

Memorandum of Understanding between the
Electricity Authority and the Financial Markets
Authority

July 2015

Memorandum of Understanding dated 13 July 2015

between (1) the **Electricity Authority** (the EA)

and (2) the **Financial Markets Authority** (the FMA)

Background

- 1 The EA is an independent Crown entity established under section 12 of the Electricity Industry Act 2010, and is the regulator of the electricity industry. The EA's objective, as set out in section 15 of the Electricity Industry Act, is to promote competition in, reliable supply by, and the efficient operation of, the electricity industry for the long-term benefit of consumers.
- 2 The FMA is also an independent Crown entity established under section 6 of the Financial Markets Authority Act 2011. The FMA's main objective, as set out in section 8 of the Financial Markets Authority Act, is to promote and facilitate the development of fair, efficient, and transparent financial markets. The FMA has statutory functions under the Financial Markets Authority Act and the Acts listed in Schedule 1 of that Act. The FMA enforces securities, financial reporting, and company law as they apply to financial services and securities markets and its role is to help develop financial markets that efficiently allocate capital, operate with integrity and provide diverse investment opportunities for New Zealanders and international investors.

Purpose

- 3 The EA and the FMA recognise that there is the potential for confusion amongst stakeholders as to what are their respective statutory functions with regard to the electricity industry. The purpose of this memorandum is to record the FMA's and the EA's commitment to:
 - a. identify common regulatory objectives and roles;
 - b. work together to minimise the scope for uncertainties regarding any jurisdictional issues; and
 - c. record the spirit of cooperation that will operate between the agencies.
- 4 Nothing in this memorandum is intended to limit or affect the independence of each party or the requirement that each party act independently to fulfil its legal functions and obligations.

Roles and responsibilities in areas of common interest

- 5 Under the Financial Markets Conduct Act 2013 (the FMC Act), the FMA has the primary regulatory and enforcement responsibility for fair dealing in relation to financial products and financial services as defined in the FMC Act (financial products and financial services). The FMA also licenses and supervises Derivatives Issuers and regulates Regulated Offers of Derivatives, and licensed financial product markets (as those terms are defined in the FMC Act).
- 6 Consistent with its statutory objective, the EA's responsibilities include:
 - a. enhancing retail and wholesale electricity market competition;
 - b. facilitating a market for trading financial hedge contracts for electricity; and
 - c. administering the electricity industry financial transmission rights (FTR) market.

How we will work together

- 7 The EA and the FMA will work together to achieve the purposes expressed in clause 3 of this memorandum.
- 8 The EA and the FMA agree that there are a number of principles which will govern the relationship under this memorandum. Specifically, but without limitation, the two parties agree that, in relation to financial products and financial services, they will, so far as practicable:
 - a. work together to coordinate activities to avoid potential overlaps or duplication of effort between the parties, and to maximise efficiency and effectiveness;
 - b. work together to clearly communicate respective roles and responsibilities to stakeholders and minimise the potential for confusion in that regard;
 - c. share information, knowledge and skills to increase the overall capability and effectiveness of both parties in the delivery of their statutory functions; and
 - d. adopt a no surprises approach, by advising each other early of any identified issues that might affect the other party.
- 9 Staff from both parties will meet as required to give effect to the requirements of this memorandum.

- 10 This memorandum will be made available on both the EA's and the FMA's websites.

Maintaining confidentiality

- 11 Without prejudice to or limitation of any applicable legal principles, each party will observe the strictest confidence in relation to information supplied under this memorandum, or derived from or based on any such information (**Protected Information**). Neither party will use or disclose Protected Information unless the use or disclosure is required by law, authorised by the other, or is otherwise required to fulfil that party's statutory functions.

Term of memorandum

- 12 This memorandum becomes effective when signed by the EA and the FMA, and remains effective unless terminated by either party.
- 13 All confidentiality commitments between the parties will remain in effect despite any termination of this memorandum.
- 14 This memorandum may be amended at any time during its term by written agreement between the two parties.

Issue resolution

- 15 Both parties will use their best endeavours to resolve any issue in a timely manner and in the way that best supports the delivery of the parties' statutory functions.
- 16 In the event of issues arising between the parties, the parties will work together to resolve them as quickly as possible by mutual agreement.

Signatures



Carl Hansen
Chief Executive
Electricity Authority



Rob Everett
Chief Executive
Financial Markets Authority