

Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill

Government Bill

As reported from the Economic Development, Science and Innovation Committee

Commentary

Recommendation

The Economic Development, Science and Innovation Committee has examined the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill and recommends, by majority, that the amendments shown be adopted, and recommends unanimously that the bill be passed.

Introduction

This bill is an omnibus bill that seeks to amend the Financial Markets Conduct Act 2013 (FMC Act), the Financial Reporting Act 2013, and the Public Audit Act 2001. The bill would broaden the non-financial reporting requirements of some large entities covered by the FMC Act to include climate-related disclosures.

FMC reporting entities under the FMC Act (for example, registered banks and listed issuers) are required to publish annual audited financial statements. This financial reporting promotes confidence and informed participation in the financial markets by investors.

In 2018, the Intergovernmental Panel on Climate Change noted that human activities have already caused global warming of 1°C above pre-industrial conditions, and are on track to cause at least 1.5°C of warming between 2030 and 2052.

The bill is based on the idea that financial markets will help contribute to the economic transformation that is needed to shift investment away from emission-intensive activities, towards those that are more resilient and produce lower emissions. One way of helping to achieve this is by requiring large entities to disclose information about climate-related risks and opportunities to potential investors.

The specific purposes of the bill are:

- to ensure that the effects of climate change are routinely considered in business, investment, lending, and insurance underwriting decisions
- to help reporting entities better demonstrate responsibility and foresight in their consideration of climate issues
- to lead to smarter, more efficient allocation of capital, and help smooth the transition to a more sustainable, low-emissions economy.

To achieve these aims, the bill would identify which entities would be climate reporting entities (CREs) and therefore be required to make climate-related disclosures. CREs would include large listed issuers, large registered banks and other deposit takers, large licensed issuers, and large managers of managed investment schemes.

Under the bill, CREs would be required to:

- prepare an annual climate statement that discloses information about the effects of climate change on their business or any fund they manage
- prepare climate statements in accordance with climate standards issued by the independent External Reporting Board (XRB)
- obtain independent assurance about the part of the climate statement that relates to the disclosure of greenhouse gas emissions
- make the climate statements available to the public, and collect and retain the records underpinning them.

The bill would also provide for the XRB to issue guidance on a wider range of environmental, social, and governance (ESG) matters, and other non-financial matters that can be applied by entities on a voluntary basis.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We identified issues relating to offences and penalties within the bill, and delegated legislation-making powers. After receiving advice, we are satisfied that our concerns have been addressed.¹

We have no other issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor, technical, or purely consequential amendments.

¹ This advice is available on the Parliament website.

Entities that are considered CREs

Exclude small listed issuers and growth markets

Section 451 of the FMC Act defines who is an FMC reporting entity and therefore required to lodge financial statements under the Act. This category includes all registered banks, licensed insurers, credit unions, building societies and operators of licensed markets. It also includes every entity that is listed on a licensed market (a listed issuer).

Clause 7 of the bill would introduce a new Part 7A to the FMC Act, relating to the proposed climate-related disclosures. New section 461O would define who is a “climate reporting entity” (CRE) and therefore required to make climate-related disclosures. As introduced, the definition of CRE would include all listed issuers.

Some submitters told us that smaller businesses may struggle to meet the costs involved with making climate-related disclosures. Climate reporting is a new process and can require complex analysis. It will likely take some time to build and grow professional capability, which will be harder for smaller businesses. We heard that listed issuers with market capitalisation under \$60 million only account for 0.68 percent of NZX’s total market capitalisation. If small issuers are excluded from the definition of CREs, more than 99 percent of the market’s capitalisation would still be captured by the climate-related disclosures regime.

Growth markets are separate exchanges that are specifically designed to allow small and medium-sized enterprises to attract investment. A growth market’s operating licence usually places restrictions on the size of issuers that can register on that market. The concerns raised by smaller listed issuers also apply to issuers on growth markets.

In light of these concerns, we believe that issuers listed on growth markets and small issuers listed on other markets should be excluded from the climate reporting requirements. We recommend amending clause 7 to redefine “climate reporting entity” so that it only includes listed issuers which are “large listed issuers” and issuers which are not “excluded listed issuers”. We recommend inserting new section 461OA to define large listed issuers as issuers with a market capitalisation over \$60 million. Excluded listed issuers would be defined as issuers whose securities are listed only on a growth market, or listed issuers who have no quoted equity or debt securities.

Clarify provisions relating to entities amalgamating

As introduced, the bill’s definition of climate reporting entity in clause 7 would relate to large FMC reporting entities. The proposed sections 461P(1) and 461P(2) define large entities as meeting certain financial thresholds.

The bill would require an entity to meet these thresholds for two consecutive financial years before it is considered large. If an entity meets the definition, it becomes a CRE and is required to make climate-related disclosures. For example, an entity that holds over \$1 billion in assets for two consecutive financial years is considered large.

We believe the two-year period is important for recognising the ebbs and flows of the market. For example, it protects a small entity from inadvertently becoming a CRE because of a one-off spike in earnings for one year.

However, we are concerned that the bill as introduced did not specify how the two-year period would be affected if entities were to amalgamate or merge. As introduced, if a large entity were to merge with a second entity so it became a new entity, the new entity would not be required to make climate-related disclosures for two years. This was not the intention of the bill as introduced.

We recommend amending clause 7 of the bill to add new section 461PA to the FMC Act. New section 461PA would make it clear that any large entities which amalgamate into another entity would still be considered large. The two-year period would not apply to the new entity.

Changes to the assurance provisions

Delay implementing assurance requirements for an additional two years

“Assurance” refers to independent verification of statements made in a disclosure. Assurance is crucial for ensuring the integrity and credibility of any disclosures.

Clause 7 of the bill, as introduced, includes several provisions relating to assurance about climate-related disclosures. New section 461ZD would require climate reporting entities to seek assurance about any climate-related disclosures relating to greenhouse gas (GHG) emissions. New section 461ZG states that any assurance practitioners must comply with all applicable auditing and assurance standards.

As introduced, Part 1 of the bill, which includes the assurance requirements, would come into force within one year of Royal assent. We have noted above that climate reporting is a new process, and that it will take time to build and grow professional capacity for climate reporting. This also applies to the audit and assurance industry. We are concerned about this, and several submitters echoed this concern.

Under the bill, if climate reporting entities fail to engage an assurance practitioner, or assurance practitioners fail to follow applicable auditing and accounting standards, they could face civil or criminal liability. We do not see it as desirable to impose potential liability on CREs or assurance practitioners when there has not been sufficient time for them to become familiar with the assurance requirements.

We therefore propose removing the assurance requirement provisions from Part 1 of the bill and inserting them into new clauses 20A–20J which would form a new Part 1A of the bill. We recommend that Part 1A come into force within three years after the bill receives Royal assent.

Under the bill as amended, CREs would still be required to prepare climate-related disclosures within one year after the bill receives Royal assent. However, they would not be required to engage assurance practitioners for the GHG emission statements in these disclosures until Part 1A comes into force.

Remove the assurance practitioner licensing and accreditation provisions

Clause 7 of the bill, as introduced, would insert new section 461ZE into the FMC Act. This would define who could act as a qualified assurance practitioner. Under the bill, as introduced, the FMA would approve “climate related disclosures assurance bodies”, and the assurance bodies would license their members to act as qualified practitioners.

This arrangement would have the effect of creating a new licensing regime specifically for climate-related disclosure assurance.

Some submitters were concerned that the requirements to become an approved assurance body could exclude non-accountants from carrying out GHG assurance engagements. They noted that there are other professionals, including carbon and energy professionals, who have the skills and experience needed to carry out GHG assurance work.

The FMA was also concerned about the bill’s proposed licensing regime. It advocated a more extensive licensing regime, such as the existing regime under the Auditor Regulation Act. We also have concerns that the bill’s accreditation and licensing regime may be ineffective because the FMA would have very limited oversight of approved bodies and licensed practitioners.

We do not believe that the licensing regime proposed in the bill as introduced would be effective. We therefore recommend removing these licensing and accreditation provisions in new sections 461ZD to 461ZM from clause 7 of the bill.

Despite the removal of these sections, the bill would still have mechanisms to ensure the integrity of the climate assurance regime. We note that the proposed section 461ZDA would require assurance practitioners, in carrying out an assurance engagement, to comply with all applicable auditing and assurance standards.

Add a criminal offence for non-compliance with applicable assurance standards

The bill would require assurance practitioners to comply with all applicable auditing and assurance standards under new section 461ZG (renumbered in the revision-tracked version of the bill as new section 461ZDA in new Part 1A). The bill would also require assurance practitioners to provide copies of their assurance reports to the FMA, the XRB, and the climate reporting entity’s supervisor under new section 461ZH (new section 461ZDB in the revision-tracked version of the bill).

The bill as introduced did not contain any provision outlining any legal consequences for failing to comply with these proposed sections.

Under the bill as introduced, assurance practitioners would have been subject to the code of conduct and disciplinary process of approved assurance bodies. However, as discussed above, we recommend removing those provisions.

Therefore, we recommend inserting an offence provision into new section 461ZDB, which would come into effect alongside the other assurance requirements. New section 461ZDB would make it an offence, liable on conviction to a fine not exceeding \$50,000, for an assurance practitioner to contravene applicable assurance standards.

This maximum fine would be the same as for offences of similar seriousness in the bill.

Remove disclose-or-explain provisions

As introduced, clause 7 would insert new sections 461ZA and 461ZB. If an entity determined that it is not materially affected by climate change, these provisions would exempt the entity from preparing a climate statement in accordance with the XRB's climate standards. Instead, the entity would be required to prepare a separate document explaining why it was not materially affected and obtain an assurance engagement from an assurance practitioner to support this determination.

The Government members are concerned that these provisions would result in substantially different reports and quality of reporting. This would undermine the climate-related disclosure regime's goal of providing consistent and comparable climate reporting. We believe that all climate reporting entities should apply the same climate standards for their disclosures. We acknowledge that entities will be affected by climate change to varying degrees. However, Government members believe that any need for differential reporting could be achieved through the application of the climate standards set by the XRB.

The majority of the committee therefore recommend removing these provisions from Part 1 of the bill.

Remove provisions relating to immaterial information

Clause 28 relates to proposed amendments to the Financial Reporting Act (FR Act). This clause would add new sections 19A–19D to the FR Act. They relate to the XRB's new function for setting climate reporting standards.

New section 19D would apply if a climate reporting entity determined that any information was immaterial to its climate-related disclosure analysis. The entity would be permitted to exclude that immaterial information but would be required to provide a statement about the excluded information explaining why it believed the information was immaterial. We believe that requiring entities to include information to explain why other information is immaterial would result in reports that contain disclosures that are of no value to users. We also believe that the XRB is best placed to address the issue of materiality when it sets the climate reporting standards.

We therefore recommend amending clause 28 of the bill to remove proposed new section 19D.

New Zealand National Party differing view

This bill will broaden non-financial reporting by requiring the preparation of climate-related disclosures by certain FMC reporting entities. It will require around 200 organisations to make climate related financial disclosures, including listed equity/debt issuers, large banks, licensed large insurers, large credit unions, large building societies and investment scheme managers.

Climate-related disclosures require the firm to consider the impacts of climate change on their operations. The External Reporting Board (XRB) will prepare climate standards which these firms must adhere to.

National remains concerned about increased regulation and the compliance cost that this places on businesses, making them less productive.

Commencement of reporting obligations

The legislation will enter into force within 12 months after receiving Royal assent. The XRB must publish a reporting standard. Given New Zealand is among the first countries to require climate-related disclosure, and the XRB has not released their standards yet, the disclosure requirements should commence for the financial year beginning two years after the XRB finalises their climate standards.

Public sector entities

The bill exempts public sector agencies from reporting on climate change while placing requirements on the private sector. Ministers have said this is because they will direct government entities through letters of expectation. However, it is our belief that, should this legislation go ahead, all entities should be treated the same and a privilege should not be extended to public entities. They should have the same requirements as private sector entities and should be included in the scope of the bill.

Obligations where not materially affected

The revised draft of the bill removes the “explain” part of the “comply-or-explain” requirements. This means businesses who are not materially affected by climate change must still report with the associated compliance costs.

The comply-or-explain approach is a fundamental component of this bill as originally drafted. According to the revised draft of the bill, firms will be required to prepare climate statements even if their operations will not be materially affected by climate change. We believe the comply-or-explain approach should be reinstated.

Appendix

Committee process

The Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill was referred to the committee on 15 April 2021.

The closing date for submissions on the bill was 28 May 2021. We received and considered 55 submissions from interested groups and individuals. We heard oral evidence from 27 submitters.

We received advice on the bill from the Ministry of Business, Innovation and Employment and the Ministry for the Environment. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Jamie Strange (Chairperson)

Glen Bennett

Naisi Chen

Melissa Lee

Hon Todd McClay

**Financial Sector (Climate-related Disclosures and Other
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Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted by a majority~~

~~text deleted unanimously~~

Hon Dr David Clark

Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill

Government Bill

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Climate-related disclosures for certain FMC reporting entities with higher level of public accountability

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14		Section 501 amended (Additional disclosure or financial reporting defence for directors who are treated as contravening)	30
15		Section 534 amended (Directors treated as having contravened in case of defective disclosure or financial reporting contravention)	30
16		New section 546A inserted (Regulations for purposes of Part 7A (climate-related disclosures))	30
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The Parliament of New Zealand enacts as follows:

- 1 Title**

This Act is the Financial Sector (Climate-related Disclosures and Other Mat-
ters) Amendment Act **2021**.
- 2 Commencement** 5
 - (1) The following parts of this Act come into force on the day after Royal assent:
 - (a) **Part 2**, other than **sections 32(1) and 33**:
 - (b) **section 43(1)**.
 - (2) The rest of this Act comes into force on a date or dates set by Order in Council.
 - (3) However,— 10
 - (a) any part of this Act, other than **Part 1A** and **subpart 1 of Part 3**, that
has not come into force by the first anniversary of Royal assent comes
into force then:
 - (b) any part of **Part 1A** and **subpart 1 of Part 3** that has not come into
force by the ~~second~~third anniversary of Royal assent comes into force 15
then.
 - (4) An Order in Council made under this section is secondary legislation (*see* Part
3 of the Legislation Act 2019 for publication requirements).

Part 1

Amendments to Financial Markets Conduct Act 2013 to come into force by first anniversary of Royal assent

- 3 Principal Act**
This Part amends the Financial Markets Conduct Act 2013. 5
- 4 Section 5 amended (Overview)**
After section 5(1)(g), insert:
(ga) **Part 7A** provides for climate-related disclosure obligations:
- 5 Section 6 amended (Interpretation)**
- (1) In section 6(1), insert in their appropriate alphabetical order: 10
- applicable climate standard** has the same meaning as in section 5(1) of the Financial Reporting Act 2013
- authoritative notice** has the same meaning as in section 5(1) of the Financial Reporting Act 2013
- climate-related disclosure framework** has the same meaning as in **section 9AA** of the Financial Reporting Act 2013 15
- climate reporting entity** has the meaning set out in **section 461O**
- climate statements** has the same meaning as in section 5(1) of the Financial Reporting Act 2013
- ~~CRD assurance body~~ means an entity approved under ~~section 461ZP~~ 20
- CRD records** means the records that a climate reporting entity is required to keep by **subpart 2 of Part 7A**
- group climate statements** has the same meaning as in section 5(1) of the Financial Reporting Act 2013
- large-overseas climate reporting entity**, in **Part 7A**, means a body corporate that— 25
- (a) is incorporated outside New Zealand; and
- (b) is a climate reporting entity under **section 461O(1)(b) to (e)** (*see section 461P(3) and (4)*)
- Part 7A climate-related disclosure provision** means any of the provisions specified in **section 461ZS(3) or (4)** 30
- ~~qualified CRD assurance practitioner~~, in relation to an assurance engagement under **Part 7A**, has the meaning set out in **section 461ZE**
- separate fund**, in Parts 7 and **7A**, has the meaning set out in section 461A(2)
- (2) In section 6(1), replace the definition of **group** with: 35

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group,—	
(a) in Part 7 and subpart 1 of Part 7A , means a group comprising an FMC reporting entity and its subsidiaries:	
(b) in Part 7A (other than subpart 1), means a group comprising a climate reporting entity and its subsidiaries	5
(2A) <u>In section 6(1), definition of licensed insurer, paragraph (b), replace “section 238(1)(b) of that Act” with “section 238(1)(b)(i)(A) or (ii) of that Act; and”.</u>	
(2B) <u>In section 6(1), definition of licensed insurer, after paragraph (b), insert:</u>	
(c) <u>in Part 7A, does not include a Lloyd’s underwriter (within the meaning of that Act) or an insurer that is included in a class of insurers that is the subject of an exemption under section 238(1)(b) of that Act</u>	10
(3) <u>In section 6(1), definitions of licensed insurer and definition of subsidiary, replace “Part 7” with “Parts 7 and 7A”.</u>	
6 Section 351 amended (Regulations modifying this Part or Part 7 for licensed markets)	15
(1) In the heading to section 351, after “7”, insert “ or 7A ”.	
(2) Replace section 351(1)(ab) with:	
(ab) providing that section 451(1)(d) does not apply in respect of persons that are listed issuers only in respect of a licensed market or class of licensed markets, and providing for replacement or modified requirements to apply relating to—	20
(i) accounting records and financial reporting:	
(ii) CRD records and climate-related disclosures (for those listed issuers that would otherwise be climate reporting entities under section 461O(1)(a)):	25
6A Section 461C amended (Failure to comply with authoritative notice does not give rise to pecuniary penalty)	
<u>Repeal section 461C(3).</u>	
7 New Part 7A inserted	
After Part 7, insert:	30

Part 7A

Climate-related disclosures for certain FMC reporting entities with higher level of public accountability

Subpart 1—Overview, application, and interpretation

461N Overview	5
(1) This Part provides for climate reporting entities to—	
(a) keep proper records relating to their obligations to make climate-related disclosures; and	
(b) prepare climate statements; and	
(c) to the extent that those statements are required to disclose greenhouse gas emissions, obtain an assurance engagement in relation to those statements; and	10
(d) lodge those statements.	
(2) This Part also contains—	
(a) exceptions that relate to cases where climate change does not materially affect the activities of, for example, an entity or a separate fund of a registered scheme;	15
(b) provisions relating to assurance practitioners for assurance engagements under this Part.	
(3) This section is only a guide to the general scheme and effect of this Part.	20
461O Meaning of climate reporting entity	
(1) In this Act, a person who is an FMC reporting entity that, under section 461K, is considered to have a higher level of public accountability than other FMC reporting entities is a climate reporting entity if that person is 1 or more of the following:	25
(a) a listed issuer of quoted equity securities or quoted debt securities (or both) (but see section 351(1)(ab));	
(a) <u>a listed issuer that—</u>	
(i) <u>is a large listed issuer; and</u>	
(ii) <u>is not an excluded listed issuer:</u>	30
(b) a registered bank that is large under section 461P ;	
(c) a licensed insurer that is large under section 461P ;	
(d) a credit union that is large under section 461P ;	
(e) a building society that is large under section 461P .	
(2) In this Act, a manager of a registered scheme (<u>other than a restricted scheme</u>) is a climate reporting entity in respect of the scheme if—	35

- (a) the manager is a large manager under **section 461Q**; and
- (b) section 461K(1)(b) applies to the manager in respect of the scheme.
- (3) In this section,—
- excluded listed issuer** has the meaning set out in **section 461OA**
- large**, in relation to a registered bank, licensed insurer, credit union, or building society, has the meaning set out in **section 461P** 5
- large listed issuer** has the meaning set out in **section 461OA**
- large manager** has the meaning set out in **section 461Q**.
- 461OA Definitions relating to listed issuers**
- (1) For the purposes of this Part, a listed issuer is a **large listed issuer** in respect of an accounting period if either or both of the following apply: 10
- (a) as at the balance date of each of the 2 preceding accounting periods, the issuer's market capitalisation exceeds \$60 million:
- (b) the listed issuer is large after amalgamation (within the meaning of **section 461PA**) in respect of the accounting period. 15
- (2) For the purposes of this Part, a listed issuer is an **excluded listed issuer** in respect of an accounting period if, at all times during the accounting period,—
- (a) the issuer has no equity securities, and no debt securities, that are quoted; or
- (b) any equity securities of the issuer and any debt securities of the issuer that are quoted are quoted only on a growth market. 20
- (3) And see **section 351(1)(ab)** (which may allow for some listed issuers not to be FMC reporting entities and, consequentially, not climate reporting entities under **section 461O(1)(a)**).
- (4) In this section,— 25
- growth market** means a financial product market if—
- (a) the operator has a licence to operate the market issued under section 316; and
- (b) either or both of the following apply:
- (i) the licence is subject to a condition that limits the size of issuers that are eligible to become, or to remain, listed issuers on the financial product market (for example, a limit based on the issuer's market capitalisation): 30
- (ii) the market is otherwise designed for, and clearly targeted at, small- and medium-sized entities 35

market capitalisation, in relation to—

- (a) a listed issuer of quoted equity securities, means the value of all of the issuer's equity securities, as implied by the market price or fair value of those equity securities:
- (b) a listed issuer to which **paragraph (a)** does not apply and that has issued quoted debt securities, means the net assets of the issuer and its subsidiaries (if any) as reported in the most recent financial statements or group financial statements prepared in accordance with generally accepted accounting practice for the issuer and those subsidiaries.

461P Meaning of large (in relation to registered banks, licensed insurers, credit unions, and building societies)

- (1) For the purposes of this Part, a registered bank, credit union, or building society (A) is **large** in respect of an accounting period if either or both of the following apply; as at the balance date of each of the 2 preceding accounting periods, the total assets of A and A's subsidiaries (if any) exceed \$1 billion:
 - (a) as at the balance date of each of the 2 preceding accounting periods, the total assets of A and A's subsidiaries (if any) exceed \$1 billion:
 - (b) A is large after amalgamation (within the meaning of **section 461PA**) in respect of the accounting period.
- (2) For the purposes of this Part, a licensed insurer is **large** in respect of an accounting period if at least 1 of the following paragraphs applies to the licensed insurer:
 - (a) as at the balance date of each of the 2 preceding accounting periods, the total assets of the licensed insurer and its subsidiaries (if any) exceed \$1 billion:
 - (b) in each of the 2 preceding accounting periods, the annual gross premium revenue of the licensed insurer and its subsidiaries (if any) exceeds \$250 million;:-
 - (c) the licensed insurer is large after amalgamation (within the meaning of **section 461PA**) in respect of the accounting period.
- (3) However, if a registered bank, credit union, building society, or licensed insurer is an overseas company,—
 - (a) **subsections (1) and (2)** do not apply; and
 - (b) the overseas company is large for the purposes of ~~this Part~~ **section 461O(1)(b) to (e)** if its New Zealand business, or its group's New Zealand business, is large under **subsection (4)**.
- (4) The New Zealand business of an overseas company or its group is **large** in respect of an accounting period if at least 1 of the following paragraphs applies (calculated as if the New Zealand business were an entity):

(a) as at the balance date of each of the 2 preceding accounting periods, the total assets of the New Zealand business exceed \$1 billion: (b) the overseas company is a licensed insurer and, in each of the 2 preceding accounting periods, the annual gross premium revenue of the New Zealand business exceeds \$250 million. (4A) <u>A financial reporting standard (or a part of a standard) issued by the External Reporting Board that is expressed as applying for the purposes of subsection (4) must be applied in determining whether that provision applies.</u> (5) In this section, overseas company means a body corporate that is incorporated outside New Zealand. 461PA Meaning of large after amalgamation (1) <u>For the purposes of this Part, a person (A) is large after amalgamation in respect of an accounting period if—</u> (a) <u>A amalgamated with a large entity during the accounting period; or</u> (b) <u>A is a new entity formed on the amalgamation of 2 or more entities during the accounting period, and at least 1 of those entities was a large entity.</u> (2) <u>If A is large after amalgamation under subsection (1) in respect of an accounting period, A continues to be large after amalgamation in respect of the next accounting period.</u> (3) <u>In this section, large entity means an entity that, in respect of the accounting period, was any of—</u> (a) <u>a large listed issuer under section 461OA(1) (other than an issuer described in section 461OA(2)(a) or (b) for the accounting period up to the time of amalgamation);</u> (b) <u>a registered bank, licensed insurer, credit union, or building society that is large under section 461P.</u> 461Q Meaning of large manager (1) <u>For the purposes of this Part, a manager (A) of a registered scheme that holds a market services licence <u>that covers the service referred to in section 388(a)</u> is a large manager in respect of an accounting period of A if, as at the balance date of each of A's 2 preceding accounting periods, the total assets of the following schemes exceed \$1 billion:</u> (a) all schemes for which A is manager; and (b) all schemes for which the manager is an authorised body that provides the service of acting as a manager of a registered scheme under A's market services licence.	5 10 15 20 25 30 35
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- (2) If A is a large manager, every manager described in **subsection (1)(b)** is also a **large manager**. 5
- Example**
- Company A holds a licence that covers acting as a manager of registered schemes. A's subsidiaries, B and C, also provide this service under A's licence (as authorised bodies). 5
- The assets of the schemes for which A is manager total \$700 million on the balance date of each of A's 2 preceding accounting periods (the **relevant balance dates**). 5
- The assets of the schemes managed by B total a further \$300 million, and the assets of the schemes managed by C total \$200 million, on each of the relevant balance dates. 10
- The total assets therefore exceed \$1 billion. A is a large manager. B and C are also large managers.
- (3) **Subsections (4) and (5)** apply if— 15
- (a) a manager and a scheme managed by the manager have different balance dates; and
- (b) the manager becomes, or ceases to be, a large manager.
- (4) If the manager was not a large manager in respect of an accounting period (**AP1**) but becomes a large manager in respect of the next accounting period (**AP2**), the manager— 20
- (a) is not treated as a large manager in respect of the scheme in relation to the accounting period of the scheme that starts in AP1 and ends in AP2 unless **paragraph (b)** applies:
- (b) must be treated as a large manager in respect of the scheme in relation to the accounting period of the scheme that starts in AP1 and ends in AP2 if— 25
- (i) the manager was not the manager of the scheme at the start of that accounting period of the scheme; and
- (ii) the manager at the start of that accounting period of the scheme was a climate reporting entity in respect of the scheme. 30
- (5) If the manager was a large manager in respect of an accounting period (**AP3**) but ceases to be a large manager in the next accounting period (**AP4**), the manager must be treated as a large manager in respect of the scheme in relation to the accounting period of the scheme that starts in AP3 and ends in AP4. 35
- (6) In this section, the **total assets** of a scheme are—
- (a) as reported in the most recent audited financial statements, prepared in accordance with generally accepted accounting practice, for the scheme; or
- (b) if there are no such statements, as calculated— 40

- (i) for a date as near as possible to the balance date of the manager;
and
- (ii) as if for the purpose of preparing financial statements for the
scheme in accordance with generally accepted accounting prac-
tice.

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(7) In this section, **scheme** means a registered scheme (other than a restricted scheme).

461QA Application if person's status changes during accounting period

(1) If a person ceases to be a climate reporting entity during an accounting period, that person is treated as continuing to be a climate reporting entity in relation to that accounting period for the purposes of this Act and every other enactment.

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(2) However, **subsection (3)** applies if the person (A)—

- (a) ceased to be a climate reporting entity under **section 461O(1)**; and
- (b) on the balance date, is not a climate reporting entity under **section 461O(1)** (disregarding the rule in **subsection (1)**).

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(3) If this subsection applies,—

- (a) A is not required to ensure the completion of climate statements or group climate statements under any of **sections 461W to 461Y** and the lodgement of those climate statements in relation to the accounting period;
- (b) records required to be kept by A up to the date that A ceased to be a climate reporting entity under **section 461O(1)** are CRD records for the purposes of **sections 461T to 461V**.

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(4) In any case where a person is, or was, the manager of a registered scheme (and a climate reporting entity under **section 461O(2)** in respect of the scheme), **subsection (1)** does not limit—

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- (a) **section 461Q(5)** (which applies if the manager and the scheme have different balance dates); or
- (b) **section 461ZA** (which may apply if the manager of a scheme changes during an accounting period).

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461R Miscellaneous provisions—provision relating to application

(1) ~~If a person ceases to be a climate reporting entity during an accounting period, that person must be treated as continuing to be a climate reporting entity in relation to that accounting period for the purposes of this Act and every other enactment.~~

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(2) Nothing in this Part requires a climate reporting entity to ensure the completion of climate statements or group climate statements and the lodgement of those climate statements in relation to an accounting period that ended before the accounting period in which that person became a climate reporting entity.

Subpart 2—CRD records

461S Climate reporting entities must keep proper CRD records

- (1) Every climate reporting entity under **section 461O(1)** must ensure that there are kept at all times 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.— 5
 - (a) ~~the climate reporting entity to ensure that the climate statements of the climate reporting entity comply with applicable climate standards; and~~
 - (b) ~~the assurance engagement required by **section 461ZD** to be readily and properly carried out.~~ 10
- (2) Every manager that is a climate reporting entity in respect of a registered scheme must ensure that there are kept at all times records that will enable the manager to ensure that the climate statements relating to the registered scheme comply with the climate-related disclosure framework.— 15
 - (a) ~~the manager to ensure that the climate statements relating to the registered scheme comply with applicable climate standards; and~~
 - (b) ~~the assurance engagement required by **section 461ZD** to be readily and properly carried out.~~
- (3) ~~Every climate reporting entity to which an exception in **section 461ZA** applies must ensure that there are kept at all times records that—~~ 20
 - (a) ~~will enable the climate reporting entity to ensure that—~~
 - (i) ~~the determination required by **section 461ZA** is made in accordance with applicable climate standards; and~~
 - (ii) ~~the document required by **section 461ZB(1)(b)** complies with **section 461ZB(2) and (3)**; and~~ 25
 - (b) ~~will enable the assurance engagement required by **section 461ZB(1)(a)** to be readily and properly carried out.~~
- (4) Every climate reporting entity must establish and maintain a satisfactory system of control of the records that it is required to keep under this section. 30
- (5) In this section,— 30

climate statements of the climate reporting entity means the climate statements or group climate statements that are required to be prepared under any of **sections 461W to 461Y** ~~for the purposes of this Act~~

climate statements relating to the registered scheme means the climate statements of the separate funds of the scheme or the climate statements of the 35
scheme that are required to be prepared under **section 461Z** ~~for the purposes of this Act.~~

461T Manner in which CRD records to be kept

- (1) Every climate reporting entity must keep the CRD records in the prescribed manner (if any).
- (2) A climate reporting entity that contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$50,000. 5
- (3) The offence in this section is an infringement offence (*see* subpart 5 of Part 8).

461U Period for which CRD records to be kept

CRD records, or copies of them, must be retained by the climate reporting entity for a period of at least 7 years after the date the records are made.

461V Inspection of CRD records 10

- (1) Every climate reporting entity must make the CRD records available, in the prescribed manner at all reasonable times for inspection without charge, to—
 - (a) the directors of the climate reporting entity; and
 - (b) any supervisor (if the climate reporting entity is an issuer of debt securities or the manager of a registered scheme); and 15
 - (c) the FMA; and
 - (d) any other persons authorised or permitted by an enactment to inspect the CRD records of the climate reporting entity or scheme.
- (2) A climate reporting entity that contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$50,000. 20
- (3) The offence in this section is an infringement offence (*see* subpart 5 of Part 8).
- (4) **Subsection (1)(d) does not limit section 461ZJ(1)(b).**

Subpart 3—Preparation of climate statements

Climate statements of climate reporting entities

461W Climate statements must be prepared 25

- (1) Every climate reporting entity must ensure that, within 4 months after the balance date of the entity, climate statements that comply with applicable climate standards ~~the climate-related disclosure framework~~ are—
 - (a) completed in relation to the entity and that balance date; and
 - (b) dated and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director. 30
- (2) However, **subsection (1)** does not apply to—
 - (a) a climate reporting entity that, on the balance date referred to in **subsection (1)**, has 1 or more subsidiaries; or

- (b) ~~a large-an~~ overseas climate reporting entity, unless it is a climate reporting entity under **section 461O(1)(a)**; or
- (c) a person that is a climate reporting entity only under **section 461O(2)**.

Example

A company (incorporated in New Zealand and with no subsidiaries) is a large manager of 2 registered schemes. 5

The company is also a large registered bank, so **subsection (2)(c)** does not apply. **Subsection (1)** applies to the company (and see **section 461Z**, which also applies to the company in respect of its registered schemes).

461X Group climate statements must be prepared 10

- (1) **Subsection (2)** applies to every climate reporting entity in relation to a balance date of the entity if the entity has, on that balance date, 1 or more subsidiaries.
- (2) The climate reporting entity must ensure that, within 4 months after that balance date, group climate statements that comply with ~~applicable climate standards~~ the climate-related disclosure framework are— 15
 - (a) completed in relation to the group and that balance date; and
 - (b) dated and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director.
- (3) However, **subsection (2)** does not apply to— 20
 - (a) ~~a large-an~~ overseas climate reporting entity, unless it is a climate reporting entity under **section 461O(1)(a)**; or
 - (b) a person that is a climate reporting entity only under **section 461O(2)**.

461Y Climate statements for large-overseas climate reporting entities

- (1) This section applies to every ~~large-overseas~~ climate reporting entity, unless it is a climate reporting entity under **section 461O(1)(a)**. 25
- (2) The climate reporting entity must ensure that, within 4 months after the balance date of the entity, climate statements that comply with ~~applicable climate standards~~ the climate-related disclosure framework are—
 - (a) prepared for its New Zealand business as if that business were conducted by a company formed and registered in New Zealand; and 30
 - (b) dated and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director.
- (3) However, if the climate reporting entity has, on that balance date, 1 or more subsidiaries, **subsection (2)** does not apply and instead the entity must ensure that, within 4 months after the balance date of the entity, climate statements that comply with ~~applicable climate standards~~ the climate-related disclosure framework are— 35

- (a) prepared for the group's New Zealand business as if the members of the group were companies formed and registered in New Zealand; and
 - (b) dated and signed on behalf of the entity by 2 directors of the entity or, if the entity has only 1 director, by that director.
- (4) **Subsection (3)** does not limit any obligation under this subpart of a subsidiary of the climate reporting entity. 5

Climate statements relating to registered schemes

461Z Climate statements for separate funds of registered schemes, etc

- (1) This section applies to every manager of a registered scheme that is a climate reporting entity in respect of the scheme. 10
- (2) The manager must ensure that, within 4 months after the balance date of the scheme, climate statements that comply with ~~applicable climate standards~~ the climate-related disclosure framework are—
 - (a) completed in relation to each separate fund of the scheme and that balance date; and 15
 - (b) if any liabilities of the manager and the scheme are not limited to a separate fund, completed in relation to the scheme and that balance date; and
 - (c) dated and signed on behalf of the manager by 2 directors of the manager or, if the manager has only 1 director, by that director. 20
- (3) However, if the manager was not the manager of the scheme at the start of the scheme's accounting period, **subsection (2)** applies to the manager only if the manager of the scheme at the start of the scheme's accounting period was a climate reporting entity in respect of the scheme.

461ZA Application if manager of registered scheme changes and new manager is not large manager 25

- (1) This section applies if—
 - (a) the manager of a registered scheme changes during an accounting period of the scheme; and
 - (b) the person who was the manager of the scheme at the start of the accounting period (the **old manager**) was a climate reporting entity in respect of the scheme; and 30
 - (c) the person who is the manager of the scheme at the end of the accounting period (the **new manager**) is not a large manager (within the meaning of **section 461Q**). 35
- (2) If this section applies, the new manager is not required to ensure the completion of climate statements under **section 461Z(2)** and the lodgement of those climate statements in relation to the accounting period.

- (3) Records kept by the old manager up to the date that the old manager ceased to hold office as manager of the scheme are CRD records for the purposes of **sections 461T to 461V**.

Exceptions

461ZA Exceptions for climate reporting entities not materially affected by climate change

- (1) A climate reporting entity (A) is not required to prepare climate statements or group climate statements under **section 461W or 461X** for an accounting period if, in accordance with applicable climate standards, A reasonably determines that the activities of A or A's group (as relevant) are not materially affected by climate change. 10
- (2) A climate reporting entity (A) is not required to prepare climate statements or group climate statements under **section 461Y** for an accounting period if, in accordance with applicable climate standards, A reasonably determines that the activities of A's New Zealand business or A's group's New Zealand business (as relevant) are not materially affected by climate change. 15
- (3) A climate reporting entity (A) is not required to prepare climate statements for a separate fund under **section 461Z(2)(a)** for an accounting period for the scheme if, in accordance with applicable climate standards, A reasonably determines that the activities of the fund are not materially affected by climate change. 20
- (4) A climate reporting entity (A) is not required to prepare climate statements for a registered scheme under **section 461Z(2)(b)** for an accounting period for the scheme if, in accordance with applicable climate standards, A reasonably determines that the activities of the scheme are not materially affected by climate change. 25
- (5) Every exception in this section is subject to the conditions in **section 461ZB**.

461ZB Conditions applying to exceptions

- (1) A climate reporting entity (A) may not rely on an exception in **section 461ZA** that applies to A unless — 30
- (a) A obtains an assurance engagement with a qualified CRD assurance practitioner in relation to A's determination under that section; and
 - (b) A prepares a document that complies with **subsections (2) and (3)**; and
 - (c) A delivers to the Registrar for lodgement, and to the FMA, within 4 months of A's balance date, a copy of — 35
 - (i) the document referred to in **paragraph (b)**; and
 - (ii) the assurance practitioner's report.
- (2) The document required by **subsection (1)(b)** must —

- (a) ~~contain a statement by A to the effect that A has reasonably determined, in accordance with applicable climate standards, that the relevant activities are not materially affected by climate change; and~~
- (b) ~~contain an explanation by A as to how A has reached that determination.~~
- (3) ~~The document (including A's statement and explanation contained in the document) must comply with applicable climate standards.~~ 5
- (4) ~~In **subsection (2)**, relevant activities means,—~~
- (a) ~~if A is relying on an exception in **section 461ZA(1)**, the activities of A or A's group;~~
- (b) ~~if A is relying on an exception in **section 461ZA(2)**, the activities of A's New Zealand business or A's group's New Zealand business;~~ 10
- (c) ~~if A is relying on the exception in **section 461ZA(3)**, the activities of the fund;~~
- (d) ~~if A is relying on the exception in **section 461ZA(4)**, the activities of the scheme.~~ 15

Miscellaneous

461ZB Climate statements may be combined in single document

Nothing in this Part prevents any of the following from being combined in a single document:

- (a) climate statements and group climate statements that are required to be prepared under any of **sections 461W to 461Y** in relation to an accounting period and 1 or more members of a group; 20
- (b) climate statements that are required to be prepared under **section 461Z** in relation to an accounting period and a registered scheme.

461ZBA Failure to comply with authoritative notice does not give rise to pecuniary penalty 25

- (1) This section applies if climate statements or group climate statements referred to in this subpart fail to comply with the climate-related disclosure framework as a result of a failure to comply with an authoritative notice.
- (2) A pecuniary penalty order may not be made under section 489 in relation to the failure to comply with the authoritative notice. 30

Compare: s 461C

Offences

461ZC Offence to knowingly fail to comply with climate standards

- (1) A climate reporting entity and every director of the entity commit an offence if— 35
 - (a) any of the following fail to comply with an applicable climate standard:

- (i) the climate statements of the entity prepared under **section 461W**:
 - (ii) group climate statements in relation to a group comprising the entity and its subsidiaries prepared under **section 461X**:
 - (iii) the climate statements or group climate statements prepared by the entity under **section 461Y**: 5
 - (iv) in the case of a manager of a registered scheme, the climate statements for any separate fund or for the scheme prepared under **section 461Z**; and
 - (v) ~~the document prepared by the entity under **section 461ZB** or the determination made by the entity under **section 461ZA** to which the document relates; and~~ 10
 - (b) the entity or the director (as the case may be) knows that the climate statements or group climate statements fail, ~~or the document or determination fails,~~ to so comply when those statements are, ~~or when that document is,~~ lodged. 15
 - (2) A person who commits an offence under **subsection (1)** is liable on conviction,—
 - (a) in the case of an individual, to imprisonment for a term not exceeding 5 years, a fine not exceeding \$500,000, or both; and 20
 - (b) in any other case, to a fine not exceeding \$2.5 million.
- Compare: s 461I

Subpart 4—Assurance engagements

461ZD No requirement for assurance of climate statements on commencement of Part 25

- (1) A climate reporting entity is not required to obtain an assurance engagement in relation to the climate statements or group climate statements that are required to be prepared under any of **sections 461W to 461Z**.
- (2) See **Part 1A** of the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act **2021**, which sets out assurance requirements to apply from a later date. 30

461ZD Assurance engagement required for parts of climate statements relating to greenhouse gas emissions

~~Every climate reporting entity must ensure that the climate statements or group climate statements that are required to be prepared under any of **sections 461W to 461Z** are, to the extent that those statements are required to disclose greenhouse gas emissions, the subject of an assurance engagement carried out by a qualified CRD assurance practitioner.~~ 35

461ZE Meaning of qualified CRD assurance practitioner

- (1) For the purposes of this Act, ~~qualified CRD assurance practitioner~~, in relation to an assurance engagement under this Part, means a natural person who—
 - (a) ~~is a member of an entity that is for the time being approved as a CRD assurance body; and~~ 5
 - (b) ~~is subject to the code of conduct and disciplinary process of the CRD assurance body; and~~
 - (c) ~~has the expertise, technical competence, and qualifications that are specified in applicable auditing and assurance standards as required in order to carry out the assurance engagement; and~~ 10
 - (d) ~~is recognised by the CRD assurance body, in accordance with the rules of that body, as having that expertise and technical competence and those qualifications.~~
- (2) However, if the climate reporting entity is a public entity under the Public Audit Act 2001, the Auditor-General or any other person who may act as the CRD assurance practitioner under that Act is the person who must carry out the assurance engagement (and is the only qualified CRD assurance practitioner in respect of that assurance engagement). 15
- (3) None of the following persons is qualified for appointment as the qualified CRD assurance practitioner for an assurance engagement that a climate reporting entity obtains under this Part: 20
 - (a) a director, an officer, or an employee of the climate reporting entity;
 - (b) a person who is in partnership with, or in the employment of, a person specified in **paragraph (a)**;
 - (c) a liquidator or a person who is a receiver in respect of the property of the climate reporting entity; 25
 - (d) a person who is, by virtue of **paragraphs (a) to (c)**, disqualified for appointment as assurance practitioner for an assurance engagement that a related body corporate obtains under this Part.

461ZF Appointment of partnership for assurance engagement 30

- (1) A partnership may be appointed by the firm name to be the assurance practitioner for an assurance engagement required by a climate reporting entity under this Part if all or some of the partners are persons who are qualified CRD assurance practitioners under **section 461ZE(1) and (3)**. 35
- (2) The appointment of a partnership by the firm name is treated, despite **section 461ZE**, as the appointment of all the partners in the firm from time to time.
- (3) However, if the partnership includes persons who are not qualified CRD assurance practitioners under **section 461ZE(1) and (3)**, the persons who are not qualified must not carry out the assurance engagement. 40

Compare: 2013 No 101 s 37

461ZG Assurance engagement must be carried out in accordance with auditing and assurance standards

An assurance practitioner must, in carrying out an assurance engagement under this Part, comply with all applicable auditing and assurance standards.

461ZH Assurance practitioner's report

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(1) The assurance practitioner's report on the climate statements or group climate statements prepared by an entity under any of **sections 461W to 461Z**, or for an assurance engagement under **section 461ZB**, must comply with the requirements of all applicable auditing and assurance standards.

(2) If the assurance practitioner's report indicates that the requirements of this Part have not been complied with, the assurance practitioner must, within 7 working days after signing the report, send a copy of the report, and a copy of the climate statements or group climate statements to which it relates, or a copy of the document referred to in **section 461ZB**, to—

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(a) the FMA; and

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(b) the External Reporting Board; and

(c) in the case of a climate reporting entity that is an issuer of debt securities or a manager of a registered scheme, the supervisor.

461ZI Assurance engagement may cover other parts of climate statements

(1) **Section 461ZD** does not prevent the assurance engagement from covering the whole, or other parts, of the climate statements or group climate statements.

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(2) If an assurance engagement does cover the whole, or other parts, of the statements,—

(a) the assurance practitioner's report must separately identify the matters that are required to be the subject of the assurance engagement under **section 461ZD**; and

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(b) this subpart applies, with any necessary modifications, in relation to the whole of the assurance engagement.

(3) In this section, **other parts**, in relation to climate statements or group climate statements, means any part or parts of those statements that are not required by **section 461ZD** to be the subject of the assurance engagement.

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Assurance practitioner access to information

461ZJ Climate reporting entity must give assurance practitioner access to information

(1) Every climate reporting entity must ensure that an assurance practitioner appointed for an assurance engagement under this Part has access, at all times, to—

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(a) the CRD records of the climate reporting entity or scheme; and

- (b) any other documents of the climate reporting entity or scheme that are relevant to the assurance engagement.
- (2) If a climate reporting entity contravenes **subsection (1)**, every director of the entity commits an offence and is liable on conviction to a fine not exceeding \$50,000. 5
- (3) In any proceeding against a director for a contravention of **subsection (1)**, it is a defence if the director proves that—
- (a) the climate reporting entity took all reasonable steps to ensure that subsection would be complied with; or
- (b) the director took all reasonable steps to ensure that the climate reporting entity complied with that subsection; or 10
- (c) in the circumstances, the director could not reasonably have been expected to take steps to ensure that the climate reporting entity complied with that subsection.
- Compare: 2013 No 101 s 38 15

461ZK Assurance practitioner may require information and explanations from director or employee

- (1) An assurance practitioner appointed for an assurance engagement under this Part is entitled to require from a director or an employee of the climate reporting entity the information and explanations that the assurance practitioner thinks necessary for the performance of their duties as assurance practitioner. 20
- (2) A director or an employee who fails to comply with a requirement to provide information or an explanation under **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- (3) In any proceeding against an employee for failing to comply with a requirement to provide information or an explanation under **subsection (1)**, it is a defence if the employee proves that— 25
- (a) the employee did not have the information required in their possession or under their control; or
- (b) by reason of the position occupied by the employee or the duties assigned to them, they were unable to give the explanations required. 30

Compare: 2013 No 101 s 39

Offences concerning unqualified persons

461ZL Offence for unqualified CRD assurance practitioner to act

- (1) A person who acts as an assurance practitioner in relation to an assurance engagement under this Part commits an offence if the person is not a qualified CRD assurance practitioner in relation to the assurance engagement. 35
- (2) A person who commits an offence under **subsection (1)** is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$50,000;
- (b) in any other case, to a fine not exceeding \$150,000.

Compare: 2013 No 101 s 39A

461ZM Offence to hold out as qualified CRD assurance practitioner or as approved CRD assurance body

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- (1) A person must not hold out that the person is—
 - (a) recognised for the purposes of **section 461ZE(1)(d)** if the person is not so recognised; or
 - (b) approved as a CRD assurance body if the person is not so approved; or
 - (c) qualified to act as the assurance practitioner in relation to an assurance engagement under this Part if the person is not a qualified CRD assurance practitioner in relation to the assurance engagement.
- (2) A person who fails to comply with **subsection (1)** commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$50,000;
 - (b) in any other case, to a fine not exceeding \$150,000.

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Compare: 2013 No 101 s 39B

Subpart 5—Lodgement of climate statements

461ZN Lodgement of climate statements

- (1) Every climate reporting entity that is required to prepare climate statements or group climate statements under any of **sections 461W to 461Y** must ensure that, within 4 months after the balance date of the entity, copies of the following those statements are delivered to the Registrar for lodgement:
 - (a) the climate statements or group climate statements that are required to be prepared under any of **sections 461W to 461Y**; and
 - (b) the assurance practitioner's report on those statements.
- (2) Every manager that is a climate reporting entity in relation to respect of a registered scheme must ensure that, within 4 months after the balance date of the scheme, copies of the following climate statements that are required to be prepared under **section 461Z** are delivered to the Registrar for lodgement:
 - (a) the climate statements that are required to be prepared under **section 461Z**; and
 - (b) the assurance practitioner's report on those statements.
- (3) A climate reporting entity that contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$50,000.
- (4) The offence in this section is an infringement offence (*see* subpart 5 of Part 8).

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461ZO Information about climate statements of climate reporting entities to be made available in annual report

(1AAA) This section applies to every climate reporting entity that is required to prepare—

- (a) climate statements or group climate statements under any of **sections 461W to 461Y**; and 5
 - (b) an annual report under the Companies Act 1993 or any other enactment.
 - (1) ~~Every~~ The climate reporting entity under **section 461O(1)** that is required to prepare an annual report under the Companies Act 1993 or any other enactment must include, in its annual report for the period ending on the balance date,— 10
 - (a) a statement that the entity is a climate reporting entity for the purposes of this Act; and
 - (b) a copy of the climate statements or group climate statements prepared by the entity under any of **sections 461W to 461Y**, or the address of (or a link to) the Internet site where a copy of those statements can be accessed. 15
 - (b) ~~the address of, or a link to, the Internet site where copies of the following can be accessed:~~
 - (i) ~~the climate statements or group climate statements prepared by the entity under any of **sections 461W to 461Y**; and~~ 20
 - (ii) ~~the assurance practitioner's report on those statements.~~
 - (2) ~~However, if the climate reporting entity has relied on an exception in **section 461ZA**, the address or link required by **subsection (1)(b)** is the address of, or link to, the Internet site where copies of the following can be accessed:~~
 - (a) ~~the document referred to in **section 461ZB**; and~~ 25
 - (b) ~~the assurance practitioner's report.~~
 - (3) A climate reporting entity that contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$50,000.
 - (4) The offence in this section is an infringement offence (*see* subpart 5 of Part 8).
 - (5) In this section, **annual report** includes a concise annual report. 30

Subpart 6—CRD assurance bodies

461ZP FMA may approve CRD assurance bodies

- (1) ~~The FMA may, in accordance with the regulations, approve in writing an entity as a CRD assurance body for the purposes of this Act if the FMA is satisfied that—~~ 35
 - (a) ~~the entity's members include natural persons who—~~
 - (i) ~~have, in relation to 1 or more types of assurance engagements under this Part, the expertise, technical competence, and qualifica-~~

	tions that are specified in applicable auditing and assurance standards as required in order to carry out those assurance engagements; and	
	(ii) are subject to a professional code of conduct in relation to those actions; and	5
	(iii) are subject to a disciplinary process that enforces compliance with the code of conduct; and	
	(b) the entity satisfies any further requirements that are prescribed for the purposes of this paragraph.	
(2)	An entity may be approved by the FMA as a CRD assurance body in relation to 1 or more (or all)—	10
	(a) classes of climate reporting entities;	
	(b) types of information to which climate statements or group climate statements, or parts of those statements, relate;	
	(c) classes of assurance engagements.	15
(3)	The application for approval must be made in the prescribed manner.	
(4)	The FMA's power to approve an entity as a CRD assurance body includes a power to—	
	(a) impose conditions on the approval; and	
	(b) vary, revoke, add to, or substitute any such conditions at any time.	20
(5)	The conditions referred to in subsection (4) may be any conditions that the FMA thinks fit.	
461ZQ Cancellation or suspension of recognition or approval		
(1)	A CRD assurance body may,—	
	(a) in accordance with its rules, cancel or suspend its recognition of a person for the purposes of section 461ZE(1)(d) if the body considers that the grounds for cancellation or suspension specified in its rules are satisfied;	25
	(b) cancel its recognition of a person for the purposes of section 461ZE(1)(d) on the written request of the person.	
(2)	The FMA may—	30
	(a) cancel or suspend its approval of an entity as a CRD assurance body if the FMA considers that the entity does not satisfy, or no longer satisfies, the requirements for approval specified in section 461ZP(1)(a) or prescribed for the purposes of section 461ZP(1)(b) ;	
	(b) cancel or suspend its approval of an entity as a CRD assurance body if the FMA considers that the entity has failed to comply with any conditions imposed under section 461ZP(4) ;	35

- (e) ~~cancel its approval of an entity as a CRD assurance body on the written request of the CRD assurance body.~~
- (3) ~~A suspension under **subsection (1)** is for the period that the CRD assurance body thinks fit or until the person satisfies any requirements specified by the body.~~ 5
- (4) ~~A suspension under **subsection (2)** is for the period that the FMA thinks fit or until the entity satisfies any requirements specified by the FMA.~~
- (5) ~~If a CRD assurance body cancels the recognition of a person, the body may give a written notice to the person stating that the person may not apply to be re-recognised before the expiry of a specified period (and that notice is binding on the person).~~ 10
- (6) ~~If the FMA cancels the approval of an entity as a CRD assurance body, the FMA may give a written notice to the entity stating that the entity may not apply to be re-approved before the expiry of a specified period (and that notice is binding on the entity).~~ 15

461ZR Effect of cancellation or suspension of approval on recognition of assurance practitioners

- (1) **Subsection (2)** applies to a person—
 - (a) ~~who is a member of an entity whose approval as a CRD assurance body is cancelled or suspended; and~~ 20
 - (b) ~~who, immediately before the cancellation or suspension, was acting or had been appointed to act as a qualified CRD assurance practitioner in relation to an assurance engagement under this Part; and~~
 - (c) ~~who is not recognised for the purposes of **section 461ZE(1)(d)** by any other approved CRD assurance body.~~ 25
- (2) ~~The FMA may, in the prescribed circumstances and on application in the prescribed manner, authorise the person to act or to continue to act as a qualified CRD assurance practitioner in relation to the assurance engagement.~~

Subpart 7—Civil liability for certain contraventions of this Part

461ZS Part 7A climate-related disclosure provisions 30

- (1) All of the provisions specified in **subsections (3) and (4)** are **Part 7A** climate-related disclosure provisions.
- (2) A contravention of any of the provisions listed in **subsection (3)** may give rise to civil liability (*see* subpart 3 of Part 8), including a pecuniary penalty not exceeding \$1 million in the case of an individual or \$5 million in any other case. 35
- (3) For the purposes of **subsection (2)**, the provisions are the following:

	(a) section 461S (climate reporting entities must keep proper CRD records):	
	(b) sections 461W to 461Z (climate statements and group climate statements must be prepared):	
	(e) section 461ZD (parts of climate statements must be subject to assurance engagement):	5
	(d) section 461ZN (climate statements must be lodged).	
(4)	A contravention of section 461U (CRD records to be kept for 7 years) may give rise to civil liability (<i>see</i> subpart 3 of Part 8), including a pecuniary penalty not exceeding \$200,000 in the case of an individual or \$600,000 in any other case.	10
8	Section 462 amended (When FMA may make stop orders) In section 462(1)(ga), after “7”, insert “or 7A ”.	
9	Section 468 amended (When FMA may make direction orders) After section 468(1)(f), insert:	15
	(fa) a Part 7A climate-related disclosure provision:	
10	Section 470 amended (FMA may order that simplified disclosure PDS may not be used) After section 470(1)(b), insert:	
	(ba) any provision under Part 7A :	20
11	Section 474 amended (FMA may order that exclusion for offers of products of same class as quoted products does not apply) After section 474(1)(b), insert:	
	(ba) any provision under Part 7A :	
12	Section 485 amended (What are civil liability provisions) After section 485(g), insert:	25
	(ga) a Part 7A climate-related disclosure provision:	
12A	Section 489 amended (When court may make pecuniary penalty orders) In section 489(3)(b), replace “or 461C” with “, 461C, or 461ZBA ”.	
13	Section 490 amended (Maximum amount of pecuniary penalty) After section 490(2)(f), insert:	30
	(fa) a Part 7A climate-related disclosure provision (other than section 461U):	

- 14 Section 501 amended (Additional disclosure or financial reporting defence for directors who are treated as contravening)**
- (1) In the heading to section 501, after “reporting”, insert “or climate-related disclosure”.
- (2) In section 501(1)(a), replace “and 461H” with “461H, **461W to 461Z, 461ZD, and 461ZN**”.
- 15 Section 534 amended (Directors treated as having contravened in case of defective disclosure or financial reporting contravention)**
- (1) In the heading to section 534, replace “or financial reporting contravention” with “, **financial reporting contravention, or climate-related disclosure contravention**”.
- (2) After section 534(1)(ca), insert:
- (cb) a climate reporting entity has contravened any of **sections 461W to 461Z, 461ZD, and 461ZN** (climate-related disclosure obligations); or
- (3) In section 534(3),—
- (a) after “FMC reporting entity,”, insert “climate reporting entity,”; and
- (b) after “(ca),” insert “**(cb)**,”.
- (4) In section 534(5), after “FMC reporting entity,” insert “climate reporting entity,”.
- 16 ~~New section 546A inserted (Regulations for purposes of Part 7A (climate-related disclosures))~~**
- After section 546, insert:
- 546A Regulations for purposes of Part 7A (climate-related disclosures)**
- (1) ~~The Governor-General may, by Order in Council, on the recommendation of the Minister in accordance with section 549, make regulations for either or both of the following purposes:~~
- (a) ~~prescribing further requirements for the purposes of **section 461ZP(1)(b)**:~~
- (b) ~~prescribing circumstances for the purposes of **section 461ZR(2)**:~~
- (2) ~~Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).~~
- 17 Section 554 amended (Regulations or exemptions may require compliance with generally accepted accounting practice, standards, or FMA frameworks or methodologies)**
- (1AAA) In the heading to section 554, replace “or FMA frameworks or methodologies” with “, frameworks, or FMA methodologies”.
- (1) After section 554(1)(b), insert:

- (baaa) the climate-related disclosure framework, either generally or in specified circumstances:
- (ba) a climate standard:
- (2) In section 554(2), after “a financial reporting standard,”, insert “the climate-related disclosure framework, a climate standard,”. 5
- (3) In section 554(3), insert in its appropriate alphabetical order:
climate standard has the same meaning as in section 5(1) of the Financial Reporting Act 2013
- 18 Section 556 amended (FMA may grant exemptions)** 10
In section 556(1)(a), replace “7” with “**7A**”.
- 19 Section 561A amended (Financial reporting exemptions)**
(1) Replace the heading to section 561A with “**Financial reporting and climate-related disclosure exemptions**”.
- (2) After section 561A(1), insert:
- (1A) An exemption granted under this subpart in relation to any provision of **Part 7A** may, if the FMA thinks fit, apply to an accounting period that commenced before the exemption is granted (including an accounting period that ended before the exemption is granted) if the exemption is granted before the climate statements or group climate statements for that period are required to be lodged under that Part. 15 20
- (3) In section 561A(2), after “7”, insert “or **7A**”.
- 20 Schedule 4 amended**
(1) In Schedule 4, clause 1(1), insert as the last paragraph:
- (g) **Part 7** provides for transitional provisions relating to **Part 1** of the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act **2021**. 25
- (2) In Schedule 4,—
(a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
(b) make all necessary consequential amendments.

Part 1A

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Amendments to Financial Markets Conduct Act 2013 to come into force by third anniversary of Royal assent

20A Section 6 amended (Interpretation)

In section 6(1), insert in its appropriate alphabetical order:

assurance practitioner, in **Part 7A**, means a person who is appointed to carry out an assurance engagement under that Part

20B Section 461N amended (Overview)

After **section 461N(1)(b)**, insert:

(ba) to the extent that those statements are required to disclose greenhouse gas emissions, obtain an assurance engagement in relation to those statements; and

20C Section 461S amended (Climate reporting entities must keep proper CRD records)

Replace **section 461S(1) and (2)** with:

(1) Every climate reporting entity under **section 4610(1)** must ensure that there are kept at all times records that will enable—

(a) the climate reporting entity to ensure that the climate statements of the climate reporting entity comply with the climate-related disclosure framework; and

(b) the assurance engagement required by **section 461ZD** to be readily and properly carried out.

(2) Every manager that is a climate reporting entity in respect of a registered scheme must ensure that there are kept at all times records that will enable—

(a) the manager to ensure that the climate statements relating to the registered scheme comply with the climate-related disclosure framework; and

(b) the assurance engagement required by **section 461ZD** to be readily and properly carried out.

20D Section 461ZD replaced (No requirement for assurance of climate statements on commencement of Part)

Replace **section 461ZD** with:

461ZD Assurance engagement required for parts of climate statements relating to greenhouse gas emissions

(1) Every climate reporting entity must ensure that the climate statements or group climate statements that are required to be prepared under any of **sections 461W to 461Z** are, to the extent that those statements are required to disclose greenhouse gas emissions, the subject of an assurance engagement.

(2) None of the following persons may carry out the assurance engagement:

(a) a director, an officer, or an employee of the climate reporting entity:

(b) a person who is in partnership with, or in the employment of, a person specified in **paragraph (a)**:

(c)	<u>a liquidator or a person who is a receiver in respect of the property of the climate reporting entity:</u>	
(d)	<u>a person who, by virtue of paragraphs (a) to (c), may not carry out an assurance engagement under this Part for a related body corporate of the climate reporting entity.</u>	5
(3)	<u>In the case of a climate reporting entity that is a public entity under the Public Audit Act 2001, the only person who may carry out the assurance engagement is the Auditor-General or any other person who may act as the CRD assurance practitioner under that Act in respect of the assurance engagement.</u>	
	<u>461ZDA Assurance engagement must be carried out in accordance with auditing and assurance standards</u>	10
	<u>An assurance practitioner must, in carrying out an assurance engagement under this Part, comply with all applicable auditing and assurance standards.</u>	
	<u>461ZDB Assurance practitioner's report</u>	
(1)	<u>The assurance practitioner's report on the climate statements or group climate statements prepared by an entity under any of sections 461W to 461Z must comply with the requirements of all applicable auditing and assurance standards.</u>	15
(2)	<u>If the assurance practitioner's report indicates that the requirements of this Part have not been complied with, the assurance practitioner must, within 7 working days after signing the report, send a copy of the report, and a copy of the climate statements or group climate statements to which it relates, to—</u>	20
(a)	<u>the FMA; and</u>	
(b)	<u>the External Reporting Board; and</u>	
(c)	<u>in the case of a climate reporting entity that is an issuer of debt securities or a manager of a registered scheme, the supervisor.</u>	25
(3)	<u>An assurance practitioner who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$50,000.</u>	
	<u>461ZDC Assurance engagement may cover other parts of climate statements</u>	
(1)	<u>Section 461ZD does not prevent the assurance engagement from covering the whole, or other parts, of the climate statements or group climate statements.</u>	30
(2)	<u>If an assurance engagement does cover the whole, or other parts, of the statements,—</u>	
(a)	<u>the assurance practitioner's report must separately identify the matters that are required to be the subject of the assurance engagement under section 461ZD; and</u>	35
(b)	<u>this subpart applies, with any necessary modifications, in relation to the whole of the assurance engagement.</u>	

- (3) In this section, **other parts**, in relation to climate statements or group climate statements, means any part or parts of those statements that are not required by **section 461ZD** to be the subject of the assurance engagement.

Assurance practitioner access to information

461ZDD Climate reporting entity must give assurance practitioner access to information 5

- (1) Every climate reporting entity must ensure that an assurance practitioner appointed for an assurance engagement under this Part has access, at all times, to—

- (a) the CRD records of the climate reporting entity or scheme; and 10
(b) any other documents of the climate reporting entity or scheme that are relevant to the assurance engagement.

- (2) If a climate reporting entity contravenes **subsection (1)**, every director of the entity commits an offence and is liable on conviction to a fine not exceeding \$50,000. 15

- (3) In any proceeding against a director for a contravention of **subsection (1)**, it is a defence if the director proves that—

- (a) the climate reporting entity took all reasonable steps to ensure that subsection would be complied with; or
(b) the director took all reasonable steps to ensure that the climate reporting entity complied with that subsection; or 20
(c) in the circumstances, the director could not reasonably have been expected to take steps to ensure that the climate reporting entity complied with that subsection.

Compare: 2013 No 101 s 38 25

461ZDE Assurance practitioner may require information and explanations from director or employee

- (1) An assurance practitioner appointed for an assurance engagement under this Part is entitled to require from a director or an employee of the climate reporting entity the information and explanations that the assurance practitioner thinks necessary for the performance of their duties as assurance practitioner. 30

- (2) A director or an employee who fails to comply with a requirement to provide information or an explanation under **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$50,000.

- (3) In any proceeding against an employee for failing to comply with a requirement to provide information or an explanation under **subsection (1)**, it is a defence if the employee proves that— 35

- (a) the employee did not have the information required in their possession or under their control; or

- (b) by reason of the position occupied by the employee or the duties assigned to them, they were unable to give the explanations required.

Compare: 2013 No 101 s 39

20E Section 461ZN amended (Lodgement of climate statements)

Replace **section 461ZN(1) and (2)** with:

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- (1) Every climate reporting entity that is required to prepare climate statements or group climate statements under any of **sections 461W to 461Y** must ensure that, within 4 months after the balance date of the entity, copies of the following are delivered to the Registrar for lodgement:

- (a) the climate statements or group climate statements that are required to be prepared; and

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- (b) the assurance practitioner's report on those statements.

- (2) Every manager that is a climate reporting entity in respect of a registered scheme must ensure that, within 4 months after the balance date of the scheme, copies of the following are delivered to the Registrar for lodgement:

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- (a) the climate statements that are required to be prepared under **section 461Z**; and

- (b) the assurance practitioner's report on those statements.

20F Section 461ZO amended (Information about climate statements of climate reporting entities to be made available in annual report)

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Replace **section 461ZO(1)(b)** with:

- (b) either—

- (i) a copy of the climate statements or group climate statements prepared by the entity under any of **sections 461W to 461Y**, together with a copy of the assurance practitioner's report on those statements; or

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- (ii) the address of (or a link to) the Internet site where a copy of those statements, together with the assurance practitioner's report on those statements, can be accessed.

20G Section 461ZS amended (Part 7A climate-related disclosure provisions)

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After **section 461ZS(3)(b)**, insert:

- (ba) **section 461ZD** (parts of climate statements must be subject to assurance engagement):

20H Section 501 amended (Additional disclosure or financial reporting defence for directors who are treated as contravening)

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In section 501(1)(a), after "**461Z**," insert "**461ZD**,".

Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill	
Part 1A cl 20I	
20I Section 534 amended (Directors treated as having contravened in case of defective disclosure or financial reporting contravention)	
In section 534(1)(cb) , after “ 461Z ”, insert “, 461ZD ”.	
20J Schedule 4 amended	
(1) In Schedule 4, clause 1(1), insert as the last paragraph:	5
(h) Part 8 provides for transitional provisions relating to Part 1A of the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 .	
(2) In Schedule 4, clause 1(1), in the last paragraph (as inserted by subsection (1)), make any necessary consequential amendment.	10
(3) In Schedule 4,—	
(a) insert the Part set out in Schedule 1A of this Act as the last Part; and	
(b) make all necessary consequential amendments.	
Part 2	
Amendments to Financial Reporting Act 2013	15
21 Principal Act	
This Part amends the Financial Reporting Act 2013.	
22 Section 3 amended (Purpose)	
(1) In section 3(b), after “financial reporting standards”, insert “, climate standards”.	20
(2) After section 3(c), insert:	
(d) provide for standard provisions relating to climate-related disclosure duties under the Financial Markets Conduct Act 2013.	
23 Section 4 amended (Overview of financial reporting duties)	
(1) In the heading to section 4, after “reporting”, insert “and other”.	25
(2) After section 4(2), insert:	
(2A) This Act also provides for various matters relating to climate-related disclosure duties under the Financial Markets Conduct Act 2013, including— defining climate statements and group climate statements and providing for the Board to prepare and issue climate standards.	30
(a) <u>defining key concepts (for example, climate-related disclosure framework, climate statements, and group climate statements); and</u>	
(b) <u>providing for the Board to prepare and issue climate standards.</u>	
(3) In section 4(3), after “duties”, insert “, and of this Act in relation to climate-related disclosure duties”.	35

24 Section 5 amended (Interpretation)

- (1) In section 5(1), replace the definition of **applicable auditing and assurance standard** with:

applicable auditing and assurance standard, in relation to an audit or an assurance engagement, means an auditing and assurance standard that applies to the audit or the assurance engagement in accordance with the standard

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- (2) In section 5(1), insert in their appropriate alphabetical order:

applicable climate standard, in relation to a reporting entity and to an accounting period or an interim accounting period of a reporting entity, means a climate standard that applies to the reporting entity and to the accounting period or the interim accounting period in accordance with the climate standard

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climate-related disclosure framework has the meaning set out in **section 9AA**

climate reporting entity has the same meaning as in **section 4610** of the Financial Markets Conduct Act 2013

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climate standard means a climate standard issued by the Board under section 12; and includes an amendment to a climate standard that is issued by the Board

climate statements, in relation to a reporting entity and a balance date, means the climate-related disclosures for the entity as at the balance date, or in relation to the accounting period ending at the balance date, that are required to be prepared in respect of the entity by an applicable climate standard

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~~**CRD assurance body** has the same meaning as in section 6(1) of the Financial Markets Conduct Act 2013~~

group climate statements, in relation to a group and a balance date, means the climate-related disclosures for the group as at the balance date, or in relation to the accounting period ending at the balance date, that are required to be prepared in respect of the group by an applicable climate standard

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- (3) In section 5(1), replace the definition of **reporting entity** with:

reporting entity—

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(a) means an entity whose financial statements, group financial statements, reports, or other information is required by any enactment to comply, or be prepared in accordance, with generally accepted accounting practice or non-GAAP standards; or

(b) means an entity whose climate statements, group climate statements, reports, or other information is required by any enactment to comply, or be prepared in accordance, with the climate-related disclosure framework ~~applicable climate standards~~

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- (4) In section 5(1), definition of **standard**, after paragraph (a), insert:

(aa) a climate standard; or

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24A New section 9AA inserted (Meaning of climate-related disclosure framework)

After section 9, insert:

9AA Meaning of climate-related disclosure framework

In this Act, climate statements, group climate statements, a report, or other information complies with the **climate-related disclosure framework** only if the statements, report, or other information complies with—

- (a) applicable climate standards; and
- (b) in relation to matters for which no provision is made in applicable climate standards, an authoritative notice.

25 Section 12 amended (Functions of Board)

(1) After section 12(a), insert:

- (aa) to prepare and, if it thinks fit, issue climate standards for the purposes of any enactment that requires climate statements or group climate statements, or a statement, report, or other information to comply, or be prepared in accordance, with the climate-related disclosure framework—climate standards;

(2) Replace section 12(b)(ii) with:

- (ii) ~~the purposes of any rules or codes of ethics of an association of accountants, or of a CRD assurance body, where those rules or codes require the members of the association, or the members of the body, to comply with those standards; or~~

(2) Replace section 12(c) with:

- (c) to prepare and, if it thinks fit, issue authoritative notices for the purposes of—
 - (i) the definition of generally accepted accounting practice; or
 - (ii) the definition of climate-related disclosure framework;

26 Section 14 amended (Membership of Board)

In section 14(2), replace “or law” with “law, or sustainable development”.

27 Subpart 2 heading in Part 2 replaced

In Part 2, replace the subpart 2 heading with:

Subpart 2—Standards

28 New sections 19A to 19D 19C and cross-heading inserted

After section 19, insert:

19A	Guidance for purposes of non-financial reporting	
(1)	The Board may issue non-binding guidance that relates to non-financial reporting on 1 or more of the matters in section 17(2)(a)(i) to (iv).	
(2)	The purpose of the guidance is to facilitate best practice reporting on those matters.	5
(3)	The guidance—	
(a)	must not be inconsistent with any financial reporting standard or authoritative notice; and	
(b)	must state that it is non-binding.	
(4)	Subsection (1) —	10
(a)	applies regardless of whether an Order in Council is made under section 17(2):	
(b)	does not limit the general powers of the Board.	
	<i>Climate standards</i>	
19B	Purpose of climate standards and climate-related disclosures	15
	The purpose of climate standards is to provide for, or promote, climate-related disclosures, in order to—	
(a)	encourage entities to routinely consider the short-, medium-, and long-term risks and opportunities that climate change presents for the activities of the entity or the entity's group; and	20
(b)	enable entities to show how they are considering those risks and opportunities; and	
(c)	enable investors and other stakeholders to assess the merits of how entities are considering those risks and opportunities.	
19C	Climate standards	25
(1)	Climate standards may—	
(a)	have general or specific application:	
(b)	differ according to differences in time or circumstance.	
(2)	A climate standard may be expressed to apply to all reporting entities or groups or to specified classes of reporting entities or groups.	30
(3)	A climate standard may specify the accounting periods or interim accounting periods in relation to which the standard applies.	
19D	Requirements if climate standards require or permit information to be excluded from analysis if immaterial	
(1)	This section applies if a climate standard requires or permits an entity, in preparing climate statements or group climate statements, to exclude information	35

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from an analysis relating to a particular climate-related disclosure in circumstances where the entity, in accordance with the standard, reasonably determines that the information is immaterial to the analysis. (2) The climate standard must require the entity to include in the climate statements or group climate statements, in accordance with the standard,— (a) a description of the kind of information that has been excluded from the analysis; and (b) an explanation of why the entity has determined that information is immaterial to the analysis. (3) This section does not limit section 19B or 19C.	5 10
29 Section 27 amended (When standards and authoritative notices take effect)	
In section 27(2)(a), replace “accounting,” with “climate-related.”.	
30 Section 44 amended (Purpose)	
Repeal section 44(b).	15
31 New subpart 6 heading in Part 2 inserted	
In Part 2, after section 47, insert:	
Subpart 6—Monetary amounts adjusted for inflation	
32 Section 48 amended (Minister must regularly review amounts to take into account inflation)	20
(1) In section 48(1)(a), replace “and section 64(2) of the Friendly Societies and Credit Unions Act 1982” with “section 64(2) of the Friendly Societies and Credit Unions Act 1982, and sections 461P and 461Q of the Financial Markets Conduct Act 2013”.	
(2) In section 48(3), replace “8” with “6”.	25
33 Section 49 amended (Order may amend amounts)	
After section 49(h), insert:	
(i) amending the amounts specified in sections 461P and 461Q of the Financial Markets Conduct Act 2013:	
(j) amending the amounts in the example in section 461Q of the Financial Markets Conduct Act 2013.	30
34 Section 51 amended (Levies)	
After section 51(3)(f), insert:	
(fa) climate reporting entities; and	
(fb) CRD assurance bodies; and	35

35 Schedule amended

- (1) In the Schedule, replace the cross-heading above clause 1 with:

Part 1
Provisions relating to Financial Reporting Amendment Act 2014

- (2) In the Schedule,— 5
- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

Part 3
Amendments to other Acts

Subpart 1—Public Audit Act 2001 10

36 Principal Act

This subpart amends the Public Audit Act 2001.

37 Section 4 amended (Interpretation)

- (1) In section 4, insert in their appropriate alphabetical order: 15
- appointed CRD assurance practitioner** means a person appointed under **section 34A** to carry out 1 or more assurance engagements under **section 15B**
- climate reporting entity** has the same meaning as in **section 4610** of the Financial Markets Conduct Act 2013
- (2) In section 4, definition of **Auditor-General**, after “appointed auditor”, insert “or appointed CRD assurance practitioner”. 20

38 New section 15B inserted (CRD assurance practitioner for public entities)

After section 15A, insert:

- 15B CRD assurance practitioner for public entities**
- (1) The Auditor-General is, and must from time to time act as, the CRD assurance practitioner for an assurance engagement required for the purposes of **Part 7A** of the Financial Markets Conduct Act 2013 by a climate reporting entity that is a public entity. 25
- (2) In carrying out an assurance engagement under **subsection (1)**, the Auditor-General must (at a minimum) comply with the auditing and assurance standards that apply to the assurance engagement. 30

39 New section 34A inserted (Appointment of CRD assurance practitioners)

After section 34, insert:

34A Appointment of CRD assurance practitioners

- (1) The Auditor-General may from time to time appoint any of the following ~~persons or bodies~~ to act as a CRD assurance practitioner and to carry out, under **section 15B**, 1 or more assurance engagements required for the purposes of **Part 7A** of the Financial Markets Conduct Act 2013 by a climate reporting entity that is a public entity, on the Auditor-General's behalf:
 - (a) an employee of the Auditor-General:
 - (b) a person ~~qualified to be a CRD assurance practitioner under **section 461ZE(1) and (3)** who, under **section 461ZD(2)** of the Financial Markets Conduct Act 2013, may carry out the assurance engagement.~~
 - (c) a partnership eligible to be appointed under **section 461ZF(1)** of that Act.
- (2) ~~If a partnership is appointed under **subsection (1)(c)** for an assurance engagement,—~~
 - (a) ~~the appointment of the partnership is to be treated as an appointment of all the persons who are partners in the firm from time to time; and~~
 - (b) ~~the persons who are not qualified to be appointed as CRD assurance practitioners under **section 461ZE(1) and (3)** of the Financial Markets Conduct Act 2013 must not act as CRD assurance practitioners for the assurance engagement.~~
- (3) An appointment must be in writing and may be made subject to any restrictions and conditions that the Auditor-General thinks fit.
- (4) The Auditor-General may authorise an appointed CRD assurance practitioner to exercise such of the powers listed in section 34 in relation to the public entity concerned as the Auditor-General specifies in the appointment.

40 Section 35 amended (Delegation of powers)

After section 35(2)(a), insert:

- (aa) the power of appointment of CRD assurance practitioners under **section 34A**; or

41 Section 41 amended (Protection from liability)

In section 41(1)(c), replace “or not” with “or an appointed CRD assurance practitioner or neither”.

42 Section 42 amended (Audit fees)

- (1) In section 42(1), after “15,”, insert “**15B**,”.
- (2) In section 42(3), after “auditor”, insert “or an appointed CRD assurance practitioner”.
- (3) Replace section 42(4) with:

- (4) The public entity must pay any fees to the Auditor-General, or to the appointed auditor or the appointed CRD assurance practitioner, on the completion of the whole or any part of the audit or assurance engagement when requested in writing to do so.

Subpart 2—Related and consequential amendments

5

43 Related and consequential amendments

- (1) Amend the Act specified in **Part 1 of Schedule 3** as set out in that schedule.
(2) Amend the Acts specified in **Part 2 of Schedule 3** as set out in that schedule.

Schedule 1

New Part 7 inserted into Schedule 4 of Financial Markets Conduct Act 2013

s 20(2)

Part 7		5
Provisions relating to <u>Part 1</u> of Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021		
91	Definitions of <u>large listed issuer</u>, <u>large</u>, and <u>large manager</u> may take into account accounting periods that commence before commencement of clause	10
	In sections 4610A(1), 461P, and 461Q , a reference to preceding accounting periods may include an accounting period regardless of whether the accounting period commenced before, on, or after the commencement of this clause.	
92	Climate-related disclosures for climate reporting entities under section 4610(1)	15
(1)	The following provisions of this Act apply to a climate reporting entity under section 4610(1) in respect of accounting periods of the entity that commence on or after the date on which the External Reporting Board issues the first climate standard that applies to the entity:	20
	(a) subpart 2 of Part 7A (which relates to CRD records):	
	(b) subpart 3 of Part 7A (which relates to preparation of climate statements):	
	(c) subpart 5 of Part 7A (which relates to lodgement of climate statements).	25
(2)	The provisions listed in subclause (1) do not apply to a climate reporting entity under section 4610(1) in respect of accounting periods of the entity that commence before the date on which the External Reporting Board issues the first climate standard that applies to the entity.	
93	Climate-related disclosures relating to registered schemes	30
(1)	The following provisions of this Act apply to a climate reporting entity under section 4610(2) in respect of accounting periods of a registered scheme that commence on or after the date on which the External Reporting Board issues the first climate standard that applies to the scheme:	
	(a) subpart 2 of Part 7A (which relates to CRD records):	35
	(b) subpart 3 of Part 7A (which relates to preparation of climate statements):	

- (c) **subpart 5 of Part 7A** (which relates to lodgement of climate statements).
- (2) The provisions listed in **subclause (1)** do not apply to a climate reporting entity under **section 461O(2)** in respect of accounting periods of a registered scheme that commence before the date on which the External Reporting Board issues the first climate standard that applies to the scheme. 5
- 94 Assurance engagement obligations relating to climate statements and exceptions do not apply until earlier of date set by Order in Council and 2 years after Royal assent**
- (1) The provisions listed in **subclause (2)** apply on and from the earlier of the following dates (and that date has effect despite the commencement of those provisions): 10
- (a) a single date set by Order in Council made under this clause; and
- (b) the date that is the second anniversary of the date on which the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act **2021** receives the Royal assent. 15
- (2) The provisions are—
- (a) **section 461ZB(1)(a) and (c)(ii)** (which relates to assurance engagement matters as conditions of exceptions);
- (b) **section 461ZD** (which relates to assurance engagements required for parts of climate statements relating to greenhouse gas emissions); 20
- (c) **section 461ZN(1)(b) and (2)(b)** (which relates to delivering a copy of the assurance practitioner's report to the Registrar for lodgement);
- (d) **section 461ZO(1)(b)(ii) and (2)(b)** (which relates to including in the annual report the address of, or a link to, the Internet site where the assurance practitioner's report can be accessed). 25
- (3) The Governor-General may, by Order in Council, set a single date for the purposes of this clause.
- (4) An Order in Council made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 30
- 95 Application of assurance engagement obligations to accounting periods**
- (1) The **Part 7A assurance engagement obligations** apply to a climate reporting entity under **section 461O(1)** in relation to the following accounting periods of the entity:
- (a) an accounting period that commenced before, but ends on or after, the effective date of those obligations; 35
- (b) accounting periods that commence on or after the effective date of those obligations.

- (2) The ~~Part 7A assurance engagement obligations~~ apply to a climate reporting entity under ~~section 4610(2)~~ in relation to the following accounting periods of a registered scheme:
- (a) an accounting period that commenced before, but ends on or after, the effective date of those obligations: 5
 - (b) accounting periods that commence on or after the effective date of those obligations:
- (3) In this clause,—
- ~~effective date~~, in relation to the ~~Part 7A~~ assurance engagement obligations, means the date on and from which, by virtue of ~~clause 94(1)~~, those obligations apply 10
- ~~Part 7A assurance engagement obligations~~ means the provisions listed in ~~clause 94(2)~~.

Schedule 1A

**New Part 8 inserted into Schedule 4 of Financial Markets Conduct
Act 2013**

s 20J(3)

Part 8

5

**Provisions relating to Part 1A of Financial Sector (Climate-related
Disclosures and Other Matters) Amendment Act 2021**

94 Interpretation in this Part

In this Part,—

commencement date means the commencement date of **section 20D** of the
Financial Sector (Climate-related Disclosures and Other Matters) Amendment
Act 2021

10

new, in relation to a section of this Act, means the section as replaced or
amended by a provision of **Part 1A** of the Financial Sector (Climate-related
Disclosures and Other Matters) Amendment Act 2021

15

Part 7A assurance engagement obligations means—

(a) **new section 461ZD** (which relates to assurance engagements required
for parts of climate statements relating to greenhouse gas emissions);
and

(b) **new section 461ZN** (which relates to lodgement); and

20

(c) except in **clause 95(2)**, **new section 461ZO** (which relates to annual
reports).

**95 Application of Part 7A assurance engagement obligations to accounting
periods**

(1) The **Part 7A** assurance engagement obligations apply to a climate reporting
entity under **section 461O(1)** in relation to the following accounting periods
of the climate reporting entity:

25

(a) an accounting period that commenced before, but ends on or after, the
commencement date:

(b) accounting periods that commence on or after the commencement date.

30

(2) The **Part 7A** assurance engagement obligations apply to a manager of a regis-
tered scheme that is a climate reporting entity in respect of the scheme in rela-
tion to the following accounting periods of the scheme:

(a) an accounting period that commenced before, but ends on or after, the
commencement date:

35

(b) accounting periods that commence on or after the commencement date.

Schedule 2

New **Part 2** inserted into Schedule of Financial Reporting Act 2013

s 35(2)

Part 2	
Provisions relating to Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021	
4 Interpretation	
In this Part, 2021 Amendment Act means the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021 .	
5 Guidance may apply to accounting periods that commence before section 19A commences	10
Guidance issued by the Board in accordance with section 19A (as inserted by section 28 of the 2021 Amendment Act) may apply in relation to—	
(a) accounting periods that commence before, but end on or after, the commencement of section 19A :	15
(b) accounting periods that commence on or after the commencement of section 19A .	
6 Standards Climate standards and authoritative notices may apply to accounting periods that commence before clause commences	
(1) Standards Climate standards issued by the Board in accordance with this Act as amended by Part 2 of the 2021 Amendment Act may apply in relation to—	20
(a) accounting periods that commence before, but end on or after, the commencement of this clause:	
(b) accounting periods that commence on or after the commencement of this clause.	25
(2) <u>Authoritative notices issued by the Board for the purposes in section 12(c)(ii) may apply in relation to—</u>	
(a) <u>accounting periods that commence before, but end on or after, the commencement of this clause:</u>	
(b) <u>accounting periods that commence on or after the commencement of this clause.</u>	30
7 Transitional provisions relating to review of monetary amounts in sections 461P and 461Q of Financial Markets Conduct Act 2013	
(1) Subclause (2) applies if section 32(1) of the 2021 Amendment Act (which amends section 48(1)(a) of this Act) comes into force before 1 April 2022.	35

- (2) The monetary amounts in **sections 461P and 461Q** of the Financial Markets Conduct Act 2013 do not need to form part of the first review under section 48(2) of this Act.
- (3) **Subclause (4)** applies—
- (a) if the monetary amounts in **sections 461P and 461Q** of the Financial Markets Conduct Act 2013 do not form part of the first review under section 48(2) of this Act: 5
- (b) despite the date on which **section 33** of the **2021** Amendment Act (which amends section 49 of this Act) comes into force.
- (4) The Minister's recommendation (if any) under section 48(1)(b), after conducting the first review, must not include a recommendation for the purposes of **section 49(i) or (j)**. 10

Schedule 3 Related and consequential amendments

s 43

Part 1

Consequential amendment to come into force on day after Royal assent 5

Climate Change Response Act 2002 (2002 No 40)

In section 4(1), replace the definition of **entity** with:

- entity**, in relation to a group, means—
- (a) a reporting entity within the meaning of **paragraph (a)** of the definition of that term in section 5 of the Financial Reporting Act 2013; or
 - (b) a subsidiary (within the meaning of section 5 of the Financial Reporting Act 2013) of a reporting entity referred to in **paragraph (a)**

Part 2

Amendments to come into force on earlier of date set by Order in Council and by first anniversary of Royal assent 15

Companies Act 1993 (1993 No 105)

After section 211(1)(c), insert:

- (ca) if the company is required to prepare climate statements or group climate statements under **section 461W or 461X** of the Financial Markets Conduct Act 2013 for the accounting period, include the matters required by **section 461ZO(1)** of that Act; and

Financial Markets Authority Act 2011 (2011 No 5)

In section 4, definition of **financial markets participant**, after paragraph (b)(iv), insert: 25

- (v) a climate reporting entity (within the meaning of **section 461O** of the Financial Markets Conduct Act 2013); and

Insurance (Prudential Supervision) Act 2010 (2010 No 111)

In section 238(1)(b), replace “from being—” with “—”.

Replace section 238(1)(b)(i) with: 30

- (i) from being—
 - (A) an FMC reporting entity (and, consequentially, a climate reporting entity) for the purposes of the Financial Markets

Insurance (Prudential Supervision) Act 2010 (2010 No 111)—*continued*

Conduct Act 2013 by virtue of section 451(1)(h) of that Act; or

- (B) a climate reporting entity for the purposes of the Financial Markets Conduct Act 2013 by virtue of **section 4610(1)(c)** of that Act:

5

In section 238(1)(b)(ii), before “an issuer”, insert “from being”.

Legislative history

12 April 2021
15 April 2021

Introduction (Bill 30–1)
First reading and referral to Economic Development, Science
and Innovation Committee