

Hon Andrew Bayly

Minister of Commerce and Consumer Affairs
Minister for Small Business and Manufacturing
Minister of Statistics



11 April 2024

Mark Todd
Chair
Financial Markets Authority
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Dear Mark

ANNUAL LETTER OF EXPECTATIONS FOR 2024/25

I am writing to convey my strategic and performance expectations for the Financial Markets Authority (FMA) for 2024/25. You can also expect to receive a new enduring letter of expectations from the Minister of Finance and Minister for the Public Service in due course.

Contributing to Government priorities

The National/ACT/New Zealand First Coalition Government (the Government) has agreed a policy programme of work over the next three years which will contribute to the Government's overarching aim to improve outcomes for all New Zealanders.

We are focussed on addressing the high cost of living. We will restore discipline to Government spending by ensuring that public money is spent appropriately and will reduce core Crown expenditure as a proportion of the overall economy. We are also focussed on building for growth and enabling private enterprise. We will make regulatory change that creates the conditions for investment and improve our regulatory settings to encourage competition and attract investment.

Specific priorities and expectations for the FMA

I would like to acknowledge the FMA's continued hard work over the previous year. The FMA plays an important role in promoting the confident and informed participation of businesses, investors and consumers in financial markets which helps to strengthen our financial markets' integrity.

My priorities for this year in the financial sector are focused on:

- simplifying complex financial policy and regulatory settings to remove unnecessary barriers and transactional costs, promote growth objectives and encourage competition
- streamlining capital market settings to allow businesses greater access to capital to support productivity and growth.

To achieve these priorities, I will be undertaking a programme of work to reform various pieces of legislation, including in particular the Credit Contracts and Consumer Finance Act 2003 (CCCFA), the Financial Markets (Conduct of Institutions) Amendment Act 2022 (CoFI) and the Companies Act 1993.

I expect the FMA to contribute to achieving results against these priorities and supporting my work programme, as appropriate.

In addition, my specific expectations for the 2024/25 financial year are that the FMA:

- continues to be an effective regulator who acts promptly and confidently to ensure fair, efficient and transparent markets and to promote integrity and compliance
- works with the Reserve Bank of New Zealand to minimise the impact on financial institutions of New Zealand's twin peaks model for financial regulation, while maintaining a strong focus on the FMA's core mandate for regulation of financial conduct and mitigating conduct risks
- successfully implements and embeds the CoFI and climate-related disclosure regimes, ensuring appropriate guidance and support is available for smaller institutions
- avoids unnecessary compliance costs and promoting innovation and flexibility in financial markets (in accordance with section 4 of the Financial Markets Conduct Act 2013), including by:
 - taking a proportionate and risk-based approach to regulation
 - ensuring that market participants have a clear understanding of their legal obligations, and the distinction between legal obligations and guidance, and that regulatory expectations set by the FMA are properly founded in the law
 - streamlining the FMA's conduct licensing requirements, including standard conditions and regulatory returns, to reduce complexity and duplication

- taking a less prescriptive, more risk-based and efficient approach to the supervision of obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009
- issues or clarifies guidance to market participants where appropriate, for example guidance that:
 - clarifies minimum requirements and expectations for smaller institutions under CoFI, to make it easier for them to comply with the regime
 - reinvigorates confidence for financial advice providers to make recommendations about financial products purchased for investment purposes, including particularly around Initial Public Offerings
 - removes barriers for fund managers, including KiwiSaver providers, from investing in alternative asset classes
- works with MBIE to:
 - support my work programme including simplifying conduct requirements under CoFI, promoting efficiencies with the CCCFA regime and regulation of consumer credit, progressing capital markets reforms, preparing for insurance contract law reforms and improving the financial dispute resolution system
 - ensure the successful and smooth transfer of regulation and enforcement of the CCCFA regime from the Commerce Commission to the FMA
 - improve the FMA's approach to operational resilience, including cyber and technology resilience, including enhancing the capability of the FMA, NZX and other licensed entities to respond to cyber risk (including fraud and scams)
 - anticipate and effectively respond to emerging strategic issues across financial markets, including scams, sustainable finance, the digitalisation of financial services, and digital assets (including cryptocurrencies)
 - maintain focus on promoting confidence in the integrity and sustainable development of fair, efficient, transparent and deep capital markets.

As co-chair of the Council of Financial Regulators, I also expect the FMA to continue to provide resource and effective leadership on issues that require cross-agency involvement. In particular, I expect the FMA to work closely with the Commerce Commission to facilitate an orderly transfer of responsibilities for the CCCFA to the FMA.

General expectations and good governance

My general expectations are that the FMA:

- maintains a strong organisational capability with a focus on delivery;
- demonstrates strict fiscal management and value for money.

Further information regarding governance expectations is set out in the **Annex** to this letter.

Preparation of accountability documents and performance measures

As you will be aware, the Crown Entities Act 2004 mandates the requirements for the accountability documents of Crown entities.

Would you please arrange for the FMA to prepare a Statement of Performance Expectations (SPE) and Statement of Intent (SOI) and provide these by 1 May 2024 for my consideration. I look forward to being consulted in good time on these key documents.

In line with the Government's expectation of demonstrating accountability for public money, I expect that you will include sufficient performance measures in your statutory accountability documents to demonstrate, and enable measurement of, the outcomes that will be achieved with the funding the FMA receives.

Response

I would appreciate your response to this letter by 24 April 2024, outlining how you propose to address the expectations above.

I look forward to building an effective working relationship with you over the coming year.

Yours sincerely



Hon Andrew Bayly
Minister of Commerce and Consumer Affairs

Copy to: Samantha Barrass

Chief Executive, Financial Markets Authority

Andrew Hume

General Manager, Small Business, Commerce and Consumer, MBIE

Annex 1: General expectations and good governance

Effective Board

Ensuring the Board is, and remains, effective and high performing is essential. To assist with this, I expect the Board to employ robust and effective self-review processes. I understand that the Board regularly reviews its own performance and also periodically engages external consultants to help assess and improve Board performance.

Your input on succession planning for the Board is sought. I expect you to keep my officials at MBIE informed of your view of the competency and experience mix you need to work well as a board, along with your thoughts on upcoming appointments and any candidate attributes to target. I also expect you to assist in building capacity and diversity in public sector governance, for example, by mentoring emerging talent and including emerging talent in board activities.

Effective monitoring of FMA's performance by the Board and relationship with MBIE

In addition to setting and driving a strategy that delivers on the Government's priorities, the Board is the most important monitor of the FMA's performance. I expect the Board to provide me with high-quality information and analysis (including through regular reporting to my officials at MBIE and in meetings with me) on the FMA's ongoing performance against its strategic and operational plans, implications for future performance, and risks and opportunities facing the FMA and how it is responding to them.

I also expect you to continue the constructive relationship you have developed with your monitor at MBIE.

No surprises

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

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