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FINANCIAL MARKETS AUTHORITY
TE MANA TATAI HOKOHOKO - NEW ZEALAND

INFINZ Annual Conference

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Liam Mason,
Director of Regulation
Financial Markets Authority

Today

The new paradigm – ‘beyond disclosure’

Acting on conduct – business risks and outcomes

The FMA’s strategic risk outlook

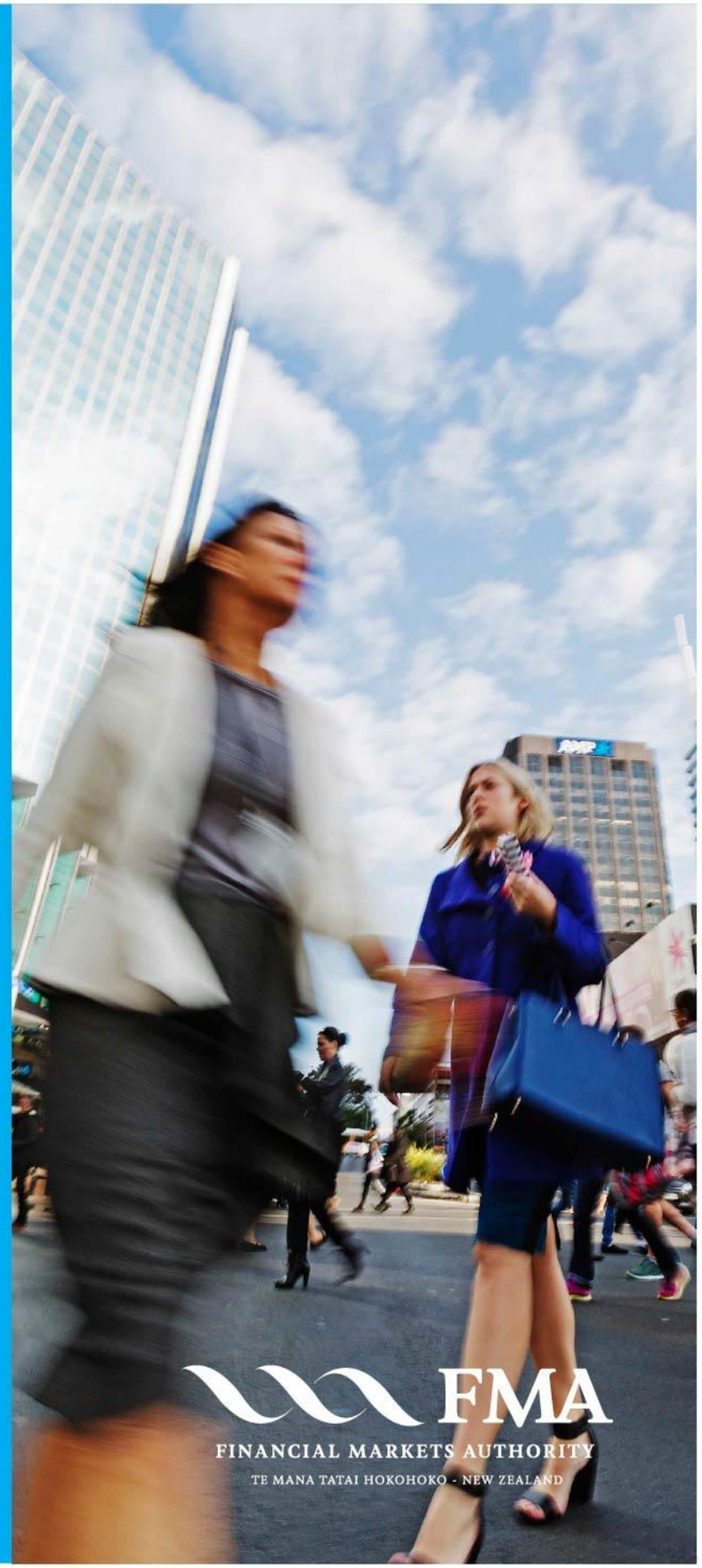
Governance and culture

Monitoring conduct – the FMA’s approach

Key areas of focus

Wrap up

Questions/discussion



Beyond disclosure

Traditional approach to securities regulation relied solely on disclosure

Assumption that if all information is available, investors will be fairly armed and react rationally

No account taken of natural biases, avoidances, behaviour

Two main changes under Financial Markets Conduct Act:

- Nature of disclosure has changed – a useful tool for investors, not a liability cover for firms
- Good disclosure is still important – but insufficient on its own

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“C” is for conduct

Financial Markets Conduct Act – raises expectations of market participants

Licensing – new perspective on the our monitoring role

Conduct risk – the risk that a firm’s conduct may contribute to poor outcomes for customers

On the agenda because:

- conduct risk matters, for reputation and business success
- new legislation, new duties, signal increased regulatory attention

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Strategic risk outlook

Key drivers of risk to fair, efficient, transparent markets:

Governance: "...boards have a responsibility to continuously assess culture and conduct against both organisational and customer outcomes"

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Strategic risk outlook

Culture and conduct: “For financial services firms, embedding a strong culture that puts customer interests at the heart of the business is crucial to ensuring conduct that benefits both the business and consumers”

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Strategic risk outlook

First strategic priority – governance and culture: “We expect boards and directors of financial service providers, both big and small, to set a strong tone-at-the-top. To ensure that customer outcomes are central to organisational strategy, culture, and conduct.

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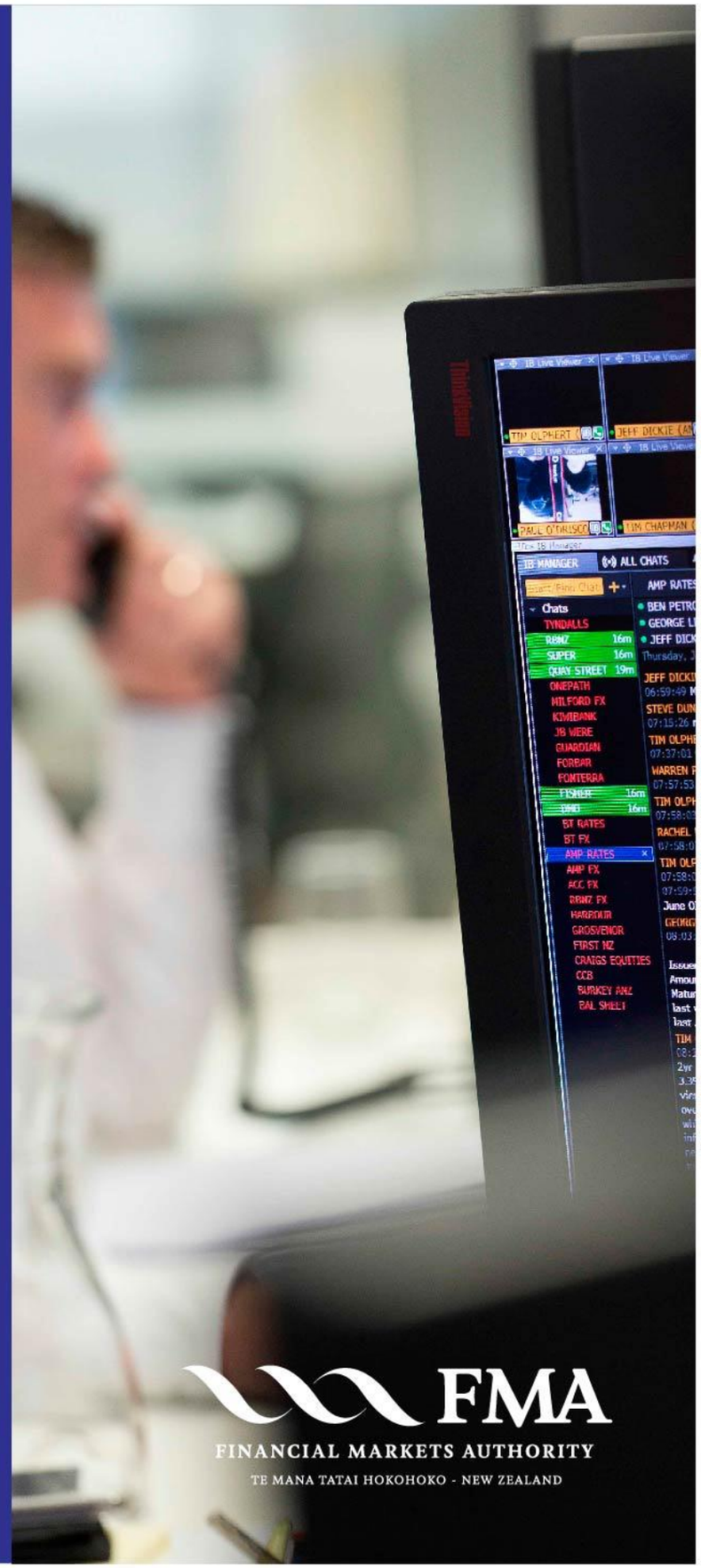
Monitoring conduct

New relationship for many – newly licensed, new expectations

MIS & DIMS – basic obligation to act in best interests of scheme/service customers

Focus on outcome – not inputs – up to firms how they meet standards



Monitoring conduct

Approach reflects strategic risk outlook:

- We ask boards and senior management how they *know* that the organisation is focused on customer outcomes – that all actions are in the best interests of customers
- We'll test whether this is reflected in organisational culture and conduct
- We'll ask whether boards review regular information on customer outcomes: complaints data; sales incentive structures; criteria for promotion and rewards

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Monitoring conduct

We aim to engage with boards and senior management to address issues collaboratively

But already using new range of regulatory tools:

- stop orders
- directions
- censure
- public warnings
- applying conditions to licences

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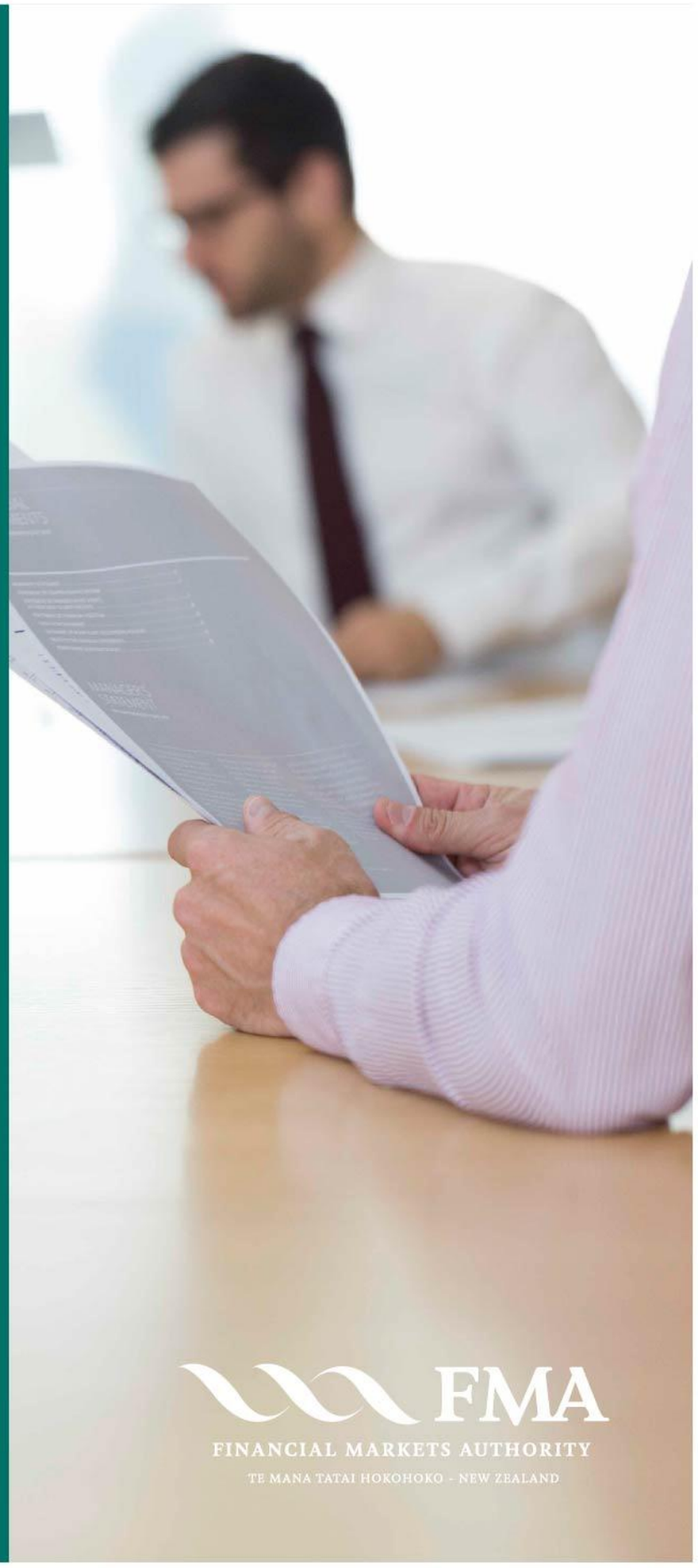
What we're looking for

Has the board set and communicated clear expectations for customer outcomes and management of conduct risk? Has it assessed these in view of the risks posed by the firm's business? How have these expectations been communicated and embedded in incentives?

What does the board see about customer outcomes, and how these align to expectations? Are significant product or service initiatives reviewed post-implementation from a customer perspective?



What we're looking for

Compliance assurance – how does the board obtain independent verification that compliance systems are doing what they should?

Sales systems and practices – starting with product design & marketing – how early is there thinking about who the product or service is and *isn't* suitable for?

How will sales incentives be balanced with customer outcomes? How does this balance bear out in sales and advice practices?

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What we're looking for

Is there a comprehensive complaints management process? A clear and non-technical understanding of what is a complaint? Appropriate escalation procedures? Reporting of complaints data to the board? What use are senior management and the board making of complaints data?

Disclosure – how is this built into product design? Is disclosure designed to inform the target audience – or to protect from liability? Does the same approach flow through to marketing, ongoing reporting to investors?

Is there active board and senior management engagement in remediation where problems occur? Is this focused on customer redress or only on risk management?

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Wrap up

Previously, conduct risk on periphery of financial services legislation

New environment allows proactive focus on preventing harms not just cleaning up afterwards.

Learning from experience here and overseas – but looking for solutions right-sized for New Zealand firms & market

Not looking for replication of overseas standards – conduct must fit local firms, market, and culture

How to get there is up to firms to decide

So, we're asking boards to show how they are thinking about the best interests of customers and how they're leading the firm to achieve these

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Questions?