

JULY 2023

Consultation: Climate-related disclosures timing challenge

About this consultation

The Financial Markets Authority – Te Mana Tātai Hokohoko is considering using its exemption power to exempt certain climate reporting entities (**CREs**) from the requirement to include a link to their climate statements in their annual report under section 461ZJ of the Financial Markets Conduct Act 2013 (the **FMC Act**).

Under the FMC Act, climate statements must be prepared and lodged within four months after a CRE's balance date. However, some CREs are facing a timing challenge because they are subject to other reporting obligations that mean climate statements will need to be prepared within three months. We understand that this mismatch in timing will be most challenging during the initial years of the climate-related disclosures regime.

If granted, the exemption would provide relief to listed issuers that are CREs by enabling them to lodge their climate statements within four months after their balance date, rather than having to include them with their annual report, which is due three months after their balance date. We propose attaching conditions requiring that a website address or link is included in their annual report, through which their climate statements will be accessible within four months after their balance date, along with a statement explaining this. We also propose that the relief should be available for two years, acknowledging the transitional nature of the relief proposed in this paper.

We invite your feedback on the exemption proposals discussed in this paper. In addition to your general feedback, we have included specific questions in this paper. Please use the feedback form provided to provide us with any comments.

Submissions close at 5pm on Monday 7 August 2023.

Next steps

After considering submissions, we will finalise our policy proposals and, if any exemptions are granted, work to get them in place as soon as possible.

If you have any questions, please email questions@fma.govt.nz or call us on 0800 434 566 (or +64 3 962 2698 if calling from outside New Zealand).

This consultation is for climate reporting entities and other interested parties.

It asks for feedback on a proposed exemption to provide relief for CREs facing a timing mismatch between their climate statement obligations and other reporting obligations.

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Overview

The Climate-related Disclosures regime and its purposes

In October 2021, the New Zealand Government introduced a new regime making climate-related disclosures mandatory for some organisations. The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 (the **CRD Act**) amended the FMC Act by including a new Part 7A: *Climate-related disclosures for certain FMC reporting entities with higher level of public accountability*. The FMA is responsible for independent monitoring and enforcement of the regime, providing guidance about compliance expectations, and reporting on monitoring activities and findings.

The aim of these law changes is to:

- ensure the effects of climate change are routinely considered in business, investment, lending and insurance underwriting decisions
- help climate reporting entities better demonstrate responsibility and foresight in their consideration of climate issues
- lead to more efficient allocation of capital, and help smooth the transition to a more sustainable, low-emissions economy.

Mandatory climate-related disclosures are aimed at helping New Zealand meet its international obligations and achieve its target of net zero carbon by 2050. The intention is that by improving transparency and revealing climate-related information within financial markets, our financial system and economy will become more resilient and climate change risks¹ will be addressed.

Part 7A applies to entities called climate reporting entities (**CREs**), comprising:

- large listed issuers² of quoted equity securities or quoted debt securities (over \$60 million in market capitalisation or quoted debt, respectively. Issuers listed on growth markets are excluded)
- registered banks, credit unions and building societies with total assets over \$1 billion
- licensed insurers with total assets over \$1 billion or annual gross premium revenue over \$250m
- managers of registered schemes, such as KiwiSaver schemes and investment funds (other than restricted schemes) with greater than \$1 billion in total assets under management.

There are three sets of duties under Part 7A of the FMC Act. These duties relate to—

- a) keeping proper records relating to CREs' responsibility to make climate-related disclosures
- b) preparing climate statements
- c) lodging those statements with the Companies Office, so they are publicly available.

Climate statements are required to be lodged from early 2024 for accounting periods that start on or after 1 January 2023. There is a further set of requirements in Part 7A regarding assurance of greenhouse gas (GHG) emissions disclosures in climate statements which take effect from October 2024.

¹ The risks are described in the 2020 [National Climate Change Risk Assessment Report](#) and actions to manage those risks are outlined in the 2022 [National Adaptation Plan](#). Refer to Chapter 10 of the plan regarding the economy and the financial system.

² A listed issuer is a person that is a party to a listing agreement with a licensed market operator in relation to a licensed market.

FMA's power to grant class exemptions

We have powers to exempt persons or transactions from compliance with requirements in the Financial Markets Conduct Act 2013 (the FMC Act) and associated regulations.

Before we do so, we must be satisfied that the exemption is not broader than is reasonably necessary to address the matters that gave rise to it. We must also be satisfied that the exemption is necessary or desirable to promote one or more of the following purposes of the FMC Act regime:

- to promote the confident and informed participation of businesses, investors, and consumers in financial markets
- to promote and facilitate the development of fair, efficient and transparent financial markets
- to provide for timely, accurate and understandable information to assist investment decisions
- to ensure appropriate governance arrangements apply to financial products and services, and allow for effective monitoring and reduce governance risks
- to avoid unnecessary compliance costs
- to promote innovation and flexibility in the financial markets.

Our decision on the exemption proposal discussed in this paper will be based on whether we are satisfied the above statutory test is met.

Climate statements: timing challenge

Obligations under the new regime

Under Part 7A of the FMC Act, CREs will have to make annual disclosures covering governance arrangements, risk management, strategies, and metrics and targets for mitigating and adapting to climate change impacts. These climate statements must be prepared and lodged within four months after the balance date of the entity.³

Most CREs must also include a copy of their climate statements, or a website link to a copy of those statements, in their annual report.⁴

Climate statements will first become due from early 2024 for accounting periods that start on or after 1 January 2023. The requirements in Part 7A regarding assurance of greenhouse gas (GHG) emissions disclosures in climate statements take effect from October 2024.

Issue: timing challenge

There is a mismatch in timing for some CREs with respect to when climate statements are due under the FMC Act, and when annual reports are due pursuant to other reporting obligations.

Under NZX listing requirements, CREs that are listed issuers must publicly release their annual report within three months after their balance date.

This presents a timing challenge: to comply with the requirement in section 461ZJ of the FMC Act to include a copy of their climate statements, or a website link to a copy of those statements, in their annual report, these CREs will need to prepare climate statements within three months after their balance date, rather than four months as required by the FMC Act.

This type of timing mismatch is not unique. There are other cases in which entities have to manage different reporting timing requirements under New Zealand legislation. We understand that, generally, these different timings can be planned for and managed. However, given this is the first time that climate statements will be prepared and timeframes for reporting may be difficult to estimate, CREs may need the four-month timeframe provided in the FMC Act to complete their climate statements during the initial years of the CRD regime.

³ See sections 461Z to 461ZC and 461ZI of the FMC Act.

⁴ See section 461ZJ of the FMC Act.

Proposed exemption and conditions

We are considering a class exemption for listed issuers that are CREs from the requirement in section 461ZJ(2)(b) of the FMC Act to include a copy of their climate statements or a link to a copy of those statements in their annual report.

We are considering imposing conditions requiring a CRE to include the following in their annual report:

- the address of (or a link to) the Internet site where a copy of the climate statements will be accessible within four months after the entity's balance date; and
- an accompanying statement specifying the date that a copy of the climate statements will be accessible through that Internet site address or link.

We expect that relief will only be required for a term of two years. This is because we understand the timing challenge will be most pronounced in the initial years of the CRD regime. We consider that after the first climate statements have been prepared, some of the compliance burden will have eased and entities will have the experience required to ensure they can comply with these different timing obligations.

A two-year term also acknowledges that the upcoming additional requirement to have the second and subsequent sets of climate statements audited for GHG emissions may further exacerbate the timing challenge these CREs face.

It is important that financial statements and climate statements are prepared together and can be considered together by investors, which is why the term of any exemption granted should reflect the transitional nature of the proposed relief.

We acknowledge the same timing challenge applies to registered banks.⁵ To date, we have inconclusive evidence as to whether an exemption is necessary for them: some banks have indicated they can publish their climate statements in line with required timings, and others not. At this consultation stage, we are proposing to limit the exemption to listed issuer CREs. However, we expressly invite feedback on whether the extension should also cover registered bank CREs and why, i.e. what the impact would be on those CREs if they were not exempted.

Application of climate standards

The External Reporting Board (XRB) has advised us that the proposed exemption would not conflict with any reporting obligations in the climate standards it has issued. Publishing general purpose financial statements and climate statements at the same time is consistent with the timeliness and coherence principles in Tables 1 and 2 of [Aotearoa New Zealand Climate Standard 3](#) (NZ CS 3). However, there is no requirement in NZ CS 3 or the two other climate standards to publish them simultaneously.

⁵ Registered banks must publish a full year disclosure statement (which includes their annual report) within three months after their balance date under Reserve Bank of New Zealand disclosure requirements.

Consultation questions

1. Do you think we should grant an exemption for listed issuer CREs from the requirement to include a copy of or a link to their climate statements in their annual report (subject to the proposed conditions)? What are the reasons for your view?
2. Do you agree the exemption should be limited to listed issuers CREs and not extend to registered bank CREs? What are the reasons for your view?
3. Are you a CRE who will be affected by a mismatch of timing of other reporting requirements and preparation of climate statements? If so, would you rely on the proposed exemption notice?
4. If you are an affected CRE per question 3, please tell us if compliance with a three-month timeframe rather than four-month would be difficult, specifying why and how. Please also explain the impact if the exemption is not granted.
5. Are the proposed conditions for the exemption appropriate? Should there be any additional conditions imposed? If so, please provide details.
6. Do you expect any issues to arise from requiring CREs that rely on the exemption to include in their annual report the address of (or a link to) the Internet site where a copy of their climate statements will be accessible within four months after the entity's balance date? If so, please let us know your views on an alternative way to provide this information.
7. Do you think a two-year term is appropriate for the proposed exemption relief? Please provide reasons why or why not. If not, please let us know your views on a suitable term.
8. Will the introduction of the GHG emissions assurance requirement from October 2024 make a difference to the necessary term of relief? Please specify why and how.
9. If you think the class exemption should be granted, do you think that the proposed class exemption would be consistent with one or more of the purposes of the FMC Act? Please provide reasons for your answer.
10. Are there any unintended consequences that may occur by implementing this proposal?
11. Do you have any other comments?

Feedback form

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Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at consultation@fma.govt.nz with 'Climate-related disclosures timing mismatch: [your organisation's name]' in the subject line. Thank you. **Submissions close on Monday 7 August 2023.**

Date: _____ Number of pages: _____

Name of submitter: _____

Company or entity: _____

Organisation type: _____

Contact name (if different): _____

Contact email and phone: _____

Question number	Response

Feedback summary – *if you wish to highlight anything in particular*

Please note: Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.

Personal information gathered in this consultation will be handled in accordance with our Privacy Statement on our website www.fma.govt.nz.

Thank you for your feedback – we appreciate your time and input.