Submission on Consultation paper: Proposed Guidance and Expectations for keeping proper climate-related disclosure records

Your name and organisation

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Responses to consultation paper questions

1.	*Do you agree with the general principles and considerations for keeping proper CRD records that have been identified in this guidance? If not, please outline your reasons.*
	We agree with the principles that address ready accessibility to records by the FMA, and their comprehensibility. We have submitted to MBIE recommending change to the regulation that addresses records being kept in English, Te Reo and other languages and also with respect to the location of records in the cloud. We have more difficulty with the FMA's proposed approach to records held by third parties and these issues are addressed in our response to question 6. We also support the approach taken by the FMA as outlined in its Monitoring Plan 2023-26 to take a broadly educative and constructive approach to the new regime. It is helpful to have provided the FMA's initial focus areas in the first year of reporting and to outline how monitoring will transition to a steady state. However, in our view requirements around controls seem very stringent (p.10 of the Guidance). We believe the assumption should be that there are existing controls in place that can be broadened out to include climate documents where needed rather than have a stand-alone process for CRD. We also note on the same page reference to "CREs should include authorisation policies on altering records" which seems overly stringent to expect a policy around this. The record keeping requirements are more detailed than is required to meet financial audit standards and we wonder if this is appropriate for a new regime that initially is intended to be more qualitative in nature in its reporting. Our impression from the draft guidance and appendices is that the FMA is setting expectations more appropriate for a mature reporting regime than what should be realistically expected of a novel one. Even though the FMA has publicly stated it will take an educative and supportive approach toward CRD initially, we know from experience that FMA has and does take public and prosecutorial action where its guidance has not been followed.
2.	*Are there other principles or areas that you consider should be included? If so, please provide details, along with why and how this would help to support the legislative requirement to keep proper CRD records.*
	We are not aware of any other principles that should be included.
3.	*Do you consider that this guidance, including the appendices, contains the appropriate level of detail? Please provide reasons for your answer.*
	Yes, largely it does though as our response to question 6 shows we believe there is an element of excessive prescription with respect to the knowledge and understanding of the regime required of third-party providers.
4.	*Do you think the detailed examples in the appendices are useful? Please provide reasons for your answer.*

	Yes, the guidance in the appendices provides sufficient detail of the type and amount of information the FMA would expect a CRE to hold in order to demonstrate that it is meeting its record-keeping obligations. It is clear that the FMA expects to see minutes of meetings where decisions are made with respect to managing climate-related risks and opportunities including strategic responses to them as well as governance and management responsibilities under the Act. Data is also expected to be provided to demonstrate how a CRE is understanding its risks and opportunities and how it is using measures and metrics to monitor its climate risk exposures. There is also a very detailed explanation of expectations with respect to climate scenario development. Altogether the examples illustrate well the range of material and detail expected. Some of the examples given in the Appendix would pre-date record keeping requirements, for example, minutes in chich the Chief Executive creates and assigns responsibility to a separate committee made up of managers across different business units with the mandate to identify and monitor climate-related risks and opportunities across the CRE's operations. It would be helpful to clarify that the CRE would not be expected to dig back through the archives for records that pre-date disclosure requirements if they can provide evidence of how this process is carried out today. That said, there are examples provided of the kind of information that could be provided that potentially suggest the FMA places greater reliance on reports from external parties. For instance, with respect to the examples given related to the impact of forecast changes in consumer behaviour on core markets and potential revenues or thematic reports to assess climate-related risks. This may not be the FMA's intent, so clarification would be helpful. If, however, the FMA does have a view that certain assessments are better provided by external parties, then it ought to explicitly identify those areas and make the rationale for that clearer. We note with some examples it seems clear that external, reputable sources are the FMA's expectation, for instance, in supporting both transition and physical risks in each climate-related scenario. The example in the Strategy Appendix - "a research paper that details that climate change increased the severity of an extreme weather event that impacted the entity"- is of some concern as it applies climate attribution work which the XRB have said is not required. Insurers are taking all weather events as being included in in climate disclosures and not attempting to estimate what is attributable to climate change. Clarification of FMA's expectations here would be helpful.
5.	*Do you think this guidance will help CREs understand their record-keeping obligations? Please provide reasons for your answer.*
	Yes, primarily for the reasons given in the response to the previous question.
6.	*Do you think there will be any unnecessary compliance costs associated with the proposed guidance and expectations for keeping proper CRD records? If so, please provide details.*
	Yes. With respect to the guidance on the employment of third parties, the FMA sets out the expectation that **at a minimum** all third-party providers should be able to demonstrate understanding of the CRD regime, record keeping requirements, the CRD framework, all FMA guidance and other matters. We do not understand why this is necessary because it will lead to significant and unnecessary costs. For instance, as the FMA notes, a third-party provider may include a climate scientist providing data on future physical risks. We do not understand why the scientist would need to be well versed in the detail of the CRD regime and the FMA's guidance. Third parties may have other skills or data that is relevant or may just be providing additional resources to ensure CRD deadlines are met. Further, some

	third-party expert providers will be based outside New Zealand and for whom New Zealand is a very small market. It would be unrealistic to expect them to have detailed knowledge of this country's climate related disclosure regulations given what we represent of their market. As the FMA notes, the responsibility for compliance with CRD regime remains with the CRE irrespective of how third parties are involved. That responsibility can be met without requiring climate scientists or other providers to be trained and tested on their understanding of the regime or the legal liabilities of directors of the CRE. The FMA has no powers with respect to third-party providers, so no enforcement or requirements can be made of them by the FMA. Similar comments apply to expectations of third-party providers and their understanding that their outputs meet the requirements of the regime. It is for the CRE to ensure that the appropriate outputs are provided. There is particular concern about this comment "CRD records should be written in a way that is easy to understand and interpret without previous knowledge, by anyone who uses/and is entitled to inspect the records. CREs cannot be expected to create interpretation of all documents that understandable to a lay person in addition to what is in the disclosure. This is particularly the case for insurers in the physical risk space where there is significant scientific data underlying assumptions. From what we have said above, it follows that we do not agree with the prescriptive questions the FMA proposes should be asked of third-party providers to test their knowledge of the disclosure regime. The onus is on the CRE to determine the brief it provides to a third-party provider and to obtain information and/advice that enables it to comply with the Act and the FMA's expectations. The FMA's role should be to satisfy itself that the CRE is compliant and has made disclosures and can provide supporting records that are readily available, comprehensive and easily understood. It should not also require the FMA to obtain information on how well the third-party provider understood the FMA's expectations or the disclosure regime or directors' liabilities. A CRE may choose to providers to have some specific knowledge of aspects of the CRD regime if it judges this will better support compliance, but this should not be a mandatory requirement. The FMA's approach here may be well intentioned but it is unnecessary over-reach. We believe that requirements in the proposed regulation around where records should be kept are misplaced and enforcement of them will also add costs which are unnecessary.
7.	*Are there any additional matters that you think the guidance should address? If so, please provide details.*
	It would be useful if the FMA could commit to providing further guidance after the first year of reporting by CREs based on its monitoring and as part of its commitment to being educative. We would envisage this including common shortcomings in reports, examples of what triggered regulatory action and possibly best practises. This would help support the quality of reporting by all CREs. It may also lead to changes to some of its own guidance.
8.	*If you are the manager of a Managed Investment Scheme, are there any additional challenges associated with keeping proper CRD records that this guidance should address? If so, please provide details.*
	N/A
9.	*Are there any specific areas excluded from the detailed examples in the appendices that should be incorporated into this guidance? If so, please provide details. This includes disclosures related to:*

	• *risk management in NZ CS 1 Paragraph 19 (b)-(e); and* • *metric categories in NZ CS 1 Paragraph 22 (b)-(h).*
	We have nothing to say here.
10.	*Have you encountered any situations not referenced in this guidance where you have found it difficult to evidence your approach? If so, please provide details.*
	International practise around the collection of Scope 3 emissions for insurance underwriters and suppliers is still developing. The timelines for this development extend past the reporting dates required by the CRDs. This will invariably create some volatility and lack of robustness in process/data availability until the approaches have been developed and matured. Our members are currently exploring ways to gather information on Scope 3 emissions with respect to supply chain activities and some have yet to consider underwriting activities that are material to their climate-related disclosure obligations. This work is incomplete and may lead to expectations not being met if there are gaps when reporting is due in a few months' time. It might be helpful if the FMA were able to give examples of what it might expect to see as evidence of efforts, albeit incomplete, to report on some S3 emissions. In addition, as per our feedback to MBIE's consultation on regulations, it would be useful to have clarity around whether records are required for areas where first time adoption provisions are used – where CREs only provide high level progress updates. We should expect that records underlying these progress updates should not be captured by the regulation of by this guidance.