

12 April 2023

consultation@fma.govt.nz

Submission to the Financial Markets Authority: Proposed exemptions for foreign listed issuers from climate reporting duties

Thank you for the opportunity to comment on the FMA's proposed exemptions for NZX Foreign Exempt Issuers from climate reporting duties. This is an External Reporting Board (XRB) staff submission.

We do not comment one way or the other about whether an exemption should be issued. Instead, our submission makes two points, both of which relate to the description of the proposed exemptions on pages 10 and 11.

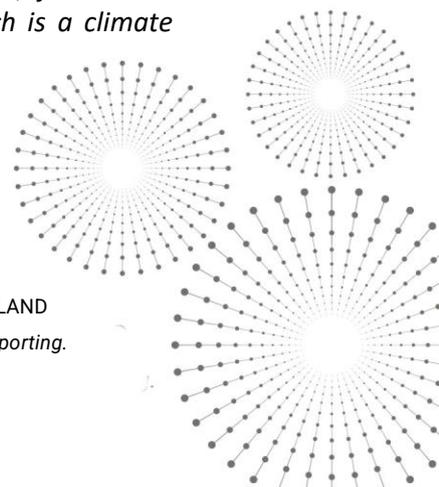
First, we recommend that the FMA should reconsider the criteria for determining whether an NZX FEI has significant operations or investments in New Zealand.

The proposed criteria of \$1 billion of assets and \$250 million revenue align with the amounts in section 461Q of the Financial Markets Conduct Act 2013 for determining whether a *licensed insurer* is 'large' and is, therefore a Climate Reporting Entity (CRE). Information published by officials shows that the dollar thresholds contained in section 461Q for banks and insurers were developed after considering the profile of registered banks and licensed insurers in New Zealand – see the commentary and tables on pages 24-25 of the [Regulatory Impact Statement on Climate-related Financial Disclosures](#) dated 13 July 2020.

Those amounts are not necessarily relevant in relation to the entities covered by this exemption proposal because they are listed issuers. The threshold for a debt or equity issuer to be a CRE is \$60 million market capitalisation. Although we acknowledge that the concept of market capitalisation is unworkable in relation to foreign-listed issuers, it indicates the different relative scale for listed entities to report or be exempted.

Second, we consider that the FMA should ensure that any exemption notice does not inadvertently exempt any CRE from the requirements under Aotearoa New Zealand Climate Standards to report on its value chain. We raise this issue because it is stated on page 11 of the FMA consultation document that:

*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.*

It could be argued that the bolded words are not fully consistent with the requirements in NZ CS 1 and NZ CS 3 for climate reporting entities to report on its value chain regardless of whether the value is added in New Zealand or overseas. Paragraph 22 of NZ CS 3 states that:

Climate-related risks and opportunities relate to activities, interactions, and relationships and to the use of resources along an entity's value chain. When considering its exposure to climate-related risks and opportunities, an entity must consider the exposure of its value chain as well. Investments that an entity has in other entities, for example, associates and joint ventures, are also considered to be part of an entity's value chain.

NZ CS 1 and NZ CS 3 include the following definition of 'value chain':

The full range of activities, resources and relationships related to an entity's business model and the external environment in which it operates. A value chain encompasses the activities, resources and relationships an entity uses and relies on to create its products or services from conception to delivery, consumption and end of life. Relevant activities, resources and relationships include those in an entity's operations, such as human resource; those along its supply, marketing and distribution channels, such as materials and service sourcing and product and service sale and delivery; and the financing, geographical, geopolitical and regulatory environments in which an entity operates.

Further information

Please contact me (april.mackenzie@xrb.org.nz) if you have any queries or require clarification of any matters in this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read 'April Mackenzie', with a long horizontal line extending to the right.

April Mackenzie
Chief Executive