

Regulatory Impact Statement

Auditor Regulation (Registration, Accreditation, Prescribed Jurisdictions and Fees) Regulations 2012

Agency Disclosure Statement

- 1 This Regulatory Impact Statement has been prepared by the Ministry of Economic Development.
- 2 It provides an analysis of a limited range of proposals necessary to implement the co-regulatory oversight regime anticipated under Auditor Regulation Act 2011. In particular it provides for setting requirements contemplated for the administration a register of licensed auditors and registered audit firms; matters considered necessary to allow overseas auditors to gain recognition under the regime; matters to facilitate the Financial Markets Authority (“FMA”) in ensuring the integrity of the co-regulatory regime; and setting fees which the Registrar of Companies and FMA may charge for performing certain functions under the Act.
- 3 There is separate work being undertaken by officials in the context of developing fees and levies to fund the FMA, which may impose additional compliance costs on auditors under the new regime. The measures in this paper deal only with the fees that will be charged to recoup costs incurred by the Registrar of Companies in the administration of a register of auditors, as well as costs incurred by the FMA in licensing overseas auditors, registering overseas audit firms, accrediting accredited bodies, and conducting quality reviews of registered audit firms.
- 4 The proposals in this paper do not impair private property rights, market competition, or the incentives on businesses to innovate and invest or override fundamental common law principles. However, the proposals will impose additional costs on businesses as firms and individuals providing auditing services to issuers will need to pay the necessary registration fees before such persons will be able to provide any such services.

Bronwyn Turley
Manager, Corporate Law and Governance
Competition, Trade & Investment

Status Quo and Problem Definition

- 5 The Auditor Regulation Act received the Royal Assessment on the 19th of May 2011.
- 6 Prior to the passage of the Act, auditors were not regulated as a specialist profession, but were subject to self-regulation as accountants. This approach did not adequately reflect the specialised skills, knowledge and experience that auditors need to have.
- 7 Problems with this approach became evident in relation to finance company failures. Company receivers advised the Registrar of Companies (the “Registrar”) that some audits of failed finance companies were not carried out to the required standards. This appeared to suggest that some finance companies carried on business for longer than they ought. Consequently, audit failure was identified as a contributing factor in the size of investor losses.
- 8 To address this problem the Act provides that major audits should be restricted to practitioners who have demonstrated audit-specific capabilities. The Act requires auditors who act in respect of issuers¹ to be licensed and listed on a public register of auditors. The Act also requires audit firms who act in respect to issuers of securities to be listed on the register.
- 9 The licensing and registration of auditors will be administered through a co-regulatory oversight regime, with responsibilities divided between the Financial Markets Authority (the “FMA”) and accredited professional accounting bodies, including the New Zealand Institute of Chartered Accountants.
- 10 Professional bodies accredited by the FMA are responsible for licensing New Zealand-qualified auditors as a specialist profession. The FMA remains responsible for monitoring and reporting on the adequacy and effectiveness of accredited bodies regulatory systems and processes.
- 11 The FMA is also responsible for prescribing minimum standards associated with the licensing of auditors; registration of audit firms; and the accreditation of professional bodies. The FMA is also directly responsible for licencing overseas-qualified auditors.
- 12 In order to give effect to the licensing and registration regime, the Act requires that a register of licensed auditors and registered audit firms be maintained by the Registrar. The register will be one of several registries operated by the Companies Office, part of the Business Services Branch of the Ministry of Economic Development.
- 13 In order to properly implement the new regime as anticipated by Parliament, regulators and auditors will need more detail than is currently provided in the Act. In particular, the Act anticipates that regulations will be made to provide necessary detail in the following areas:
 - a. Registration
 - b. Transitional Registration
 - c. Accreditation
 - d. Overseas Jurisdictions
 - e. Fees

¹ The statutory definition of ‘issuer’ covers two broad categories. First it includes entities that seek funding through debt and equity instruments that are offered to the public. Secondly, it includes registered banks, insurance companies, mutual funds, and other entities that take deposits from the public or hold assets in a fiduciary capacity for broad groups of outsiders.

Registration

- 14 Part 2 of the Act requires the Registrar of Companies (the “Registrar”) to establish and administer a register of licensed auditors and registered audit firms. The key statutory requirements governing the contents and maintenance of the register are set out in sections 39, 40, 41, 42, 43, 44, 45, and 46 of Part 2 of the Act. In addition, section 14 and section 27 contain provisions obliging accredited bodies and the FMA to supply information that is to be published on the register to the Registrar.
- 15 The above provisions establish the framework in which the register will operate. They are however, insufficient on their own to enable the Registrar to:
 - a. Collect and show the home jurisdiction of the auditor or audit firm (which in some cases will be an important indicator that the auditor or audit firm is subject to the additional regulation of an overseas jurisdiction);
 - b. Have assurance that information on the register of auditors’ and audit firms’ is accurate and up-to-date;
 - c. Refuse access to the on-line register if vital maintenance work needs to be carried out and such a step needs to be taken to protect its electronic security or integrity;
 - d. Refuse to accept a document if not in the required form.
- 16 The Act anticipates that regulations may be made to address these matters. Accordingly, before Part 2 of the Act can be brought into force, it is necessary that regulations be prescribed to facilitate these various additional matters.
- 17 Failure to prescribe regulations could have implications for the public, the audit industry, government regulators and accredited bodies if:
 - a. The information on the register is not as accurate and up to date as possible.
 - b. The register does not allow for sufficient information to identify whether auditors’ or audit firms’ are subject to regulation in an overseas jurisdiction.
- 18 Members of the public treat information on the register as true and correct and the Registrar must take all precautions to ensure that published information remains up to date and to protect the register’s integrity. If licensed auditors and registered audit firms are not required to update certain details on the register within a short time of the change occurring, the Register may become inaccurate, ineffectual and misleading. This may undermine the value of the register as a public utility, and may lead to a loss of confidence in other registers provided by the Registrar.

Transitional Registration

- 19 In order to smooth the transition to the new licensing and registration regime, the Act provides for an initial transitional period. During this period, auditors and audit firms will be allowed to apply for a deemed licence or registration directly from the Registrar, provided they meet certain criteria.
- 20 The transitional application period will run from 40 days prior to the Act coming into effect on 1 July 2012. The deemed transitional licences and registration will last up to two years, unless they are earlier replaced by a full licence or are cancelled.
- 21 It is estimated that between 125 and 150 New Zealand auditors and audit firms will avail themselves of these transitional provisions. An unknown number of overseas-qualified auditors may also apply.

- 22 Sections 85, 86, and 87 of the Act set out the matters auditors and audit firms must meet in order to comply with the transitional provisions of the new regime. These sections of the Act anticipate that applicants will be required to satisfy certain prescribed transitional requirements (such as requirements relating to required competence, qualifications, and experience and, in the case of audit firms, requirements relating to the firm's systems, policies and procedures). In order for a transitional license or registration to become active, it is intended that applicants self-assess their ability to satisfy the requirements and then provide information to this effect to the Registrar for publication on the register before the expiry of the 40 day transitional period.
- 23 At present, no transitional requirements have been prescribed in order to give these transitional provisions effect.
- 24 If no such regulations are prescribed, the applicants and the Registrar will remain unable to utilise transitional licensing and registration requirements anticipated by the Act. This would negate the intent of the transitional provisions, depriving auditors and audit firms of the opportunity to become compliant with the Act before it comes fully into effect.
- 25 In the case that transitional licensing and registration remains unavailable, auditors and audit firms will be compelled to delay applying for licences and registration until after the Act was in force. While their application is being processed, applicants would be barred from providing audit services to issuers. This could result in significant business disruption to auditors of issuers, as well as to issuers' dependant on the services of such auditors.

Accreditation

- 26 Section 49 of the Act empowers the FMA to accredit as co-regulators persons it is satisfied are fit and proper to perform regulatory functions for the purposes of the Act. The grant of accreditation may be made subject to any conditions prescribed under section 49 of the Act.
- 27 Once accredited, an accredited body must supply an annual report to the FMA, containing information relating to the accredited body's performance in carrying out regulatory functions for the purposes of this Act.
- 28 The Act currently allows FMA to impose conditions relating to the procedure that an accredited body must follow when performing regulatory functions, as well as conditions to ensure that the accredited body's audit regulatory systems are adequate and effective.
- 29 The purpose of allowing the imposition of conditions of accreditation is to assist the FMA in ensuring that accredited bodies' retain the on-going ability to discharge their regulatory responsibilities efficiently and effectively.
- 30 However the Act does not currently contain detail which would allow the FMA to impose conditions in respect of all matters which may affect the ability of a body to perform regulatory functions. In particular, it would not allow the FMA to impose conditions in respect of an accredited body's governance or organisational structure, or financial stability. It is considered necessary to the effective working of the regime that the FMA be able to impose such conditions.

- 31 The ability to set conditions in respect of organisational structure and governance systems is desirable to ensure that all accredited bodies have governance systems that will allow their regulatory functions to be performed with objectivity, impartiality and independence, and to a standard consistent with statutory objectives. Furthermore, the structure of the accredited body will need to ensure adequate resources are available to those parts of the organisation responsible for carrying out regulatory functions. For example, this could include ensuring sufficient, appropriately qualified and competent staff members are available to carry out all regulatory functions, and audit regulatory systems are allocated sufficient financial resources.
- 32 In respect of financial stability, it is similarly desirable that the FMA be able set conditions requiring accredited bodies to have sufficient financial resources at all times to perform the regulatory functions to a high standard and in a manner consistent with the purposes of the Act. Proof of financial stability might require the accredited body to demonstrate its income can cover its routine expenditure on an on-going basis. Additionally, it may be desirable that the FMA be aware as to accredited bodies' ability to reasonably fund any capital or project based expenditure which is necessary or otherwise planned including any costs associated with establishing audit regulatory systems required for the purposes of the Act.
- 33 The Act anticipates that such additional conditions of may be prescribed by regulations. Unless regulations are made allowing the FMA to impose these additional accreditation conditions, and the new conditions also made matters to be included in the annual report, the FMA may be frustrated in its ability to properly implement and monitor the on-going working of the regime.

Overseas Jurisdictions

- 34 The Act requires that a person who is entitled to act as an auditor in a prescribed country, state, or territory outside New Zealand and who wishes to offer audit services into New Zealand must comply with the licensing and registration requirements of the Act.
- 35 To add meaning to these provisions, the Act anticipates that countries, states or territories outside New Zealand will be prescribed in regulations. Section 12 of the Act provides some guidance as to the characteristics jurisdictions which may be prescribed for the purpose this definition should possess. In particular, section 12 specifies that when issuing a licence to an overseas auditor the FMA must first satisfy itself that the overseas auditor is subject to a regulatory regime in their home jurisdiction which is consistent with that being established in New Zealand.
- 36 The FMA has performed an assessment and has identified the following jurisdictions as meeting the criteria:
- a. Australia
 - b. The European Union²
 - c. Hong Kong
 - d. Singapore
 - e. The United States

² Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland , France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain , Sweden, and the United Kingdom

- 37 However, regulations prescribing the above jurisdictions have yet to be put in place.
- 38 Consequently, if overseas jurisdictions are not prescribed in regulations, a small number of overseas auditors will be unable to comply with the licensing and registration obligations of the Act from 1 July 2012. This may result in business interruption for such auditors, as well as their New Zealand issuer clients.
- 39 The magnitude of this problem is not expected to be large. It is estimated that not more than 20 overseas-qualified auditors have recently been engaged in audits for New Zealand issuers.
- 40 However, there is also a risk that failure to recognise overseas jurisdictions would harm the prospects of New Zealand qualified-auditors to also have their services recognised in such jurisdictions. This would be contrary to the intent of the Act, which was to enhance the professional standing of New Zealand auditors in overseas jurisdictions.

Fees

- 41 The Act anticipates that the FMA be able to charge fees to recoup any costs incurred in the process of processing applications for the licensing of overseas auditors, registration of overseas audit firms, accreditation of accredited bodies, as well as the conducting of quality reviews of audit firms. The Act anticipates that these fees will be collected by the FMA on its own behalf.
- 42 The Act further anticipates that the Registrar be able to charge fees to recover costs incurred in maintaining a register of licensed auditors and registered audit firms. The Act anticipates that the Registrar may recover these costs through registration and annual confirmation fees. The Act intends that such fees be collected by the FMA and accredited bodies on behalf of the Registrar, but does not specify the nature of the fee to be collected. The Act provides that such fees may be prescribed by regulations.
- 43 If regulations setting the fees that the Registrar and FMA may charge auditors and audit firms for performing their statutory functions under the regime are not prescribed, the Registrar and FMA will be unable to recoup costs incurred in operating the regime.
- 44 This could precipitate a shortfall in the budgets of both agencies, with final losses accruing to the Crown. This would be contrary to the decision by Cabinet (EGI Min (09) 22/3) that the establishment and on-going costs of oversight and registration of licensed auditors should be funded from by fees paid by the audit industry.

Objectives

- 45 The objective of the regulations is to provide for all matters necessary for the effective administration of the register, and to give full effect to the Act and its purposes. In particular:
- a. To ensure the publically available information on the register is as accurate and accessible as it can be at all times;
 - b. To allow the FMA to satisfy itself that accredited bodies' are appropriately qualified to discharge their regulatory duties on an on-going basis under the regime;
 - c. To ensure that costs of occupational regulation are met by the industry;
 - d. To ensure that overseas auditors are given certainty as to their ability to operate under the regime;
 - e. To ensure that the Registrar is able to efficiently collect, process, and show information necessary to facilitate registration (including transitional registration).

Regulatory Impact Analysis

- 46 No practical non-regulatory measures exist that would be capable of achieving the objectives stated above. In order to meet the outcomes, we have worked through a process, and are satisfied that the proposals below are the minimum necessary to meet the requirement of the Act.
- 47 The Act contemplates the making of regulations to achieve the objectives above, and the outcomes set out below. The preferred option is to promulgate regulations accordingly. The regulations will apply to all auditors and audit firms which provide services to issuers, as defined in section 6 of the Act.

| Outcomes | Proposals to achieve outcomes |
|---|--|
| <p>To ensure that the Registrar is able to efficiently collect, process, and show information necessary to facilitate registration (including transitional registration).</p> | <p>Require all accredited bodies and the FMA to provide the Registrar with details of any changes to any of the follow information held within the register:</p> <ul style="list-style-type: none"> • Changes in the conditions of an auditor’s licence. • Changes to the kinds of audits an auditor is permitted to perform. • Suspension or cancellation of a licence. • Change in the audit firm that a licensed auditor works for. • Change in the name or business address (both physical and electronic) of an auditor or audit firm <p>The notification must occur within 10 days of the accredited body or the FMA becoming aware of the change.</p> <p>Require that the register must contain information indicating the home jurisdiction of each auditor or audit firm.</p> <p>Require that listing of each licensed auditor on the register also contain the details of the audit firm (if any) which employs that auditor.</p> |
| | <p>Require that information provided to the register must be submitted electronically via the Registrar’s web portal.</p> |

| | |
|--|---|
| | <p>Prescribe the following information for inclusion in the register for the purpose of transitional licensing of auditors:</p> <ul style="list-style-type: none">• The full name of the licensed auditor;• The full business address of the licensed auditor (both physical and electronic);• The date of each licence that has been issued to the licensed auditor;• The date on which each licence was recorded in the register;• The expiry date of the licence that is currently in force;• Information identifying an issuer audit that the applicant acted as the auditor or audit engagement partner in respect of within the preceding two years; and<ul style="list-style-type: none">○ If a New Zealand auditor; evidence of current membership of the New Zealand Institute of Chartered Accountants, and the period they have been a member for;○ If an overseas auditor; evidence of current membership of one of the professional bodies named in the Gazette, and compliance with other requirements to act as an auditor in that jurisdiction. |
|--|---|

| | |
|---|--|
| | <p>Prescribe the following information for inclusion in the register for the purpose of transitional registration of audit firms:</p> <ul style="list-style-type: none"> • The full name of the firm; • The full business address of the firm (both physical and electronic); • The date of registration; • The full names of all of the partners and employees of the firm that are licensed auditors; • A signed certificate confirming that their systems comply with Professional and Ethical Standard 3 – Quality Control ('PES 3')³. • Details of their professional indemnity insurance, or a copy of their policy. • Information identifying an issuer audit within the preceding two years which the applicant acted as the auditor on. |
| <p>To ensure the publically available information on the Register is as secure, accurate, and accessible as it can be at all times;</p> | <p>Permit the Registrar to decline access to the register for maintenance reasons, in response to technical difficulties in its maintenance or operation, or to ensure the integrity of the register's security.</p> |
| <p>To ensure that costs of occupational regulation are met by the industry.</p> | <p>Require that each auditor and audit firm must pay a one-off application fee of \$350.00 to the Registrar⁴.</p> <p>Require that each auditor and audit firm must pay an annual confirmation fee of \$110.00 to the Registrar⁵.</p> <p>Allow the FMA to collect the annual confirmation fee of \$110.00 from each auditor and audit firm it has licensed, on behalf of the Registrar⁶.</p> |

³ PES 3 is a standard promulgated by the New Zealand financial reporting and auditing standards setting body, the External Reporting Board ('XRB').

⁴ Sections 14(1)(c) and 27(1)(c) of the Act provide that this fee will be collected by accredited bodies and the FMA on behalf of the Registrar

⁵ Section 43(2)(a) of the Act provides that accredited bodies and the FMA will pay the annual confirmation fee (if any) to the Registrar.

⁶ In order to pay the fee to the Registrar as anticipated under Section 43(2)(a) of the Act, the FMA must be empowered to collect the fee from the auditors and audit firms it has licensed.

| | |
|--|--|
| | <p>Require that each auditor must, on application to the FMA to be licensed, pay the following:</p> <ul style="list-style-type: none"> • A fee of \$115 for an application; and • A fee calculated at the following hourly rates in respect of an application: <ul style="list-style-type: none"> ○ For work carried out by a member of the board of the FMA, an hourly rate of \$230; ○ For work carried out by an officer or employee of the FMA qualified in accountancy, business, commerce, economics, or law, or who is appropriately qualified by reason of skills, training, or experience, an hourly rate of \$166.75; and • The costs incurred by the FMA in processing the application, including; obtaining expert advice or assistance. <p>Require that each audit firm must, on application to the FMA seeing approval to be registered, pay the following:</p> <ul style="list-style-type: none"> • A fee of \$115 for an application; and • A fee calculated at the following hourly rates in respect of an application: <ul style="list-style-type: none"> ○ For work carried out by a member of the board of the FMA, an hourly rate of \$230; ○ For work carried out by an officer or employee of the FMA qualified in accountancy, business, commerce, economics, or law, or who is appropriately qualified by reason of skills, training, or experience, an hourly rate of \$166.75; and • The costs incurred by the FMA in processing the application, including; obtaining expert advice or assistance. |
|--|--|

| | |
|--|--|
| | <p>Require that each person, in respect of an application to become an accredited body pay the following:</p> <ul style="list-style-type: none"> • A fee of \$115 for an application; and • A fee calculated at the following hourly rates in respect of an application: <ul style="list-style-type: none"> ○ For work carried out by a member of the board of the FMA, an hourly rate of \$230; ○ For work carried out by an officer or employee of the FMA qualified in accountancy, business, commerce, economics, or law, or who is appropriately qualified by reason of skills, training, or experience, an hourly rate of \$166.75; and • The costs incurred by the FMA in processing the application, including; obtaining expert advice or assistance. |
| | <p>Require that the FMA, in respect of a work undertaken to complete a quality review of a registered audit practice, charge the following:</p> <ul style="list-style-type: none"> • A fee of \$115 for an application; and • A fee calculated at the following hourly rates in respect of an application: <ul style="list-style-type: none"> ○ For work carried out by a member of the board of the FMA, an hourly rate of \$230; ○ For work carried out by an officer or employee of the FMA qualified in accountancy, business, commerce, economics, or law, or who is appropriately qualified by reason of skills, training, or experience, an hourly rate of \$166.75; and • The costs incurred by the FMA in processing the application, including; obtaining expert advice or assistance. |

| | |
|---|---|
| <p>To ensure that overseas auditors are given certainty as to their ability to operate under the regime.</p> | <p>Prescribe the following jurisdictions as being compliant with section 12 of the Act, for the purpose of the definition of overseas auditor:</p> <ol style="list-style-type: none"> a. Australia b. The European Union⁷ c. Hong Kong d. Singapore e. The United States |
| <p>To allow the FMA to satisfy itself that accredited bodies' are appropriately qualified to discharge their regulatory duties on an on-going basis under the regime.</p> | <p>Require the following information pertaining to the following topics to be included in the annual report of an accredited body to the FMA:</p> <ul style="list-style-type: none"> • The governance systems and organisational structure of the accredited body. • The financial situation of the accredited body. <p>Permit the FMA to make any grant of accreditation subject to the following conditions:</p> <ul style="list-style-type: none"> • Conditions relating to financial position, resources and stability of the accredited body; • Conditions relating to the governance systems and organisational structure; • Conditions requiring continued compliance with the minimum standards prescribed by the FMA. |

53 Our best estimates of the number of auditors and audit firms in New Zealand and abroad that will be subject to the regulations are:

- | | |
|----------------------------------|---------|
| • New Zealand Qualified Auditors | 125-150 |
| • NZ Audit Firms | 10 |
| • Overseas Auditors/Audit Firms | 10-20 |
| • Estimated Total (approx.) | 145-180 |

⁷ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom

- 54 Cabinet agreed in October 2009 (EGI Min (09) 22/3) that the establishment and on-going costs of oversight and registration of licensed auditors should be funded from fees or levies of auditors and accredited professional bodies. On this basis, the proposed fees have been developed in accordance with Treasury's Guidelines for Setting Charges in the Public Sector and the Office of the Auditor General's Guidelines for Charging Fees for Public Sector Goods and Services.
- 55 In respect of fees to recoup costs in the provision of a register of licensed auditors; the Companies Office estimated that the one-off cost to the Government in establishing the register was likely to be in the region of \$25,000. The on-going costs were further estimated to be approximately \$19,000 per year. To recoup these costs, all applicants to the register will be asked to pay to the Registrar a one off application fee of \$350 and - once registered - an on-going annual fee of \$110 when they confirm their details. It is intended that these fees will generate only the amount necessary for full cost recovery.
- 56 In formulating these registration and 'annual confirmation' fees, regard has been had to minimising compliance costs through having an electronic online register, a simple fees regime, the requirement that all information to be provided to the Registrar be submitted via internet web interface, and not charging a fee for voluntary ad-hoc updates to the register. Applicants will face minor time cost for compiling and submitting the required information and fees for the register via the FMA or an accredited professional body.
- 57 In respect to fees proposed for functions performed by the FMA, we propose to utilise the same fees and hourly rates already established for comparable FMA functions under Securities (Fees) Regulations 1998 and the Financial Advisers (Fees) Regulations 2010.
- 58 The fees comprise both a fixed \$115 component (relating to fixed overhead costs), as well as an hourly rate relating to the staff resources necessary to complete each function. The use of the uniform fixed \$115 fee provides certainty to applicants. The hourly-rate component of the fee recognises a necessary trade-off between cost and complexity. That is, the cost of assessing each application or conducting each quality review is likely to vary depending on the differing circumstances of each applicant or audit firm.
- 59 Using an hourly rate mitigates a risk which might otherwise arise from the use of fixed costs only, whereby simpler applications or reviews might cross-subsidise more complicated applications or reviews. It also provides applicants with an opportunity to positively manage their variable 'per hour' compliance costs by ensuring they always provide accurate information to the FMA, and otherwise take steps to ensure matters considered by the FMA are presented in a clear and easily comprehensible manner.
- 60 In order to further reduce costs, the hourly rate recognises a distinction between costs associated with work carried out by a member of the FMA board, and those associated with work carried out by a suitably qualified officer or staff member of the FMA. In most instances, the latter rate will apply. However, matters of particular complexity may require the consideration of the FMA board. An example of this might be the consideration of an application from an overseas auditor who has already been subject to operating restrictions or disciplinary action by an overseas regulator.

61 On this basis, we anticipate that the auditors and audit firms may be subject to the following costs as a result of fees for Crown cost-recovery:

a. Average costs within the first year (including on-off costs associated with licensing and registration):

| Auditor | | Audit Firm | |
|--------------|----------------------------------|--------------------------|----------------------------------|
| Licence | 115 ⁸ (+ hourly rate) | Registration (FMA) | 115 ⁹ (+ hourly rate) |
| Registration | 350 | Registration (Registrar) | 350 |
| Auditor Levy | [Withheld] ¹⁰ | Quality Review | 10,000 ¹¹ |
| Total | [Withheld] | Total | 10,465 |

b. On-going annual fees (excluding one off implementation costs):

| Auditor | | Audit Firm | |
|---------------------------------|--------------------------|---------------------------------|----------------------|
| Annual Confirmation (Registrar) | 110 | Annual Confirmation (Registrar) | 110 |
| Auditor Levy | [Withheld] ¹² | Quality Review | 10,000 ¹³ |
| Total | [Withheld] | Total | 10,110 |

62 Those most likely to be affected by the proposed regulations are individuals and firms in the audit industry, consumers of audit services, and audit regulators. Aside from the direct fiscal implications of fees, the compliance impositions on New Zealand qualified auditors are expected to be low, as they will already be members of an accredited professional body (such as the New Zealand Institute of Chartered Accountants), from which they will receive information and compliance guidance.

⁸ In addition to the \$115 flat fee which will be charged per application, applicants will also be liable for an additional fee constituting the relevant hourly rate for work undertaken by FMA staff in processing the application.

⁹ Refer footnote 8 above.

¹⁰ The auditor levy is to be decided under a separate policy process to determine fees which will fund the FMA's oversight activities. For this reason it is not covered in this RIS. However, an estimate of the levy included here in order to provide a complete picture of compliance costs auditors will be subject to.

¹¹ It is estimated that a quality review will have an estimated average cost of \$40,000 over four years. Actual costs and will vary from firm to firm according to size and complexity. Timing of quality reviews may not occur less frequently than once every four years, but may occur more frequently.

¹² The auditor levy is to be decided under a separate policy process to determine fees which will fund the FMA's oversight activities. For this reason it is not covered in this RIS. However, an estimate of the levy included here in order to provide a complete picture of compliance costs auditors will be subject to.

¹³ It is estimated that a quality review will have an estimated average cost of \$40,000 over four years. Actual costs and will vary from firm to firm according to size and complexity. Timing of quality reviews may not occur less frequently than once every four years, but may occur more frequently.

Consultation

- 63 The Ministry of Justice, Financial Markets Authority, the New Zealand Companies Office, and Treasury were consulted during the preparation of this paper. The Department of the Prime Minister and Cabinet has been informed.
- 64 Submissions from the FMA and the Registrar were invited on proposals for the regulations, and these submissions have been incorporated into the recommendations.
- 65 Since the passage of the Act, the officials have regularly met with representatives of the peak accounting bodies in New Zealand – the New Zealand Institute of Chartered Accountants (NZICA) and CPA Australia (who will seek accreditation as co-regulators under the Act) to discuss the further regulation necessary to implementation of the Act.
- 66 These peak bodies were formerly responsible for overseeing the audit sector prior to the passage of the Act, and all auditors to whom the Act applies are members of such bodies. As such, we consider consultation with these bodies to appropriately represent the interests of the wider audit sector. In communication with these bodies, officials took particular care to ensure transparency on issues relating to fees. No significant concerns were raised.

Conclusions and Recommendations

- 67 The objective of the regulations is to ensure that all matters necessary for the effective administration of the register, and to give full effect to the Act and its purposes, are attended to. We have completed a process considering the intent and anticipated operation of the Act, and are satisfied that the proposals constitute the minimum necessary to meet its requirements.
- 68 We therefore recommend the making of regulations to give effect to the proposals in this Regulatory Impact Statement.

Implementation

- 69 The regulations form part of the wider implementation of the Act. The primary implementation risk relates to timing. The obligation to comply with the Act applies from 1 July 2012. However, provisions relating to transitional licencing and registration apply from 1 May. Consequently, regulations relating to in implementation of the transitional regime must be promulgated before 1 May. Policy decisions are needed by February to allow the auditors and regulators and to see in advance what their obligations will be.
- 70 In order to mitigate this risk, officials will liaise with industry and work with PCO to ensure that satisfactory regulations are developed in a timely manner.

Monitoring, Evaluation and Review

- 71 The Ministry proposes that the application fees and hourly rates charged by the FMA for functions performed under the Act be reviewed in 2014, to ascertain whether they sufficiently reflect the costs to the FMA of providing these services to the audit sector.
- 72 The Companies Office has separately undertaken to review the fees charged by the Registrar for registration and the way the register is kept up-to-date within five years from the date of implementation. That review will consider (amongst other things) whether the fees are still appropriate once the number of licensed auditors and registered audit firms is known and is stable.