

14 February 2025

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Deloitte Submission on the Proposed Adjustments to the Climate-related Disclosures Regime

Thank you for the opportunity to comment on the proposed amendments to the *Climate-related Disclosures Regime*, specifically whether the listed issuer and investment scheme manager reporting thresholds should be raised; whether the director liability settings for the CRD regime should be adjusted to reduce, but not remove, the potential liability of directors for what is reported in climate statements; and if there would be value in encouraging subsidiaries of multinational corporations to file their parent company climate statements in New Zealand.

We have included our comments in Appendix 1 in response to the specific questions raised. Please do not hesitate to contact us should you require further clarification on any of the matters discussed.

Yours sincerely



Rikki Stancich
Partner



Victoria Turner
Partner

for Deloitte Limited (as trustee for the Deloitte Trading Trust)

Appendix 1: Submission on discussion document:

1.1.1 Your name and organisation

Name	Rikki Stancich, Partner, and Victoria Turner, Partner
Date	14 February 2025
Organisation (if applicable)	Deloitte Limited (as trustee for the Deloitte Trading Trust)
Contact details	rstancich@deloitte.co.nz / viturner@deloitte.co.nz

1.1.2 Privacy and publication of responses

[To tick a box below, double click on check boxes, then select ‘checked’.]

☐ The Privacy Act 2020 applies to submissions. Please check this box if you do not wish your name or other personal information to be included in any information about submissions that MBIE may publish.

☐ MBIE intends to upload submissions received to MBIE’s website at www.mbie.govt.nz. If you do not want your submission to be placed on our website, please check the box and provide an explanation in the box below.

N/A

1.1.3 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.

N/A

1.1.5 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.</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>In our experience, there are a variety of reasons as to why entities may choose to list, or not to list, in New Zealand. Reporting and disclosure requirements, which may include climate reporting, may form part of the overall decision process, but we have not seen any direct evidence of climate reporting itself presenting a key barrier to listing.</p>
3	<p>When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?</p> <p>In our view, there is a need for greater understanding of the efficacy of the current regime and of the challenges that entities are facing.</p> <p>We feel it is too early to consider adjusting the listed issuer thresholds given that:</p> <ul style="list-style-type: none"> • reporting entities have only recently completed the inaugural cycle of reporting; • primary users have yet to fully review and consider the contents of the climate statements; • FMA has yet to review and provide feedback on the full first cycle of reporting; and • the XRB has yet to perform an initial review of climate statements and the efficacy of the standards. <p>More broadly, we consider that there is a need for greater international consistency in respect of climate reporting in order to meet investor demand for “consistent, comparable and useful disclosures”¹.</p> <p>This is more than just <i>who</i> has to report. <i>What</i> should be reported (the reporting standards issued by the XRB) as well as the <i>assurance</i> requirements, should all be aligned where possible. Given the size of New Zealand entities relative to their international counterparts, alignment in all areas with those proposed in key international jurisdictions, and with Australia in particular, will:</p> <ul style="list-style-type: none"> • Provide investors with comparability of reporting, creating a more even playing field when accessing international capital or export markets, • Reduce the risk of regulatory arbitrage with Australia, and • Reduce the cost for complex international groups that comes from having to maintain information and reporting records in accordance with differing requirements across jurisdictions. <p>>>> Continued over</p>

¹ Discussion Document, paragraph 12.

Therefore, our preference would be to remain with the status quo (Option 1) as a temporary measure while the market matures with respect of the reporting regime, giving time for the XRB to consider a more direct alignment with the standards issued by the International Sustainability Standards Board. Changes to reporting thresholds (if any), and assurance requirements (if any), should be timed to align as appropriate when the change in standards takes effect. We expect that this will take several years to consider and implement, also taking into consideration the possibility of a differential reporting regime for smaller entities, as discussed further in response to question 4.

During this interim period:

- The XRB may consider further extending the transitional adoption provisions in NZ CS 2 for smaller entities to reduce the reporting burden.
- We encourage the XRB to collaborate with International (including the Australian) standard setters to consider whether the standards issued by the International Sustainability Standards Board are suitable for a reduced differential reporting overlay.
- We note that continued analysis will be required to consider whether Australian reporting thresholds are appropriate, as compared with other jurisdictions and considering the size of the New Zealand market.

We consider that remaining with the status quo approach (with the possibility of extended transition provisions) should not be too onerous, given the assessment that the \$60m market capitalisation threshold is slightly higher than Australia's Group 3 threshold (noting that the criteria are not equivalent). Further, our climate reporting entities have already invested time and effort to establish climate risk registers, undertake scenario analysis; upgrade enterprise risk management frameworks to accommodate climate-related risks; develop transition plans; and start to quantify the financial exposure to climate risk.

If the XRB introduced differential reporting, would this impact on your choice of preferred option?

Alignment with international standards both for preparers and assurance providers (being those issued by the International Sustainability Standards Board and International Auditing and Assurance Board) is important to ensure that New Zealand entities can continue to access funding and investment from international investors. Adoption of international standards provides investors with comparability of reporting, creating a more even playing field for businesses.

4

We acknowledge that it may be appropriate to have a differential reporting regime in place for smaller entities, so we encourage the XRB to collaborate with the Australian (and International) standard setters to consider whether the standards issued by the International Sustainability Standards Board are suitable for a reduced differential reporting overlay. This may be appropriate for Group 3 entities as they are defined in the Australian regulatory framework.

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?
	As noted in response to question 3, we consider that the status quo should be retained for an interim period, but our longer-term preference would be to align more closely with Australia's reporting thresholds, reporting standards and assurance requirements.
	<p>In particular, we note that the calculations done for options 2 and 3 still focus on a market capitalisation approach which differs to the Australian approach. Assessments on this basis may not hold true over time and may not be readily apparent to investors, hence the preference for a more direct alignment (i.e. equivalent approach) in setting reporting thresholds.</p> <p>Further analysis may be required given that the Australian regime is in its infancy and may itself be subject to change.</p>
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?
	While these options are not preferred, we expect that there will be New Zealand entities that ultimately undertake some form of climate reporting in order to access (or retain access to) international capital or export markets.
7	What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?
	<p>There are advantages to being within a regulated climate reporting regime, particularly where it has high alignment with the primary international capital and export markets that New Zealand entities use. Regulated environments drive consistency and quality in the market, both for the climate reporting entities as well as their assurance providers. Increased reliability and transparency of information benefits investors and other stakeholders. In terms of broader advantages, alignment internationally across a regulated regime supports consistency, comparability, ease of understanding by primary users within and across multiple jurisdictions, brings credibility, and by doing so, should improve access to global capital and export markets.</p> <p>We appreciate that there will be disadvantages, especially given the costs inherent in a regulated reporting regime, but the benefits should outweigh the costs in a well designed and regulated reporting regime. As we have discussed in other parts of this submission, greater international alignment, the introduction of a differential reporting option, and clarity around director and assurance provider liability should all assist to reduce some of the existing disadvantages identified in the discussion paper.</p>
8	Do you have information about the cost of reporting for investment scheme managers?
	No.
9	Do you have information about consumers being charged increased fees due to the cost of climate reporting?
	No.

	<p>When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?</p>
10	<p>As noted in our response to question 3, there is a need for greater understanding of the efficacy of the current regime and of the challenges that entities are incurring, before considering making any material adjustments to thresholds.</p> <p>We feel it is too early to consider adjusting the investment management thresholds given that:</p> <ul style="list-style-type: none"> • reporting entities have only recently completed the inaugural cycle of reporting; • primary users have yet to fully review and consider the contents of the climate statements; • FMA has yet to review and provide feedback on the full first cycle of reporting; and • the XRB has yet to perform an initial review of climate statements and the efficacy of the standards. <p>As noted in our question 3 response, our preference is for international alignment over time. However, we appreciate that scheme sizes in New Zealand are much smaller than in Australia, therefore a threshold of \$5 billion or more of assets under management per scheme may not be appropriate (and could potentially allow for increased arbitrage through fund structuring).</p> <p>At this time, we do not have a firm view on what the reporting threshold should be in New Zealand. Depending on feedback from fund managers and investors, it may be appropriate to lift the threshold as proposed in Options 2 or 3 as a temporary measure. This provides temporary relief for smaller fund managers / schemes until such time as alignment to international reporting (and assurance) standards including a differential reporting regime can occur (refer responses to questions 3, 4 and 11).</p>
11	<p>If the XRB introduced differential reporting, would this impact on your choice of preferred option?</p> <p>As noted in our response to question 4, alignment with international standards, both for preparers and assurance providers, (being those issued by the International Sustainability Standards Board and International Auditing and Assurance Board), is important to ensure that New Zealand entities can continue to access funding and investment from international investors. Adoption of international standards provides investors with comparability of reporting, creating a more even playing field for businesses.</p> <p>We acknowledge that it may be appropriate to have a differential reporting regime in place for smaller entities / schemes, so we encourage the XRB to collaborate with international (including Australian) standard setters to consider whether the standards issued by the International Sustainability Standards Board are suitable for a reduced differential reporting overlay. This may be appropriate for smaller schemes should the decision be to retain a threshold lower than Australia's \$5 billion or more assets under management given the smaller size of schemes in New Zealand.</p>
12	<p>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?</p> <p>Refer response to question 10.</p>

	When considering the location of the thresholds, which Option do you prefer and why?
13	<p>We note that there are advantages and disadvantages for either approach.</p> <p>We are concerned that moving the thresholds to secondary legislation may introduce the risk of stop-start compliance, which may prove costly for reporting entities. Frequent adjustments to thresholds may introduce uncertainty, resulting in delayed investments and delayed decision-making - factors that have historically proven costly both to entities and for the broader economy. Finally, at this critical juncture, introducing policy uncertainty into the market when stable policy frameworks are most needed, may make it more difficult for the private sector to fully assess and plan for potential impacts of climate change on their business models.</p> <p>If secondary legislation is the preferred approach, then we believe that there should be a statutory obligation to consult. Any adjustment recommended by the Minister should be limited to considering inflationary adjustments needed (similar to that required by the Financial Reporting Act 2013), and international harmonisation, where warranted. Changes to thresholds should be infrequent, and should only occur within specific parameters, to allow for market certainty and stability, which in turn supports investor confidence.</p>
	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?
14	As noted in response to question 13, there should be a statutory obligation to consult and any adjustment recommended by the Minister should consider inflationary adjustments and international harmonisation (where warranted). Changes to thresholds should be infrequent to allow for market certainty and stability, which in turn supports investor confidence.

Chapter 3: Climate reporting entity and director liability settings

	When considering the director liability settings, which of the four options do you prefer, and why?
15	<p>We acknowledge the concerns raised by directors, particularly in relation to forward looking statements. However, we do not believe that amendments to director liability settings can be made in isolation without also considering auditor liability.</p> <p>The Australian and New Zealand auditor liability settings are not the same so it may not be appropriate to implement the Australian modified liability settings proposed (in isolation). In New Zealand, auditors are subject to joint and several liability as a general rule, whereas Australia has a comprehensive liability capping scheme for auditors.</p> <p>Given the concerns raised, it may be appropriate to implement temporary relief both for directors and auditors while more robust analysis is undertaken to support wider future reform. If temporary relief is provided, it would be beneficial for the XRB to propose wording that can be included in climate statements and assurance reports on the limitations inherent with forward statements (noting that some disclosures already exist for scope 3 emissions).</p>

	Do you have another proposal to amend the director liability settings? If so, please provide details.
	As noted in our response to question 15, we acknowledge the concerns raised by directors, particularly in relation to forward looking statements. However, we do not believe that amendments to director liability settings can be made in isolation without also considering auditor liability.
16	<p>The Australian and New Zealand auditor liability settings are not the same so it may not be appropriate to implement the Australian modified liability settings proposed (in isolation). In New Zealand auditors are subject to joint and several liability as a general rule, whereas Australia has a comprehensive liability capping scheme for auditors.</p> <p>Given the concerns raised, it may be appropriate to implement temporary relief both for directors and auditors while more robust analysis is undertaken to support wider future reform. If temporary relief is provided, it would be beneficial for the XRB to propose wording that can be included in climate statements and assurance reports on the limitations inherent with forward statements (noting that some disclosures already exist for scope 3 emissions).</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>Refer response to question 15.</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>Refer response to question 15.</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>Refer response to question 15.</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>Refer response to question 15.</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 agree that there could be benefit in this, particularly where there is international alignment in reporting requirements (due to enhanced consistency / comparability).</p> <p>Preference would be for this information to be filed with the Companies Office, as the main location for company information (outside of an entity's own website or group website).</p>

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?
	As companies are already engaging with the Companies Office for annual returns and other filings it makes sense to include this request as part of the annual return process as opposed to having an additional process to complete.
Final comments	
23	Please use this question to provide any further information you would like that has not been covered in the other questions.