

Submission on discussion document: Adjustments to the climate-related disclosures regime

Your name and organisation

Name	S9(2)(a)
Date	14 February 2025
Organisation (if applicable)	ANZ New Zealand Limited
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Our responses primarily relate to feedback on the directors' liability settings, which traditionally have been shared on the assumption that this feedback would not be made readily available to the public, except through the OIA process.

Please check if your submission contains confidential information

☐ I would like my submission (or identified parts of my submission) to be kept confidential, and **have stated below** my reasons and grounds under the Official Information Act that I believe apply, for consideration by MBIE.

I would like my submission (or identified parts of my submission) to be kept confidential because...
[Insert text]

Responses to discussion document questions

Please enter your responses in the space provided below each question.

Chapter 2: Reporting Thresholds	
1	<p>Do you have any information about the cost of reporting for listed issuers?</p> <p>No response.</p>
2	<p>Do you consider that the listed issuer thresholds (and director liability settings) are a barrier to listing in New Zealand?</p> <p>No response.</p>
3	<p>When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?</p> <p>ANZ supports a well-designed climate reporting regime that achieves the Government's policy goals. ANZ also supports a regime that is reasonable and proportionate for New Zealand entities. Regular review of the regime, including to the reporting thresholds, can assist to ensure appropriate settings are in place.</p> <p>However, ANZ considers it would be sensible to delay any review of the threshold settings until the XRB concludes its intended consultation on a differentiated approach to disclosure. The outcome of the XRB consultation could be new or amended climate standards for different classes of CRE, based on criteria such as entity characteristics and/or size. This could address and/or impact several of the factors raised in the MBIE discussion document that have prompted the review, including reporting costs for entities.</p>
4	<p>If the XRB introduced differential reporting, would this impact on your choice of preferred option?</p> <p>No response.</p>
5	<p>Do you think that a different reporting threshold for listed issuers should be considered (i.e., not one of the options above) and, if so, why?</p> <p>No response.</p>
6	<p>If Option 2 or 3 was preferred do you think that some listed issuers would still choose to voluntarily report (even if not required to do so by law)? And, if so, why?</p> <p>No response.</p>
7	<p>What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?</p> <p>No response.</p>
8	<p>Do you have information about the cost of reporting for investment scheme managers?</p> <p>No response.</p>
9	<p>Do you have information about consumers being charged increased fees due to the cost of climate reporting?</p>

	No response.
10	When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?
	No response.
11	If the XRB introduced differential reporting, would this impact on your choice of preferred option?
	No response.
12	Do you think that a different reporting threshold for investment scheme managers should be considered (i.e., not one of the options above) and, if so, why?
	No response.
13	When considering the location of the thresholds, which Option do you prefer and why?
	No response.
14	For Option 2 (move thresholds to secondary legislation) what statutory criteria do you think should be met before a change may be made, e.g., a statutory obligation to consult. What should the Minister consider or do before making a change?
	No response.
Chapter 3: Climate reporting entity and director liability settings	
15	When considering the director liability settings, which of the four options do you prefer, and why?

	<p>ANZ prefers option 3, which proposes to amend the FMCA so that:</p> <ul style="list-style-type: none"> • section 534 (deemed director liability) no longer applies to CRDs; and • directors can no longer be liable for aiding and abetting unsubstantiated representations. <p>The NZBA submission supports the removal of deemed director liability described in the first bullet point above. We support this submission and agree with the reasons provided.</p> <p>In addition to removing deemed director liability, we also support the proposed removal of accessory director liability for unsubstantiated representations. As noted at paragraph 107 of the Consultation, the CRD regime requires disclosures that are forward-looking and subject to significant uncertainty, making them difficult to substantiate. CREs may also need to rely on assumptions and estimates that may be incorrect and data that may be unreliable. In this context, we believe personal director liability for unsubstantiated representations is inappropriate. Moreover, together with deemed director liability, it encourages a risk-averse approach to climate reporting, generates high compliance costs and leads to a disproportionately high level of director involvement in the preparation of climate statements.</p> <p>In our view, the proposed changes in option 3 would create a more appropriate liability position that recognises the challenges and uncertainties involved in climate reporting. They would also help give CREs and their directors the confidence to take a more innovative and ambitious approach to climate reporting. This is consistent with the Government's stated objective of ensuring that directors have the right incentives to encourage robust and useful reporting, and would ultimately benefit primary users. In addition, the proposed changes would help avoid unnecessary compliance costs and lead to a more proportionate level of director involvement in preparing climate statements.</p>
16	<p>Do you have another proposal to amend the director liability settings? If so, please provide details.</p> <p>No response.</p>
17	<p>If the director liability settings are amended do you think that will impact on investor trust in the climate statements?</p> <p>We do not think the proposed amendments in option 3 would impact investor trust in climate statements or the CRD regime generally. As noted at paragraphs 116 and 117 of the Consultation, if option 3 were adopted, there would still be a range of potential civil and criminal liability for both CREs and their directors. This would ensure that CREs continue to prepare climate statements that comply with the requirements of the CRD regime and Part 2 of the FMCA. In addition, CREs are required to obtain assurance over their GHG emissions disclosures, which will give primary users further confidence in the accuracy of those disclosures.</p>
18	<p>If you support Option 3, should this be extended so that section 23 is disapplied for both climate reporting entities and directors? If so, why?</p>

	<p>We agree with extending option 3 so that section 23 is disapplied to both CREs and directors. As mentioned above, some disclosures in climate statements (particularly forward-looking ones) are subject to significant uncertainty and can be difficult to substantiate. If section 23 continues to apply to CREs, they may still be discouraged from making fulsome and detailed disclosures in these areas to avoid potential liability.</p> <p>We also note that the prohibitions on misleading and deceptive conduct in Part 2 on the FMCA would continue to apply, ensuring the content of climate statements would still need to be verified.</p>
19	<p>If you support Option 4 (introduce a modified liability framework, similar to Australia) what representations should be covered by the modified liability, i.e., should it cover statements about scope 3 emissions, scenario analysis or a transition plan, and/or other things?</p> <p>No response.</p>
20	<p>If you support the introduction of a modified liability framework, how long should the modified liability last for? And who should be covered, ie., should it prevent actions by just private litigants, or should the framework cover the FMA as well? (Criminal actions would be excluded)</p> <p>No response.</p>
Chapter 4: Encouraging reporting by subsidiaries of multinational companies	
21	<p>Do you think that there would be value in encouraging New Zealand subsidiaries of multinational companies to file their parent company climate statements in New Zealand?</p> <p>We do not think there would be value in this proposal for the following reasons:</p> <ul style="list-style-type: none"> • CRDs released by overseas parent companies should already be available online (e.g. on the company's website or a register in their home jurisdiction). • We agree with the concerns raised at paragraph 130 of the Consultation that this proposal may cause confusion about the status of the parent company CRDs and give the incorrect impression that they are regulated in New Zealand. In addition, where the New Zealand subsidiary is a CRE and produces its own climate statements under the New Zealand regime, primary users may mistake the parent company's CRD for the subsidiary's climate statement. • If the register is voluntary, it is likely that only some entities will file, meaning the register will be incomplete and of limited use to primary users. • This approach would result in additional cost and administrative burden, which we do not think are justified in light of the above.
22	<p>Do you think that, alternatively, there would be value in MBIE creating a webpage where subsidiaries of multinational companies could provide links to their parent company climate statements?</p> <p>We do not think there would be value in this for the same reasons set out in question 21 above.</p>

Final comments

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Please use this question to provide any further information you would like that has not been covered in the other questions.

No response.