



SEPTEMBER 2024

# Market operator obligations review

## Catalist

Findings from the FMA's review of how well Catalist is meeting its licensed market operator obligations, for the period 1 April 2023 to 31 March 2024

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# Executive summary

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## About this report

Catalist Markets Limited (**Catalist**) is licensed under section 316 of the Financial Markets Conduct Act 2013 (**FMC Act**) to operate the Catalist Public Market (**Catalist Market**).

The FMC Act requires the Financial Markets Authority – Te Mana Tātai Hokohoko (**FMA**) to carry out a review and report on how well Catalist is meeting its market operator obligations. We may carry out this review at any time but must do so at least once a year.

This report covers our third review of Catalist, for the period from 1 April 2023 to 31 March 2024 (referred to as **the review period**).

The Catalist Market is a “stepping-stone” market for small to medium-sized growth businesses seeking the benefits of an exchange listing. These may include pricing of securities, increased liquidity or raising capital of up to \$20 million. Once entities reach a certain scale and size, they would then transition on to the next phase of their growth, which may be a listing on an exchange with continuous trading and disclosure.

The Catalist Market is designed to have lower costs with simplified compliance obligations. It offers periodic trading by way of an online auction platform aimed at concentrating price-discovery and liquidity, coupled with periodic rather than continuous disclosure.

Details of Catalist’s licence are on [our website](#).

## How we approached this review

As with other market operator obligations reviews, we selected certain areas of focus with consideration given to our monitoring activities undertaken during the review period. The scope of our review was influenced by this being Catalist’s third period of licensed activity, and by the scale and level of activity on its licensed market, together with its licence conditions.

The review focused on, but was not limited to, these key areas:

1. Governance arrangements and oversight
2. Monitoring of conduct
3. Conflict management
4. Sufficiency of resources

In assessing these areas and overall compliance, we conducted both desk-based and on-site reviews. We considered how Catalist is structured and governed by reviewing - amongst other things - Board reporting and minutes, policy and process documents, risk registers and reporting, regulatory and monitoring activity, conflict and regulatory decision logs, technology logs, and regular financial reporting, budgeting and forecasts. We also spoke to Catalist’s key personnel and members of the Board.

We employ a risk-based approach to monitoring. While this review is of Catalist's overall compliance with its market operator obligations, we have exercised judgement in selecting focus areas, and the level and detail of work performed in each.

This report highlights our main observations from the review and, as with any risk-based approach, has inherent limitations. Our assessment, recommendations and observations are based on the information we have reviewed.

## Overall assessment

Our overall conclusion is that Catalist has complied with its market operator obligations during the review period.

In making this assessment we considered specific conditions of Catalist's licence and the obligations of a licensed market operator under the FMC Act<sup>1</sup>, in particular the general obligations under section 314 to:

- Do all things necessary to ensure, to the extent that is reasonably practicable, that each of its licensed markets is fair, orderly and transparent
- Have adequate arrangements for notifying disclosures made to it under a disclosure obligation, and for continuing to make those disclosures available
- Have adequate arrangements for handling conflicts between its commercial interests and the need to ensure its markets operate in a fair, orderly and transparent manner
- Have adequate arrangements for monitoring the conduct of participants in its markets
- Have adequate arrangements for enforcing compliance with relevant market rules
- Have sufficient resources (including financial, technological and human resources) to operate its licensed markets properly.

## Observations

Our key observations for the review period include the following:

- Overall, policies, processes and frameworks were well developed and showed a level of maturity that is appropriate to the Catalist Market's current stage of development.
- The outsourced functions offered capacity for current and forecast activity, continuity of service and uplift, and also mitigate key-person risks.
- The issuer on-boarding process was appropriate and included guidance on initial disclosure information, such as the need for disclosures to be clear and concise and for issuers to be aware of obligations around statements they make.
- The technology platform displayed scalability, remaining stable with an increasing number of issuers on its platform and in periods of higher auction activity.

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<sup>1</sup> Refer to Appendix 1 for further details on obligations.

- The human resource to operate the Catalist Market continues to be appropriately sized for the level of activity, with some scalability for forecast growth.

We acknowledge and thank Catalist staff for their constructive engagements during the review period, and our on-site review in 2024.

## Recommendations

We assessed that several of last year’s recommendations remain relevant as areas for continued focus in the context of Catalist’s current stage of growth and have retained these with some minor changes.

The recommendations are as follows:

| Area                           | Recommendation   |
|--------------------------------|--|
| Adequacy of resourcing         | Maintain focus on regular oversight and performance reviews of internal and outsourced functions, to ensure capability and capacity to operate its licensed market maintains alignment with observed and forecast growth.          |
| Financial resilience           | Continue its approach to management of its financial resource with regular near- and long-term financial and cashflow forecasting, with updates as necessary through the financial year.   |
| Technology, Cyber and security | Continue to carry out the regular testing, including the external cyber security testing regime, and instigate business continuity and crisis simulation exercises as part of this testing, particularly as the platform develops. |

# Focus areas

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## Governance arrangements and oversight

### ***Background and review***

We focused our review of governance arrangements and oversight on three areas: Catalist's monitoring and assessment of sufficiency of resourcing, assessment of the performance of outsourced arrangements and updates or reviews of policies, processes or frameworks. We reviewed material including Board minutes and associated papers, policies, outsourced function reviews and forecasts, and interviewed key personnel, including Board members.

### ***FMA observations***

Catalist has a Board consisting of three independent board members and the Chief Executive. Discussions with the Board and management indicated an active Board that is engaged with the business and management, with regular interaction and oversight testing of plans and proposals. Board meetings are structured and contain regularly scheduled and periodic agenda items with regular reviews of key aspects of the business.

Overall, policies, processes and frameworks were well developed and showed a level of maturity that is favourable for Catalist's current stage of development. Our view is that the governance and oversight arrangements are appropriate.

We observed:

- Evidence of the Board regularly considering the sufficiency of resourcing from financial, technological and human perspectives.
- Documented reviews of the performance of the outsourcing arrangements for the finance and regulatory functions.
- The Board maintained oversight of policy review updates. Board reviews followed a scheduled cycle and were noted in the minutes.
- Risks were regularly considered, with periodic 'deep-dives' undertaken into selected risk categories.

Given that outsourced roles relate to key functional areas, we recommend that performance is regularly reviewed to ensure arrangements continue to perform as intended and remain appropriate.

## Monitoring of conduct

### ***Background and review***

As a licensed operator of a financial product market, Catalist is required to have adequate arrangements for operating its licensed markets, including arrangements for:

- notifying disclosures made to it under a disclosure obligation
- monitoring the conduct of participants on or in relation to the markets; and
- enforcing compliance with the relevant market rules.

Monitoring is the responsibility of all directors, staff and contractors who are involved in any market surveillance, investigations, or enforcement action against any Catalist issuer or investor. The Catalist Market Surveillance, Investigations and Enforcement Policy (**MSIE policy**) outlines the purpose, scope, responsibilities and process for monitoring.

To test the effectiveness of Catalist's monitoring activity and process we reviewed a sample of files, including from on-boarding of issuers, reviews of trade activity, issuer disclosure monitoring, and investigations and enforcement activity. In addition, we spoke to key personnel regarding the sample file review and their approach to conduct monitoring in general.

### ***FMA observations***

Overall, we were satisfied that Catalist had conduct monitoring arrangements in place that were appropriate for the size and level of activity of the Catalist Market, and that these arrangements showed scalability to accommodate the level of growth anticipated.

In particular:

- There was a standardised approach to issuer on-boarding with key steps or requirements noted in various checklists. This was guided by policy that provided for the process and areas for consideration and assessment during the on-boarding process.
- There was evidence of review of the on-boarding information provided, with additional notes or comments recorded indicating qualitative reviews during the process.
- Review of issuer's initial disclosure information focused on ensuring investor information was clear and concise, and providing guidance to issuers to ensure understanding around statements made in disclosures.
- Catalist's ongoing monitoring includes trade activity and issuer disclosure monitoring. In the review of sampled files, we were satisfied with this process.

During the review period there were no cases that resulted in enforcement action. While we could not test the effectiveness of the arrangements, we were satisfied there were appropriate processes and policy in place to investigate, determine and appropriately enforce any breach of rules.

## **Conflict management**

### ***Background and review***

Catalist is required to have adequate arrangements for operating its licensed markets, including arrangements for handling conflicts between its commercial interests and the need to ensure its markets operate in a fair, orderly, and transparent manner, and for monitoring conduct and enforcing compliance.

During the review period Catalist adopted an outsourcing arrangement for the provision of its regulatory function including the appointment of a Head of Regulation (HoR). The separation of the regulatory and



commercial aspects was discussed in the prior year's obligations review in the context of licence condition 8(7), which deals with requirements around a dedicated regulatory and compliance resource.

In undertaking this part of our review and to understand how Catalist manages conflicts between commercial and regulatory aspects, we reviewed relevant policies, registers of decisions, sample cases, responsibilities of the HoR role, reporting lines and Board minutes, and spoke to key personnel.

### ***FMA observations***

Overall, we were satisfied that Catalist was appropriately managing and enhancing the separation between its regulatory compliance and commercial functions.

Observations included:

- The Conflicts and Regulatory Decisions register was sufficiently detailed and reviewed regularly by the Board.
- Regulatory function carries out reviews of issuer on-boarding and ongoing issuer disclosures and these reviews are evidenced.
- An active approach towards separating the regulatory and compliance function and the commercial function.

Additionally, we noted the outsourced model provided uplift around continuity of service, capacity, and reduced key-person risk.

## Sufficiency of resource

### ***Background and review***

As a licensed market operator Catalist must have sufficient resources (including financial, technological, and human resources) to operate its licensed markets properly.

For the assessment we reviewed various documents including Board minutes (and supporting papers and policies), financial information (including the regular management reporting and forecasts), risk registers, the Outsource Policy, various technology reporting, and policy documents including the Cyber and Information Security Policy, and conducted interviews with key personnel.

### ***FMA observations***

Overall, we assessed that Catalist maintained sufficient resources to operate its licensed market properly. Key points included:

- The Board maintained a high level of visibility and regularly reviewed financial performance.
- The regular financial reporting included the application of baseline and scenario-modelled forecasting with evidence of Board and management testing of assumptions and inputs.
- Catalist maintains sound practices around its technology platform with development subject to good internal testing practice, and external cyber security testing carried out periodically.
- The technology platform has displayed scalability, remaining stable with an increasing number of issuers across its platform and periods of higher auction activity.

- The assessment of Catalist resourcing is conducted by the Board alongside the financial model that includes both current and forecast human resourcing requirements.
- The outsourced functions offered both capacity for current and forecast activity, continuity of service and uplift, and mitigates key-person risks.
- Technology project prioritisation has enabled resource capacity to be balanced between system maintenance and development.

It is important that Catalist continues with its current approach to managing its financial resource, maintaining regular near and long-term financial and cashflow forecasting under a number of scenarios and assumptions, and updating these as necessary through the financial year.

Similarly, we recommend that Catalist continues to carry out the regular testing, including the external cyber security testing regime, and instigate business continuity and crisis simulation exercises as part of the testing, particularly as the platform develops.

## Follow up on observations from September 2023 report

### ***Background and review***

In our September 2023 report we made five recommendations for Catalist, some of which could be considered ongoing, e.g. those related to managing the outsourcing arrangements for key functional areas, managing cyber and technology platform risks and controls, and maintaining focus on financial resilience. We also noted recommendations regarding on-boarding of issuers.

### ***FMA observations***

We acknowledge that Catalist has given regard to these recommendations during the review period. Given that some of them are considered ongoing, in this report we have noted progress made, notably the sections on Governance arrangements and oversight (oversight of outsourced arrangements), Sufficiency of resource (Financial, Technology and Cyber), and Monitoring of conduct (on-boarding).

# Appendix 1: Our role in reviewing Catalyst

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## Our role

The FMA is an Independent Crown Entity and one of two main regulators of New Zealand's financial markets. Our purpose is to promote and facilitate the development of fair, efficient and transparent financial markets.

Under the FMC Act, we are required to review, at least annually, how well a licensed market operator is meeting its obligations. We are also required to publish a written report of the review.

If we consider, after conducting a review, that a licensed market operator has failed or is failing to meet any one or more of its market operator obligations, we may, by written notice, require the licensed market operator to submit an action plan to the FMA.

## Market operator obligations

In the FMC Act, 'market operator obligations' means:

the general obligations in respect of licensed markets (section 314):

- to ensure, to the extent that is reasonably practicable, that each of its licensed markets is a fair, orderly and transparent market
- to have adequate arrangements for notifying disclosures made to it from participants in its markets, and for continuing to make those disclosures available
- to have adequate arrangements for handling conflicts between its commercial interests and the need to ensure its markets operate in a fair, orderly and transparent manner
- to have adequate arrangements for monitoring the conduct of participants in its markets
- to have adequate arrangements for enforcing compliance with market rules
- to have sufficient resources (including financial, technological, and human resources) to operate its licensed markets properly

an obligation to respond to a request from the FMA to make changes to market rules (section 333)

an obligation to give the FMA an annual self-assessment of compliance with its obligations (section 337)

an obligation to act on the directions of the FMA or the Minister, if the operator is found to be failing to meet any of its obligations (sections 340 to 342)

any obligation imposed as a condition of a market operator's licence.

