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

Your name and organisation

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Date	14 February 2025
Organisation (if applicable)	Consilium NZ Limited
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Responses to discussion document questions

This response is submitted on behalf of Consilium NZ Limited ("**Consilium**").

Consilium is a New Zealand owned financial services firm based in Christchurch that provides funds management, funds administration, asset allocation advice and innovative solutions to professional financial advisory firms and financial institutions in New Zealand and Australia. Consilium works with over 140 adviser firms and 400 financial advisers throughout New Zealand and manages more than $9 billion across more than 20,000 investors. Consilium has approximately 50 staff.

Consilium offers a wide range of innovative products and solutions, as detailed below, and provides efficiencies and support so financial advisers can spend their time where it is most valuable – with their clients.

- Consilium Wrap - a world class custodial platform.
- Synergy Investments - a third party discretionary investment management service (DIMS).
- KiwiWRAP KiwiSaver Scheme - New Zealand's first advice-centric, self-select KiwiSaver Scheme.
- Evidential Investment Funds – managed funds providing access to international investment managers in a portfolio investment entity (PIE).
- Asset allocation advice and practice management consulting.

Consilium will soon become subject to the mandatory climate related disclosures regime, under the current fund manager thresholds, as Consilium surpassed $1billion under its MIS licence in 2024.

Consilium supports changes to the climate related disclosures regime as we see disproportionate costs and resource expenses being incurred under the current regime. Particularly for relatively small managed fund providers such as Consilium, that are not appropriately resourced to take on the burdensome requirements of the regime.

Of most relevance to Consilium is the reporting threshold for managed fund providers, which, in our view, must be significantly increased. While we have responded to all consultation questions, our response is most focused on questions 8-14, relating to investment scheme managers. We provide our views on the options and our justification for those views within our responses to the consultation questions in the table below.

Chapter 2: Reporting Thresholds	
1	Do you have any information about the cost of reporting for listed issuers?
	While Consilium is not a listed issuer, significant costs are incurred in complying with the climate-related disclosures regime. These include external consultancy and advice fees, staff resourcing, and data and assurance costs.
2	Do you consider that the listed issuer thresholds (and director liability settings) are a barrier to listing in New Zealand?
	Possibly. The thresholds and director liability settings create additional compliance and reputational risks and reporting is costly. This may potentially deter clients from listing, particularly smaller issuers that could face disproportionate compliance burdens.
3	When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?
	Option 3 – General alignment with the Australian regime seems prudent. This would ensure that the regime does not impact the competitiveness of New Zealand's capital markets and reduce costs for some businesses that will not be captured going forwards while maintaining climate reporting expectations for entities that have greater resources and whose decisions can likely have a greater environmental impact.
4	If the XRB introduced differential reporting, would this impact on your choice of preferred option?

	No. But we do support differential reporting for those captured by the regime as it could provide flexibility for smaller entities, potentially mitigating compliance burdens. We intend on submitting in regards differential reporting when that consultation is released.
5	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?
	No.
6	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?
	Yes. Some issuers would continue to report voluntarily for a number of reasons which would in include some or all of the following; - a means to set themselves apart from competitors and earn social license. - Information is demanded by international investors and reporting is seen as necessary to raise capital. - Benefits of understanding climate risks and opportunities.
7	What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?
	This is somewhat business dependent. Advantages include some or all of the following: • Transparency and comparability for users that are interested, building trust; • Promotes good risk management and resilience building; • Alignment with reporting standards in other jurisdictions; • Access to capital from institutional investors, particularly those overseas; and • Reputational benefits. Disadvantages include some or all of the following: • Compliance costs, both initial and ongoing; • Liability risks; • Operational challenges collecting data and staying up to date with evolving standards; and • Competitors not subject to regime.
8	Do you have information about the cost of reporting for investment scheme managers?

	Not with specific reference to Consilium yet, as we are yet to report under the regime, having moved beyond the $1b threshold under our MIS licence in 2024. However, we have been preparing for reporting and know the significant work involved across our business to produce reporting and feel the cost of producing reporting and eventually gaining assurance will be excessive and disproportionate for a company of Consilium's size. This cost risks being passed on to investors in our products. Costs broadly outlined in response to question 1, being external consultancy and advice fees, staff resourcing, and data and assurance costs, also apply to investment scheme managers. Investment scheme managers are typically much smaller businesses than listed issuers that are therefore less able to take on this significant compliance burden, particularly at the lower end of the regime thresholds. The cost of procuring external data regarding emissions of investments is a particular cost for investment scheme managers. Given the wide-ranging number of investments made by managed funds across jurisdictions and entity types, data can be prohibitively expensive to procure and audit (as well as being inaccurate). This cost is prohibitive for minimal ability to impact on the actions of the companies that are actually directly responsible for emissions. An inability to reduce fees as businesses scale is also possible, meaning that the end result is that fees are higher than they otherwise would have been. For smaller scheme managers that are captured by the regime these costs represent a significant portion of overall operational budgets. Scheme managers with between $1b and $5b under management are not large companies and therefore do not have the significant resource that needs to be available for climate reporting. The costs for smaller entities currently captured are not proportionate to the benefits of climate reporting. The value of climate reporting is less for fund managers than for other entities captured by the regime as fund managers are not directly responsible for activities within funds that have a climate impact and are therefore less able to take action in regard those activities. Further, given most entities in funds will in due course be captured by climate reporting in home jurisdictions, the climate reporting by those companies will be a better primary source of information than fund manager reporting.
9	Do you have information about consumers being charged increased fees due to the cost of climate reporting?
	We are yet to report and have therefore not had to take this decision yet. We generally observe pressure on management fees to offset compliance costs, which may take the form of fee increases or an inability to decrease fees as scale is reached.
10	When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?

	As reporting is made on a scheme basis, and therefore significant costs are incurred on that basis, our preference is option 3. Option 3 (and option 2 to a significant extent) ensure that compliance obligations better align with the capacity and scale of scheme managers, reducing the disproportionate compliance impact on smaller entities with limited resources. Smaller scheme managers often face significant challenges in meeting reporting obligations due to their lack of in-house expertise, reliance on external consultants, and the extensive time and financial investment required to comply with climate reporting standards. Raising thresholds would focus regulatory efforts on larger entities with the most significant environmental impact and better resources to manage the reporting process. Additionally, higher thresholds reduce the likelihood of increased management fees being passed on to investors, particularly in retail funds. This is crucial for maintaining investor participation, as higher fees could deter individuals from saving and investing through managed schemes. By raising thresholds, the regime would strike a balance between achieving transparency and avoiding excessive compliance costs for smaller players, thereby fostering a more equitable and sustainable investment environment. Option 3 also aligns with the principle of proportionality. Smaller managers are essential for fostering innovation and competition, and unduly burdening them with disproportionate compliance requirements risks stifling their growth. By significantly increasing the thresholds, the regime can achieve meaningful disclosures from those with more scale and resources without undermining smaller participants' viability and growth. Our second preference is option 2 as it carries through many of the benefits of option 3. We also note the alignment of option 2 with the Australian regime.
11	If the XRB introduced differential reporting, would this impact on your choice of preferred option?

	No. While differential reporting could address some concerns associated with lower thresholds, raising thresholds is the most effective and equitable way to ensure that compliance obligations do not unduly burden smaller investment scheme managers. Differential reporting could mitigate some of the concerns associated with lower thresholds by allowing some entities to provide simplified disclosures, focusing on the most material aspects of their climate-related risks and opportunities without the need for extensive and costly compliance processes. However, while differential reporting could make lower thresholds more palatable, we would still advocate for Option 3. A raised threshold ensures that only entities with the scale and capacity to undertake comprehensive climate reporting are required to do so, thereby prioritising regulatory resources on entities with the most significant environmental and financial impact. Differential reporting might complement this approach by providing a pathway for smaller entities that wish to voluntarily disclose or are approaching the threshold but lack the resources for full compliance. For differential reporting to be effective, it must include: **Clear guidelines**: providing an understanding of obligations and the expectations for simplified disclosures. **Reduced complexity**: Allowing entities to focus on key metrics and narrative disclosures rather than exhaustive quantitative reporting. **Cost-effectiveness**: Ensuring that compliance does not require substantial external consultancy or system upgrades. This could allow all investment schemes / smaller investment managers (depending on how differential reporting is eventually positioned) to focus on what is deemed more critical by the FMA and XRB with particular reference to reducing current requirements to access specialised data and resources that are restrictive for investment scheme managers, particularly those on the smaller end.
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?
	Not currently, noting that reporting thresholds may need to increase further in future as funds under management in New Zealand consistently increase, particularly in KiwiSaver. This could see fairly small providers become captured by increased thresholds relatively quickly.
13	When considering the location of the thresholds, which Option do you prefer and why?
	We prefer option 2, moving to secondary legislation. This approach allows greater flexibility and adaptability, enabling thresholds to evolve to market feedback and conditions as the regime continues to bed in. Although we do note changes should be irregular and good notice provided for industry certainty
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?
	Consultation should be required, as should a thorough analysis of the proportionality of compliance costs and the overall impact on market participants and report users.
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?

	It is difficult to determine a preferred option. Director involvement in a contravention (aiding and abetting or were knowingly concerned in the contravention) should be retained. But liability for unsubstantiated representations is not appropriate for the climate related disclosures regime. As the discussion document notes knowledge of the director liability regime is an issue with the regime. Where potential personal liability applies, it is reasonable for directors to be cautious about what is disclosed. This caution may reduce scope of disclosures and cause businesses to spend money on external advisers to review statements. Caution may also lead to scaling back ambitious transition plans out of fear of personal director liability for forward looking statements or unsubstantiated representations. Director liability in the Financial Markets Conduct Act 2013 (FMCA) in relation to climate reporting is being treated similarly to the liability for disclosures in financial statements. Given financial reporting is based on events that have already occurred whereas climate reporting is more uncertain and may be based on anticipated future outcomes this should not be the case and should be addressed. A director should only be liable if they were aware a representation was not substantiated and took actions which allowed or caused the climate statement to be published with that representation included anyway. Clarity is sought so directors are clear that personal liability does not apply for directors operating in good faith within a rapidly evolving regulatory framework that deals with forward looking information that is difficult to quantify. Assurance requirements complicate the director liability issue further. It has been very challenging for CREs to obtain assurance over GHG emissions as unqualified assurance on such matters is very hard to obtain, given New Zealand's position as an early adopter, a lack of quality data in this area and the ongoing upskilling of assurance providers. Full assurance of climate statements may not be helpful to end users in any case. The costs of obtaining that assurance will be very significant, and the benefit likely limited. The director liability regime should not extend to unsubstantiated statements. The focus should be on ensuring that climate statements are not misleading or deceptive. An unsubstantiated statement is not problematic, rather what matters is the consequence and impact of that statement to a reader. Section 19 of the FMCA (misleading or deceptive conduct) therefore seems appropriate in the context of the climate related disclosures regime, but section 23 (unsubstantiated representations) does not.
16	Do you have another proposal to amend the director liability settings? If so, please provide details.
	We are also supportive of a combination of options (provided aiding and abetting or were knowingly concerned in the contravention is retained) to provide higher temporary protection while CREs mature in climate reporting, taking into account the inherently forward looking nature of climate reporting which has significant data uncertainties and limitations.
17	If the director liability settings are amended do you think that will impact on investor trust in the climate statements?
	No. It is unlikely that investors are generally aware of director liability settings at all and any amendments will not absolve reporting entities from preparing statements in line with the FMCA.
18	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?
	Yes. Consistency would avoid inequities and uncertainty.

19	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?	
	N/A	
20	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)	
	The frame work should cover the FMA and preferably be permanent.	
Chapter 4: Encouraging reporting by subsidiaries of multinational companies		
21	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?	
	Yes. While these may be useful, they will not align with the New Zealand regime so comparison with New Zealand domiciled companies may be difficult.	
22	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?	
	Yes. This could provide value for users while avoiding negative impacts on business. However, it is noted that parent company statements will be issued under different regimes so won't be directly comparable.	

Other comments

We emphasise the importance of proportionate compliance obligations to ensure the regime's effectiveness without imposing undue burdens on smaller entities, particularly investment managers.

It is very important that any changes are made as soon as possible with certainty provided regarding timelines to complete legislative amendments. Climate reporting has a considerable impact on companies captured by the regime, both in terms of resource and cost. Companies need certainty as to whether they should be taking on these impacts well in advance of any changes being made. If changes to reporting thresholds are made, there is a risk that companies continue to be captured by current thresholds over the course of the next year that, in the government's view, should not continue to be reporting entities, this would be a significant cost to those entities, and possibly their clients, for little perceived benefit.