



COVERSHEET

Minister	Hon Dr David Clark	Portfolio	Commerce and Consumer Affairs
Title of Cabinet paper	Implementing the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021	Date to be published	27 February 2023

List of documents that have been proactively released

Date	Title	Author
November 2022	Implementing the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021	Office of the Minister of Commerce and Consumer Affairs
November 2022	Regulatory Impact Statement: Climate-related disclosures regulations	MBIE
10 November 2022	Cabinet Environment, Energy and Climate Committee Minute of Decision – ENV-22-MIN-0048	Cabinet Office

Information redacted

YES

Any information redacted in this document is redacted in accordance with MBIE's and MFAT's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reason of Confidential advice entrusted to the Government.



Cabinet Environment, Energy and Climate Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Implementing the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021

Portfolio Commerce and Consumer Affairs, Climate Change

On 10 November 2022, the Cabinet Environment, Energy and Climate Committee:

Background

- 1 **noted** that the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 introduced a requirement into the Financial Markets Conduct Act 2013 (FMC Act) that certain listed issuers and financial institutions – known as ‘climate reporting entities’ – publish annual climate statements disclosing information about the entity’s climate-related risks and opportunities;

Secondary legislation

Record Keeping

- 2 **noted** that, under the new section 461V of the FMC Act, climate reporting entities must keep ‘records that will enable the climate reporting entity to ensure that the climate statements of the climate reporting entity comply with the climate-related disclosure framework’ (CRD records);
- 3 **noted** that, under the new section 461Y of the FMC Act, climate reporting entities must make CRD records available for inspection at all reasonable times and without charge to certain listed parties, including the Financial Markets Authority (FMA);
- 4 **agreed** that regulations be made under section 548(1)(p) of the FMC Act prescribing, in respect of the CRD records referred to in paragraphs 2 and 3 above:
 - 4.1 requirements in terms of their format, accuracy, language, accessibility, inspection, and location, including when the CRD records are owned or maintained by a third-party pursuant to a contract or a licensing agreement;
 - 4.2 that the FMA may prescribe additional requirements relating to the manner in which the CRD records must be made available to the FMA for inspection;

Infringement fees

- 5 **noted** that the new sections 461W, 461Y, 461ZI and 461ZJ of the FMC Act establish new infringement offences for failure by a climate reporting entity to:
- 5.1 keep CRD records in the prescribed manner;
 - 5.2 make CRD records available in the prescribed manner;
 - 5.3 lodge a climate statement on time;
 - 5.4 disclose in an annual report that it is a reporting entity;
- 6 **agreed** that regulations be made under section 548(1)(m) of the FMC Act setting the infringement fee for the four offences referred to above;
- 7 **agreed** that the regulations should set the infringement fee levels for the new offences at the same level as those already prescribed for similar ‘financial reporting’ offences under Schedule 22 of the Financial Markets Conduct Regulations 2014, which range from \$5,000 to \$12,500;

Next steps

- 8 **invited** the Minister of Commerce and Consumer Affairs to:
- 8.1 issue drafting instructions to the Parliamentary Counsel Office to give effect to the above paragraphs;
 - 8.2 release an exposure draft of the regulations for public consultation;
 - 8.3 make decisions that are consistent with the policy decisions in the paper under ENV-22-SUB-0048, on any minor or technical matters that may arise during the drafting process or as a result of consultation on an exposure draft of the regulations;
 - 8.4 report back to Cabinet with a finalised version of the regulations ready for submission to the Executive Council;

Release of consultation document

- 9 **noted** that on 5 August 2020, the Cabinet Economic Development Committee:
- 9.1 agreed that independent assurance of climate statements would be limited to greenhouse gas emissions disclosures; but
 - 9.2 was informed that, as international guidance in this area was developing rapidly, it would be appropriate to reconsider this limitation as part of a future policy review;

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- 10 **noted** that, in this context, officials at the Ministry of Business, Innovation and Employment and the Ministry for the Environment have prepared a consultation document that seeks stakeholder views on:
- 10.1 whether there should be occupational licensing of those people who undertake assurance of climate statements and, if so, what the nature of that occupational licensing should be;
 - 10.2 whether expansion of the assurance requirement is appropriate and, if so, how and when that expansion should take place;
- 11 **agreed** to the release of the consultation document *Assurance Over Climate-related Disclosures: Occupational Regulation and Expanding the Scope of Assurance* (the consultation document), attached to the paper under ENV-22-SUB-0048, for public consultation;
- 12 **authorised** the Minister of Commerce and Consumer Affairs and the Minister of Climate Change to determine the precise dates for the consultation period and to make any minor or technical amendments to the consultation document prior to its release;
- 13 **invited** the Minister of Commerce and Consumers Affairs and the Minister of Climate Change to report back to Cabinet with the results of the consultation and proposed policy decisions.

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson
Hon Dr Megan Woods
Hon David Parker (Chair)
Hon Nanaia Mahuta
Hon Willie Jackson
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon James Shaw

Officials present from:

Office of the Prime Minister
Officials Committee for ENV