

Corporate Governance and Intellectual Property Policy
Building, Resources, and Markets
Ministry of Business, Innovation & Employment
PO Box 1473
Wellington 6140

By email: climaterelateddisclosures@mbie.govt.nz

14 February 2025

Dear Corporate Governance and Intellectual Property Policy team,

ICNZ SUBMISSION ON THE ADJUSTMENTS TO THE CLIMATE-RELATED DISCLOSURES REGIME

Thank you for the opportunity to provide a submission to the Ministry of Business, Innovation & Employment (MBIE) on the proposed adjustments to the climate-related disclosures regime.

The Insurance Council of New Zealand / Te Kāhui Inihua o Aotearoa (ICNZ) is the representative organisation for general insurance companies in New Zealand. Our members include insurers with greater than \$1 billion in total assets or annual premium income greater than \$250 million, meaning they are climate-reporting entities (CREs).

We have consulted with our membership and will provide comment on the topics in the discussion document relevant to insurers. Paragraphs below are numbered in line with the questions in the submission template.

CHAPTER 2: REPORTING THRESHOLDS

13. When considering the location of the thresholds, which Option do you prefer and why?

We support moving the thresholds to secondary legislation, as we agree this would increase efficiency in making future amendments, if they are needed. However, we also note that the secondary legislation should include a statutory obligation to consult on any future changes.

CHAPTER 3: CLIMATE REPORTING ENTITY AND DIRECTOR LIABILITY SETTINGS

We agree with the statement of the problem set out in the discussion document. There are substantial, fundamental differences between climate statements and financial

statements. Legislation should take this into account to enable the disclosure of the highest quality information by climate reporting entities (CREs).

Given that climate statements are forward-looking, involve uncertainty, directors cannot gain the same level of comfort over disclosures and are excessively risk-averse when approving information to be disclosed. This also results in significant due diligence costs incurred by CREs.

15. When considering the director liability settings, which of the four options do you prefer, and why?

We therefore support option 3, amending the Financial Markets Conduct (FMC) Act so that section 534 no longer applies to climate-related disclosures and amending the FMC Act so that directors can no longer be liable for aiding and abetting an unsubstantiated representation. We support option 3 over option 2 as we believe this give directors sufficient confidence to provide information, such as additional context, which could be of significant benefit to the market, promote good practice, and achieve the Minister's objectives for the climate disclosures regime.

Insurers have considered option 4, to align with the Australian regime, however, we do not believe this option would fully align given other statutory differences between New Zealand and Australia. In addition, as option 4 would lapse, it is likely that option 2 or 3 would still need to be adopted, creating more uncertainty and disruptions for both the market and CREs in the future.

17. If the director liability settings are amended do you think that will impact on investor trust in the climate statements?

Regarding impacts on investor trust in climate statements, we do not believe that amending the director liability settings would reduce trust. CREs would still be required to produce statements in accordance with the FMC Act and Climate Standards. In fact, we suggest that investors may have more trust in climate statements if information is disclosed more openly.

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?

We consider it is appropriate to disapply section 23 for directors, removing director personal liability, as outlined above. However, we do not see that section 23 needs to be disapplied from CREs. We support higher liability for CREs to prevent inclusion of unsubstantiated claims in climate statements.

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?

Noting that we support option 3 (see question 15 above), *if* option 4 is chosen, it would be most reasonable to include all forward-looking statements, i.e. scenario analysis and transition planning (whereas emissions will be externally assured and backward-looking, involving less risk), and anticipated financial impacts (which have the highest potential to be contested of all forward-looking statements).

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)

If option 4 is chosen, we would support alignment with the Australian framework, with modified liability lasting at least three years. This could be extended depending on the assurance and legal landscape at the time (considering its maturity). When assurance over all climate statements is required (this may be longer than three years), modified liability should lapse.

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?

Our interpretation after review of the discussion document is that, if multinational companies were encouraged to file their parent company climate statements in New Zealand, this would only be where New Zealand-based subsidiaries are *not* CREs and therefore do not file climate statements themselves.

We see limited benefit in parent companies filing climate statements in New Zealand. Investors have sufficient ability to access international statements if desired. Additionally, requiring or encouraging international statements in New Zealand may create new issues of compatibility where international statements are made under different frameworks. From an investor perspective, this could be a distraction, cause confusion, or encourage inappropriate comparison.

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 above, international climate statements are easy to access, so there would not be a benefit to MBIE creating a webpage to link to international parent company climate statements.

Thank you again for the opportunity to submit on the consultation on adjustments to the climate-related disclosures regime. Should you have any questions, please contact sean@icnz.org.nz.

Yours sincerely



Sean Fullan
Resilience and Recovery Manager
Insurance Council of New Zealand