

## Feedback form

# Consultation: Proposed exemptions from climate reporting duties for CREs in liquidation, receivership, or voluntary administration

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz) with 'Proposed exemptions from climate reporting duties for CREs in liquidation, receivership, or voluntary administration: [your organisation's name]' in the subject line. Thank you. **Submissions close on 20 July 2023.**

Date: Number of pages:

Name of submitter: Tim Grafton

Company or entity: Te Kāhui Inihua o Aotearoa Insurance Council of New Zealand

Organisation type: Sector organisation

Contact name (if different):

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Question number	Response
<b>1. Do you think we should grant a full exemption from Part 7A obligations for an insolvent liquidation or registered scheme wind-up? Please explain the reasons for your view.</b>	Yes, we support a full exemption and primarily for two reasons. The first being that the purpose of Climate Related Disclosures (CRD) is to inform primary users existing and potential investors, lenders, and other creditors of the Climate Reporting Entity's (CRE) climate-related exposures. Primary users can then assess CRD to inform their investment/loan/credit decisions by scrutinizing the risks and opportunities, strategy and metrics and measures it is using to manage those exposures over the short, medium, and long-term with respect to three different climate scenarios as specified by the XRB standards. An insolvent company that is in liquidation or a registered scheme in wind-up is of little interest to new primary users because its life is short, and its existence is solely focused on repaying existing creditors or investors. Requiring Part 7A obligations to be met would only add needless costs and obligations that serve no purpose and would deprive creditors and investors of what is owed to them. We also note that the directors of the company have no powers under these circumstances, so there will be practical difficulties in meeting their obligations under the Act. We also agree that it would be virtually impossible to enforce reporting obligations given that the consent of the liquidator to enforce would almost certainly be denied.
<b>2. Should the full exemption also apply to a solvent liquidation or registered scheme wind-up?</b>	Yes, we support a full exemption for the same reasons given to question 1.
<b>3. Do you think we should grant deferral relief for CREs that are in receivership or voluntary administration? Do you think two years is an appropriate period for the relief? Please explain the reasons for your view and any alternative period you consider more appropriate.</b>	Yes, we support granting deferral relief for CREs in receivership or voluntary administration. Although the situation for these CREs is different to those referred to in questions 1 and 2, in that they may be trading as a going concern and able to meet compliance costs, nevertheless they are in most instances trading toward closure of the business, so several of the key issues that apply to those referred to in 1 and 2 above apply.
<b>4. Do you consider that primary users will continue to find climate-related information valuable even after a CRE is in liquidation, receivership, or voluntary administration, or a scheme is in wind-up? Please explain the reasons for your view.</b>	No, for the reasons given earlier.

<p><b>5. Would being in liquidation (or wind-up for a scheme), receivership, or voluntary administration make it more difficult to comply with Part 7A obligations? If so, please give details.</b></p>	<p>Yes, as the focus of the liquidator, receiver or administrator is primarily on repaying investors and creditors and not on meeting additional compliance costs related to CRD.</p>
<p><b>6. If you are a CRE, please describe the likely costs (including estimated dollar amounts) of compliance with Part 7A obligations in liquidation, receivership, or voluntary administration, or where a registered scheme is in wind-up.</b></p>	<p>N/A</p>
<p><b>7. Are there any potential problems or unintended consequences that may arise from granting the proposed exemptions? For example, could this result in downstream impacts on the ability of other CREs or registered schemes to comply with their Part 7A obligations?</b></p>	<p>We are not aware of other potential problems. Although the example given would mean that other CREs may not have access to CRD from those in liquidation, receivership or administration, this would be for a short time and assumptions and implications could be made on the basis of the disclosures made immediately prior to liquidation etc.</p>
<p><b>8. Are the proposed conditions and limitations appropriate? Should there be any additional conditions or limitations imposed? If so, please provide details</b></p>	<p>Yes, we support the proposed conditions and limitations and see no need for further conditions of limitations.</p>
<p><b>9. Are there any practical or financial considerations that would make it overly burdensome for CREs to comply with deferred climate obligations at the end of the two-year period (or earlier if the receivership or voluntary administration ends and control of the company is returned to the directors)? If so, please provide details.</b></p>	<p>There may be and this will need to be judged on a case-by-case basis. A CRE may have been significantly restructured, its trading activities radically changed, and its resources (human and financial) significantly altered for the company to be able to end the receivership or administration to return the company to directors. These factors may impact its capability to immediately return after two years to reporting as it may need to invest in new systems and processes. It may be that a CRE is able to return to normal trading because of considerable downsizing followed by a merger with another entity of similar size, so that the new company just crosses the threshold for CRE reporting. In these circumstances, more time may be needed with it being at the discretion of the FMA to set a reasonable reporting deadline.</p>
<p><b>10. Do you think a five-year term is appropriate for the proposed exemptions? If not, please let us know your views on a suitable term.</b></p>	<p>Yes.</p>
<p><b>Feedback summary</b> – We would support a requirement for a CRE that is granted an exemption to give public notice that it is relying on an exemption and will not be publishing CRD.</p>	
<p><b>Please note:</b> Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.</p>	
<p><b>Thank you for your feedback – we appreciate your time and input.</b></p>	