

MARCH 2023

Consultation: Proposed exemptions for foreign listed issuers from climate reporting duties

About this consultation

The Financial Markets Authority - Te Mana Tātai Hokohoko (FMA) is considering exemptions to provide relief from the climate reporting duties under Part 7A of the Financial Markets Conduct Act 2013 (FMC Act) for foreign exempt issuers without significant business operations or investments in New Zealand. We are also considering a class exemption for all other foreign exempt issuers from climate reporting duties for their overseas businesses providing they report on their New Zealand business or, if that business is operated via a locally incorporated company which is a Climate Reporting Entity (CRE), that company reports on the New Zealand business.

Foreign exempt issuers (NZX FEIs) are companies that are listed on a recognised foreign exchange¹ and have a secondary listing and foreign exempt issuer status on the New Zealand Stock Exchange (NZX). This special status allows them to comply with their home exchange listing rules and on that basis the majority of the NZX Listing Rules do not apply.

Some NZX FEIs that are large public issuers will be required to comply with the climate reporting duties under Part 7A of the FMC Act unless an exemption is granted.

We acknowledge that there will be differing views about where the balance should be struck in relation to the proposed exemptions, and that in some cases these may be difficult to reconcile. We welcome your feedback on the exemption proposals in response to the specific questions in this paper, as well as any other general comments.

Next steps

Please use the feedback form at the end of this document to submit your feedback. **Submissions close at 5pm on 17 April 2023.** After this date, we will consider all submissions, finalise our policy proposals and, if any exemptions are granted, work to get them in place.

This consultation is for FEIs, investors and other interested parties.

It seeks feedback on the need for, and the content of, proposed exemptions for FEIs from climate reporting duties.

¹ Currently these are Australian Securities Exchange; Hong Kong Exchanges and Clearing Limited; London Stock Exchange Group; NASDAQ; Singapore Exchange; and Toronto Stock Exchange.

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Overview

The CRD regime and its purposes

In October 2021 the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act (CRD Act) was enacted. The CRD Act amended the FMC Act by including a new Part 7A entitled “Climate-related disclosures for certain FMC reporting entities with higher level of public accountability”.

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 risks² will be addressed.

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

- large listed issuers³ 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. 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. From October 2024 there will be a further set of duties in Part 7A regarding assurance of greenhouse gas emissions disclosures in climate statements.

² 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.

³ 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 exemption powers

To grant an exemption under section 556 of the FMC Act, the FMA must be satisfied that the exemption is necessary or desirable in order to promote one or more of the purposes of the FMC Act. The extent of the exemption also cannot be broader than is reasonably necessary to address the matters that gave rise to the exemption.

The purposes of the FMC Act are:⁴

- to promote the confident and informed participation of businesses, investors, and consumers in the financial markets
- to promote and facilitate the development of fair, efficient, and transparent financial markets
- to provide for timely, accurate, and understandable information to be provided to persons to assist those persons to make decisions relating to financial products or the provision of financial services
- to ensure that appropriate governance arrangements apply to financial products and certain financial services that 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 proposals discussed in this paper will be based on whether we are satisfied the above statutory test is met.

⁴ See sections 3 and 4 of the FMC Act.

Background

Application of CRD regime to NZX FEIs

Some large NZX FEIs will be subject to climate-related reporting duties under Part 7A. The climate reporting duties in Part 7A apply to large listed issuers regardless of whether they are based in New Zealand or overseas and regardless of whether their primary listing is in an overseas jurisdiction.

The issue of how to deal with NZX FEIs was raised during the development of the CRD Act, but ultimately not covered in the legislation. This was raised in submissions to the Select Committee considering the draft legislation. A number of submitters stated that NZX FEIs should be permitted to comply with their home jurisdiction requirements in relation to climate-related reporting. Government officials advised the Select Committee that the regulation-making powers and the exemption provisions in the FMC Act provided sufficient flexibility to deal with foreign issuers⁵.

Large NZX FEIs are not the only type of large foreign-based climate reporting entities who have obligations under Part 7A of the FMC Act. Part 7A also applies to some non-listed entities called 'overseas climate reporting entities'. Included in this category are foreign-based entities such as banks and insurance companies, which have branch businesses in New Zealand meeting certain thresholds such as total assets over \$1 billion, or revenue of over \$250 million per annum. However, these overseas climate reporting entities are only required to report on their New Zealand businesses. Large New Zealand listed issuers, including large NZX FEIs, are required to report on their entire global businesses.

About the NZX FEIs

The full definition of NZX FEI is contained in the NZX Listing Rules at page 18:

*NZX Foreign Exempt Issuer means: (a) an Issuer Listed on the Main Board or Debt Market as a secondary listing under Rule 1.6.1, and (b) where the context permits, an Issuer to the extent it has a Class of Financial Product Quoted and the Home Exchange of such Financial Product is a Recognised Stock Exchange.*⁶

There are sixteen large NZX FEIs currently operating in New Zealand that we consider are CREs. Fifteen of them are equity issuers, and the sixteenth is a debt issuer.

Six of these have a primary listing on the London Stock Exchange Group (LSE), and a secondary listing on the NZX. They are investment trusts which issue equity securities to investors.

The amounts traded on the NZX in respect of these six investment trusts are relatively small. The main trading occurs on the LSE. The number of New Zealand-based investors in each of these investment trusts is also relatively small.

⁵ At page 11 of the [Departmental Report](#)

⁶ [NZX Listing Rules](#)

The other ten NZX FEIs have a primary listing on the Australian Securities Exchange (ASX) and have a secondary listing on the NZX. Nine of the ten issue equities, and one has issued debt securities. The list includes two large banks, an insurer, an energy company and an industrial company.

The amounts traded on the NZX in respect of these FEIs, while larger than the six LSE investment trusts, are still relatively small. The number of New Zealand-based investors in respect of these FEIs, while larger than for the six LSE investment trusts, is still relatively small.

TCFD reporting

The Aotearoa New Zealand Climate Standards issued by the External Reporting Board (XRB) are based on the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) but in some respects they align more closely with the requirements in the International Sustainability Standards Board's (ISSB) ED IFRS S1 and ED IFRS S2. This means the New Zealand reporting may differ in some respects from overseas requirements that are based on TCFD.

In September 2020, the New Zealand Government announced its intention to implement mandatory reporting on climate-related risks and opportunities. It signalled that the reporting would be based on the recommendations of the Task Force on Climate-related Financial Disclosures. The TCFD recommendations are a leading framework for climate-related disclosures internationally.

The TCFD recommendations are structured around four thematic areas that represent core elements of how organisations operate. They are:

- governance
- strategy
- risk management
- metrics and targets.

When the XRB started its project to develop a climate-related disclosure framework for Aotearoa New Zealand, it also developed several design principles to guide its process. One of those principles was:

“the set of standards and guidance would be developed based on the recommendations of the TCFD, with any additions beyond what is contained within the TCFD suite of documents made as best practice evolves and with a view to future proofing the standards...”

In the finalised climate standards issued on 14 December 2022 the XRB notes⁷:

“While the XRB Board continued to base Aotearoa New Zealand Climate Standards on the foundation provided by the TCFD, it acknowledged the need for alignment with the ISSB while still developing requirements that are appropriate for Aotearoa New Zealand. As a result, in some cases the XRB Board decided to align more closely with the requirements in the ISSB's ED IFRS S1 and ED IFRS S2, rather than with the original TCFD recommendations and guidance.”

In January 2023 the ISSB announced it is preparing to finalise and issue these two standards towards the end of Q2 2023. So the XRB has sought to future proof our climate standards based on the most recent drafts available to it.

⁷ At paragraph BC12 in NZ CS 1

Overseas CRD reporting regimes

New Zealand has been a world leader in respect of introducing mandatory statutory climate reporting duties. Many other countries are on a similar journey but not as far advanced. Some are waiting for the finalisation of an international standard for climate reporting by the ISSB in 2023 before making granular climate reporting mandatory. We expect that in the next five years there may be significant developments in CRD reporting regimes overseas.

An overview of the importance and relevance of climate reporting requirements for overseas jurisdictions, including a detailed summary of the mandatory and voluntary standards by jurisdiction, is [here](#)⁸. We have also included specific information below on requirements in the United Kingdom and Australia, given the current group of NZX FEIs that will be CREs have their principal listing either on the LSE or the ASX.

United Kingdom

The main difference between the UK and New Zealand is that the UK has a ‘comply-or-explain’⁹ regime (except for a subset of businesses), while New Zealand has a mandatory CRD regime. Also, in the UK there are no independent assurance requirements in respect of CRD. In the third phase of New Zealand’s regime, commencing October 2024, disclosures relating to greenhouse gas emissions will be required to have independent assurance.

However, the UK is in the process of implementing TCFD-aligned mandatory reporting. The UK Government announced in October 2021 that it is planning to have a more granular and mandatory climate reporting regime in place in two to three years’ time when the ISSB Climate Standards are finalised and adopted into law in the UK.¹⁰

There are three elements to the UK’s current regime:

1. [Financial Conduct Authority \(FCA\) Policy Statements PS20/17 and PS21/23 Date in force 1 January 2021 \(1 January 2022 for standard-listed companies\)](#)

Premium-listed and standard-listed companies must include a statement as to whether they have made TCFD-consistent disclosures in their annual reports, including their level of exposure to climate-related risks and opportunities, and the scope and objectives of their climate-related strategy.

We understand this comply-or-explain requirement applies to all UK-based FEIs operating in New Zealand.

2. [FCA Policy Statement PS21/24 Date in force 1 January 2022 \(1 January 2023 for smaller firms\)](#)

Asset managers, life insurers and FCA-regulated pension providers must produce a TCFD report covering how the firm takes into account climate-related matters in managing or advising on investments. Firms must also produce product-level disclosures, including Scope 1, 2 and 3 greenhouse gas emissions, total carbon emissions, total carbon footprint, and weighted average carbon intensity; and historical annual calculations of the metrics.

⁸ For the New Zealand-recognised exchanges refer pages 7-8 (Australia); page 9 (Toronto); page 12 (Hong Kong); page 19 (Singapore); pages 22-23 (London); page 23 (NASDAQ).

⁹ Where a UK entity has not made disclosures, it must provide an explanation of why, and a description of any steps it is taking or planning to take to be able to make consistent disclosures in the future – including relevant timeframes.

¹⁰ See the UK government’s [Roadmap to Sustainable Investing](#) for more information.

These rules, taking effect through a new ESG (environmental, social and governance) sourcebook in the FCA Handbook, came into effect on 1 January 2022 for firms with more than £50 billion in assets under management. The first set of reports for these firms will be due by 30 June 2023, reflecting the 2022 calendar year.

Firms with assets greater than £5 billion but less than £50 billion (threshold to be reviewed after three years of disclosures), will be subject to the new rules from 1 January 2023, with reports for calendar year 2023 due by 30 June 2024.

We understand the above requirements only apply to one UK-based FEI operating in New Zealand and its assets are currently greater than £5 billion but less than £50 billion.

3. The Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022 in force 6 April 2022

In-scope companies must have as part of their strategic report climate-related information including:

- i. descriptions of governance arrangements and processes for identifying, assessing and managing climate-related risks and opportunities;
- ii. descriptions of principal climate-related risks and opportunities, and their actual and potential impacts on the company's business;
- iii. scenario analysis and the impacts on the company under different climate-related scenarios; and
- iv. key targets, metrics and performance indicators.

The regulations are mandatory (although companies can opt out of specific disclosures if directors deem that it is not necessary for an understanding of the company's business, and explain why).

The FCA published a review of TCFD-aligned disclosures by premium listed commercial companies in July 2022.¹¹ The review covered the disclosures of all of the 171 premium-listed commercial companies on the LSE with December 2021 year-ends that had published their annual report by the end of April 2022. Some of the key findings were:

- 81% of companies indicated that they had made disclosures consistent with all seven recommended TCFD disclosures the FCA would ordinarily expect a company to comply with.
- Some instances where companies indicated that they had made disclosures consistent with the recommended disclosures, but the disclosures themselves appeared to be very limited in content.

The UK Financial Reporting Council published a thematic review of TCFD-aligned disclosures by 25 larger premium-listed commercial companies in July 2022.¹² Its review referred to the rapidly changing regulatory environment. It also noted international reporting developments and the commitment of the UK Government to incorporate ISSB Standards into the UK corporate reporting framework.

Australia

There is currently no mandatory CRD regime in Australia. However, there is a high level of voluntary compliance with TCFD reporting by large listed issuers. Recent data set out in a [research report](#) published by the Australian Accounting Standards Board (AASB) and the Auditing and Assurance Standards Board (AUASB) noted that 96.8% of the ASX 100 reported climate-related disclosures in 2021. Also, the

¹¹ [Review of TCFD-aligned disclosures by premium listed commercial companies | FCA](#)

¹² [FRC TCFD disclosures and climate in the financial statements July 2022](#)

consultation paper mentioned below notes that in 2021 Australia had the 4th largest number of TCFD-supporting organisations in a worldwide survey.

On 12 December 2022 the Australian Treasury released a consultation paper on a proposed mandatory CRD regime for Australia¹³. Key points in the paper are:

- In Australia, financial regulators have to date issued guidance that climate-related financial risks must be disclosed as part of existing obligations to disclose material risks, recommending TCFD as a framework for disclosure.
- The Australian Government has committed to introduce standardised, internationally aligned reporting requirements for businesses to make disclosures regarding governance, strategy, risk management, targets and metrics – including greenhouse gases. To deliver on this commitment, legislative and other reforms will be required. Applying the standardised requirements will be mandatory for certain entities.
- The consultation paper seeks views on key considerations for the design and implementation of standardised, internationally aligned requirements for disclosure of climate-related financial risks and opportunities in Australia.
- Key questions to be considered at this stage of consultation include the coverage, scope, frequency, format, timing, and international alignment of the requirements.
- The Australian Government will consider views submitted in response to this consultation paper and set out a specific design proposal for further consultation, which will provide more detail of the new reporting requirements, their implementation and sequencing.
- Views are sought on a phased approach which could commence in 2024, with the first CRD reports being required for the financial year ending June 2025.

Compliance burden and its consequences

We understand that some NZX FEIs may face significant compliance costs where climate reporting duties in New Zealand require them to produce additional new reporting that may be slightly different from voluntary or mandatory reporting in their home jurisdiction. Additional reporting may not provide a commensurate benefit for users of that reporting, and NZX FEIs may incur unnecessary compliance costs. Those costs may discourage foreign issuers from participating in New Zealand capital markets and limit the growth of those markets and opportunities for New Zealand investors.

Most Australian issuers are undertaking some form of TCFD reporting on a voluntary basis. The UK comply-or-explain requirements are based directly on TCFD. If all NZX FEIs are required to comply with the New Zealand reporting standards we believe they will each need to do a detailed assessment of the impact for them of the differences between the Aotearoa New Zealand Climate Standards issued by the XRB and TCFD recommendations. This work will result in additional compliance costs for NZX FEIs, but the extent of such costs is not clear.

Examples of differences include:

- more detailed disclosure requirements than in TCFD in relation to some aspects of the governance and risk management of climate-related risks and opportunities
- aligning with ISSB on current and anticipated financial impacts

¹³ [Climate related financial disclosure](#)

- disclosing methodologies and assumptions
- the need to consider three temperature warming scenarios
- mandatory disclosure of Scope 3 value chain emissions (however there is a one-year exemption).

One NZX FEI, in a public submission to the XRB last year, stated that they are:

“... mature in terms of carbon emissions reporting and disclosure, but we also acknowledge that what is being proposed around full value chain emissions in particular, will require a massive capability and data lift from CREs – even for those like us who have been reporting on emissions for years now.”

Where NZX FEIs do not have significant business operations or investments in New Zealand, the costs of requiring them to comply with Part 7A climate reporting duties in addition to voluntary or mandatory climate reporting they may do in their home jurisdiction may not be justified when the benefits of those disclosures for New Zealand users of those reports are considered. Similar cost-benefit concerns arise in relation to the requirement for climate reporting for an NZX FEI's overseas businesses. New Zealand users of climate reports can access reporting done by the foreign issuer in their home jurisdiction and the benefits of additional reporting on the foreign issuer's overseas business may not be commensurate with the burden involved for the foreign issuer producing those reports. Reporting on an NZX FEI's global business may not be useful to identify climate risks in relation to its New Zealand business.

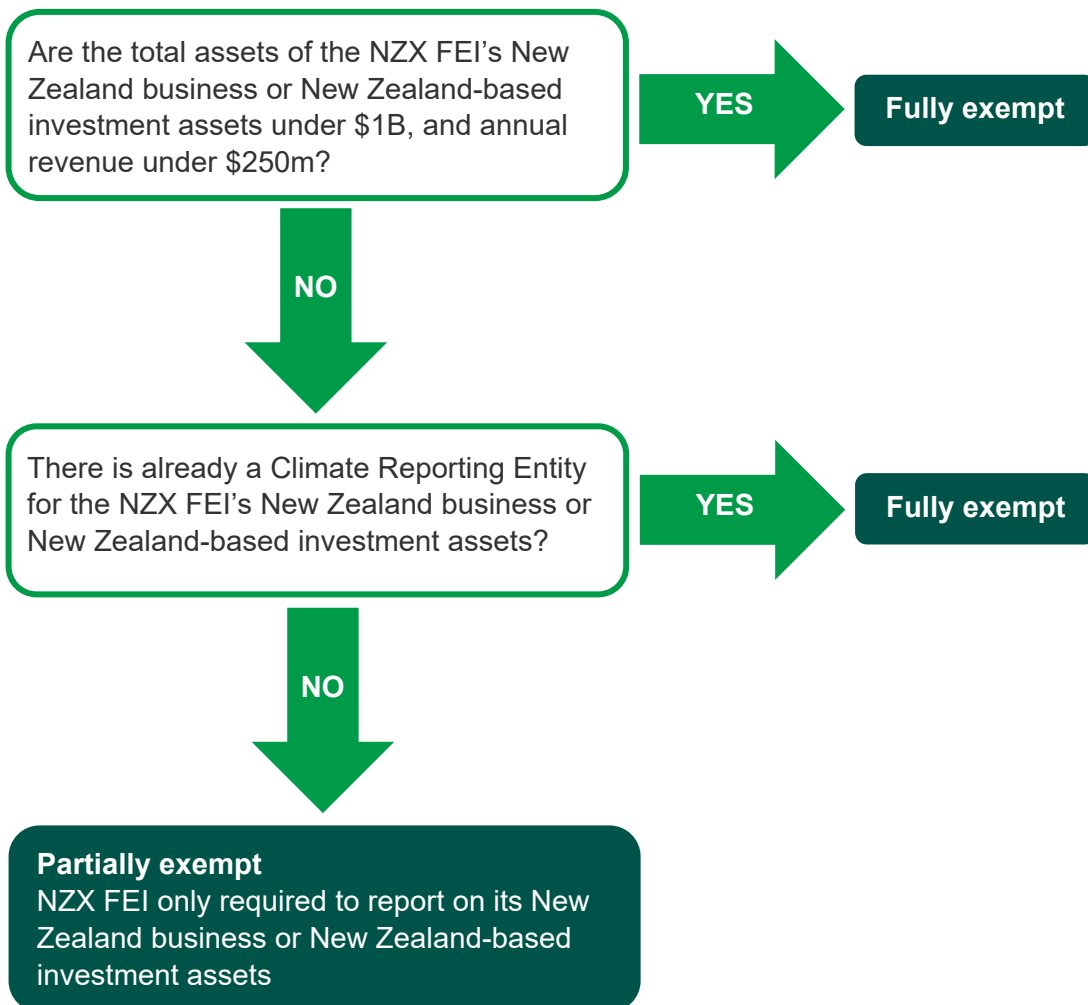
Requiring reporting on the NZX FEI's global business (rather than just its New Zealand business) is also out of step with requirements for some other overseas-based climate reporting entities. Overseas banks and insurers with branch businesses in New Zealand that meet certain thresholds only need to report on their New Zealand business under Part 7A.

In addition, if the New Zealand business of an NZX FEI is operated through a company based in New Zealand and that company is a climate reporting entity complying with Part 7A, it is unclear that there is a benefit in the NZX FEI providing duplicate reporting on that New Zealand business.

We have been told that there is a risk that some NZX FEIs may delist from the NZX as a result of the compliance burden imposed by the new climate reporting duties under Part 7A, and other foreign issuers may be deterred from seeking a secondary listing in future. If true, then this could limit growth of our capital markets and investment opportunities for New Zealanders.

Proposed exemptions and conditions

Summary of proposed relief for NZX FEIs



Relief for NZX FEIs with no significant New Zealand presence

We are considering granting a five-year class exemption for NZX FEIs listed on a recognised foreign exchange, which would exempt them from climate-related reporting duties under Part 7A of the FMC Act in respect of an accounting period where the NZX FEI and its subsidiaries do not have significant business operations or investments in New Zealand during that accounting period.

A NZX FEI and its subsidiaries (if any) would be considered to have “significant business operations or investments in New Zealand in respect of an accounting period” if at least 1 of the following paragraphs applies (calculated as if the New Zealand business or investments in New Zealand were an entity):

- a) as at the balance date of each of the 2 preceding accounting periods, the total assets of the New Zealand business or New Zealand-based investment assets exceed \$1 billion

b) in each of the 2 preceding accounting periods, the annual gross revenue of either the New Zealand business or New Zealand-based investment assets exceeds \$250 million.

There may be some practical challenges in getting the financial information needed to verify which NZX FEIs are over the proposed thresholds if the issuer does not file branch accounts for its New Zealand operations with our Companies Office. One approach we are considering is making it a condition of the exemption that only those NZX FEIs which file an annual declaration (along with any required proof) with the FMA that they are under the thresholds will have the benefit of the exemption. Another possible approach is to use the information-gathering power in section 25 of the Financial Markets Authority Act 2011 to obtain the necessary information to verify that those NZX FEIs which are relying on the exemption are entitled to do so.

We propose that the conditions applying to this exemption would include:

- The NZX FEI must comply with any mandatory home jurisdiction laws or home stock exchange requirements regarding climate-related disclosures.
- The NZX FEI must include in its annual report a statement to the effect that it is exempt from the New Zealand climate-related disclosures regime.
- The NZX FEI must arrange for the NZX website for that issuer to include on the overview page a statement to the effect that the issuer is exempt from the New Zealand climate-related disclosures regime, or if this is not practicable then an annual market announcement to the same effect. This statement must include the address of (or a link to) the Internet site where a copy of any climate statements the NZX FEI publishes for its home jurisdiction can be accessed.

We do not consider it is necessary to include a condition that a copy of any climate statements that are compiled by a NZX FEI, as a result of any home jurisdiction laws or home stock exchange requirements or voluntarily, must be lodged on the New Zealand register. We know these climate statements are publicly available via the issuer's annual report and website and will be lodged on any home jurisdiction register if there is a mandatory regime.

We are also proposing a five-year term for the exemptions, if granted. In proposing this timeframe we have considered the time needed to measure how international reforms line up with ours, how widely the ISSB standards are adopted, and whether XRB chooses to align with the final ISSB standards. We are likely to know those things in the next 2 to 3 years. We then need to follow a proper process, including public consultation, to determine to what extent any exemptions remain appropriate. Taking all these steps into account, we think 5 years is a sensible term. It also provides some certainty to foreign issuers about their New Zealand regulatory treatment.

Relief for other NZX FEIs

We are also considering granting a further five-year class exemption for NZX FEIs from climate-related reporting duties under Part 7A of the FMC Act in relation to their overseas business providing they report on their New Zealand business or, if their New Zealand business is operated via a locally incorporated company which is a climate reporting entity, that company reports on its New Zealand business under Part 7A of the FMC Act.

We propose that the conditions applying to this exemption would include that the NZX FEI must comply with any home jurisdiction laws or home stock exchange requirements regarding climate-related disclosures in relation to its overseas business.

Discussion

We are consulting on possible relief now given the duties under Part 7A of the FMC Act have commenced. However, we are conscious that New Zealand is an early adopter and that mandatory climate-related disclosure regimes in overseas jurisdictions are still being developed. The ISSB has yet to finalise and issue its standards for climate-related disclosures and it is yet to be seen whether lawmakers in countries with recognised exchanges will adopt the ISSB standards into local laws. In view of this, we would review any class relief that may be granted before the expiry of the relevant term to consider international developments and whether continued relief remains appropriate and, if so, the form of that relief.

In considering these exemptions, our overall objective is to design a solution that strikes the right balance between meeting the purposes of the CRD regime and avoiding unnecessary compliance burdens for NZX FEIs, which may lead to the loss of FEIs on the NZX and reduced choice for investors. We acknowledge that there may be strong opinions about where the balance should be struck, and that in some cases these may be difficult to reconcile. However, we welcome all views on the appropriate setting for relief (if any) for these foreign issuers.

The proposed exemptions would relieve NZX FEIs that do not have a substantial presence in New Zealand (and therefore don't create a substantial carbon footprint in New Zealand¹⁴) from needing to comply with Part 7A. In addition, the proposed exemptions would mean that NZX FEIs that do have a substantial presence in New Zealand would only need to report in New Zealand on their New Zealand business and not their overseas business, similar to overseas CREs. We see benefit in matching relief for NZX FEIs to the treatment of overseas banks and insurers in Part 7A.

In the past we have sometimes granted exemptions for foreign issuers from financial reporting or disclosure requirements on the basis that they have broadly equivalent requirements in their home jurisdiction and the costs of complying with the New Zealand requirements would therefore not provide significant benefits for New Zealand investors and would result in unnecessary compliance costs. If this exemption is granted, there may not be mandatory requirements in an NZX FEI's home jurisdiction initially. However, we still think it is appropriate to consider these exemptions. There is a significant level of TCFD-based voluntary reporting overseas and we expect many overseas jurisdictions will follow New Zealand in introducing mandatory CRD regimes. In addition, proposed conditions will require NZX FEIs to comply with any mandatory international standards in their home jurisdictions once they have been adopted.

We think exemption relief may be appropriate for NZX FEIs in view of the following factors:

- Most NZX FEIs already provide similar CRD disclosures in their home jurisdiction, either voluntarily or by law, and there is a risk that if they must also comply with Part 7A of the FMC Act they will incur compliance costs that may be unnecessary, given the limited benefit investors would receive from receiving two sets of similar climate-related disclosures where the NZX FEI does not have a large presence in New Zealand.
- Requiring NZX FEIs without a large presence in New Zealand to make mandatory climate-related disclosures will not help New Zealand meet its international obligations and achieve its target of net zero carbon by 2050. NZX FEIs which do have a large presence in New Zealand would still be required to

¹⁴ This is our proxy for low carbon emissions but this may not always be the case.

make mandatory climate-related disclosures at least in respect of their New Zealand business, which will help New Zealand meet its obligations and target.

- Without an exemption, NZX FEIs without a large presence in New Zealand would be required to provide climate-related disclosures in relation to their global businesses, and New Zealand climate risks and opportunities are unlikely to be material or get mentioned in any reporting.
- Requiring full compliance with the New Zealand climate reporting duties by NZX FEIs could have a negative impact on investment opportunities for New Zealanders and the growth of New Zealand capital markets if New Zealand loses secondary listings, or if foreign issuers are put off seeking a secondary listing in New Zealand. This could also have a negative effect on existing New Zealand investors.
- A proposed condition will require NZX FEIs to state that they are not complying with the New Zealand CRD disclosures so that investors and other stakeholders will know that they are not getting CRD disclosures.

In designing the proposed solution, we have proposed a total exemption for foreign issuers with New Zealand assets under \$1 billion and annual revenue under \$250 million. The basis for this is to match the threshold for unlisted overseas banks and insurers. We did consider other thresholds. For example, it has been suggested the threshold for mandatory reporting in Australia for listed issuers could be set at a market cap figure of about A\$300 million. However, this has not been decided. Therefore, we cannot presently seek alignment with Australia. The reason for the proposed threshold is to ensure consistent treatment of all overseas entities. We welcome feedback on the quantum of the threshold.

The proposed exemptions would only apply in relation to Part 7A reporting duties. They would not exempt NZX FEIs from any other obligations that may apply under New Zealand law, including their fair dealing obligations under Part 2 of the FMC Act. This means that greenwashing practices would still be prohibited.

The proposed relief would not exempt NZX FEIs from their obligation as large listed issuers to pay a Class 16 levy under the Financial Markets Authority (Levies) Regulations 2012. Under the regulations NZX FEIs have to pay a levy under Class 8 (financial reporting entities) as listed issuers, even though they have a number of exemptions from the FMA. The position will be the same in respect of Class 16 (climate reporting entities), which imposes an initial annual levy of \$1,840 on all large listed issuers, including NZX FEIs.

We invite feedback about the appropriate scope of any exemptions. The proposed exemptions are limited to a small subset of CREs. Full relief would only be available to those NZX FEIs that don't have substantial business interests in New Zealand. We will reassess the home jurisdiction reporting requirements for NZX FEIs before the end of the five-year exemption term and decide whether it is appropriate to continue relief after that period. Our initial view is that the proposed exemptions are not broader than reasonably necessary to address the matters that give rise to the exemptions.

Consultation questions

1. If you are an affected issuer, what are the current or upcoming mandatory climate reporting obligations in your home jurisdiction and/or what voluntary reporting are you doing or do you plan to do? Please summarise those obligations and your reporting and plans.
2. Do you think we should grant the proposed class exemptions to NZX FEIs in respect of their new climate reporting duties under Part 7A of the FMC Act? Please explain the reasons for your view.
3. Do you agree with our proposed option, and its design? Are there any other options (such as granting an exemption to all NZX FEIs) or changes to the proposed option we should be considering? If so, please provide details.
4. Do you think that the proposed option will promote the purposes of the FMC Act? Please provide reasons for your answer.
5. In your view, what are the consequences, costs and benefits, and pros and cons of the options, including our proposed option?
6. If you are an NZX FEI, please describe the compliance costs (including actual or estimated dollar amounts) for initial and ongoing compliance with Part 7A of the FMC Act if no disclosure relief is granted.
7. What are the risks and opportunities for how the FMA deals with NZX FEIs in respect of their new climate reporting duties? In particular:
 - If you are an NZX FEI and we did not grant any exemption, would you consider delisting from the NZX?
 - If we did not grant any exemption, would secondary listings on the NZX be discouraged?Please provide reasons for your answers.
8. Are there any potential problems or unintended consequences that may arise from granting the proposed exemptions? For example, will it impact on New Zealand fund managers' or New Zealand banks' own reporting obligations?
9. Are the proposed conditions for our proposed option appropriate? How should we verify that NZX FEIs are under the proposed thresholds? Where do you think exempt NZX FEIs should be required to include the statement that they are not complying with the New Zealand CRD disclosures? Should there be any additional conditions? If so, please provide details.
10. Do you think our proposal for a total exemption for NZX FEIs with NZ assets under \$1 billion and annual revenue under \$250 million has appropriate thresholds? If not, please let us know your views on suitable thresholds.
11. Do you think a 5-year term is appropriate for the proposed exemption relief? If not, please let us know your views on a suitable term.

12. Do you think the proposed exemption should apply to an NZX FEI even if it is incorporated in, or headquartered in, New Zealand if the majority of its revenues are from overseas-based operations or assets? Please provide reasons for your answer. If this approach is adopted for New Zealand incorporated or headquartered entities, what threshold should be set for the percentage of annual overseas-based revenues needed to qualify for NZX FEI exemption relief?
13. If you are an NZX FEI and exemptions are granted, would you nevertheless elect to comply with the CRD duties in Part 7A of the FMC Act?

