 or more derivatives are held to hedge the foreign market currency and interest rate risk so as to effectively swap exposure on the asset into an asset denominated in New Zealand currency with New Zealand interest rate risk.

(4) In this schedule, **material information**, in relation to a service, means information that—

(a) a reasonable person would expect to, or to be likely to, influence persons who commonly invest in financial products in deciding whether to—

(i) proceed, or continue to proceed, with the service; or

(ii) change any instruction in relation to the provision of the service; and

(b) relates to the particular service or the particular provider, rather than to DIMS generally or providers of DIMS generally.

Schedule 21 clause 1(3A): inserted, on 28 October 2016, by regulation 20(1) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

Part 1
Disclosure statement

2 SDS sections

(1) The SDS must have sections that are headed up and ordered as follows:

1 What is this?

2 Who provides this service?

3 How [*name of service*] works

4 Risks of using this service

5 [*Name of provider*]'s conflicts of interest

6 Tax

7 How to complain

8 Where you can find more information

9 How to enter into client agreement

10 Contact information

(2) The sections of the SDS must be numbered sequentially.

(3) *See* regulation 206(5) and (6), which allows the investment proposal to be combined with the SDS (after section 10).

What is this?

3 Application

Clause 4 applies to section 1 of the SDS (what is this?).

4 What is this?

The SDS must contain a statement in the following form:

"This is a discretionary investment management service (**DIMS**) provided by [*name of provider*]. Under a DIMS, the provider invests your money on your behalf in financial products, such as [*specify examples*], and charges fees for the service. You will hold the financial products in your own name/through a custodian*. The types of investments that [*name of provider*] can invest your money in, and the fees, are described in the investment proposal that must be made available to you.

You will be relying on the investment decisions that [*name of provider*] makes. The value of the investments made for you may go up or down."

*Select one or replace with the sentence "You will hold the financial products partly in your own name and partly through a custodian."

Who provides this service?

5 Application

Clauses 6 and 7 apply to section 2 of the SDS (who provides this service?).

6 Who provides this service?

(1) The SDS must—

(a) contain a brief description of the provider; and

(b) state the provider's contact details.

(2) The contact details must include an address and a business telephone number.

(3) The SDS may contain a brief description of any other persons who are involved in providing the service (including any custodian) to the extent that that information is material information.

7 Who else is involved?

If information is included under clause 6(3), the SDS must include the following table under the subheading "**Who else is involved?**":

	Name	**Role**
[*Other person(s) involved in the service (for example, Custodian)*]	[*specify*]	[*brief description of role*]

How [name of service] works

8 Application

Clause 9 applies to section 3 of the SDS (how [*name of service*] works).

9 How [*name of service*] works

(1) The SDS must describe how the service works and the significant benefits of the service.

(2) The description must include—

(a) a summary of the significant features of the service, including a summary of the types of investment strategies offered by the provider under the service; and

(b) a description of how the financial products that are acquired under the service will be held; and

(c) a statement as to how to grant and terminate the investment authority; and

(d) a statement as to whether or not the investor may give instructions to exercise rights over the investor's financial products (for example, a right to vote at meetings of product holders) and, if so, a statement about how those instructions may be given; and

(e) a statement as to whether or not the investor may give instructions relating to the financial products in the investor's portfolio (for example, an instruction to dispose of some shares) and, if so, a statement about how those instructions may be given; and

(f) a statement as to whether or not the investor has a right to be consulted on, or to countermand, the provider's decisions and, if so, a description of the right and a statement about how the right may be exercised; and

(g) a statement to the effect that the client agreement governs the service and that an investor must enter into a client agreement at the same time as or before the investment authority is granted; and

(h) a description of the consequences of a termination of the client agreement, including whether any financial products held by a custodian on behalf of the investor under the service will be transferred to the investor, will continue to be held by the custodian, or will be sold; and

(i) a statement that the investment strategy to be applied in respect of the investor is described in the investment proposal that is made available to the investor; and

(j) in the case of regulation 206(4), a reference to the investment proposal.

(3) The SDS may include information about the skills, experience, or background of—

(a) 1 or more directors of the provider:

(b) 1 or more employees of the provider who have a significant impact on the investment decisions that are made under the service (for example, a senior investment analyst).

Risks of using this service

10 Application

Clauses 11 and 12 apply to section 4 of the SDS (risks of using this service).

11 Risks of using this service

(1) The SDS must contain a statement in the following form:

"Investing through this service has risks. Under this service, you give up control/some control* over investment decisions, and rely on [*name of provider*]'s decisions.

All investments have a degree of risk. The value of your financial products may go down as well as up. You may not achieve the returns you expect and may not receive all your investment back."

*Select one.

(2) The SDS must include a brief description of the significant risks for an investor that arise from using the service and that are applicable to all investment proposals under the service.

(3) The description must include a brief description of the kinds of circumstances that may give rise to the risk or an example of how the risk arises (or both).

(4) Subclauses (2) and (3) apply only to the extent that information about a matter is material information.

(5) The SDS must—

(a) state that each investment strategy has different levels of risks relating to the financial products being invested in and their management; and

(b) provide an example of such a risk; and

Example

The growth investment strategy would invest in riskier assets such as shares and property with greater movements in value up and down.

(c) include a reference to section 4 of the investment proposal (risks).

12 Risks otherwise disclosed in SDS

(1) To the extent that information about a risk is included elsewhere in the SDS, that information is not required to be repeated for the purposes of clause 11(2) and (3).

(2) However, if information about a risk is not included for the purposes of clause 11(2) and (3) as a result of subclause (1), the information for those provisions must—

(a) at least include a brief summary of the matters referred to in those provisions; and

(b) refer to where the information about the risk is elsewhere included in the SDS.

[Name of provider]'s conflicts of interest

13 Application

Clause 14 applies to section 5 of the SDS ([*name of provider*]'s conflicts of interest).

14 [*Name of provider*]'s conflicts of interest

(1) The SDS must describe the nature of any conflict of interest that currently exists or is likely to arise in the future.

(2) If conflicts of interest that are likely to arise in the future are of a particular type, a general description of that type of conflict of interest is a sufficient description of those conflicts of interest for the purposes of subclause (1).

Example

ABC Limited is currently involved, and is likely in the future to be involved, in IPOs as a lead manager. The financial products being offered under such an IPO may be acquired under this service.

(3) Subclause (2) applies to a particular type of conflict of interest that currently exists if that type of conflict of interest is also likely to arise in the future.

(4) The SDS must—

(a) include a table that shows the rates or amounts of remuneration, commission, or other benefits that the provider, or a relevant person, will, or reasonably expects to, receive that would, or could reasonably be expected to, materially influence the provider's choices of financial products to acquire or dispose of under the service; and

(b) if paragraph (a) does not apply to a conflict of interest, describe the circumstances in which, and how, the conflict of interest would, or could reasonably be expected to, materially influence the provider's choices of financial products to acquire or dispose of under the service.

(5) The SDS must describe the steps that have been, or will be, taken to manage any conflict of interest.

(6) In this clause,—

conflict of interest means a financial or any other interest, a relationship, or any other association of the provider or of a relevant person that would, or could reasonably be expected to, materially influence the provider's choices of financial products to acquire or dispose of under the service

Examples

A provider (**P**) intends to invest the money of 1 or more investors in the financial products of a related party of P.

A provider (**P**) is likely to receive a commission from a third party in respect of any investment decision made under the service.

relevant person, in relation to a provider, means—

(a) a director of the provider; or

(b) a senior manager of the provider; or

(c) an employee of the provider who has a significant impact on the investment decisions that are made under the service; or

(d) an associated person of the provider (or a director or senior manager of that associated person).

Tax

15 Application

Clause 16 applies to section 6 of the SDS (tax).

16 Tax

(1) The SDS must contain a statement in the following form:

"Taxes may affect your returns under this service. Your tax obligations will differ according to the nature of the investments. You are responsible for meeting any tax obligations that arise. You should seek professional advice on your tax obligations."

(2) The SDS must include a statement that resident withholding tax or other taxes may be deducted by the custodian or an issuer from returns on the investor's portfolio.

How to complain

17 Application

Clause 18 applies to section 7 of the SDS (how to complain).

18 How to complain

(1) The SDS must include a statement as to whether complaints about the service can be made to any 1 or more of the following and, if so, the contact details of the person or scheme to which complaints may be made:

(a) the provider:

(b) the licensee (if the provider is an authorised body):

(c) an approved dispute resolution scheme.

(2) The contact details must include an address and a business telephone number.

(3) A reference under this clause to an approved dispute resolution scheme must be accompanied by a statement that the scheme will not charge a fee to any complainant to investigate or resolve a complaint.

Where you can find more information

19 Application

Clause 20 applies to section 8 of the SDS (where you can find more information).

20 Where you can find more information

The SDS must include a statement—

(a) referring to the client agreement; and

(b) briefly describing any information relating to the provider or the service that is required to be, or otherwise will be, available—

(i) to investors by any means; or

(ii) on request to the provider; and

(c) explaining—

(i) how information will be made available; and

(ii) how a request for information should be made; and

(d) specifying whether any charge may be made for the information that is requested and the amount of the charge.

How to enter into client agreement

21 Application

Clause 22 applies to section 9 of the SDS (how to enter into client agreement).

22 How to enter into client agreement

The SDS—

(a) must include a short statement as to how an investor may enter into a client agreement; and

(b) may include a link or reference to an application form.

Contact information

23 Application

Clause 24 applies to section 10 of the SDS (contact information).

24 Contact information

(1) The SDS must state the contact details of—

(a) the provider; and

(b) the custodian (if any).

(2) The contact details must include an address and a business telephone number.

Part 2
Investment proposal

25 Investment proposal sections

(1) The investment proposal must have sections that are headed up and ordered as follows:

1 Investment authority and strategy

2 Historic performance of the investment strategy

3 Fees and costs

4 Risks

(2) The sections of the investment proposal must be numbered sequentially.

Investment authority and strategy

26 Application

Clauses 27 and 28 apply to section 1 of the investment proposal (investment authority and strategy).

27 Investment authority and strategy

(1) The investment proposal must include—

(a) a brief summary of the investment authority (in the case of regulation 206(3)(a) or (c)); or

(b) the investment authority (in the case of regulation 206(3)(b) and (d)).

(2) The investment proposal must describe the investment strategy to which the proposal applies (including the investment objectives and a diagram or other description summarising the target investment mix under the strategy).

(3) If the investment strategy is based on an existing model portfolio of assets, the investment proposal must include, as at a stated date (*see* subclause (5)),—

(a) a pie graph showing the composition of the assets in that model portfolio according to the asset categories specified in clause 1(2); and

(b) a list of the 10 highest-value individual assets of that model portfolio and, against that list, the following information about each individual asset:

(i) the name of the individual asset:

(ii) the country of the individual asset:

(iii) the type of the individual asset according to one of the categories specified in clause 1(2) (however, if subclause (4) applies, the type of the individual asset is an interest in a diversified fund):

(iv) if the individual asset is a debt security, the credit rating of the debt security that the provider reasonably considers to be reliable or, if there is no reliable credit rating of the security, the credit rating of its issuer that the provider reasonably considers to be reliable (or the classification "unrated" if neither the debt security nor the issuer has a reliable credit rating):

(v) the proportion of the model portfolio that is invested in the individual asset; and

(c) a description of any differences between the financial products that are likely to be held under the investment strategy and the model portfolio.

(4) For the purposes of subclause (3)(b)(iii), if the model portfolio of assets includes an interest in a fund and there is no one asset type that is judged to be the most appropriate, the asset must be classified as an interest in a diversified fund.

(5) The stated date under subclause (3) must be no earlier than 15 months before the date on which the investment proposal is made available to the investor.

(6) The information referred to in subclause (3) may be included by incorporating by reference a document that contains that information (being a document that is available to investors in accordance with regulation 208).

Schedule 21 clause 27(3)(b)(iii): amended, on 17 December 2015, by regulation 46(1) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 21 clause 27(4): replaced, on 17 December 2015, by regulation 46(2) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

Schedule 21 clause 27(5): amended, on 28 October 2016, by regulation 20(2) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

28 Miscellaneous matters

(1) If the category "other" is used in providing the information specified in clause 27(3), the investment proposal must include, as a note to the relevant pie graph or information, an explanation of the nature of each of the financial products included in that category.

(2) The information specified in clause 27(3)(a) must be based on the information that the provider judges to be the most appropriate to produce an accurate representation of the assets.

Example

If a fund in which the model portfolio invests is a US equities fund, the provider may judge the most appropriate classification of the model portfolio's holdings of that fund to be international equities with an allowance for some cash held by the fund.

Historic performance of the investment strategy

29 Application

(1) Clauses 30 to 36 apply to section 2 of the investment proposal (historic performance of the investment strategy).

(2) In clauses 30 to 36,—

investment strategy means the investment strategy described under clause 27(2)

stated date means a date stated in the investment proposal that is no earlier than 15 months before the date on which the investment proposal is made available to the investor.

Schedule 21 clause 29(2) **stated date**: amended, on 28 October 2016, by regulation 20(3) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

30 Historic performance based on either composite portfolio or model portfolio unless not included under exception

(1) The investment proposal must include, or incorporate by reference, the information in—

(a) clause 31 (composite portfolio return); or

(b) clause 32 (model portfolio return).

(2) *See* clause 35 (which provides that this clause does not apply in certain circumstances).

31 Composite portfolio return

(1) If clause 30(1)(a) applies, the investment proposal must include a statement in the following form:

"This shows the returns that have been generated by this investment strategy in the past. Returns are after fees but before tax/and after withholding taxes*. Your actual portfolio will differ from the portfolio that generated these returns. Important: it does not tell you how the investment strategy will perform in the future."

*Select one.

(2) For the purposes of clause 30(1)(a), the information is as follows:

(a) the average return generated for the composite portfolio for—

(i) a 12-month period ending as at a stated date; and

(ii) the 5-year period ending as at that stated date; and

(b) a bar graph showing the average return, indicated by a bar on the graph and as a figure near the corresponding bar, that has been generated for the composite portfolio for—

(i) each of the last 10 complete disclosure years, if any strategy to which the composite portfolio relates has been implemented for 10 or more complete disclosure years; or

(ii) each complete disclosure year since the date on which any strategy to which the composite portfolio relates was first implemented by the provider, if subparagraph (i) does not apply.

(2A) Subclause (2)(b) applies only to disclosure years that were completed before the stated date.

(3) The average return under subclause (2) must be—

(a) either—

(i) net of the actual fees paid by the investors whose portfolios are included in the composite portfolio; or

(ii) net of the maximum level of fees stated in section 3 of the investment proposal; and

(b) either—

(i) before tax; or

(ii) net of withholding taxes.

(4) The **composite portfolio** is all of the investors' portfolios under—

(a) the investment strategy; and

(b) all other strategies provided by the provider that it has classified as substantially similar to the investment strategy on the bases set under subclause (5).

(5) For the purposes of subclause (4),—

(a) the provider must set the bases on which the strategies are classified as being substantially similar, being bases that the provider reasonably considers will result in strategies being included in the composite portfolio that are relevant, and are not likely to be misleading or deceptive, in calculating the average return of the composite portfolio; and

(b) the provider may have regard to the following aspects of the strategies in setting those bases:

(i) the investment objective:

(ii) the investment style:

(iii) the asset classes:

(iv) the use of derivatives, leverage, and hedging:

(v) the targeted risk levels:

(vi) any investment constraints or restrictions:

(vii) other aspects of each strategy that the provider considers are relevant.

(6) The investment proposal must—

(a) briefly describe the bases on which the strategies are classified as being substantially similar; and

Example

This information about returns generated in the past includes information for all investor portfolios managed under an investment strategy with 60% to 70% growth assets that is actively managed to achieve capital appreciation rather than regular payments of income.

(b) state the number of investor portfolios included in the composite portfolio in respect of each disclosure year referred to in subclause (2); and

(c) include a measure of the dispersion of portfolio returns (for example, a standard deviation) included in the composite portfolio for each disclosure year referred to in subclause (2) in which the composite portfolio contains more than 5 investor's portfolios over the full disclosure year; and

(d) briefly explain the measure under paragraph (c).

(7) The calculation of the average return under subclause (2) must be weighted by the value of each investor's portfolio that is taken into account.

Schedule 21 clause 31(2A): inserted, on 28 October 2016, by regulation 20(4) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

32 Model portfolio return

(1) If clause 30(1)(b) applies, the investment proposal must include a statement in the following form:

"This shows hypothetical returns for the model portfolio that this investment strategy is based on (and does not reflect trading in actual accounts). It is based on a single hypothetical portfolio of $[*amount*] opened on [*date*]. Returns are after fees but before tax/after fees and withholding taxes*. Amounts are indicative of returns, but the actual returns experienced by investors will vary depending on many factors, including [*list factors that would have influenced actual returns over the period covered*].

Important: Hypothetical results have limitations. Hypothetical returns are only indicative of the actual trading performance. Because the portfolio includes trades that represent simulated historical performance and not actual trades, the results may have under-compensated or over-compensated for the impact of trading expenses and market factors like lack of liquidity.

Past returns (whether hypothetical or actual) do not tell you how the investment strategy will perform in the future."

*Select one.

(2) For the purposes of clause 30(1)(b), the information is as follows:

(a) the return that would have been generated for an investor portfolio following the model portfolio of assets on which the investment strategy is based for—

(i) a 12-month period ending as at a stated date; and

(ii) the 5-year period ending as at that stated date; and

(b) a bar graph showing the return, indicated by a bar on the graph and as a figure near the corresponding bar, that would have been generated for an investor portfolio following the model portfolio of assets on which the investment strategy is based for—

(i) each complete disclosure year since the date on which the investment strategy was first implemented by the provider, if the strategy has been implemented for a period of less than 10 complete disclosure years; or

(ii) each of the last 10 complete disclosure years, if the strategy has been implemented for 10 or more complete disclosure years.

(2A) Subclause (2)(b) applies only to disclosure years that were completed before the stated date.

(3) The return under subclause (2) must—

(a) be calculated on the basis of assumptions—

(i) that, at the beginning of the period for which returns are calculated, the portfolio is of a stated size (for example, $100,000); and

(ii) that the portfolio is rebalanced quarterly or at some other stated interval that reflects the intended practice of the provider; and

(b) be net of the maximum level of fees stated in section 3 of the investment proposal and net of an estimate for trading expenses; and

(c) be either—

(i) before tax; or

(ii) net of withholding taxes.

Schedule 21 clause 32(2A): inserted, on 28 October 2016, by regulation 20(5) of the Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249).

33 Information may also be provided in table

(1) The information under clause 31(2)(b) or 32(2)(b) may be provided in a table (instead of a bar graph).

(2) The information under clause 31(2) or 32(2) may also include return information for the same periods net of trading expenses but before all other fees and tax.

(3) The information referred to in clause 31(2) or 32(2) may be included by incorporating by reference a document that contains that information (being a document that is available to investors in accordance with regulation 208).

34 Meaning of return

For the purposes of providing the information required under clauses 30 to 33, **return**, in relation to a portfolio for a period,—

(a) means the percentage change in the value of the portfolio over the period; and

(b) must be calculated using a method that disregards the effect on the value of the portfolio of money or property added, or withdrawn, by an investor from the portfolio over the period; and

(c) must be calculated in accordance with an applicable framework or methodology (if any); and

(d) if the period is more than 1 year, must be calculated as the average annual compound return.

35 Alternative statement if historic performance information not provided

(1) Clauses 30 to 34 do not apply if the provider—

(a) considers that—

(i) it will not be reasonably practicable to provide information under clause 31 that is relevant and not likely to mislead or deceive investors (for example, because the provider has a large number of portfolios using many different strategies); and

(ii) the investment strategy is not based on a model portfolio of assets or is not likely to follow a model portfolio sufficiently closely for information provided under clause 32 to be relevant and not likely to mislead or deceive investors; and

(b) does not include in the SDS or the investment proposal any other historic performance information relating to the investment strategy or any other strategy; and

(c) does not, before the investment authority is granted, provide to the investor in any restricted communication any information that purports to demonstrate the returns that have been, or would have been, generated by the provider for the investment strategy.

(2) If clauses 30 to 34 do not apply under subclause (1), the investment proposal must include—

(a) a statement explaining why historic performance information is not provided; and

(b) a warning statement that no other historic performance information will be provided to the investor before the investment authority is granted; and

(c) a statement to the effect that information about returns, fees, and expenses will be made available to the investor in an annual report

and in quarterly reports or from the electronic facility, as applicable (*see* regulations 210 to 212).

36 Historic performance not required for certain disclosure years

(1) Clauses 30 to 34 require information only in respect of disclosure years that start on or after 1 December 2014.

(2) Clause 31 does not require information for a disclosure year for which the provider did not have any investor portfolio in the composite portfolio.

(3) Clause 32 does not require information for a disclosure year if, in that year, the provider was not offering any investment strategies based on the model portfolio of assets.

Fees and costs

37 Application

(1) Clauses 38 to 42 apply to section 3 of the investment proposal (fees and costs).

(2) In this clause and clauses 38 to 42,—

individual action fees means fees charged to an investor on an individual basis for investor-specific decisions or actions

other charges—

(a) means fees and costs charged by any person in respect of the provision of the service; and

(b) includes fees charged by any person in respect of a fund—

(i) in which money is invested under the service; and

(ii) that is managed by the provider or by an associated person of the provider; but

(c) does not include percentage-based charges, individual action fees, or trading expenses

percentage-based charges—

(a) means fees and costs charged by any person in respect of the provision of the service that affect an investor in proportion to the investor's portfolio; and

(b) includes fees charged by any person in respect of a fund that affects an investor in proportion to the investor's interest in the fund, being a fund—

(i) in which money is invested under the service; and

(ii) that is managed by the provider or by an associated person of the provider; but

(c) does not include trading expenses or individual action fees

trading expense—

(a) means the actual costs of buying and selling investments, such as brokerage fees and spreads; but

(b) does not include custodial fees.

Schedule 21 clause 37(2): amended, on 12 June 2025, by regulation 25 of the Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86).

Schedule 21 clause 37(2) **percentage-based charges** paragraph (c): amended, on 17 December 2015, by regulation 46(3) of the Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276).

38 Statement about fees

The investment proposal must include a statement in the following form:

"You will be charged fees for investing using [*name of provider*]'s service. Fees are deducted from your holdings and will reduce your returns. If [*name of provider*] invests in managed funds, those funds may also charge fees. The total fees you pay are made up of two main types of fees:

- regular service charges. Small differences in these fees can have a big impact on your investment over the long term:
- individual action fees. These are one-off fees charged for [*specify an example*] or for other specific actions you take.

You will also pay [*specify the types of trading expenses that will be deducted*]."

39 Percentage-based charges

(1) The investment proposal must state the total percentage-based charges as a percentage of the investor's portfolio.

(2) For the purposes of calculating the information required under subclause (1), the following apply:

(a) to the extent that percentage-based charges involve set amounts, those amounts must be used:

(b) to the extent that paragraph (a) does not apply, a best estimate of amounts must be used.

(3) If estimates are used,—

(a) the investment proposal must identify which fees are estimated; and

(b) the fees must be estimated on the basis of reasonable assumptions about the ongoing level of fees expected to be charged.

(4) The information under subclause (1)—

(a) may be provided for 2 or more different scenarios that are briefly described in the investment proposal (for example, where the percentage varies depending on the size of a particular investor's portfolio); and

(b) may include a breakdown of the total percentage with a description of what each portion relates to.

40 Other charges

(1) The investment proposal must state, to the extent that other charges are set dollar amounts,—

(a) an estimate of the total amount of those charges (calculated on an annualised basis per investor and expressed as a dollar amount); and

(b) the general nature of those charges.

(2) If a charge that is part of the other charges is not a set dollar amount, the investment proposal must include a description of the general nature of the charge and the basis or method of calculating the charge.

(3) The information under this clause—

(a) may be provided for 2 or more different scenarios that are briefly described in the investment proposal (for example, where the charges vary depending on the size of a particular investor's portfolio); and

(b) may include a breakdown of the total amount of charges with a description of what each portion relates to.

41 Various individual action fees

(1) The investment proposal must, in accordance with subclause (2), state the amount of the following individual action fees:

(a) any fee payable in connection with commencing the service:

(b) any fee payable in connection with an investor increasing the money or property in, or withdrawing money or property from, the investor's portfolio:

(c) any fee payable in connection with the termination of the service in relation to the investor.

(2) For the purposes of subclause (1), the investment proposal must,—

(a) if the fee, or the minimum or maximum amount of the fee, can be expressed as a dollar amount (or as a percentage of another dollar amount), state the dollar amount (or the percentage and a description of the other dollar amount):

(b) if the fee, or the minimum or maximum amount of the fee, cannot be expressed as a dollar amount (or as a percentage of another dollar amount), state the basis or method of calculating the fee.

(3) The investment proposal must state how and when the fees in subclause (1) are payable.

(4) The investment proposal must—

(a) contain a statement to the effect that an investor may be charged other fees on an individual basis for investor-specific decisions or actions; and

(b) incorporate by reference a document that contains information about those fees (including a description of the fee, the minimum or maximum

amount of the fee or how the fee is ascertained, and how and when the fee is payable), being a document that is available to investors in accordance with regulation 208.

42 Whether fees can be changed

(1) The investment proposal must contain the subheading "**The fees can be changed**" or the subheading "**The fees cannot be changed**".

(2) The investment proposal must—

(a) state whether and, if so, how the fees payable by an investor in respect of the service may change; and

(b) include a statement in the following form:

"[*Name of provider*] must give you regular information showing the fees and expenses actually charged."; and

(c) state how the information referred to in paragraph (b) will be made available (*see* regulations 210 to 212, which relate to ongoing reporting).

Risks

43 Application

Clause 44 applies to section 4 of the investment proposal (risks).

44 Risks

(1) The investment proposal must contain a reference to section 4 of the SDS (risks of using this service).

(2) The investment proposal must include—

(a) a brief description of the volatility level of the portfolio of assets that are likely to be invested in under the investment strategy; and

(b) a statement in the following form:

"Some of the things that may cause your portfolio's value to move up and down are: [*insert a brief summary of the factors reflected in the description in paragraph (a)*]."

(3) The investment proposal must describe any other circumstances (that are not already reflected in the description under subclause (2)(a) or stated in the SDS) that the provider is aware of that exist or are likely to arise that significantly increase the risk to returns for investors.

(4) The description of the circumstances must include—

(a) particulars that make it clear why each circumstance is of particular significance in relation to the particular provider or the particular investment strategy (as compared to other providers or strategies); and

(b) particulars that will, to the extent that is reasonably practicable, assist an investor to assess the likelihood of any impact arising from those

circumstances, the nature of that impact, and the potential magnitude of that impact.

(5) The description is required to include information about circumstances only to the extent that the information is material information.

Schedule 21A
Information to be disclosed when giving regulated financial advice to retail clients

rr 229C–229F

Schedule 21A: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

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Part 1
Preliminary provisions

Schedule 21A Part 1: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

1 Interpretation

(1) In this schedule,—

commission or other incentive has the meaning set out in clause 2(3)

complaint has the meaning set out in regulation 229F(4)

conflict of interest has the meaning set out in clause 2(2)

dispute resolution scheme means the approved dispute resolution scheme (as defined in section 50 of the Financial Service Providers (Registration and Dispute Resolution) Act 2008) of which the financial advice provider is a member in accordance with section 48 of that Act

person connected with the giving of the advice has the meaning set out in section 431K(3) of the Act

publicly disciplined has the meaning set out in clause 3(4)

reliability event has the meaning set out in clause 3(1).

(2) In this schedule, a limitation or restriction is **material** if a reasonable client would expect the limitation or restriction to, or to be likely to, materially influence a client in deciding whether to seek or obtain advice from a financial advice provider.

Schedule 21A clause 1: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

2 Meanings of conflict of interest and commission or other incentive

(1) This clause defines what is meant by a conflict of interest and a commission or other incentive in relation to advice given by a person (**A**) to a client of a financial advice provider (**P**).

(2) A **conflict of interest**, in relation to advice, means any interest of A, P, or another person connected with the giving of the advice that a reasonable client would expect to, or to be likely to, materially influence the advice given by A.

(3) A **commission or other incentive** is a commission, benefit, or other incentive (whether monetary or non-monetary and whether direct or indirect)—

(a) that is given to A, P, or another person connected with the giving of the advice as a consequence of A giving the advice or the client acting on the advice (for example, by acquiring a financial advice product); and

(b) that a reasonable client would expect to, or to be likely to, materially influence the advice given by A.

Schedule 21A clause 2: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

3 Meanings of reliability event and publicly disciplined

(1) A **reliability event** has happened to a person if—

(a) the person has, in the 5 years immediately before the date on which the information is required to be given, been publicly disciplined; or

(b) the person has, in the 5 years immediately before the date on which the information is required to be given, been the subject of a successful civil or criminal proceeding or regulatory action (whether in New Zealand or overseas) in relation to the contravention, or involvement in the contravention, of any—

(i) financial markets legislation; or

(ii) overseas law that regulates the supply of any financial service, any dealing in financial products, or the management of an entity; or

(c) the person has, in the 5 years immediately before the date on which the information is required to be given, been convicted of a crime involving dishonesty; or

(d) if the person is a financial advice provider or a financial adviser, the person has, in the 4 years immediately before the date on which the information is required to be given,—

(i) been discharged from bankruptcy (whether in New Zealand or overseas); or

(ii) been discharged from the no asset procedure under subpart 4 of Part 5 of the Insolvency Act 2006 (or a similar procedure under a law of an overseas jurisdiction).

(2) The following applies in relation to a reliability event under subclause (1)(b):

(a) information about the reliability event is only required to be given under that paragraph if a reasonable client would expect the information to, or to be likely to, materially influence a client in deciding whether to seek or obtain advice from a financial advice provider (or from any of its financial advisers or nominated representatives):

(b) in the case of a regulatory action other than a criminal or civil proceeding, the information about the reliability event does not need to be given under that paragraph if it is confidential and is not reasonably available to the public.

(3) Subclause (2)(a) is subject to subclause (2)(b).

(4) A person has been **publicly disciplined** if—

(a) the person has been the subject of disciplinary action under clause 46 of Schedule 5 of the Act or section 101(3) of the Financial Advisers Act 2008; and

(b) the disciplinary committee has publicly notified the action under clause 47(3) of Schedule 5 of the Act or section 101(6) of the Financial Advisers Act 2008 in a way that included making the person's name available to the public; and

(c) the decision to take the disciplinary action has not been overturned on appeal.

Schedule 21A clause 3: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Part 2
Information that must be available or be given

Schedule 21A Part 2: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

4 Information that must be publicly available

(1) A financial advice provider (**P**) must make the following information publicly available in accordance with regulation 229C:

Licence status and conditions

(a) one of the following (as applicable):

(i) a statement to the effect that P holds a licence issued by the FMA to provide a financial advice service; or

(ii) a statement—

(A) to the effect that P is authorised by a licence issued by the FMA to provide a financial advice service; and

(B) setting out the name of the licensee; or

(iii) a statement to the effect that P is exempt from the requirement to hold a licence issued by the FMA to provide a financial advice service:

(b) a brief summary of the effect of each condition of the licence that limits or restricts the advice that may be given by P or a person giving advice on P's behalf:

Nature and scope of financial advice service

(c) the types of financial advice products in relation to which advice is given:

(d) if P gives advice in relation to financial advice products from particular product providers only,—

(i) a statement to that effect; and

(ii) either—

(A) the names of the product providers; or

(B) a description that adequately identifies, or allows for identification of, the particular product providers:

(e) a brief explanation of any material limitations or restrictions on the scope of financial advice services that P gives, or that are given on P's behalf (*see* clause 1(2)):

Fees, expenses, or other amounts payable

(f) if P's clients will or may have to pay, in relation to the giving of advice, any fees, expenses, or other amounts to P or another person connected with the giving of the advice, a brief explanation of when, or in what circumstances, those amounts will or may be payable:

Conflicts of interest and commissions or other incentives

(g) if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to advice given to P's clients,—

(i) a brief description of the nature of each conflict of interest; and

(ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:

(h) if any commission or other incentive will or may be given in relation to advice given to P's clients,—

(i) a brief explanation of when, or in what circumstances, they will or may be given; and

(ii) a brief explanation of the steps that have been or will be taken to manage the conflicts of interest:

Complaints process

(i) an explanation of how to make a complaint:

(j) an overview of P's internal complaints process:

Dispute resolution process

(k) in relation to P's dispute resolution scheme,—

(i) a statement to the effect that a complainant has access to a free, independent dispute resolution service, and that service may help investigate or resolve the complaint if it is not resolved to the complainant's satisfaction using P's internal complaints process; and

(ii) the name of the dispute resolution scheme that P is a member of; and

(iii) the scheme's contact details to make a complaint:

Duties information

(l) a statement to the effect that P and any person giving advice on P's behalf is bound by the duties in sections 431I, 431K, 431L, and 431M of the Act to—

(i) meet the standards of competence, knowledge, and skill set out in the code of conduct; and

(ii) give priority to the client's interests; and

(iii) exercise care, diligence, and skill; and

(iv) meet the standards of ethical behaviour, conduct, and client care set out in the code of conduct.

(2) An explanation required under subclause (1)(h)(i) may describe commissions or other incentives that are of a similar kind as a class, and need not itemise each separate commission or other incentive.

Example

P is an insurance adviser and receives commissions from insurance companies if P's clients purchase insurance policies.

P's explanation might say "We receive commissions from the insurance companies about whose policies we give advice. If you decide to take out insurance, the insurer will pay a commission to your financial adviser. The amount of the commission is based on the amount of the premium."

(3) The statement required under subclause (1)(l) does not need to refer to the sections of the Act or recite the precise words of the Act so long as it gives an adequate statement of their general effect.

Schedule 21A clause 4: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

5 Information that must be given when nature and scope of advice known

(1) A person who gives advice (**A**) must give the following information to a client of a financial advice provider (**P**) in accordance with regulation 229D:

Nature and scope of financial advice service

(a) the types of financial advice products the advice will be given about:

(b) if some or all of the advice will be given in relation to financial advice products from particular product providers only,—

(i) a statement to that effect; and

(ii) either—

(A) the names of the product providers; or

(B) a description that adequately identifies, or allows for identification of, the particular product providers:

(c) a brief explanation of any material limitations or restrictions on the nature and scope of the advice that the client will be given (*see* clause 1(2)):

Reliability history

(d) if a reliability event has happened to P or to A (if A is a financial adviser or a nominated representative), a statement to the effect that a reliability event has happened, including enough detail to identify each reliability event that has happened, the person the event happened to, and the date on which each event occurred.

(2) The person must also give the client the following information:

Identifying information

(a) if A is a financial adviser,—

(i) a statement that A is a financial adviser; and

(ii) a statement that A gives advice on behalf of P; and

(iii) A's name, or other information that adequately identifies or allows for identification of A:

Fees, expenses, or other amounts payable

(b) if the client will or may have to pay, in relation to the giving of the advice, any fees, expenses, or other amounts to A, P, or another person connected with the giving of the advice,—

(i) a brief explanation of when, or in what circumstances, the amounts will or may become payable; and

(ii) either—

(A) the amount payable (if known at the time the disclosure is made); or

(B) if the amount is not known at the time the disclosure is made, a brief explanation of how the amount will be determined and, if practicable, an estimate of the amount; and

(iii) a brief explanation of the terms of payment (if known at the time the disclosure is made):

Conflicts of interest and commissions or other incentives

(c) if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to the advice the client is seeking or given,—

(i) a brief description of the nature of each conflict of interest; and

(ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:

(d) if any commission or other incentive will or may be given in relation to the advice the client is seeking or given, for each commission or other incentive, a brief explanation or description of the following:

(i) when, or the circumstances in which, it will or may be given:

(ii) who it would be given by and to whom:

(iii) its amount or value (or how that would be determined):

(iv) the steps that have been or will be taken to manage the conflicts of interest.

Example

Connor phones Ari, an insurance adviser, to ask about insurance on his home loan.

Ari's explanation might be "We receive commissions from the relevant insurance company if you take out insurance following our advice. The commissions are between 7% and 12% of the first year's premiums of your policy—the amount depends on which insurance company and which insurance policy you choose. However, we follow an advice process that ensures our recommendations are made on the basis of your goals and circumstances."

(3) If a person other than A is likely to give the advice to the client, then the information set out in subclause (1)(d) and (2) in relation to A must be information relating to that other person instead of A (and may relate to more than 1 person).

(4) The fact that a reliability event no longer needs to be included in the reliability history information merely because of the passage of time does not constitute a material change to the reliability history information for the purposes of regulation 229E.

Schedule 21A clause 5: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

6 Information that must be given when advice is given

(1) A person who gives advice (**A**) must give the following information to a client of a financial advice provider (**P**) in accordance with regulation 229E:

Fees, expenses, or other amounts payable

(a) to the extent not already given under clause 5(2)(b), if the client will or may have to pay, in relation to the giving of the advice, any fees, expenses, or other amounts to A, P, or another person connected with the giving of the advice,—

(i) when, or in what circumstances, the amounts will or may become payable; and

(ii) either—

(A) the amount payable (if known at the time the disclosure is made); or

(B) if the amount is not known at the time the disclosure is made, an explanation of how the amount will be determined and, if practicable, an estimate of the amount; and

(iii) the terms of payment (if known at the time the disclosure is made):

Example

Alice is engaged by ABC Limited to give advice to Claire about share investments.

Alice previously informed Claire as required by regulation 229D that ABC Limited charges a fee for the financial advice (but was not able to provide details of the fee at that stage).

That information is now known at the time the disclosure is made.

Alice must now provide Claire with details of that fee.

(b) if the client will or may have to pay fees, expenses, or other amounts in relation to acting on the advice, a statement to that effect:

Conflicts of interest and commissions or other incentives

(c) to the extent not already given under clause 5(2)(c), if any conflict of interest (other than a commission or other incentive) currently exists or is likely to arise in the future in relation to the advice,—

(i) a description of the nature of each conflict of interest; and

(ii) a brief explanation of the steps that have been or will be taken to manage each conflict of interest:

(d) to the extent not already given under clause 5(2)(d), if any commissions or other incentives will or may be given in relation to the advice, for each commission or other incentive,—

(i) when, or the circumstances in which, it will or may be given; and

(ii) who it would be given by and to whom; and

(iii) its amount or value (or how that would be determined); and

(iv) a brief explanation of the steps that have been or will be taken to manage the conflicts of interest:

Example (continued from clause 5(2))

Ari emails Connor and advises Connor to take out a full home policy from XYZ Limited.

Ari's explanation might be "We will receive a commission of 10% of the first year's premium from XYZ Limited if you take out this policy."

Complaints process

(e) an explanation of how to make a complaint:

(f) an overview of P's internal complaints process:

Dispute resolution process

(g) in relation to P's dispute resolution scheme,—

(i) a statement to the effect that a complainant has access to a free, independent dispute resolution service, and that service may help investigate or resolve the complaint if it is not resolved to the complainant's satisfaction using P's internal complaints process; and

(ii) the name of the dispute resolution scheme that P is a member of; and

(iii) the scheme's contact details to make a complaint:

Duties information

(h) a statement to the effect that the person giving the advice is bound by the duties in sections 431I, 431K, 431L, and 431M of the Act to—

(i) meet the standards of competence, knowledge, and skill set out in the code of conduct; and

(ii) give priority to the client's interests; and

(iii) exercise care, diligence, and skill; and

(iv) meet the standards of ethical behaviour, conduct, and client care set out in the code of conduct.

(2) The following applies if any of the information in subclause (1)(e) to (h) is publicly available:

(a) A may (instead of giving the information to the client) give the client a statement to the effect that the information is available on an Internet site that is maintained by or on behalf of P; but

(b) if the information has materially changed since A previously gave or made available the information to the client, A may rely on paragraph

(a) only if the statement under that paragraph is accompanied by an explanation of what has changed.

(3) The statement required under subclause (1)(h) does not need to refer to the sections of the Act or recite the precise words of the Act so long as it gives an adequate statement of their general effect.

(4) The fact that A is not the person that the information originally provided under clause 5(1)(d) was about is a material change for the purposes of regulation 229E(2) (and, accordingly, the client must be given an updated version of the information as it relates to A, or receive an explanation of what has changed).

Schedule 21A clause 6: inserted, on 15 March 2021, by regulation 14 of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132).

Schedule 21A clause 6(2): amended, on 15 March 2021, by regulation 35 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 21B
Financial advice not regulated financial advice in certain circumstances

r 229K

Schedule 21B: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

1 Workplace financial products advice given to employees of related entities is not regulated financial advice

(1) Financial advice is not regulated financial advice if it is given—

(a) by or on behalf of a body corporate (**A**); and

(b) to an employee of—

(i) an entity that is related to A; or

(ii) a limited partnership if A and the general partner are related bodies corporate; and

(c) in relation to a financial advice product that is made available through the employee's workplace.

(2) In this regulation, an entity (**A**) is **related** to another entity (**B**) if—

(a) B is A's holding company or subsidiary within the meaning of section 5 of the Companies Act 1993; or

(b) more than half of A's voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) are held by B and entities that are related to B (whether directly or indirectly, but other than in a fiduciary capacity), or vice versa; or

(c) more than half of the voting products (other than voting products that carry no right to participate beyond a specified amount in a distribution of either profits or capital) of each of A and B are held by members of the other (whether directly or indirectly, but other than in a fiduciary capacity); or

(d) the businesses of A and B have been so carried on that the separate business of each entity, or a substantial part of that business, is not readily identifiable; or

(e) there is another entity to which A and B are both related.

Compare: SR 2011/50 r 11

Schedule 21B clause 1: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

2 Retirement village operators advice about occupation right agreement is not regulated financial advice

(1) Financial advice is not regulated financial advice if—

(a) it is given by or on behalf of an operator of a retirement village in the ordinary course of business of an operator of a retirement village; and

(b) the retirement village is registered under the Retirement Villages Act 2003; and

(c) the advice relates to acquiring or disposing of an occupation right agreement for the retirement village.

(2) In this regulation, **occupation right agreement**, **operator**, and **retirement village** have the meanings set out in the Retirement Villages Act 2003.

Compare: SR 2011/50 r 12

Schedule 21B clause 2: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

3 National Provident Fund and Annuitas Management Limited advice may not be regulated financial advice

(1) Financial advice is not regulated financial advice if it is given by or on behalf of the Board of Trustees of the National Provident Fund to a member (or an authorised representative of a member) in relation to the member's existing scheme.

(2) In subclause (1), **member** and **existing scheme** have the same meanings as in section 2 of the National Provident Fund Restructuring Act 1990.

(3) Financial advice is not regulated financial advice if—

(a) it is given by or on behalf of Annuitas Management Limited; and

(b) it is given—

(i) to the Board of Trustees of the National Provident Fund, to the Government Superannuation Fund Authority, or to any other Crown-related entity; or

(ii) on behalf of the board of trustees of the National Provident Fund under subclause (1); or

(iii) on behalf of the Government Superannuation Fund Authority or any other Crown-related entity if the advice, when given by that authority or entity itself, is not regulated financial advice under clause 11 of Schedule 5 of the Act.

Compare: SR 2011/50 r 10

Schedule 21B clause 3: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 21C
Duties that apply when client money or property is held together with other money or property

rr 229X–229ZC

Schedule 21C: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

1 Overview

This schedule sets out duties that must be complied with when client money or client property is not held separate from other money or property under regulations 229X to 229ZC.

Schedule 21C clause 1: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

2 Interpretation

(1) In this schedule and regulations 229X to 229ZC, unless the context otherwise requires,—

client money trust account means a trust account required by section 431ZC(1)(b) of the Act

financial product transaction means a transaction involving the acquisition or disposal, or the variation of the terms of an acquisition or disposal, of a financial product or other dealing in relation to a financial product

financial product transaction business means the business of facilitating or arranging the settlement of financial product transactions on behalf of, or for the benefit of, clients

firm money means money held by or for an NZX provider or a non-NZX provider on their own account

firm property means property held by or for an NZX provider on their own account

good provider practice means exercising the care, diligence, and skill that a prudent provider of a client money or property service would exercise in the conduct of a financial product transaction business in the same circumstances

non-NZX provider means a provider of a client money or property service that is not an NZX provider

NZX Participant Rules means the NZX Participant Rules made by NZX Limited

NZX provider means a provider of a client money or property service that is a Market Participant Accepting Client Assets (or that has any equivalent replacement designation) within the meaning of the NZX Participant Rules.

(2) In this schedule and regulations 229X to 229ZC, a practice or an action of an NZX provider or a non-NZX provider that involves client money or client

property being held together with firm money or firm property is **reasonably necessary** if—

(a) the provider has taken reasonable steps to investigate alternatives that would overcome or reduce the extent to which client money or client property is held together with firm money or firm property; and

(b) the provider is satisfied on reasonable grounds either that, in the circumstances, there are no alternatives available or that any such alternatives—

(i) would pose an undue risk to the prudent and orderly conduct of their financial product transaction business; or

(ii) are not able to be accessed or implemented without exposing the provider or their clients to an unreasonable level of cost or delay or risk; or

(iii) would be contrary to the best interests of their clients in being able to undertake financial product transactions in a timely and prudent manner.

Compare: LI 2020/233 cl 4; LI 2017/169 cl 4

Schedule 21C clause 2: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Duties where client money or property is not held separately in order to facilitate settlements

Heading: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

3 Duties that NZX providers must comply with

(1) This clause applies if an NZX provider relies on regulation 229Y.

(2) The NZX provider—

(a) must hold client money or client property relating to a particular client together with firm money or firm property for no longer than is reasonably necessary to ensure the prudent and orderly settlement of 1 or more financial product transactions for the client; and

(b) must take all reasonable steps to ensure that the client money and client property relating to a particular client remains separately identifiable from other money and property; and

(c) must not hold client money or client property together with firm money or firm property for any purpose other than the settlement of 1 or more financial product transactions for a client of the NZX provider.

(3) Subclause (2) does not apply to the extent that the NZX provider relies on regulation 229ZA and complies with clause 4 of this schedule.

Compare: LI 2020/233 cl 6

Schedule 21C clause 3: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Duties where client money is not held separately in order to reduce risk of client money shortfalls

Heading: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

4 Duties that both NZX providers and non-NZX providers must comply with

(1) This clause applies if an NZX provider or a non-NZX provider relies on regulation 229ZA.

(2) The NZX provider or non-NZX provider—

(a) must take reasonable steps to ensure that firm money is held together with client money only to the extent that is reasonably necessary for the purposes of the provider conducting their financial product transaction business in a prudent and orderly fashion; and

(b) must not deposit firm money into the client money trust account for any purpose other than facilitating or arranging the settlement of 1 or more financial product transactions for a client, or rectifying, or reducing the risk of, a shortfall arising in the client money held for a client in that account; and

(c) must take reasonable steps to ensure that the amount of money deposited in a client money trust account under paragraph (b) is no more than an amount that is reasonably necessary to facilitate or arrange the settlement of 1 or more financial product transactions for a client and to rectify, or cover the risk of, a shortfall arising in the client money held for their clients at any time; and

(d) must take all reasonable steps to ensure that the money deposited under paragraph (b) remains identifiable; and

(e) must document, implement, and monitor processes that are consistent with good provider practice and that are appropriate to manage the risks to clients associated with not separating firm money from client money, in reliance on regulation 229ZA, in the context of the provider's financial product transaction business.

Compare: LI 2020/233 cl 8

Schedule 21C clause 4: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

5 Additional duties that non-NZX providers must comply with

(1) In addition to clause 4, the following apply if a non-NZX provider relies on regulation 229ZA:

(a) the provider must give each of their clients the following information in writing before the provider holds any client money for that client or, if a

client is an existing client when this clause comes into force, as soon as is reasonably practicable after that date:

(i) a statement that all client money received by the provider for or on account of the client will be held on trust for the client and deposited in a client money trust account; and

(ii) a summary of the terms of that trust; and

(iii) a statement to the effect that an amount of money held by or for the provider on their own account may be deposited by the provider in the client money trust account to the extent that is reasonably necessary to rectify, or reduce the risk of, a shortfall arising in the client money held for a client in that account and otherwise in accordance with the requirements of this schedule; and

(iv) a description of any risks to clients that the provider is aware of that exist or are likely to arise as a result of client money not being held separate from firm money in reliance on regulation 229ZA:

(b) the provider must obtain from the bank that holds a client money trust account a new written acknowledgement of the trust status of the account as soon as practicable after the date of a change to the name, account number, or status of the account:

(c) the provider must take adequate steps, on each business day, to reconcile the records for each client money trust account with the records of the bank that holds the client money trust account for the purpose of identifying whether there is any shortfall in the client money held for a client in the account or any risk that a shortfall may occur:

(d) if, on any business day, the provider identifies that there is a shortfall or a risk that a shortfall may occur, the provider must take reasonable steps to rectify the shortfall or prevent that shortfall occurring by paying into the account, before the end of that business day, by way of, or on account of, a buffer an amount of firm money that is not less than the amount of the shortfall or anticipated shortfall:

(e) the provider must retain written records of the operation of each client money trust account that include the following information, and make those records available to the FMA as soon as practicable after the FMA makes any request:

(i) details of any shortfalls that occurred in the client money held for a client in the client money trust account; and

(ii) details of any risks that a shortfall might arise in the client money held for a client in the client money trust account identified by the non-NZX provider; and

(iii) details of any payments of firm money into a client money trust account by way of, or on account of, a buffer:

(f) the provider must obtain, within 4 months after each relevant date, a report from a qualified FMC auditor regarding the non-NZX provider's compliance with the requirements in this schedule and regulation 229ZA(2)(b)(iii) to (v) during the relevant period and provide a copy of that report to the FMA within 20 working days after it has been obtained:

(g) the provider must ensure that the qualified FMC auditor provides to the FMA any information that the FMA may request from the qualified FMC auditor regarding the non-NZX provider's compliance with the requirements in this schedule and regulation 229ZA(2)(b)(iii) to (v) during the relevant period as soon as practicable after the FMA makes any request:

(h) the provider must provide the qualified FMC auditor with all necessary access to its systems and records, and otherwise co-operate fully with the qualified FMC auditor, to enable the qualified FMC auditor—

(i) to assess ongoing compliance by the provider with the requirements in this schedule and regulation 229ZA(2)(b)(iii) to (v); and

(ii) to provide the reports and other information required by this schedule:

(i) the provider must provide the FMA and the qualified FMC auditor with a written consent authorising the qualified FMC auditor to provide the FMA with the information required by this schedule:

(j) the provider must ensure that the report obtained from the qualified FMC auditor under paragraph (f) is prepared in accordance with the applicable auditing and assurance standards issued by the External Reporting Board under section 12 of the Financial Reporting Act 2013 (for example, the Standard on Assurance Engagements 3100 Compliance Engagements (SAE 3100)).

(2) In this clause, unless the context otherwise requires,—

buffer means firm money belonging to the non-NZX provider that is deposited into a client money trust account and retained in that account for the purpose of rectifying, or reducing the risk of, a shortfall arising in the client money held for a client in a client money trust account

business day means a day on which banks are open for trading in Auckland and Wellington

relevant date, in relation to a non-NZX provider, means either of the following, provided that the first relevant date is before the first anniversary of the

date on which the non-NZX provider notifies the FMA that it intends to rely on regulation 229ZA:

(a) the provider's balance date:

(b) an alternative date in each calendar year determined by the non-NZX provider and notified to the FMA in writing to be its relevant date for the purposes of this schedule (but that first relevant date need not be in a particular calendar year)

relevant period, in relation to a non-NZX provider, means a 12-month period ending on the relevant date of the provider, and if, as a result of the date on which it became a non-NZX provider or a change of the relevant date of the provider, the period ending on that date is longer or shorter than 12 months, that longer or shorter period is a relevant period.

Compare: LI 2017/169 cl 7

Schedule 21C clause 5: inserted, on 15 March 2021, by regulation 36 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 21C clause 5(1)(f): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 21C clause 5(1)(g): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 21C clause 5(1)(h): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 21C clause 5(1)(i): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 21C clause 5(1)(j): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Schedule 21D
Matters relating to Lloyd's, Lloyd's underwriters, and Lloyd's managing agents

rr 183A, 237I, 237J

Schedule 21D: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

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1 Interpretation

In this schedule,—

Lloyd's coverholder means a person that—

(a) has been authorised by a Lloyd's managing agent to enter into Lloyd's products in accordance with the terms of a binding authority; and

(b) is incorporated or registered in New Zealand

Lloyd's products, in relation to a Lloyd's managing agent, means the consumer insurance contracts or other contracts of insurance in respect of which the agent acts as a managing agent as referred to in section 446V(2) of the Act

Lloyd's underwriters, in relation to a Lloyd's managing agent, means the 1 or more Lloyd's underwriters (within the meaning of section 6 of the Act) that the Lloyd's managing agent acts on behalf of

relevant obligation means an obligation imposed on Lloyd's, a Lloyd's underwriter, or a Lloyd's managing agent under Part 6 of the Act or these regulations.

Schedule 21D clause 1: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Part 1
Terms and conditions of exemption in section 389(4)(a) of Act for Lloyd's underwriters

Schedule 21D Part 1: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

2 Lloyd's must give FMA initial report about business in New Zealand

(1) Lloyd's must give the FMA a report that contains the following information:

(a) a list of the Lloyd's managing agents, and a list of the Lloyd's coverholders, that are involved in providing Lloyd's products; and

(b) a description of the types of contracts referred to in section 446V(2) of the Act that the Lloyd's coverholders are involved in providing; and

(c) an estimate of the number of consumers that are covered by those contracts; and

(d) a description of the distribution methods by which Lloyd's managing agents provide those contracts to consumers.

(2) The report must be—

(a) given to the FMA within 3 months after the commencement of this clause; and

(b) prepared as at the date on which this clause comes into force.

Schedule 21D clause 2: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

3 Lloyd's or Lloyd's managing agent must report contraventions and changes of circumstance

(1) This clause applies if Lloyd's or a Lloyd's managing agent believes that—

(a) Lloyd's, a Lloyd's underwriter, or a Lloyd's managing agent has contravened, may have contravened, or is likely to contravene a relevant obligation in a material respect; or

(b) a material change of circumstances has occurred, may have occurred, or is likely to occur in relation to a Lloyd's managing agent.

(2) Lloyd's or the Lloyd's managing agent must send a report to the FMA as soon as practicable after it forms the belief.

(3) The report must contain details of the belief and the grounds for the belief.

(4) In this clause, **material change of circumstances**, in relation to a Lloyd's managing agent, means a change that adversely affects the Lloyd's managing agent's capacity to act in an effective manner as a managing agent as referred to in section 446V(2) of the Act.

Schedule 21D clause 3: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

4 Lloyd's or Lloyd's managing agent must report matters relating to insolvency and relevant proceedings or actions

(1) If any of the following occurs, Lloyd's or a Lloyd's managing agent must, as soon as practicable, send a report containing details of the matter to the FMA:

(a) Lloyd's or the Lloyd's managing agent becomes aware or has reasonable grounds to believe that—

(i) there is a material risk that there are insufficient funds available to pay a valid claim of a consumer under a Lloyd's product; or

(ii) a Lloyd's managing agent is, or it is likely that a Lloyd's managing agent will become, subject to an insolvency event; or

(b) Lloyd's or the Lloyd's managing agent becomes aware that a relevant proceeding or action has been commenced or taken against any of the following:

(i) Lloyd's:

(ii) a Lloyd's underwriter:

(iii) a Lloyd's managing agent.

(2) However, Lloyd's or the Lloyd's managing agent is not required to send a report containing details of a relevant proceeding or action if it believes on reasonable grounds that the relevant proceeding or action relates to a contravention or breach that is minor or technical only.

Schedule 21D clause 4: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

5 Record keeping

(1) Lloyd's must establish, implement, and maintain effective written policies and processes that require each Lloyd's managing agent (**A**) to—

(a) create and maintain records that enable A to demonstrate A's compliance with the following:

(i) the duty to establish, implement, and maintain an effective fair conduct programme:

(ii) the duty to take all reasonable steps to comply with that fair conduct programme:

(b) ensure that those records are created and maintained in a manner and a form (which may be electronic) that will—

(i) ensure that the integrity of the information is maintained; and

(ii) enable the FMA to readily inspect and review those records.

(2) The records must include a copy of A's fair conduct programme.

Schedule 21D clause 5: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

6 Fit and proper policies or processes for managing agents' directors and senior managers

Lloyd's must establish, implement, and maintain effective written policies and processes for ensuring that the directors and senior managers of each Lloyd's managing agent are fit and proper persons to hold their respective positions.

Schedule 21D clause 6: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

7 Outsourcing agreements

(1) Lloyd's must establish, implement, and maintain effective written policies and processes that require each Lloyd's managing agent (**A**) to be satisfied, in relation to each outsourcing agreement, that the outsourcing provider is, and remains, capable of effectively performing its functions under the agreement.

(2) In this clause, **outsourcing agreement**, in relation to A, means an agreement for 1 or more activities relating to A acting as referred to in section 446V(2) of the Act to be carried out by a person other than A.

Schedule 21D clause 7: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

8 Business continuity

Lloyd's must establish, implement, and maintain effective written policies and processes that require each Lloyd's managing agent (**A**) to have adequate business continuity plans designed to—

(a) address events that pose a significant risk of disruption to A's ability to effectively act as a managing agent as referred to in section 446V(2) of the Act; and

(b) if any disruption occurs, enable the timely restoration of that ability.

Schedule 21D clause 8: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

9 Critical technology systems

(1) Lloyd's must establish, implement, and maintain effective written policies and processes that require each Lloyd's managing agent (**A**) to take all reasonable steps to ensure that A operates its critical technology systems (if any) in a manner that maintains the security, integrity, reliability, and availability of those systems.

(2) If Lloyd's or A believes that an event has occurred in relation to A's critical technology systems that presents a significant risk of disruption to, or has in fact disrupted, A's ability to effectively act as a managing agent as referred to in section 446V(2) of the Act, Lloyd's or A must send a report to the FMA—

(a) as soon as practicable after it forms the belief; but

(b) in any event, no later than 72 hours after it forms the belief.

(3) The report must contain details of the belief and Lloyd's or A's grounds for the belief.

(4) In this clause, **critical technology system** means a technology system maintained by, or on behalf of, A that enables A to effectively act as a managing agent as referred to in section 446V(2) of the Act.

Schedule 21D clause 9: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

10 Lloyd's must take all reasonable steps to ensure policies and processes are complied with

If Lloyd's is required to establish, implement, and maintain effective written policies and processes under this Part, Lloyd's must take all reasonable steps to ensure that the Lloyd's managing agents and other persons to whom the policies and processes apply comply with those policies and processes.

Schedule 21D clause 10: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Part 2
Requirements for fair conduct programmes of Lloyd's managing agents

Schedule 21D Part 2: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

11 Application of this Part

This Part applies to a Lloyd's managing agent to the extent that it acts as a managing agent as referred to in section 446V(2) of the Act.

Schedule 21D clause 11: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

12 Minimum requirements

(1) A Lloyd's managing agent must ensure that its fair conduct programme complies with all requirements prescribed in this clause.

(2) The fair conduct programme must include effective policies, processes, systems, and controls for—

(a) enabling the Lloyd's underwriters and the Lloyd's managing agent to meet all of their legal obligations to consumers, including under the Act, the Fair Trading Act 1986, the Credit Contracts and Consumer Finance Act 2003, and the Consumer Guarantees Act 1993; and

(b) designing, and managing the provision of, the Lloyd's products to consumers, including by—

(i) providing for the methods by which the Lloyd's products are provided to consumers (**distribution methods**) to operate in a manner that is consistent with the fair conduct principle; and

(ii) regularly reviewing whether the distribution methods are operating in a manner that is consistent with the fair conduct principle; and

(iii) ensuring that any deficiencies identified under subparagraph (ii) are remedied within a reasonable time; and

(iv) regularly reviewing the Lloyd's products that are provided to consumers on an ongoing basis to determine whether they are likely to continue to meet the requirements and objectives of those consumers (when viewed as a group); and

(v) regularly reviewing whether enhancements or improvements in the Lloyd's products should be made available to those consumers (when viewed as a group); and

(vi) ensuring that any enhancements or improvements identified under subparagraph (v) are made available within a reasonable time; and

(c) identifying, monitoring, and managing risks associated with conduct that fails to comply with the fair conduct principle, including—

(i) having clearly defined roles, responsibilities, and accountability arrangements in relation to identifying, monitoring, and managing those risks; and

(ii) requiring records to be maintained that are sufficient to allow an assessment to be made of the Lloyd's managing agent's compliance with the fair conduct principle; and

(iii) requiring regular and comprehensive reporting about those risks, and about failures to comply with the fair conduct principle, to the board or other governing body of the Lloyd's managing agent; and

(d) identifying conduct that fails to comply with the fair conduct principle and taking reasonable steps to mitigate any actual or potential adverse effects of the failure; and

(e) requiring the Lloyd's managing agent's employees and agents to follow the procedures or processes that are necessary or desirable to support the Lloyd's managing agent's compliance with the fair conduct principle; and

(f) requiring initial and regular ongoing training for each of those employees on the following matters to the extent that the training is relevant to their work in providing the Lloyd's products to consumers:

(i) the Lloyd's products in respect of which the employee carries out work; and

(ii) the fair conduct programme and the procedures or processes referred to in paragraph (e) that the employee must follow; and

(g) checking that each of those employees has completed that training and has a reasonable understanding of the matters that have been covered by that training; and

(h) managing or supervising each of those employees to ensure that they are supporting the Lloyd's managing agent's compliance with the fair conduct principle, and monitoring whether those persons are giving that support, including by—

(i) obtaining reasonable assurance that each employee is competent to carry out the range of work for which they will be, or are, employed (in relation to the Lloyd's products); and

(ii) setting conduct expectations for those persons; and

(iii) establishing robust and transparent procedures or processes for dealing with misconduct by those persons; and

(iv) monitoring whether consumers have been treated by those persons in a manner that is consistent with the fair conduct principle; and

(i) designing and managing incentives to mitigate or avoid the actual or potential adverse effects of incentives on the interests of consumers, so far as is reasonably practicable; and

(j) communicating with consumers about the Lloyd's products in a timely, clear, concise, and effective manner; and

(k) ensuring that there are in place methods for regularly reviewing, and systematically identifying deficiencies in, the effectiveness of the programme; and

(l) ensuring that any deficiencies identified are promptly remedied.

(3) In considering what policies, processes, systems, and controls are effective for the purposes of this clause, regard must be had to the following:

(a) the nature, size, and complexity of the New Zealand businesses of the Lloyd's underwriters; and

(b) the Lloyd's products; and

(c) the methods by which the Lloyd's products are provided to consumers; and

(d) the types of consumers the Lloyd's managing agent deals with, including consumers in vulnerable circumstances; and

(e) the types of intermediaries that are involved in the provision of the Lloyd's products, including the nature and extent of the following:

(i) their involvement; and

(ii) their legal obligations in connection with that involvement (for example, under subpart 5A of Part 6 of the Act in the case of financial advice providers); and

(f) the types of agents that are engaged to carry out work in relation to the Lloyd's products, including the nature and extent of that work and of the authority of those agents.

Schedule 21D clause 12: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Part 3

How information about fair conduct programmes of Lloyd's managing agents must be made publicly available

Schedule 21D Part 3: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

13 How information about fair conduct programme must be made publicly available

(1) A Lloyd's managing agent (**A**) must ensure that the information about its fair conduct programme that is set out in subclause (2) is—

(a) made available on an Internet site maintained by, or on behalf of, A or Lloyd's; and

(b) made available on an Internet site maintained by, or on behalf of, each Lloyd's coverholder authorised by A in respect of the Lloyd's products (unless the Lloyd's coverholder does not have an Internet site); and

(c) provided to any person who requests the information.

(2) The information is a summary of key matters about the fair conduct programme that is in sufficient detail to assist consumers to—

(a) be reasonably aware of how A will comply with the fair conduct principle; and

(b) make informed decisions about dealings and interactions with A in relation to Lloyd's products; and

(c) understand how to make a complaint about the Lloyd's products.

(3) The information must be available on an Internet site under subclause (1)(a) or (b) at all reasonable times in a way that ensures that the information, or a link to the information, is prominently displayed on—

(a) the Internet site; or

(b) a webpage of the Internet site that contains specific information about the provision of Lloyd's products in New Zealand.

(4) The information must be provided under subclause (1)(c)—

(a) by giving it to the person or delivering or sending it to their address; and

(b) as soon as practicable but, in any event, within 5 working days after A receives the request; and

(c) free of charge.

Schedule 21D clause 13: inserted, on 31 March 2025, by regulation 8 of the Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123).

Schedule 22
Infringement fees

r 254

Provision of Financial Markets Conduct Act 2013	Description of offence provision	Infringement fee ($)
s 63	Supply of prescribed information	5,000
s 65	Waiting period after lodgement before processing applications for financial products	7,500
s 95	Duty to notify changes to Registrar	5,000
s 96	Information to be made available to investors or other prescribed persons	5,000
s 98	Issuer must provide information to Registrar	5,000
s 100	Issuer or offeror must provide confirmation	5,000
s 110	Lodging of changes to trust deed	5,000
s 123	Lodging of notice of change of supervisor	5,000
s 141	Lodging of changes to governing document	5,000
s 166	Lodging of statement of investment policy and objectives and changes to statement	5,000
s 169(4)	Actuarial examination of defined benefit scheme or life benefit scheme	7,500
s 192	Lodging of notice of changes to manager	5,000
s 194	Lodging of notice of change of supervisor	5,000
s 212	Initial steps in winding up of registered scheme	5,000
s 213(3)(a)	Winding-up report—preparation of financial statements	20,000
s 213(3)(b), (c)	Winding-up report—sending statements to FMA and informing FMA of distribution date	5,000
s 215	Issuers must keep registers of regulated products	12,500
s 217	Contents of registers	12,500
s 218	Audit or review of registers	12,500
s 220	Issuer must notify Registrar of registers	5,000
s 221	Public inspection of register	7,500
s 223	Copies of documents	7,500
s 227	Copies of documents must be retained for 7 years	20,000
s 293	Listed issuers must make available information on substantial holdings	5,000
s 307	Offences relating to interests register	5,000
s 335	Market rules must be available for public inspection	5,000
s 457	Accounting records to be in English	7,500
s 459	Inspection of accounting records	12,500
s 461H	Lodgement of financial statements	7,500
s 461W	Manner in which CRD records to be kept	7,500
s 461Y	Inspection of CRD records	12,500
s 461ZI	Lodgement of climate statements	7,500

Provision of Financial Markets Conduct Act 2013	Description of offence provision	Infringement fee ($)
s 461ZJ	Information about climate statements of climate reporting entities to be made available in annual report	5,000
Schedule 4, cl 30	Issuer must send notification to security holders	5,000

Schedule 22: amended, on 2 October 2023, by regulation 5 of the Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222).

Schedule 23
Infringement notice

r 255(1)

Infringement notice

Section 514, Financial Markets Conduct Act 2013

Infringement notice No: Date of notice:

Enforcement authority

This infringement notice is issued by the Financial Markets Authority.

Address for correspondence and queries:

Infringement notice served on—

Full name:

Full address:

Date of birth*: Occupation*:

Gender*: Telephone number*:

*These particulars must be specified only if known. The particulars for date of birth, occupation, and gender are not required if the notice is served on a company or other body corporate.

Alleged infringement offence details

The offence is one against section [*specify*] of the Financial Markets Conduct Act 2013.

Date: Time:

Place:

Nature of alleged infringement:

The infringement fee payable is:

Service details

Infringement notice served by [*method of service*] on [*date*].

Payment of infringement fee

The infringement fee is payable within 28 days after [*date notice delivered personally or sent by post*].

The infringement fee may be paid to the Financial Markets Authority at [*address*] by [*specify method(s)*].

Important: Please read the summary below—if you do not understand it, you should consult a lawyer immediately.

Summary of rights

1 This notice sets out an alleged infringement offence.

Payments

2 If you pay the infringement fee for an alleged infringement offence within 28 days after you have been served with this notice, no further enforcement action will be taken for that offence. Payments should be made to the Financial Markets Authority at the address for payment specified in this notice.

If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Financial Markets Authority in respect of an infringement fee payable by you, paragraphs 4(b), 4(c), 5, 6, and 7 below do not apply, and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

3 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to the Financial Markets Authority, at the address for payment specified in this notice, before or within 28 days after a reminder notice in respect of the alleged offence is served on you. Late payment or payment made to any other address will not constitute a defence.

Further action

4 You should write to the Financial Markets Authority at the address for correspondence shown on the front page of this notice if you wish to—

(a) raise any matter relating to the circumstances of an alleged offence for consideration by the Financial Markets Authority; or

(b) deny liability for the alleged offence and request a court hearing; or

(c) admit liability for the alleged offence, but wish to have a court consider written submissions as to penalty or otherwise.

The letter should be signed.

5 You have a right to request a hearing. If you deny liability for the alleged offence and request a hearing, the Financial Markets Authority will serve you with a notice of hearing that sets out the place and time at which the matter will be heard by the court (unless the Financial Markets Authority decides not to start court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

6 A request for a hearing must—

(a) be in writing and signed by you; and

(b) be delivered to the Financial Markets Authority at the address for correspondence shown on the front page of this notice; and

(c) be delivered within 28 days after you have been served with a reminder notice.

7 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you should, in your letter to the Financial Markets Authority,—

(a) request a hearing; and

(b) admit liability for the offence; and

(c) set out the written submissions you wish to be considered by the court.

The Financial Markets Authority will then file your letter with the court (unless the Financial Markets Authority decides not to start court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

8 If you do not pay the infringement fee and do not request a hearing in respect of an alleged offence within 28 days after you have been served with this notice, you will (unless the Financial Markets Authority decides otherwise) be served with a reminder notice.

9 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay costs in addition to a fine (if the Financial Markets Authority decides to start court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

10 When writing or making payment of an infringement fee, please indicate—

(a) the date of the alleged infringement offence; and

(b) the infringement notice number; and

(c) your full name and address for replies.

Note: All queries and correspondence regarding the infringement offence must be directed to the Financial Markets Authority at the address shown on the front page of this notice.

Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 24
Reminder notice

r 255(2)

Reminder notice

Section 515(4), Financial Markets Conduct Act 2013

Reminder notice No: Date of notice:

Enforcement authority

Infringement notice issued by the Financial Markets Authority

Address for correspondence and queries:

This notice is to remind you that an infringement notice has been issued to you. The details of the notice are as follows:

Infringement notice served on—

Full name:

Full address:

Date of birth*: Occupation*:

Gender*: Telephone number*:

*These particulars must be specified only if known. The particulars for date of birth, occupation, and gender are not required if the notice is served on a company or other body corporate.

Alleged infringement offence details

The offence is one against section [*specify*] of the Financial Markets Conduct Act 2013.

Date: Time:

Place:

Nature of alleged infringement:

The infringement fee payable is:

The amount of the infringement fee remaining unpaid:

Service details

(To be provided for filing in court)

Infringement notice served by [*method of service*] on [*date*].

Reminder notice served by [*method of service*] at [*full address of service*] on [*date*].

Payment of infringement fee

The infringement fee was payable to the Financial Markets Authority within 28 days after [*date infringement notice was delivered personally or sent by post*]. The infringement fee remains payable to the Financial Markets Authority at [*address*].

The last day for payment of the infringement fee is [*date*], being 28 days after the date of service of this notice. The payment may be made by [*specify method(s)*].

Important: Please read the summary below—if you do not understand it, you should consult a lawyer immediately.

Summary of rights

1 You have not paid the infringement fee described on the front page, or asked for a hearing, within 28 days after you were served with the infringement notice. That is why you have been served with this reminder notice.

Payments

2 If you pay the infringement fee for an alleged infringement offence within 28 days after you are served with this notice, no further enforcement action will be taken for that offence. Payments should be made to the Financial Markets Authority at the address for payment specified in this notice.

If, under section 21(3A) or (3C)(a) of the Summary Proceedings Act 1957, you enter or have entered into a time-to-pay arrangement with the Financial Markets Authority in respect of an infringement fee payable by you, paragraphs 4(b), 4(c), 5, 6, and 7 below do not apply, and you are not entitled either to request a hearing to deny liability or to ask the court to consider any submissions (as to penalty or otherwise) in respect of the infringement.

Defence

3 You have a complete defence against proceedings for an alleged infringement offence if the infringement fee has been paid to the Financial Markets Authority, at the address for payment specified in this notice, before or within 28 days after a reminder notice in respect of the alleged offence is served on you. Late payment or payment made to any other address will not constitute a defence.

Further action

4 You should write to the Financial Markets Authority at the address for correspondence shown on the front page of this notice if you wish to—

(a) raise any matter relating to the circumstances of an alleged offence for consideration by the Financial Markets Authority; or

(b) deny liability for the alleged offence and request a court hearing; or

(c) admit liability for the alleged offence, but wish to have a court consider written submissions as to penalty or otherwise.

The letter should be signed.

5 You have a right to request a hearing. If you deny liability for the alleged offence and request a hearing, the Financial Markets Authority will serve you with a notice of hearing that sets out the place and time at which the matter will be heard by the court (unless the Financial Markets Authority decides not to start court proceedings).

Note: If the court finds you guilty of the offence, costs will be imposed in addition to any penalty.

6 A request for a hearing must—

(a) be in writing and signed by you; and

(b) be delivered to the Financial Markets Authority at the address for correspondence shown on the front page of this notice; and

(c) be delivered within 28 days after you are served with this notice.

7 If you admit liability for the alleged offence but want the court to consider your submissions as to penalty or otherwise, you should, in your letter to the Financial Markets Authority,—

(a) request a hearing; and

(b) admit liability for the offence; and

(c) set out the written submissions you wish to be considered by the court.

The Financial Markets Authority will then file your letter with the court (unless the Financial Markets Authority decides not to start court proceedings). There is no provision for an oral hearing before the court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with this reminder notice, you will become liable to pay costs in addition to a fine (if the Financial Markets Authority decides to start court proceedings against you). The fine will be equal to the amount of the infringement fee or the amount of the infringement fee remaining unpaid.

9 When writing or making payment of an infringement fee, please indicate—

(a) the date of the alleged infringement offence; and

(b) the number of this reminder notice; and

(c) your full name and address for replies.

Note: All queries and correspondence regarding the infringement offence must be directed to the Financial Markets Authority at the address shown on the front page of this notice.

Further details of your rights and obligations are set out in section 21 of the Summary Proceedings Act 1957.

Schedule 25
Mutual recognition of securities offerings—warning statements

r 271

Part 1
Warning statement

1 This offer to New Zealand investors is a regulated offer made under Australian and New Zealand law. In Australia, this is Chapter 8 of the Corporations Act 2001 (Aust) and regulations made under that Act. In New Zealand, this is subpart 6 of Part 9 of the Financial Markets Conduct Act 2013 and Part 9 of the Financial Markets Conduct Regulations 2014.

2 This offer and the content of the offer document are principally governed by Australian rather than New Zealand law. In the main, the Corporations Act 2001 (Aust) and the regulations made under that Act set out how the offer must be made.

3 There are differences in how financial products are regulated under Australian law. For example, the disclosure of fees for managed investment schemes is different under the Australian regime.

4 The rights, remedies, and compensation arrangements available to New Zealand investors in Australian financial products may differ from the rights, remedies, and compensation arrangements for New Zealand financial products.

5 Both the Australian and New Zealand financial markets regulators have enforcement responsibilities in relation to this offer. If you need to make a complaint about this offer, please contact the Financial Markets Authority, New Zealand (http://www.fma.govt.nz). The Australian and New Zealand regulators will work together to settle your complaint.

6 The taxation treatment of Australian financial products is not the same as for New Zealand financial products.

7 If you are uncertain about whether this investment is appropriate for you, you should seek the advice of a financial advice provider.

Schedule 25 clause 7: amended, on 15 March 2021, by regulation 37 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Part 2
Additional warning statement: currency exchange risk

1 The offer may involve a currency exchange risk. The currency for the financial products is not New Zealand dollars. The value of the financial products will go up or down according to changes in the exchange rate between that currency and New Zealand dollars. These changes may be significant.

2 If you expect the financial products to pay any amounts in a currency that is not New Zealand dollars, you may incur significant fees in having the funds credited to a bank account in New Zealand in New Zealand dollars.

Part 3
Additional warning statement: trading on financial product market

If the financial products are able to be traded on a financial product market and you wish to trade the financial products through that market, you will have to make arrangements for a participant in that market to sell the financial products on your behalf. If the financial product market does not operate in New Zealand, the way in which the market operates, the regulation of participants in that market, and the information available to you about the financial products and trading may differ from financial product markets that operate in New Zealand.

Part 4
Additional warning statement: dispute resolution process

The dispute resolution process described in this offer document is available only in Australia and is not available in New Zealand.

Schedule 26
Passport fund statement

r 24(1A)(b)

Schedule 26: inserted, on 14 June 2019, by regulation 17 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

Offer made under the Asia region funds passport initiative

From the home jurisdiction of [*specify the home economy*]

The Product Disclosure Statement relating to [*specify financial products to which the PDS relates*] is for an offer made under the Asia Region Funds Passport initiative (**ARFP**). The manager ([*name*]) has completed the notification process required to make an offer in New Zealand under the ARFP and this has been recorded on the following Internet site: [*home page of the Internet site maintained by or on behalf of the FMA*]

[*Name of manager*] confirms that, at all times during the period in which [*name of foreign passport fund*] operates in New Zealand,—

- that fund will comply with the law of [*specify the home economy*] and the passport rules (which are rules that apply under the ARFP); and
- [*name of manager*] will, in relation to that fund, comply with the law of [*home economy*] and the passport rules.

About the Asia region funds passport initiative (ARFP)

The intent of the ARFP is to allow managers from countries that are members of the ARFP to offer interests in funds in other countries that are members of the ARFP. Key aspects of the ARFP are that,—

- before a country can become a member of the ARFP, it must satisfy the existing members that—
    - its securities regime meets internationally recognised eligibility criteria (based on principles of the International Organization of Securities Commissions); and
    - it is committed to implementing the ARFP rules:
- the ARFP rules include requirements that—
    - the manager must meet minimum requirements relating to assets under management (US$500 million) and capital (US$1 million plus an additional capital amount based on assets under management):
    - the manager has a proven track record and key staff that meet minimum experience thresholds:
    - an ARFP fund cannot offer interests in the fund in New Zealand unless there is an ongoing offer of interests in the fund (or in a subfund that forms part of the same regulated scheme as the fund) in its home econ-

omy, or at least 30% of the value of interests in funds operated by the manager are held by persons with addresses in the home jurisdiction; and

- investments are highly diversified and meet investment criteria:

- an ARFP fund is first registered in its home jurisdiction and then it goes through a streamlined recognition process in each other country in which the offer is made:
- there is mutual cooperation between member countries to give effect to the ARFP.

Differences between Asia region funds passport offers and "standard" retail funds registered in New Zealand under the Financial Markets Conduct Act 2013

Before you invest in an ARFP fund, you should be aware that there are different risks and benefits from those that arise from investing in a "standard" retail fund that is registered in New Zealand under the Financial Markets Conduct Act 2013. Some issues to consider are set out below. If you are uncertain about whether this investment is appropriate for you, you should seek the advice of a financial advice provider to help you make an investment decision.

Additional rules	ARFP funds are required to comply with some rules that do not apply as a matter of course to "standard" retail managed investment schemes that have interests offered under the Financial Markets Conduct Act 2013. For example, the specific rules relating to minimum capital requirements, minimum assets under management, and what the fund can invest in to ensure that it is highly diversified.
Differences in regulation	There are differences in how an ARFP fund is regulated under the law of its home jurisdiction. For example, the rights, remedies, and compensation arrangements available to New Zealand investors in these investments may differ from the rights, remedies, and compensation arrangements for investments in "standard" retail managed investment schemes.
Oversight by regulators in more than 1 country	An ARFP fund will be registered in its home jurisdiction (ie, [*specify*]) and that registration will then be recognised in New Zealand. Despite primarily being regulated overseas, the manager must comply with the ARFP rules and the disclosure and fair dealing rules of New Zealand law in respect of the New Zealand offer. Further, the manager must agree to be bound by any decisions made by the New Zealand courts in respect of any aspect of the New Zealand offer. To the extent possible, the New Zealand and home regulators have agreed to cooperate in order to facilitate the enforcement of the ARFP. However, the primary regulator of the manager is the home regulator (ie, the regulator in [*specify*]) and practical enforcement of any New Zealand judgment is an issue to consider.
Exemptions from New Zealand law	Some exemptions from the usual operation of New Zealand laws may be in place for ARFP funds. For example, the overseas registration requirements may not be the same as

	the registration requirements for New Zealand schemes, and financial reporting may not be made in accordance with New Zealand generally accepted accounting practice and therefore may not be comparable. You may want to seek advice from a financial advice provider when considering the effect of these differences on your investment decision.
Tax	The tax implications of investing in an overseas fund can be complex and may require independent advice.
Currency issues	The offer may involve a currency exchange risk. *The currency for the investment in the fund is not New Zealand dollars. The value of the investment will go up or down according to changes in the exchange rate between that currency and New Zealand dollars. These changes may be significant. *If you expect the returns from the investment to pay any amounts in a currency that is not New Zealand dollars, you may incur significant fees in having the funds credited to a bank account in New Zealand in New Zealand dollars. *The fund may invest in a foreign currency, in which case there is additional currency exposure to consider. *Omit if inapplicable.

Are there any exemptions from the ARFP rules?

No—this offer complies with all of the rules of the ARFP./The following exemptions from the ARFP rules apply to this offer: [*briefly describe the exemptions*].*

*Select one.

Further information

For further information about how managers are regulated in [*specify*], go to the following Internet site: [*specify the home page of the Internet site maintained by or on behalf of the home regulator*]

Schedule 26: amended, on 15 March 2021, by regulation 38 of the Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315).

Schedule 27
Part A information for registration as passport fund

rr 63B, 82B

Schedule 27: inserted, on 14 June 2019, by regulation 17 of the Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101).

1 The Part A information for registration of a scheme as a passport fund is—

(a) the following information about the scheme:

(i) the name of the scheme:

(ii) details of the scheme (including its legal structure and its type):

(iii) particulars about permitted investments, restrictions on portfolio allocation, limits on exposures, and other restrictions that show how Parts 6 and 7 of the passport rules are and will be complied with:

(iv) particulars about the offer of interests in the scheme in the home economy that show how section 17 of the passport rules is and will be complied with:

(v) particulars about fees that show how section 47 of the passport rules is and will be complied with:

(vi) the name and contact details of the auditor as referred to in section 16(5) of the passport rules (together with the name and contact details of the auditor's firm or business):

(vii) information about whether and how the governing documents have been updated to reflect the passport rules (including updates to ensure that the documents comply with section 4 of the passport rules):

(b) the following information about the manager of the scheme:

(i) the name of the manager and its business name:

(ii) the address of the manager's registered office and of its principal place of business:

(iii) the manager's contact details:

(c) information that shows that the manager of the scheme is an eligible entity under section 3(4) of Annex 2 of the memorandum of cooperation, including information to show that the manager—

(i) complies with section 3(4)(a) and (5) of Annex 2 of the memorandum of cooperation (which relates to total asset value under management); and

(ii) has officers with the relevant qualifications within the meaning of section 6 of the passport rules; and

(iii) meets the financial resources test under section 7 of the passport rules; and

(iv) meets the organisational arrangements test under section 8 of the passport rules; and

(v) meets the track record test under section 9 of the passport rules:

(d) information about the delegation of functions by the manager that show how section 11 of the passport rules is and will be complied with, including—

(i) information about the functions that have been delegated or sub-delegated to another entity (if any); and

(ii) the name and jurisdiction of an entity if investment management functions relating to more than 20% of the value of the scheme property have been delegated or sub-delegated to that entity:

(e) the following information about certain other relevant parties:

(i) the name and contact details in the home economy and in the host economy (if any) of each distributor that is acting in relation to the offer as referred to in section 2(2) and (3) of Annex 1 of the memorandum of cooperation:

(ii) the name and contact details of each person who has custody of scheme property as required by section 13 of the passport rules:

(iii) the name and contact details of the supervisor:

(iv) the name and contact details of the person that will conduct the annual implementation review under section 15 of the passport rules.

2 Clause 1 does not limit regulation 82B(2)(d).

3 In this schedule,—

contact details means an address and a telephone number

home economy has the same meaning as in regulation 3 of the Financial Markets Conduct (Asia Region Funds Passport) Regulations 2019.

4 *See* section 3(2)(a) of Annex 2 of the memorandum of cooperation (which relates to the Part A information set out in this schedule).

Schedule 28
Market services licence for service of acting as administrator of financial benchmark

rr 187A, 197B

Schedule 28: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

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Part 1
Interpretation

Schedule 28 Part 1: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

1 Interpretation

In this schedule,—

active market data means information or data that is based on an active market that—

(a) involves arm's length transactions between buyers and sellers; and

(b) reflects the competitive forces of supply and demand

administrator means an administrator of a financial benchmark (as defined in section 6(1) of the Act)

assurance report means a report prepared in accordance with clause 31

complaint means an expression of dissatisfaction relating to the administrator's service to which a response or a resolution is explicitly or implicitly expected

contributor conduct rules means the rules required under clause 11

final stage methodology means the methodology required under clause 20(2)

financial benchmark data means information or data that is used to generate a financial benchmark

financial benchmark methodology means a methodology for generating a financial benchmark

independent oversight committee means the committee required under clause 6

interest rate benchmark means a financial benchmark that is generated from the rate at which banks may lend to, or borrow from, other banks or persons, in the money market

operate, in relation to a financial benchmark, includes administering and applying the rules or procedures by which a financial benchmark is generated

outsourcing arrangement means an arrangement for 1 or more activities relating to the generation or operation of a specified financial benchmark to be carried out by a person other than the administrator of that financial benchmark

specified financial benchmark means a financial benchmark that is specified, or to be specified, in a market services licence for the service of acting as an administrator.

Schedule 28 clause 1: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Part 2
Eligibility criteria

Schedule 28 Part 2: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Governance and management criteria

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

2 Governance and oversight of benchmark activities

(1) The administrator has adequate systems and procedures for—

(a) governance and management of its business; and

(b) oversight and control of all activities relating to the generation and operation of the specified financial benchmark.

(2) The systems and procedures must, at a minimum,—

(a) specify decision-making processes in relation to the generation and operation of the specified financial benchmark; and

(b) provide for clearly defined roles and responsibilities in, and accountability for, the governance and management of the administrator's business and the oversight and control of all activities relating to the generation and operation of the specified financial benchmark; and

(c) ensure that, regardless of who carries out a particular activity, the administrator retains adequate control of all of the activities relating to the generation and operation of the specified financial benchmark.

Schedule 28 clause 2: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

3 Conflicts of interest

(1) The administrator has adequate systems and procedures for handling conflicts of interest in relation to the generation and operation of the specified financial benchmark.

(2) The systems and procedures must, at a minimum,—

(a) be designed to ensure that conflicts of interest do not adversely affect the accuracy, integrity, reliability, or continued availability of the specified financial benchmark; and

(b) address any conflicts of interest between—

(i) the administrator's interests that relate to the activities to be covered by the market services licence; and

(ii) the interests of any 1 or more of the persons specified in subclause (3); and

(c) address any conflicts of interest between—

(i) the administrator's interests that relate to the activities to be covered by the market services licence; and

(ii) the administrator's interests that relate to activities other than the activities that are to be covered by the market services licence.

(3) The persons are as follows:

(a) a director, an employee, or an agent of the administrator:

(b) a person associated with a person described in paragraph (a):

(c) a person who carries out an activity under an outsourcing arrangement:

(d) a contributor:

(e) a user of the specified financial benchmark.

Schedule 28 clause 3: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

4 Resources

The administrator has sufficient resources (including human, technological, and financial resources) to ensure that the administrator is able to generate and operate the specified financial benchmark in a manner that—

(a) maintains its accuracy, integrity, and reliability; and

(b) provides for its continued availability.

Schedule 28 clause 4: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

5 Outsourcing arrangements

(1) If the administrator outsources any activity relating to a specified financial benchmark to another person (the **nominee**), the criteria in subclauses (2) and (3) are met.

(2) The administrator has adequate systems and procedures to—

(a) ensure that the activity is performed by the nominee in the same manner and subject to the same duties and restrictions as if the administrator were performing it directly; and

(b) monitor the performance of that activity.

(3) The terms of the outsourcing arrangement do not materially limit or restrict—

(a) the administrator's control over the specified financial benchmark; or

(b) the FMA's ability to—

(i) monitor compliance with the market services licensee obligations; or

(ii) investigate conduct that constitutes or may constitute a contravention, or an involvement in a contravention, of the market services licensee obligations; or

(iii) enforce the market services licensee obligations.

Schedule 28 clause 5: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

6 Independent oversight committee for interest rate benchmark

(1) If a specified financial benchmark is an interest rate benchmark, the criteria in subclauses (2) and (3) are met.

(2) A committee that is sufficiently independent of the administrator (an **independent oversight committee**) has responsibility for—

(a) monitoring and reviewing the design of the specified financial benchmark and any changes to the design; and

(b) monitoring the management and operation of the administrator's business and the activities relating to the generation and operation of the

specified financial benchmark (including, for example, the contributor conduct rules and any outsourcing arrangements); and

(c) reviewing and approving arrangements for cessation of the generation or operation of the financial benchmark; and

(d) considering any assurance report; and

(e) monitoring the actions that are taken to remedy or otherwise address any deficiencies that are identified in any assurance report; and

(f) notifying the FMA if the committee knows or suspects that, in connection with the service covered by the licence,—

(i) the licensee or an authorised body has contravened, may have contravened, or is likely to contravene a market services licensee obligation; or

(ii) a contributor has contravened, may have contravened, or is likely to contravene an obligation imposed by or under the Act; and

(g) making recommendations to the administrator regarding the matters set out in paragraphs (a) to (e).

(3) The administrator has procedures to ensure that it can comply with the condition in clause 16(1) (which relates to comments and recommendations of the independent oversight committee).

(4) In this regulation, **sufficiently independent** means the composition of members—

(a) adequately balances representation of users and contributors of the specified financial benchmark; and

(b) provides a counterbalance to any relevant conflicts of interest that may arise in relation to the generation or operation of the specified financial benchmark.

Schedule 28 clause 6: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Generation and operation criteria

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

7 Design of financial benchmark

To the extent reasonably practicable, the specified financial benchmark is designed to be an accurate and reliable representation of the state of affairs that it is intended to represent.

Schedule 28 clause 7: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

8 Financial benchmark data

The administrator has adequate systems and procedures to control the obtaining, retention, and use of financial benchmark data, including systems and procedures reasonably designed to ensure that—

(a) the administrator obtains, retains, and uses the data in a manner that maintains its security and integrity; and

(b) the data is accurate and complete.

Schedule 28 clause 8: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

9 Methodology for generating financial benchmark

The financial benchmark methodology—

(a) is designed to ensure, in the widest range of market circumstances, the accuracy, integrity, reliability, and continued availability of the benchmark; and

(b) establishes the criteria for the information or data that is used to generate the benchmark; and

(c) if more than 1 type of financial benchmark data may be used to generate the benchmark,—

(i) establishes the hierarchy for the order in which the financial benchmark data will be used; and

(ii) requires that active market data is used first if suitable active market data is available; and

(d) establishes the minimum quantity and quality of the financial benchmark data; and

(e) establishes the manner in which the financial benchmark data will be used to generate the benchmark; and

(f) establishes the contingency arrangements that apply if the quantity or quality of the financial benchmark data is insufficient or inadequate to generate the benchmark; and

(g) if expert judgement or discretion may be exercised in the generation of the benchmark, has clear rules identifying how and when that expert judgement or discretion may be exercised; and

(h) establishes adequate systems or procedures for handling errors, discrepancies, or reports of suspicious activity in relation to the financial benchmark data; and

(i) establishes the frequency of review and testing of the methodology and the administrator's use of the methodology; and

(j) establishes the procedures for consulting on a proposed material change to the methodology under clause 19(3).

Schedule 28 clause 9: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

10 Business continuity and management of risk

(1) The administrator has adequate systems and procedures to manage risks to the administrator's ability to generate or operate the specified financial benchmark in a manner that maintains the accuracy, integrity, reliability, and continued availability of the benchmark.

(2) The administrator has adequate business continuity, backup, and data recovery plans designed to—

(a) address events that pose a significant risk of disruption to the accuracy, integrity, reliability, or continued availability of the specified financial benchmark; and

(b) if any disruption occurs, enable the timely restoration of the accuracy, integrity, reliability, and continued availability of the financial benchmark.

Schedule 28 clause 10: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Other eligibility criteria

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

11 Contributor conduct rules

(1) The administrator has adequate written rules for contributors in connection with the provision or making available of financial benchmark data and the generation or operation of the specified financial benchmark (**contributor conduct rules**).

(2) The contributor conduct rules must, at a minimum,—

(a) deal with a contributor providing or making available financial benchmark data to the administrator or a person authorised in accordance with the rules, including—

(i) the information or data to be provided or made available; and

(ii) the form and manner in which the information or data is to be provided or made available; and

(iii) the persons who are authorised to provide the information or data or make it available; and

(b) specify the systems and procedures that a contributor must have for—

(i) ensuring only persons authorised in accordance with the rules provide information or data to the administrator; and

(ii) providing, or making available, information or data in accordance with the requirements of the administrator; and

(iii) managing conflicts of interest in connection with the provision, or making available, of information or data to the administrator; and

(iv) governing the exercise of expert judgement or discretion (if any) in connection with the provision, or making available, of information or data to the administrator, including by ensuring that persons who exercise expert judgement or discretion are adequately trained and supervised; and

(v) notifying the administrator of any errors, discrepancies, or suspicious activities; and

(vi) keeping records that demonstrate compliance with the contributor conduct rules; and

(c) require the contributor to notify the administrator within a reasonable time if the contributor (or any director, employee, or agent of the contributor) has contravened, may have contravened, or is likely to contravene the contributor conduct rules; and

(d) specify the steps that the administrator will take in response to the following:

(i) the contributor reporting an error, a discrepancy, or a suspicious activity:

(ii) the contributor notifying the administrator of a contravention of the contributor conduct rules.

Schedule 28 clause 11: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

12 Investigation of complaints

(1) The administrator has appropriate documented procedures for investigating complaints from any person in relation to the specified financial benchmark, including complaints about the administrator's conduct in relation to the generation or operation of the benchmark.

(2) The documentation of the procedures is available, free of charge, on an Internet site maintained by, or on behalf of, the administrator in a way that ensures that members of the public can easily access the documentation at all reasonable times.

Schedule 28 clause 12: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

13 Transfer or cessation of generation or operation of financial benchmark

(1) The administrator has adequate arrangements for ensuring—

(a) the orderly transfer of the generation or operation of the specified financial benchmark to another person; and

(b) the orderly cessation of the generation or operation of the specified financial benchmark.

(2) The arrangements must take into account whether the financial products, other securities, or agreements that reference or otherwise use the specified financial benchmark can be amended to reference or otherwise use another financial benchmark before the proposed date of cessation.

Schedule 28 clause 13: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Part 3
Conditions of licence

Schedule 28 Part 3: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Governance and management conditions

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

14 Review and update of governance and conflict of interest systems and procedures

(1) The licensee must—

(a) regularly review, and systematically identify deficiencies in,—

(i) the governance and oversight systems and procedures referred to in clause 2; and

(ii) the conflict of interest systems and procedures referred to in clause 3; and

(b) ensure that any deficiencies are promptly remedied.

(2) Any systems and procedures that are changed must continue to comply with clauses 2 and 3.

Schedule 28 clause 14: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

15 Outsourcing arrangements

(1) Subclauses (2) and (3) apply if the licensee or an authorised body outsources any activity relating to a specified financial benchmark to another person (the **nominee**).

(2) The licensee or authorised body (as applicable) must—

(a) ensure that all outsourcing arrangements are in a written contract; and

(b) ensure that the activity is performed by the nominee in the same manner and subject to the same duties and restrictions as if the administrator were performing it directly; and

(c) monitor the performance of that activity.

(3) The terms of the outsourcing arrangement must not materially limit or restrict—

(a) the licensee's, or any authorised body's, control over the benchmark; or

(b) the FMA's ability to—

(i) monitor compliance with the market services licensee obligations; or

(ii) investigate conduct that constitutes or may constitute a contravention, or an involvement in a contravention, of the market services licensee obligations; or

(iii) enforce the market services licensee obligations.

Schedule 28 clause 15: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

16 Governance requirements in relation to independent oversight committee

(1) The licensee must ensure that the board—

(a) provides the independent oversight committee with an opportunity to provide comment, and to make recommendations, on any matter within the committee's responsibility; and

(b) has regard to each recommendation of the committee; and

(c) notifies the committee in writing of—

(i) what steps have been, or will be, taken in response to the recommendation; or

(ii) if the board declines to adopt the recommendation, its reasons for doing so.

(2) The licensee must permit the independent oversight committee to notify the FMA if it knows or suspects that, in connection with the service covered by the licence,—

(a) the licensee or an authorised body has contravened, may have contravened, or is likely to contravene a market services licensee obligation; or

(b) a contributor has contravened, may have contravened, or is likely to contravene an obligation imposed by or under the Act.

(3) In this clause, **board** means—

(a) the board or any other governing body of the licensee; or

(b) the licensee, if it does not have a governing body.

Schedule 28 clause 16: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Generation and operation conditions

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

17 Manner of generation and operation of financial benchmark

(1) The licensee and every authorised body must, in generating and operating the specified financial benchmark, act in a fair, orderly, and transparent manner.

(2) The licensee and every authorised body must, to the extent that it is reasonably practicable to do so, generate and operate the specified financial benchmark in a manner that—

(a) is appropriate for the nature, complexity, and intended use of the benchmark; and

(b) maintains the accuracy, integrity, reliability, and continued availability of the benchmark; and

(c) does not adversely affect the integrity of any market connected with the benchmark.

Schedule 28 clause 17: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

18 Financial benchmark data

The licensee and every authorised body must take all reasonable steps to ensure that the financial benchmark data—

(a) is sufficient to accurately and reliably represent the state of affairs the specified financial benchmark is intended to represent; and

(b) is based on active market data if suitable active market data is available.

Schedule 28 clause 18: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

19 Use, review, and update of methodology for generating financial benchmark

(1) The licensee and every authorised body must continue to use a financial benchmark methodology that complies with clause 9.

(2) The licensee or an authorised body must—

(a) ensure that there are in place methods to regularly review, test, and systematically identify deficiencies in—

(i) the methodology; and

(ii) the use of that methodology by the licensee and any authorised body; and

(b) ensure that any deficiencies are promptly remedied.

(3) Before a material change is made to the specified financial benchmark (other than a change made to comply with a direction from the FMA), the licensee or an authorised body must take reasonable steps to consult about the proposed change with those users of the benchmark, or representatives of those users, that the licensee or authorised body (as applicable) considers will be substantially affected by the change.

(4) If, after consultation under subclause (3), the licensee or authorised body decides to make the change, the licensee or authorised body (as applicable) must notify the users of the benchmark of the change a reasonable time before it is implemented.

(5) Any methodology that is changed must continue to meet the requirements set out in clause 9.

Schedule 28 clause 19: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

20 Final stage methodology for interest rate benchmark

(1) This condition applies if the specified financial benchmark is an interest rate benchmark.

(2) The licensee or an authorised body must maintain a methodology (**final stage methodology**) for generating and operating the benchmark that is designed, to the extent reasonably practicable, to allow the licensee or an authorised body to generate and operate the benchmark when other methodologies that would normally be used to generate and operate the benchmark have failed or are likely to fail.

(3) The final stage methodology must, to the extent that is reasonably practicable, include generating and operating the benchmark by using information or data that is based on the exercise of expert judgement by the contributors.

(4) The licensee and every authorised body must comply with clause 19(3) and (4) in relation to any proposed material change to the final stage methodology.

Schedule 28 clause 20: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

21 Information that must be publicly available

(1) The licensee or an authorised body must make publicly available the information set out in subclause (2) to the extent necessary to ensure that users of a specified financial benchmark have sufficient information to understand—

(a) how the benchmark is generated; and

(b) the intended use of the benchmark.

(2) The information is—

(a) an explanation of the state of affairs the benchmark is intended to represent; and

(b) a description of the financial benchmark methodology, including the matters set out in clause 9.

(3) In subclause (1), **publicly available** means available, free of charge, on an Internet site maintained by, or on behalf of, the licensee or authorised body in a way that ensures that members of the public can easily access the information at all reasonable times.

Schedule 28 clause 21: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Reporting conditions

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

22 Licensee must notify FMA of material change to financial benchmark methodology

(1) The licensee or an authorised body must notify the FMA if the licensee or authorised body (as applicable) proposes to make a material change to the financial benchmark methodology or final stage methodology for the specified financial benchmark.

(2) The notice must include a description of—

(a) the proposed change; and

(b) the steps taken by the licensee or authorised body (as applicable) in accordance with the condition in clause 19(3).

(3) The notice must be given—

(a) in writing; and

(b) after the condition in clause 19(3) has been complied with but a reasonable time before the change is implemented.

(4) In this clause and in clause 23, **reasonable time** means a period of time that, in the circumstances, is sufficient to allow the FMA to properly consider the effect of the proposed change on—

(a) the accuracy, integrity, reliability, and continued availability of the benchmark; and

(b) users of the benchmark.

Schedule 28 clause 22: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

23 Licensee must notify FMA of material change to contributor conduct rules

(1) The licensee or an authorised body must notify the FMA if the licensee or authorised body (as applicable) proposes to make a material change to the contributor conduct rules.

(2) The notice must include a description of the proposed change.

(3) The notice must be given—

(a) in writing; and

(b) a reasonable time before the change is implemented (*see* clause 22(4)).

Schedule 28 clause 23: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

24 Licensee must report significant contraventions of Part 2 of Act

(1) The licensee or an authorised body (as applicable) must notify the FMA, in accordance with subclauses (2) and (3), if the licensee or authorised body knows or suspects that a contributor has committed, is committing, or is likely to commit a significant contravention of Part 2 of the Act (which relates to fair dealing) in connection with the service covered by the licence.

(2) The licensee or authorised body (as applicable) must give the notice immediately after knowing or suspecting that the contravention has been committed, is being committed, or is likely to be committed.

(3) The notice must include—

(a) the contributor's name and contact details; and

(b) the obligation to which the contravention or suspected contravention relates; and

(c) the facts supporting the licensee's, or the authorised body's, view (as applicable) in relation to the contravention or suspected contravention; and

(d) any supporting evidence for that view.

(4) *See also* section 412 of the Act (which provides that material contraventions of market services licensee obligations by the licensee or authorised bodies must be reported to the FMA).

Schedule 28 clause 24: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

25 Notification of intention to cease generation or operation of financial benchmark

A licensee or an authorised body that intends to cease generating or operating the specified financial benchmark must,—

(a) as soon as is reasonably practicable, notify the FMA of that intention; and

(b) at least 4 weeks before ceasing to generate or operate the benchmark, notify the FMA of the arrangements for ensuring—

(i) the orderly transfer of the generation or operation of the benchmark to another person; or

(ii) the orderly cessation of the generation or operation of the benchmark; and

(c) notify the FMA of any changes to those arrangements that are made after the notification under paragraph (b), as soon as is reasonably practicable after making those changes.

Schedule 28 clause 25: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Other conditions

Heading: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

26 Compliance records

(1) The licensee and every authorised body must—

(a) create and maintain records that enable the licensee and the authorised body to demonstrate compliance with the market services licensee obligations; and

(b) create and maintain records of any matters notified by the contributor under the contributor conduct rules; and

(c) keep all other information or data provided or made available by each contributor.

(2) The licensee and every authorised body must keep a copy of the records, information, and data for a period of at least 7 years after the date on which the record, information, or data comes into the possession of the licensee.

(3) The licensee and every authorised body must ensure that the records, information, and data can be made available under clause 27 within a reasonable time if required.

Schedule 28 clause 26: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

27 Licensee must give information to FMA

(1) The licensee and every authorised body must, on written notice from the FMA,—

(a) give to the FMA any records, information, or data or class of records, information, or data specified in the notice; and

(b) give the FMA any reasonable assistance that it requires to access, or reproduce in usable form, any records, information, or data or class of records, information, or data specified in the notice.

(2) In this clause, **records, information, or data** means records, information, or data referred to in clause 26.

(3) The licensee or authorised body (as applicable) must comply with the notice within the time (which must be a reasonable time) and in the manner specified in the notice.

Schedule 28 clause 27: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

28 Monitoring compliance with contributor conduct rules

The licensee or an authorised body must—

(a) monitor each contributor's compliance with the contributor conduct rules; and

(b) take the steps specified in those rules if either of the following occurs:

(i) the contributor reports an error, a discrepancy, or a suspicious activity:

(ii) the contributor notifies the administrator of a breach of the contributor conduct rules.

Schedule 28 clause 28: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

29 Investigation of complaints

The licensee or an authorised body must ensure that—

(a) complaints are investigated in a timely and fair manner; and

(b) the outcome of an investigation is communicated to the complainant as soon as practicable.

Schedule 28 clause 29: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

30 Transfer or cessation of generation or operation of financial benchmark

If the licensee intends to cease generating or operating a specified financial benchmark, the licensee must (subject to the requirements of any direction under section 448C or 448D of the Act) implement the arrangements described in clause 13 for ensuring—

(a) the orderly transfer of the generation or operation of the benchmark to another person; or

(b) the orderly cessation of the generation or operation of the benchmark.

Schedule 28 clause 30: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

31 Assurance engagement

(1) The licensee must obtain an assurance engagement with a qualified FMC auditor (including obtaining the assurance report within that period)—

(a) within 4 months after the relevant date; or

(b) by any alternative date specified in a notice given by the FMA.

(2) The assurance engagement must be done in accordance with applicable auditing and assurance standards.

(3) An assurance report must cover—

(a) the 2-year period ending on the relevant date; or

(b) any alternative period specified in a notice given by the FMA.

(4) An assurance report must determine whether, in the auditor's opinion, there is reasonable assurance that the licensee's, and every authorised body's, systems and procedures—

(a) were suitably designed to meet the market services licensee obligations; and

(b) operated effectively throughout the relevant period.

(5) The licensee must, within 20 working days after obtaining an assurance report, provide a copy of the report to—

(a) the FMA; and

(b) the independent oversight committee.

(6) In this clause, **relevant date** means—

(a) the licensee's balance date that is closest to the date that is 2 years after the date on which the licence was issued; and

(b) every second balance date after the date described in paragraph (a).

Schedule 28 clause 31: inserted, on 15 March 2021, by regulation 7 of the Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319).

Schedule 28 clause 31(1): amended, on 30 March 2025, by section 106(2) of the Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 4 November 2014.

Notes

1 General

This is a consolidation of the Financial Markets Conduct Regulations 2014 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Financial Markets Conduct (Depositor Compensation Scheme) Amendment Regulations 2025 (SL 2025/136)

Financial Markets Conduct Amendment Regulations 2025 (SL 2025/86)

Regulatory Systems (Economic Development) Amendment Act 2025 (2025 No 11): section 106(2)

Financial Markets Conduct (Climate-related Disclosures and Fees) Amendment Regulations 2023 (SL 2023/281): Part 1

Financial Markets Conduct (Climate-related Disclosures) Amendment Regulations 2023 (SL 2023/222)

Deposit Takers Act 2023 (2023 No 5): section 495(2)

Financial Markets Conduct (Conduct of Institutions) Amendment Regulations 2023 (SL 2023/123)

Financial Markets Conduct (Disclosure Requirements for Bank Perpetual Preference Shares and Other Matters) Amendment Regulations 2022 (SL 2022/204)

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(2)

Financial Market Infrastructures Act 2021 (2021 No 13): section 163(2)

Financial Markets Conduct (Licensing of Administrators of Financial Benchmarks) Amendment Regulations 2020 (LI 2020/319)

Financial Markets Conduct Amendment Regulations 2020 (LI 2020/315): Part 1

Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2020 (LI 2020/132)

Financial Markets Conduct (New Zealand Business Numbers) Amendment Regulations 2019 (LI 2019/171)

Financial Markets Conduct Amendment Regulations 2019 (LI 2019/104)

Financial Markets Conduct (Asia Region Funds Passport) Amendment Regulations 2019 (LI 2019/101)

Financial Markets Conduct Amendment Regulations 2018 (LI 2018/66)

Financial Markets Conduct Amendment Regulations (No 2) 2017 (LI 2017/287)

Financial Markets Conduct Amendment Regulations 2017 (LI 2017/181)

Financial Markets Conduct (KiwiSaver) Amendment Regulations 2017 (LI 2017/77)

Financial Markets Conduct Amendment Regulations (No 2) 2016 (LI 2016/249)

Financial Markets Conduct Amendment Regulations 2016 (LI 2016/118)

Interest on Money Claims Act 2016 (2016 No 51): section 29

Financial Markets Conduct Amendment Regulations 2015 (LI 2015/276)

Financial Markets Conduct Regulations 2014 (LI 2014/326): Schedule 1 clause 17(7)

Financial Markets Conduct Act 2013 (2013 No 69): section 547(4)

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