

Financial Market Infrastructures Act

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25 May 2021

Current status

The [Financial Market Infrastructures Act 2021](#) (the FMI Act) establishes a new regulatory regime for financial markets infrastructure and sets new rules to regulate and supervise payment and settlement systems. The FMI Act was enacted on 10 May 2021.

If you would like advice on the FMI Act, please contact a member of our [financial services regulation team](#).

Background

Financial market infrastructures (FMIs) are multilateral systems among participating institutions that are used for clearing, settling or recording payments, securities, derivatives or other financial transactions.

Common types of FMIs include payment systems, securities settlement systems, and central counterparties. The participants of FMIs are usually banks and other types of financial institutions, but in respect of payment systems, can also include individuals, retailers, and other businesses.

FMIs were previously regulated under [Parts 5B and 5C of the Reserve Bank of New Zealand Act 1989](#). The FMI Act replaces the old regime with a new, stand-alone piece of legislation that intends to better reflect international practice

Legislative history

Consultation stage

In April 2017, Cabinet agreed to adopt an enhanced legislative framework for the regulation of FMIs. On 4 May 2017, the Reserve Bank of New Zealand (RBNZ) released an accompanying [Cabinet Paper](#) and [Regulatory Impact Statement](#) (RIS). In December 2018, Cabinet made a number of [supplementary decisions](#) on aspects of the proposed new oversight regime for FMIs.

Prior to this decision, the RBNZ carried out three rounds of public consultation on the reform of the legislative framework governing FMIs in New Zealand:

- In March 2013, the RBNZ began the first round of consultation by releasing a [consultation paper](#) proposing the establishment of a new legislative framework for the oversight of systemically important payment and settlement systems and asking for public submissions. In October 2013, the RBNZ released a [summary of submissions](#) with the RBNZ's responses.
- In April 2015, the RBNZ began the second round of consultation by releasing a [consultation paper](#) to modify the existing statutory framework and asking for public submissions. In December 2015, the RBNZ released a [summary of submissions](#) on this round of consultation.
- In March 2016, the RBNZ issued a [consultation paper](#) on proposed crisis management powers for systemically important FMIs. In August 2016, the RBNZ released a [summary of submissions](#) on this round of consultation.

Exposure draft

On 1 August 2019, the RBNZ published an [exposure draft](#) of the Financial Market Infrastructures Bill (Bill) with an accompanying [cover note](#), proposing a new regulatory framework for FMIs intended to be consistent with international best practice. The RBNZ consulted on this exposure draft, seeking submissions until 26 September 2019. In December 2019, the RBNZ published a [summary of the sixteen submissions](#) it received on the exposure draft, with the feedback resulting in a number of technical changes.

Overview of the Bill

On 17 December 2019, the [Bill](#) was introduced to Parliament. The Bill's purposes include promoting the maintenance of a sound

and efficient financial system, and avoiding significant damage to the financial system that could result from problems with an FMI, its operator, or its participants.

The RBNZ and the Financial Markets Authority (FMA) will act jointly as the regulator of FMIs except in relation to designated payment systems (where the RBNZ will be the sole regulator).

The Bill distinguishes between designated and non-designated FMIs. FMIs that are identified as systemically important will be designated on the recommendation of the regulators and be subject to more intensive regulation. However, other FMIs may 'opt-in' to the designation regime by applying to the regulators.

The Bill allows for the regulation of designated FMIs in the following ways:

- Regulators will have the power to make legally binding standards that will apply to designated FMIs – this will cover several areas such as governance and liquidity and may apply to individuals FMIs or a class of FMIs
- Regulators will be granted monitoring powers and, if necessary, the power to appoint a person to investigate designated FMIs
- Regulators will be granted oversight powers over the rules of designated FMIs (other than overseas FMIs)
- Regulators will be granted crisis management powers, in particular, designated FMIs would be required to have contingency plans for how they would deal with operational disruption or financial failure
- The regulator may remove or appoint the directors of an FMI, or recommend that the operator of a designated FMI be placed into a tailored statutory management regime.

Introduction to Parliament and Select Committee Report

The Bill was referred to the Finance and Expenditure Committee (FEC) who produced their [select committee report](#) on 4 August 2020. In its report, the FEC recommended that the Bill be passed with certain amendments, including:

- Ensuring the regime was sufficiently flexible to manage different types of FMIs, noting international practice where different types of FMIs are subject to different regulatory regimes
- Amending the purpose clause of the Bill to note stability and confidence in the financial system
- Broadening the circumstances in which either of the RBNZ and the FMA (as joint regulators) could agree that one regulator may act as sole regulator in a particular case
- Increasing the flexibility for ministerial approval or consent to decisions made by a regulator
- Establishing a transition process for settlement systems that have been designated under the Reserve Bank of New Zealand Act 1989.

The Bill had its second reading on 16 March 2021 and, following a debate by a committee of the whole House, attained royal assent on 10 May 2021.

Next steps

The Reserve Bank and the FMA need to identify which FMIs are 'systemically important'. Regulators have [indicated](#) that there will be a transitional phase of approximately 18 months under the new regulatory framework. Public consultation will also occur during this period on important implementation matters such as the design of standards to be made under the new regime.

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