



APRIL 2024

Regulatory Impact Statement

Exemptions for foreign listed issuers from climate reporting duties

This document is for NZX Foreign Exempt Issuers, their advisers, investors and other interested parties. It discusses tailored exemption relief from climate reporting duties for foreign listed issuers that do not have a significant presence in New Zealand, and reduced climate reporting duties for such overseas issuers that do have a significant presence in New Zealand, similar to the climate reporting duties of overseas banks and insurers.

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Executive summary

This Regulatory Impact Statement (RIS) discusses exemptions for foreign listed issuers in respect of New Zealand's new climate-related disclosures regime.

Foreign listed issuers make up a small subset of the approximately 180 entities that are classified as [climate reporting entities](#) under the new regime. Foreign listed issuers are entities that have their primary listing on an overseas stock exchange, and a secondary listing on the NZX.

Without an exemption, these entities will need to comply with the New Zealand regime as well as the climate-related reporting laws in their home jurisdiction or home stock exchange requirements.

The Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) believes the exemptions will help 'right-size' the compliance obligations for foreign listed issuers, and help them to continue participating in New Zealand capital markets – while at the same time ensuring climate-related information is available to New Zealand investors to support good decision-making.

This RIS summarises the problem we are seeking to address, our objectives, the options and their associated impacts, and the consultation process we undertook before deciding to grant the exemptions. Our analysis of whether to grant the exemptions was based on the statutory test that applies to use of the FMA's exemption powers. We must be satisfied that the exemption would promote one or more of the purposes of the Financial Markets Conduct Act 2013 (**FMC Act**). We must also be satisfied that the extent of the exemption is not broader than reasonably necessary to address the matters that gave rise to the exemption.

Exemptions granted

After careful consideration of both regulatory and non-regulatory impacts, we have decided to grant class exemption relief for foreign listed issuers. The relief comprises a five-year exemption for each climate reporting entity that has a primary listing on a recognised foreign exchange¹, is a large listed issuer² and is an NZX Foreign Exempt Issuer (NZX FEI)³ – except any entity that is incorporated in New Zealand. The relief applies to all climate reporting, assurance and record-keeping duties in 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; and
- in respect of an accounting period where the NZX FEI and its subsidiaries do have significant business operations in New Zealand during that accounting period, if there is already a climate reporting entity in the NZX FEI's group undertaking climate reporting for the NZX FEI's New Zealand business.

¹ Australia; Toronto; Hong Kong; Singapore; London; and the NASDAQ.

² Market cap over \$60 million

³ A full definition of NZX FEI is at page 18 of the [NZX Listing Rules](#)

Where the entity does have significant business operations or investments in New Zealand, then the Part 7A duties only apply to the entity's New Zealand business or New Zealand-based investment assets.

The exemption relief will be subject to conditions outlined in this RIS.

Background and issue

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 risks will be addressed.

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

- large listed issuers of quoted equity securities or quoted debt securities (large means 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.

Application of CRD regime to NZX FEIs

Some large NZX Foreign Exempt Issuers (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.

Under the NZX Listing Rules a company that is already listed on a recognised foreign exchange may be eligible for Foreign Exempt Issuer status. Exchanges in Australia, Canada, Hong Kong, Singapore, the United Kingdom and the United States have been approved for the purposes of this exemption.

A Foreign Exempt Issuer can efficiently access the New Zealand capital market without further compliance requirements by meeting its home exchange obligations. This is an effective method of achieving a secondary listing, which offers international companies a new source of capital from the New Zealand market, greater brand credibility and increased liquidity with new investors

During the development of the CRD Act the issue of how to deal with NZX FEIs was discussed, but ultimately not covered in the legislation. In submissions to the Economic Development, Science and Innovation Select Committee on 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. They noted NZX FEIs are deemed to meet the NZX Listing Rule requirements (including in respect of the disclosures required by the Code) by complying with the requirements of their home exchange. With climate-related financial disclosure becoming more common internationally, they considered that these issuers should be allowed 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 issuers. In the absence of regulations, the policy intention is for us to deal with this issue by way of suitable exemptions. We have discussed with the Ministry of Business, Innovation and Employment (MBIE) the possibility of regulations to deal with NZX FEIs. MBIE advised there is currently no statutory power under the FMC Act to deal with foreign listed issuers by way of regulations.

Large NZX FEIs are not the only type of large foreign-based climate reporting entities that 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 with branch businesses in New Zealand that meet 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 business. Part of the reason for this approach was it is reasonable to anticipate that overseas regulators and governments will increasingly impose climate-related reporting requirements on such entities. Large New Zealand listed issuers, including large NZX FEIs, are required to report on their entire global businesses.

Compliance burden and its consequences

Some NZX FEIs have advised us they will face additional compliance costs where climate reporting duties in New Zealand require them to produce new reporting that may be slightly different from voluntary or

mandatory reporting in their home jurisdiction. Such 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.

We have surveyed the existing climate-related disclosures made by NZX FEIs that are climate reporting entities. They currently comprise 10 entities with a primary listing on the ASX (Australian Securities Exchange) and 5 entities with a primary listing on the LSE (London Stock Exchange).

Those on the ASX are all undertaking some form of climate or environmental, social and governance (ESG) reporting on a voluntary basis, based on the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)⁴. Australia will shortly have a mandatory regime based on International Sustainability Standards Board (ISSB) standards.

Those on the LSE are all undertaking some form of climate or ESG reporting, either because they are large and required to do so, or on a voluntary basis. The UK's mandatory comply-or-explain requirements are based on TCFD.

The reporting produced under TCFD and ISSB is broadly similar but not identical to the reporting required under the New Zealand regime. The similarities relate to four thematic areas:

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

In the finalised climate standards issued on 14 December 2022, XRB (the External Reporting Board, New Zealand's reporting standards setter) notes:

“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.”

If NZX FEIs are required to comply with the New Zealand reporting standards we believe they will 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 the detail in TCFD and the ISSB standards. This work will result in additional compliance costs for NZX FEIs, but the extent of such costs is not clear as no NZX FEI has carried out the work yet. Examples of differences in the New Zealand standards 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
- disclosing methodologies and assumptions

⁴ The ISSB standards replaced the TCFD recommendations from 1 January 2024. In summary they integrate TCFD but are more detailed.

- the need to consider three temperature warming scenarios
- mandatory disclosure of Scope 3 value chain emissions.

NZX FEIs seek exemptions

Statement of the problem

We have been told there is a risk that some NZX FEIs will decide to drop their secondary listing on 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 on the NZX in future. This could limit growth of our capital markets and investment opportunities for New Zealanders. Therefore the issue is whether some form of relief may be appropriate.

Objectives

In some instances where market participants encounter difficulties offering financial products under the standard FMC Act regime, exemption relief from a regulatory or disclosure requirement may be appropriate. Any exemptions we grant must promote one or more of the purposes of the FMC Act. Additionally, the extent of the exemption must not be broader than reasonably necessary to address the matters that gave rise to the exemption.

In considering the use of the FMA's exemption powers, we assessed options against the following objectives, which we consider are the most relevant purposes of the FMC Act for this matter:

- to promote and facilitate the development of fair, efficient, and transparent financial markets
- to promote the confident and informed participation of businesses, investors, and consumers in the 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 promote innovation and flexibility in the financial markets
- to avoid unnecessary compliance costs.

When assessing the possible options against these objectives, we considered the interests of stakeholders including:

- investors
- NZX FEIs
- the NZX.

Options and impact analysis

We considered two options in relation to each problem identified:

- Option 1 (selected): Grant tailored exemption relief
- Option 2 (not selected): No exemptions (status quo)

Option 1: Grant tailored exemption relief

Description

Relief for NZX FEIs with no significant New Zealand presence

Grant a class exemption for each CRE that has a primary listing on a recognised foreign exchange, is a large listed issuer and is an NZX FEI (except any entity that is incorporated in New Zealand) from all of the climate reporting, assurance and record keeping duties in 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;
- c) at least 1 of the following subparagraphs applies:
 - i. as at the balance date of each of the 2 preceding accounting periods, the sum of the total assets of the New Zealand business plus the total value of the New Zealand-based investment assets exceeds \$1 billion;
 - ii. in each of the 2 preceding accounting periods, the sum of the annual gross revenue of the New Zealand business plus the annual gross revenue from the New Zealand-based investment assets exceeds \$250 million.

These thresholds are largely based on the thresholds in Part 7A for overseas CREs such as banks and insurers. NZX FEIs that do not have significant business operations or investments in New Zealand will be required to disclose any home jurisdiction climate reporting in place of New Zealand climate statements.

Relief for NZX FEIs with significant New Zealand presence

1. Grant a class exemption for NZX FEIs from climate-related reporting, assurance and record-keeping duties under Part 7A of the FMC Act if there is already a climate reporting entity in the NZX FEI's group undertaking climate reporting for the NZX FEI's New Zealand business.
2. Also grant a class exemption for NZX FEIs that are unable to rely on the previous two exemptions so they are exempted from reporting in relation to their overseas businesses, but they must comply in respect of their New Zealand business.

The requirement to provide climate reporting in respect of the NZX FEI's New Zealand business only is consistent with the requirements in Part 7A that apply to overseas banks and insurers.

Please see the schedule to this RIS for more details of the exemption requirements and conditions.

We have decided to extend relief to all six NZX-recognised overseas exchanges, even though we have dual-listed companies on only two overseas exchanges at present – the ASX and the LSE. This decision is based on the following reasons:

1. Mandatory climate reporting is coming in the other four recognised exchanges:
 - In the US, the Securities and Exchange Commission (SEC) announced in March 2024 mandatory climate rules aimed at enhancing transparency and accountability surrounding climate-related risks and opportunities.
 - In Singapore, the Accounting and Corporate Regulatory Authority (ACRA) and Singapore Exchange Regulation (SGX RegCo) announced in March 2024 details of proposed mandatory climate reporting for listed and large non-listed entities in line with the standards published by the ISSB.
 - In Hong Kong, Hong Kong Exchanges and Clearing Limited (the HKEX) announced in November 2023 that the implementation date of the Listing Rule amendments on mandatory climate disclosure will be 1 January 2025.
 - Canada is at a similar stage to the UK in terms of incorporating the ISSB standards into law. The Canadian Sustainability Standards Board has signed off on three documents that will guide climate-related disclosures, and the documents went out for a 90-day public comment period starting March 2024. These are the ISSB international guidelines, tailored for the Canadian context, that are expected to eventually be required by regulators such as the provincial securities commissions and the federal financial-industry watchdog.
2. Climate reporting is common or expected from significant issuers on those exchanges, and the percentage of listed large companies that voluntarily reports continues to increase steadily year on year:
 - In the US, the SEC has noted most large companies already disclose some climate-related information voluntarily in their sustainability or ESG reports, which are often published alongside their annual reports.
 - In Singapore, 65% of SGX-listed companies in an EY-CPA Australia study started climate reporting in FY 2022.
 - In Hong Kong, a 2022 PWC study report noted that while only 26% of the 205 major HK listed companies surveyed had done TCFD-based climate reporting, 48% were planning to do so in the next 1-2 years.

- In Canada, in 2018 fewer than half of the members of the S&P/TSX Composite Index released a dedicated ESG report according to Millani, a Montreal-based consulting firm. That figure rose to roughly three-quarters of index companies by 2022.
3. **Efficiency:** While we do not anticipate a need for relief in relation to any of these 4 overseas markets in the foreseeable future, we are mindful of the long-term future, the principle of consistent and equitable treatment of recognised overseas markets, and the possible unnecessary drain on FMA resources if we subsequently receive individual applications for relief, or a request to vary the class exemption notice.

Impact analysis

Promotes innovation and flexibility in the financial markets

This option will promote flexibility in the financial markets. We consider that it is appropriate to tailor the compliance requirements for NZX FEIs in a manner that will make them consistent with those of other overseas CREs, namely large overseas banks and insurers. This will mean those without a significant presence in New Zealand are not required to report and can provide home jurisdiction climate statements as substitute information for their New Zealand primary users. NZX FEIs that do have a significant presence in New Zealand are only required to report on their New Zealand business.

We believe home jurisdiction climate statements will be broadly similar to New Zealand climate statements. In particular, we consider that during what is a transitional period for climate reporting, this will allow a degree of flexibility by tailoring the reporting requirements for NZX FEIs.

Avoids unnecessary compliance costs

This option will meet the FMC Act objective of avoiding unnecessary compliance costs. Without the exemption NZX FEIs would be required to produce New Zealand climate statements for their global business in addition to what is required in their home jurisdiction. These statements would have a large degree of commonality but would require tailoring (with associated costs) to comply with the New Zealand regime.

We consider that the limited benefit investors would receive from two sets of similar climate-related disclosures where the NZX FEI does not have a large presence in New Zealand does not justify the compliance costs involved. However, where the NZX FEI does have a significant presence in New Zealand, e.g. assets over \$1 billion, we think New Zealand climate statements are required to uphold the purpose of our climate reporting regime, so the compliance costs are justified.

Option 2: No exemptions (status quo)

Description

We would not grant the exemptions for NZX FEIs.

Without the exemptions, NZX FEIs will have to report on their global businesses, using New Zealand standards.

Impact analysis

Promotes innovation and flexibility in the financial markets

This option will not promote flexibility in the financial markets. There will be a different standard of reporting required by NZX FEIs and other overseas CREs.

We expect some NZX FEIs will delist if this option is implemented, and New Zealand will be less attractive to foreign listed issuers that are considering listing here.

Avoids unnecessary compliance costs

This option fails to meet the FMC Act purpose of avoiding unnecessary compliance costs. In particular, we consider that the limited benefit investors and other interested parties would receive from two sets of similar climate-related disclosures where the NZX FEI does not have a large presence in New Zealand does not justify the compliance costs involved.

Summary assessment of options against objectives

KEY: ✓✓ Meets the policy objectives ✓ Partially meets the policy objectives ✗ Does not meet the policy objectives

FMC Act objective	Option 1: Tailored relief	Option 2: No exemption (status quo)
To avoid unnecessary compliance costs	CREs that are NZX FEIs would be able to rely on full or partial relief from climate reporting duties under the FMC Act. This will avoid unnecessary compliance costs because they won't be producing two sets of statements, or for large NZX FEIs the reporting will be limited to their New Zealand business. ✓✓	Climate reporting under the FMC Act is an unnecessary compliance cost for the majority of NZX FEIs when broadly equivalent reporting is also being undertaken in the home jurisdiction. ✗
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	While CRD regime reporting won't be prepared if the NZX FEI has an insignificant presence in New Zealand, users of climate reports will receive adequate information in respect of NZX FEIs from their overseas reporting. Large NZX FEIs will provide CRD reporting on their New Zealand business. ✓	Under this option users of climate statements will receive comprehensive information alongside other climate reporting undertaken overseas by the NZX FEI. ✓✓
To promote innovation and flexibility in the financial markets	Will allow tailored reporting in respect of the large NZX FEIs (i.e. reporting on their New Zealand business only) in place of the requirements under the FMC Act, where we consider that such reporting is sufficient, promotes flexibility. ✓✓	This option would not promote flexibility in the financial markets; we consider that dual reporting is not flexible. ✗
Not be broader than reasonably necessary	Given that the exemptions will be limited to a small subset of CREs, and full relief will only be available to NZX FEIs that don't have substantial business interests in New Zealand, the exemptions are not broader than is reasonably necessary to address the matters to which they relate. ✓✓	Not relevant

FMC Act objective	Option 1: Tailored relief	Option 2: No exemption (status quo)
<p>Promote the confident and informed participation of businesses, investors, and consumers in the financial markets</p>	<p>This option does impact on the “informed” part, as New Zealand-compliant climate statements are not provided for the global business of the NZX FEI – but the replacement reporting is sufficient ✓</p>	<p>While this option may provide dual reporting for some investors and other users of climate statements, it may not promote the confident participation of businesses in our financial markets, as some NZX FEIs may exit the market. ✓</p>
<p>Promote and facilitate the development of fair, efficient, and transparent financial markets</p>	<p>This option does impact on the “fair and efficient” part. Maintaining the attractiveness of the NZX for foreign issuers will help develop fair and efficient capital markets. ✓✓</p>	<p>Arguably, giving an exemption to some overseas CREs is not fair to other overseas CREs. However, we have adopted an approach that is consistent with the requirements applied to overseas banks and insurers. ✓</p>

Consultation

Consultation approach

The FMA released a [consultation paper](#) on 14 March 2023. This was published on our website and emailed to key stakeholders. The consultation targeted NZX FEIs, investors, creditors, company directors, and lawyers. Submissions closed on 17 April 2023.

The consultation paper described the gap in the legislation in that foreign listed issuers are not specifically dealt with, but other overseas entities such as banks and insurers are dealt with, and that Cabinet papers noted it was open to us to deal with this situation by way of exemption.

In the paper we described the proposed tailored relief for foreign listed issuers, after balancing a number of factors, including the following:

- We think these issuers will have primary users in New Zealand (given they have a secondary listing here) so it is reasonable to ask for some disclosure. The home jurisdiction reporting is the next best thing to New Zealand reporting.
- We believe additional reporting may not provide a commensurate benefit for users of that reporting, and foreign listed issuers may incur unnecessary compliance costs in doing so.
- We considered that a total assets test of \$1b to trigger reporting is reasonable given the parallel with overseas banks and insurers
- We think it is reasonable to include all NZX-approved overseas markets even though we currently only have Australian and UK foreign listed issuers that are large climate reporting entities.
- We will keep an eye on international developments and review whether the exemption is appropriate before the end of its 5-year term.

There were 21 submissions in total. Formal submissions were received from 12 of the 16 affected NZX FEIs, and 5 key stakeholders. We also received informal feedback from 4 organisations and one individual.

All submitters, bar the one individual, generally agreed with the core problem that the FMC Act climate reporting duties impose unnecessary compliance costs on foreign listed issuers, and broadly supported our proposals.

Staff also engaged with MBIE and the Ministry for the Environment (MfE), who supported our proposals.

Key feedback from the consultation was on the following topics:

Risk of delisting

We have been told by many NZX FEIs that there is a risk that some NZX FEIs will 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 will be deterred from seeking a secondary listing in future.

Whether the exemptions should apply to New Zealand incorporated companies

There are currently 3 NZX FEIs that are incorporated in New Zealand. 2 of these 3 NZX FEIs originally had a main listing on the NZX, and subsequently switched to the ASX for their primary listing. Some submitters expressed concern that these companies are not particularly foreign. The submitters also noted that if a class exemption is given to New Zealand incorporated companies, then with the Australian regime likely to have a much higher market capitalisation threshold, there is a serious risk that small-to-medium-sized issuers will change their primary listing from the NZX to the ASX to avoid climate reporting obligations in New Zealand.

As a result of these concerns, we have decided that New Zealand incorporated companies will be carved out of the class exemption relief, and will be able to submit individual applications for relief.

Whether the exemption thresholds should use the same thresholds used for unlisted overseas banks and insurers

Some submitters thought it was a substantial jump from the existing reporting threshold for listed issuers of a \$60 million market cap to a \$1 billion asset threshold, however there was no realistic counter-proposal. The majority of submitters were in favour of our proposal.

We consider, having reflected on the consultation feedback, that it makes sense to base the exemption thresholds on the thresholds used for unlisted overseas banks and insurers, to ensure consistent treatment of all overseas entities reporting under the New Zealand CRD regime.

Whether the exemption should be for 3 or 5 years

Exemptions can only have a 5-year term and we asked for feedback on whether it should be shorter. The majority of submitters were in favour of the 5 years we proposed, but some suggested 3 years given the ISSB standards were due to be finalised in 2023.

We believe a 5-year term is appropriate.

With the ISSB adopting a new global reporting standard in July last year, harmonisation efforts will become particularly relevant over the next 2 to 3 years, which we see as the formative period for jurisdictions that are implementing CRD frameworks locally, and for reporting entities, which will have to transition to their new climate-related reporting obligations. We expect this period will crystallise the extent of ISSB adoption globally and will give us a chance to analyse, compare and, where necessary, update the exemption relief to become more internationally aligned.

We also consider that during what is a transitional period, New Zealand will be allowing overseas reporting entities a degree of flexibility in order to:

- diligently adjust to new local and international reporting obligations;
- align new reporting obligations with current reporting practices; and
- establish the know-how that is relevant to ensure compliant reporting.

Whether reliance on the exemption should be disclosed in annual reports.

One submitter (a law firm) asked us to remove the proposed condition that an issuer must include in its annual report a statement that it is exempt from New Zealand CRD. They stated that generally they do not consider that New Zealand legal requirements should be imposed on the issuer's home jurisdiction's annual report requirements. Instead, this could be achieved through disclosure on the NZX website or a market announcement. Of the 13 affected NZX FEIs that made submissions, none objected to the condition. Most included a positive statement in their submission that they were comfortable with the condition. One submitter emphasised the importance of the condition in its submission and noted that the disclosure can be contained as a note within the NZX FEI's annual report. We have therefore not made any change to this condition.

How reliance on the exemption should be disclosed via the NZX

A couple of submitters queried the value of a proposed condition requiring a standalone annual announcement through the NZX about reliance on the exemption, in addition to disclosures in the annual report and on the new climate statements register. Prior to the consultation, our preference was that each issuer arrange to put on its web page on the NZX website a disclosure to the market that the issuer is relying on the exemption. The reason for this preference is we believe many non-expert investors look primarily to the NZX for information about issuers. We were persuaded by submissions from NZX and other submitters that this condition would be too difficult to implement for a number of reasons. So, we thought it appropriate, given the materiality of this information to the New Zealand market, to require an annual market announcement instead. A number of submitters supported this approach, including the NZX. We have not made any change to this condition.

Conclusion and selected option

Having carefully considered regulatory and non-regulatory impacts, and feedback provided through consultation, we decided that Option 1 (grant tailored exemption relief) addresses the identified problems and will achieve the objectives of:

- promoting innovation and flexibility in the financial markets
- avoiding unnecessary compliance costs.

Option 2 (no exemptions) would not achieve these objectives and may reduce both participation of foreign listed issuers in our capital markets and investment opportunities for investors.

On this basis we have decided to grant exemptions for foreign listed issuers from the duties in Part 7A of the Act. We think the exemptions will 'right-size' the compliance obligations for foreign listed issuers, and help them to continue participating in New Zealand's capital markets – while at the same time ensuring climate-related disclosures under the FMC Act are made by those foreign listed issuers that have a large presence in New Zealand. The exemption will be granted subject to conditions that will seek to ensure investors are in a position to make confident and informed investment decisions. We think that any detrimental impact of the exemption relief on the overall purposes of the CRD regime is manageable, especially through the conditions we will impose on the exemption relief.

We are going to keep under review developments in the six overseas jurisdictions that have recognised exchanges, and consider whether the exemption relief remains appropriate before it expires in 5 years. Our relief is transitional while the other jurisdictions implement their mandatory regimes.

Schedule – Exemption requirements and conditions

Exempt entity does not have large presence in New Zealand

The exemption will be available if all of the following apply:

- the CRE has a primary listing on a recognised foreign exchange
- the CRE is a large listed issuer
- the CRE is an NZX FEI
- the CRE is incorporated outside New Zealand
- the CRE and its subsidiaries do not have significant business operations or investments in New Zealand during the relevant accounting period.

The exemption will be subject to the following conditions:

The CRE must:

- comply with any mandatory home jurisdiction laws or home stock exchange requirements regarding CRD
- include in its annual report a statement to the effect that it is exempt from the New Zealand CRD regime, and state where its home CRD statements can be accessed
- arrange for the NZX website for that issuer to include an annual announcement to the effect that the issuer is exempt from the New Zealand CRD regime
- file a notice annually on the new Companies Office register of climate statements that it has elected to rely on the exemption.

Exemption where subsidiary or related body corporate reports on New Zealand business

The exemption will be available if all of the following apply:

- the CRE has a primary listing on a recognised foreign exchange
- the CRE is a large listed issuer
- the CRE is an NZX FEI
- the CRE is incorporated outside New Zealand
- there is already a climate reporting entity in the CRE's group, such as a subsidiary undertaking climate reporting for the CRE's New Zealand business.

The exemption will be subject to the following conditions:

The CRE must:

- comply with any mandatory home jurisdiction laws or home stock exchange requirements regarding CRD
- include in its annual report a statement to the effect that it is exempt from the New Zealand CRD regime, on the basis it has a subsidiary or related company that is required by the FMC Act to produce climate statements for the exempted entity's New Zealand business, and state where those climate statements can be accessed
- arrange for the NZX website for that issuer to include an annual announcement to the effect that the issuer is exempt from the New Zealand CRD regime
- file a notice annually on the new Companies Office register of climate statements that it has elected to rely on the exemption.

Exemption from requirement to include overseas information where exempt entity has large presence in New Zealand

The exemption will be available if all of the following apply:

- the CRE has a primary listing on a recognised foreign exchange
- the CRE is a large listed issuer
- the CRE is an NZX FEI
- the CRE is incorporated outside New Zealand

The exemption will be subject to the following conditions:

The CRE must:

- comply with any mandatory home jurisdiction laws or home stock exchange requirements regarding CRD
- include in its annual report a summary of the effect of relying on the exemption
- arrange for the NZX website for that issuer to include an annual announcement about the effect of relying on the exemption
- file a notice annually on the new Companies Office register of climate statements that it has elected to rely on the exemption.

