

16 August 2023

██████████
By email: ██████████

Official Information Act 1982 Request (OIA) – ESG and WEF influence in New Zealand

I refer to your email to the FMA on 19 July 2023. On 27 July 2023, we sent a letter asking you to refine and limit your scope and subsequently sent several emails to follow up with you on 7 August 2023 and 10 August 2023. On 15 August 2023, you acknowledged our email and noted that you will consider our letter.

However, we have not yet received any further communication from you regarding our request for you to define and refine the scope of your OIA requests. Given the statutory time limit of the OIA, we are required to respond to you by today. We note that despite this response, you are able to make another OIA request with a more refined scope as noted in our letter dated 27 July 2023, and we will process this as a new request and continue to process your matter.

In summary, you asked and requested for:

1. Has anyone at the FMA had any involvement whatsoever with anyone from the World Economic Forum (WEF)?
2. Is the FMA starting to introduce WEF, ESG (environmental, social and governance) or other political and social unelected and restrictive agendas into it's role?
3. If ESG is becoming part of the FMA mandate to police and regulate financial markets please explain in detail exactly where the motivation for this has come, who has been pushing this mandate inside the FMA and why this has not been taken to members to ask if it is wanted or not.
4. any emails within your organisation that have had any contact with WEF or ESG influencer members

OIA response

We have considered your request pursuant to the OIA and based on the review of the records and information we have available in our system.

Point 1&4 Involvement with WEF and any emails with WEF or ESG influencer members

Given that we have not heard back from you (as noted above), we were not able to define who are 'ESG influencer members' pursuant to your request. The FMA system also does not categorise matters or cases in relation to ESG influencer members or ESG matters. As previously noted in our letter dated 27 July 2023, the term 'ESG influencer' is unclear and it can be interpreted in a broad manner.

Further you did not provide a specific time period for your requests for both point 1 and 4. From the preliminary examination of our system, the research and collation required to respond to your request as it is framed would be substantial. There is a significant volume of information we would need to search through to respond to your request in the terms that your request and this will require significant time. We were also not able to define the scope of your request as it is not clear who or what is 'ESG influencer'

We have searched our system in the past 12 months, and we could not find any involvement the FMA had directly with WEF. Therefore, as it stands, we refused Point 1 of your request pursuant to section 18(e) of the OIA as the information requested does not exist or, despite reasonable efforts to locate it, cannot be found (at least for the past 12 months).

Additionally, we refuse both point 1 and 4 of your requests pursuant to **section 18(f)** of the OIA as the information cannot be made available without substantial collation or research. As noted above, you are able to make a new request.

Point 2 and 3: ESG and the FMA

The FMA does not explicitly use the term 'ESG' but we adopt the principle of ethical finance and supports New Zealand's transition to an integrated financial system – one that looks beyond financial returns to also consider non-financial factors. The FMA's use of the term 'integrated financial system' reflects that other related terms do not have a commonly shared meaning and are not as widely inclusive. This includes the terms 'ethical', 'responsible', 'sustainable', 'green', 'impact', and 'ESG'. Substantial information about the FMA and our role with regards to integrated financial system can be accessed publicly at this [link](#). There is also an online article published by the FMA about this matter and this can be accessed at this [link](#).

As you will see, in the article in the link above, the FMA advised that:

"From a regulatory perspective – and pending mandatory climate reporting requirements aside – it is acceptable for managed funds to do very little on environmental, social and governance (ESG) and sustainability provided they don't pretend (or advertise) otherwise. But investors are different..."

The FMA is an Independent Crown Entity, and our statutory duty is to promote and facilitate the development of fair, efficient, and transparent financial markets; and to promote the confident and informed participation of businesses, investors, and consumers in the financial markets. We are therefore mandated by various government's policies, directions, and any statutory laws applicable to the FMA. For example:

- The New Zealand government has introduced a new regime making climate-related disclosures mandatory for some organisations under the Financial Markets Conduct Act 2013. Under this regime, The FMA is responsible for independent monitoring and enforcement of the regime, providing guidance about compliance expectations, and reporting on monitoring activities and findings. Further information about can be found [here](#).
- The government also introduced the Financial Markets (Conduct of Institutions) Amendment Act 2022 (the CoFI Act). The CoFI Act amends the Financial Markets Conduct Act 2013 to ensure financial institutions treat consumers fairly. The CoFI regime, which commences on 31 March 2025, is designed to protect consumers by putting the consumer at the forefront of institutions' decisions and actions. Further information about this can be found [here](#).
- Recently, on 2 August 2023, Parliament passed the Companies (Directors' Duties) Amendment Bill (the Bill) at its third and final stage. The Bill amends the duty in section 131 to act in the best interests

of the company, by adding wording to clarify, for the avoidance of doubt, that directors can consider matters other than “profit maximisation” – and specifically lists environmental, social, and governance matters as examples.

Conclusion

We hope the above explanation provides answers and insights to your queries. In relation to the information withheld, I am of the view that the reasons outlined above are not outweighed by other considerations that render it desirable, in the public interest, to make this information available.

If you have any questions, please contact me at nath.lostitmonton@fma.govt.nz

We also note that you have the right to complain to the Ombudsman regarding our assessment of your OIA requests, in accordance with section 28 of the Official Information Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or phone 0800 802 602.

Your sincerely

A handwritten signature in black ink, appearing to read 'Nath', with a stylized flourish underneath.

Nath Lostitmonton
Senior Legal Counsel