



Climate-related financial disclosures

UNDERSTANDING YOUR BUSINESS RISKS AND OPPORTUNITIES RELATED TO CLIMATE CHANGE

Summary of submissions



Ministry for the
Environment
Manatū Mō Te Taiao



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

New Zealand Government

Disclaimer

The opinions contained in this document are for consultation purposes only and do not reflect official Government policy. Readers are advised to seek specific legal advice from a qualified professional person before undertaking any action in reliance on the contents of this publication. The contents of this discussion paper must not be construed as legal advice. The Ministry for the Environment and the Ministry of Business, Innovation and Employment do not accept any responsibility or liability whatsoever whether in contract, tort, equity or otherwise for any action taken as a result of reading, or reliance placed on the Ministries because of having read, any part, or all, of the information in this document.

This document may be cited as: Ministry for the Environment and Ministry of Business, Innovation & Employment. 2020. *Climate-related financial disclosures – Understanding your business risks and opportunities related to climate change: Summary of submissions*. Wellington: Ministry for the Environment.

Published in March 2020 by the
Ministry for the Environment
Manatū Mō Te Taiao
PO Box 10362, Wellington 6143, New Zealand

ISBN: 978-1-98-857974-0 (online)

Publication number: ME 1489

© Crown copyright New Zealand 2020

This document is available on the Ministry for the Environment website: www.mfe.govt.nz.



Making Aotearoa New Zealand
the most liveable place in the world

Contents

Introduction	5
The purpose of the discussion document on climate-related financial disclosures	5
What we proposed	6
Submissions analysis and next steps	7
Consultation process	8
Consultation events	8
Who responded to the consultation?	9
What we heard	11
Chapter 1: The context	12
Chapter 2: Objective and problem definition	15
Chapter 3: Climate-related reporting obligations in New Zealand	18
Chapter 4: Directors' legal obligations and climate change	20
Chapter 5: Designing a comply-or-explain disclosure system for New Zealand	22
Conclusion	45
References	46

Tables

Table 1:	Proposals for a climate-related financial reporting regime	6
Table 2:	Submitters by type	9

Figures

Figure 1:	The Productivity Commission's recommendations	5
Figure 2:	Business/industry by type	10
Figure 3	Overall approach to the proposals	10
Figure 4:	The McGuinness Institute proposed approach for embedding TCFD into legislation	40

Introduction

The purpose of the discussion document on climate-related financial disclosures

In 2017, the Minister for Climate Change Issues, Minister of Finance, and Minister of Economic Development asked the Productivity Commission to “identify options for how New Zealand could reduce its greenhouse gas emissions through a transition towards a lower-emissions future, while at the same time continuing to grow incomes and wellbeing”. In 2018, the incoming Minister for Climate Change signalled a more ambitious agenda and asked the Productivity Commission to include the target of achieving net-zero emissions by 2050 in its analysis.

The Productivity Commission released its final report in August 2018. The report included a recommendation that “the Government should implement mandatory (on a comply-or-explain basis), principles-based, climate-related financial disclosures by way of a standard under section 17(2)(iii) of the Financial Reporting Act 2013. These disclosures should be audited and accessible to the general public” – see figure 1.

Figure 1: The Productivity Commission’s recommendations

R7.3	The Government should endorse the recommendations of the Task Force on Climate-related Financial Disclosures as one avenue for the disclosure of climate risk.
R7.4	The Government should implement mandatory (on a comply or explain basis), principles-based, climate-related financial disclosures by way of a standard under section 17(2)(iii) of the Financial Reporting Act 2013. These disclosures should be audited and accessible to the general public.

Source: Productivity Commission, 2018.

The Productivity Commission provided the following rationale for R7.4:

Introducing mandatory climate-related financial disclosures would encourage investment that supports the transition to a low-emissions economy. These disclosures can help overcome information and inertia barriers that prevent entities from adequately addressing climate risk and capitalising on low-emissions opportunities. They can also help to stop investors valuing assets or investment opportunities incorrectly, resulting in misdirected finance or stranded assets.¹

The Government has agreed to R7.3 and agreed to investigate R7.4 as part of its Climate Action Plan. Agreeing to R7.3 signals the Government’s commitment to the idea that high quality, climate-related financial disclosures can make a significant contribution to transforming New Zealand to a low-emissions, climate-resilient economy.

¹ Productivity Commission, 2018. p 7.

Agreeing to investigate R7.4 will help New Zealand reach the point where high-quality, climate-related financial disclosures are routinely made, consistent with international best practice. This requires consideration of ‘what’ should be reported and ‘who’ should be reporting.

The discussion document, *Climate-related financial disclosures: understanding your business risks and opportunities*, outlined the Government’s proposals for how to give effect to R7.4 and sought feedback on those proposals.

What we proposed

Table 1: Proposals for a climate-related financial reporting regime

Issue	Proposals based on what we currently know and understand
Status quo versus new mandatory (comply-or-explain) reporting	The adoption of principles-based mandatory (comply-or-explain), climate-related financial disclosures (consistent with the Productivity Commission’s recommendation (R7.4)).
Disclosures that would satisfy the comply element	The Task Force on Climate-related Financial Disclosures (TCFD) reporting framework would be the default ‘comply’. ‘Comply’ would also be met by disclosing climate-related information under other reporting frameworks that are TCFD-aligned.
When it would be acceptable to explain	Not complying with the TCFD in full would be permissible, in year 1 only, subject to explaining why some disclosures have not been made, eg, because targets and metrics are still being developed. Thereafter, non-disclosure would only be allowable on the basis of a preparer’s analysed and reported conclusion they see themselves as not being materially affected by climate change, with an explanation as to why.
Who would it apply to	Consistent with the TCFD’s recommendations, the disclosure system would apply to: listed issuers, banks, general insurers, asset owners and asset managers.
An exemption for smaller entities	We have not formed a view, to date, about whether smaller entities should be excluded from the comply-or-explain regime.
Exemption criteria	Annual revenue, total assets or a combination of the two, could be used if there were to be an exemption for smaller entities.
Commencement and transition	Mandatory (comply-or-explain) regime would come into effect for financial years commencing on or after six months after the regulations are introduced.
The role of the Government	There are important roles for the Government in relation to guidance, education, monitoring and reporting. These activities might be carried out by the Ministry for the Environment (MfE), Ministry of Business, Innovation and Employment (MBIE) or the Financial Markets Authority (FMA). The Climate Change Commission might have a role in relation to scenario analysis.
Implementation	Climate-related financial disclosures would be implemented by way of Order-in-Council on the recommendation of the responsible minister.
Publication of climate-related reports	Climate-related financial information should be disclosed in annual reports in a level of detail appropriate to the needs of users of annual reports, and with the use of cross-references or mappings to help users locate further detailed information if needed.
Independent assurance	With the possible exception of greenhouse gas emissions disclosures, the Government should not consider imposing mandatory assurance obligations until (a) it becomes clearer what users may want from assurance engagements, and (b) standard setters have responded to user demand with new or amended standards and guidance material.

Submissions analysis and next steps

This document summarises the feedback the Ministry of Business, Innovation and Employment and Ministry for the Environment received from the consultation phase on the proposals set out in the discussion document, *Climate-related financial disclosures: understanding your business risks and opportunities*, published on 31 October 2019.

We will use the submissions received during consultation as part of evidence to inform our advice on the proposals. Evidence gathered during consultation meetings will also inform advice. Advice will go to the Minister for Commerce and Consumer Affairs and the Minister for Climate Change with a view to developing a draft Bill.

Consultation process

We consulted on the proposals between 31 October and 13 December 2019. The [discussion document](#) presented the context and purpose of the proposals. In particular:

- the problem the proposals sought to resolve and the objective of the proposals
- background on current climate-related reporting obligations in New Zealand
- background on directors' legal obligations in relation to climate change, including trends in other jurisdictions
- the proposed design of a disclosure system for New Zealand, including:
 - which entities would be in scope
 - what and how they would be expected to report
 - when this would be introduced.

The consultation invited people to respond to 42 questions. The full list of questions is available on page 59 of the discussion document.

Consultation events

We held four public events in Auckland, Wellington and Christchurch in late November, as well as a public webinar in early December to make the information sessions widely accessible. We proactively invited stakeholders who would likely be impacted by the proposals to attend, to make it more likely relevant stakeholders would participate in the consultation.

The sessions were two hours long and co-hosted by Chartered Accountants Australia and New Zealand. We started each session by explaining the context of the proposals and giving a quick introduction to the disclosure framework proposed within the discussion document. This was followed by an industry panel session to provide a practitioner view of the value and challenges of climate-related financial reporting. Panellists included representatives from each of the 'Big 4' accounting firms; law firm Chapman Tripp; Westpac; Meridian Energy; and the Reserve Bank of New Zealand. Finally, we presented the proposals in greater depth and provided an open forum for questions and comments afterwards.

Total attendance across all five sessions was 151 people.

Who responded to the consultation?

We received a total of 77 submissions. No submissions were based on template submissions. All submissions have been analysed and given equal weight in the analysis presented below.

Submitter groups

Submissions to the consultation were divided into the groups identified in table 1 (in order from the highest to the lowest number of submissions received).

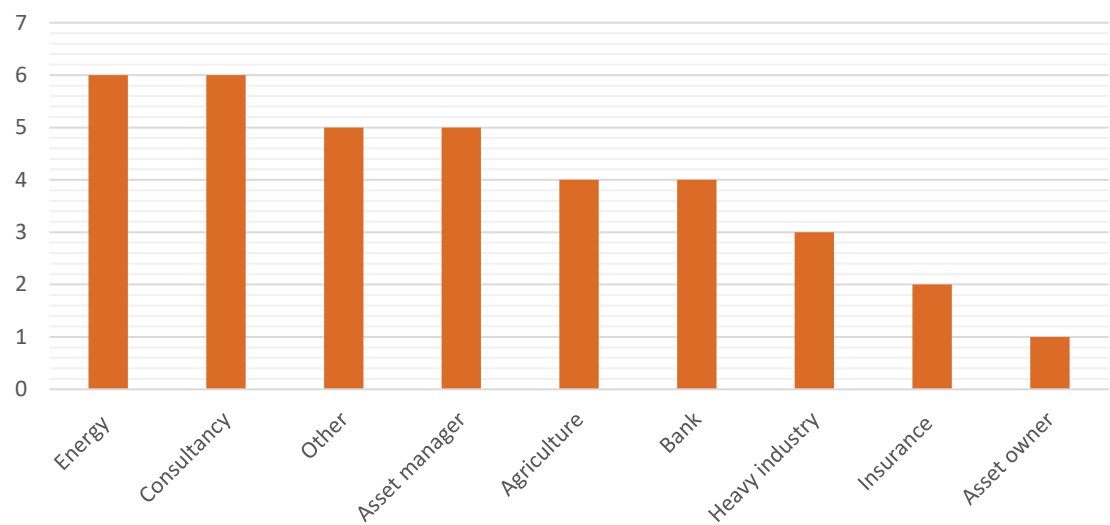
Table 2: Submitters by type

Submitter type	Number of submitters
Business / industry	36
Industry group	11
NGO	8
Professional body	6
Individual	4
Crown entity	3
Local government	2
Legal professional	2
Iwi / Māori	2
Academic / research community	1
Unspecified	2

Some of the 11 industry groups and six professional bodies' members also submitted individually as Business/industry submitters. For example, three banks were represented by the New Zealand Bankers' Association, but also chose to submit individual responses to clarify additional points. Those banks are also members of BusinessNZ which submitted, although the banks' individual views are not reflected in BusinessNZ's response.

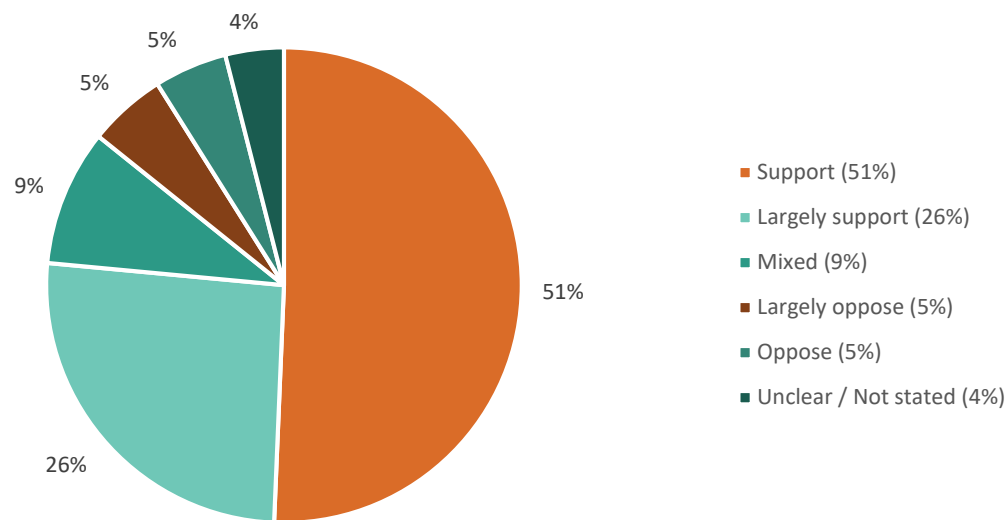
As the Business/industry group represented a significant proportion of overall submissions, figure 2 below presents a breakdown of responses by industry type.

Figure 2: Business/industry by type



Most submissions supported the proposals on the whole, with 77 per cent of respondents either supporting or largely supporting the proposals, while 9 per cent either opposed or largely opposed them (see figure 3).

Figure 3 Overall approach to the proposals



What we heard

Key findings

Most submissions favoured a new mandatory, principles-based (comply-or-explain) disclosure requirement, aligned with TCFD's recommendations which were viewed as international best practice.

While most submitters agreed the disclosure requirements should apply to banks, insurers, listed issuers, asset managers and asset owners (subject to a size threshold) as proposed in the discussion document, many submitters also expressed support for expanding the scope to other entities. This included large non-listed entities and companies in sectors highly at risk from the impacts of climate change.

There was strong consensus assurance of disclosed information is currently not practicable, and should be reviewed in future. The exception to this was greenhouse gas emission data, which respondents generally felt could, and should be, assured.

There were more diverse views on matters of design, such as how long a transition period should be and where the information should be disclosed.

Chapter 1: The context

Q.1 Is the TCFD reporting framework the most appropriate framework for New Zealand?

We received 50 responses to this question, with 84 per cent of respondents (42) agreeing the TCFD framework is the most appropriate one for New Zealand.

Common reasons given in support of the TCFD being the most appropriate framework included its:

- widespread international support and uptake
- comprehensive, flexible and robust nature
- ability to produce comparable and consistent outputs
- industry-led development.

Respondents argued taking a different approach would likely result in increased compliance cost for New Zealand companies participating in foreign markets. This would make those organisations less attractive to international investors.

However, respondents pointed out the TCFD approach is continuing to evolve, and any legislation must therefore retain flexibility to adapt to developments in international best practice.

Several submitters noted the TCFD has a narrow focus on climate issues. They suggested any New Zealand reporting framework should enable the integration of reporting of other environmental, social and governance (ESG factors and non-ESG risks to strengthen reporting to stakeholders). Four respondents made the point the TCFD recommendations are very high level, and therefore require a more specific framework to give effect to reporting, such as CDP or Integrated Reporting.

Q.2 Do you agree with the conclusions we have drawn at the end of chapter 1?

Conclusions

The discussion document set out the conclusions we had drawn through our contextual reading. These were:

48.1 Climate change presents material financial risks, both transitional and physical, to many businesses.

48.2 Responding to climate change presents investment opportunities in areas such as: renewable energy, energy efficiency, adaptation of infrastructure, and land use in farming and forestry.

48.3 Climate change is not material to every company of scale. However, it is not possible to know that without first testing the proposition.

48.4 Businesses that identify and manage material climate-related information will be better placed to manage risks and seize opportunities.

48.5 Capital will be allocated more efficiently and profitably if entities disclose material climate-related risks and opportunities to investors.

48.6 Pressure is building from institutional investors for companies to make climate-related disclosures, and is likely to continue to increase.

48.7 The TCFD recommendations have received widespread support and are considered best practice for climate-related financial reporting.

48.8 As the understanding of, and approaches to, climate-related issues improve, so too will the quality of climate-related financial reporting.

48.9 As the number of entities disclosing high quality, climate-related information increases, companies whose disclosures do not meet expectations will increasingly be subject to scrutiny from investors. Climate-related financial reporting will only be fully effective when the effects of climate change are routinely considered in business and investment decisions.

We received 46 responses to this question, with 61 per cent of respondents (27) agreeing with the conclusions drawn at the end of Chapter 1. Common reasons given for supporting conclusions included:

- companies must respond to growing public pressure to disclose
- enabling the incorporation of broader metrics in evaluating investments
- New Zealand can benefit from being ahead of the pack
- climate-related financial reporting aids companies in managing internal climate related risks and opportunities

An additional 24 per cent of respondents (11) agreed with every conclusion aside from paragraph 48.3: “Climate change is not material to every company of scale. However, it is not possible to know that without first testing the proposition”, noting that in the long term, climate change is a material risk to every company regardless of size for the following reasons:

- The interconnectedness of companies through upstream and downstream activities, such as suppliers, will result in climate change being material to every company.
- The systemic risk of climate change has wide ranging implications which will affect all businesses.
- While climate change impacts may not be material to every business in the near term, the future impacts cannot be known with certainty.

A few submitters also opposed paragraphs 48.8 and 48.9. These responses felt investor pressure alone was insufficient to improve the quality of climate-related financial reporting. Several government-led actions were proposed to improve quality, such as assurance mechanisms, enforcement and guidance on presentation. These issues are dealt with in greater detail in responses to questions 36–38.

Two respondents from the mining and oil and gas industries were concerned the conclusions would clash with the government objective to maintain economic prosperity during the transition to a net-zero carbon economy.

Chapter 2: Objective and problem definition

Objective

The objective set out in the discussion document is as follows:

49. The Government's objective is to move to a position where the effects of climate change become routinely considered in business and investment decisions in New Zealand. This can be achieved when businesses that participate in financial markets disclose clear, comparable, consistent, timely and understandable information about the risks and opportunities presented by climate change.

Q.3 Do you agree with the objective as set out above?

We received 49 responses to this question, with 73 per cent of respondents (36) agreeing with the objective as set out in Chapter 2 (see above).

Respondents supported the objectives for the reasons below.

- Reporting in a 'common language' enables accurate comparison of information and pricing of risks. This process is needed for the capital markets to allocate funds more efficiently.
- There is currently not enough useful information in the public domain to help companies consider and make decisions about climate-related financial risks and opportunities.
- The objective is an effective measure to reduce and mitigate the systemic risks posed by climate change to the economy.

As the Reserve Bank of New Zealand (RBNZ) noted: "Market discipline works best if it is supported by the disclosure of robust, reliable and comparable information, and if market participants have the expertise and the tools to make use of that information."

Three respondents perceived the scope to be too broad, while five saw the scope as too narrow. There was no consensus between those submitters on how exactly the scope should be changed. The Institute of Finance Professionals in New Zealand (INFINZ) suggested if the regime is expected to evolve over time, omitting the words "that participate in financial markets" would allow boundaries to expand as TCFD is rolled out to a wider group of entities. Customers were seen as the primary beneficiary of climate-related information from expanded stakeholders. Access to this information would improve their choices regarding who they do business with, and those organisations' impact on the environment.

A small number of respondents were concerned about whether financial disclosures alone would be sufficient to achieve the objective. Respondents felt focusing solely on disclosures from financial markets would be insufficient to encourage businesses to direct funds towards innovations that reduce greenhouse gases, such as carbon dioxide removal.

Q.4 Should other objectives also be considered?

We received 37 responses to this question. Raising awareness, providing guidance and supplying financial education were the additional objectives most suggested. Other suggested objectives include:

- improving the resilience of the New Zealand financial system and economy to systemic climate change risk
- increasing the scope of the requirements to include public sector entities due to significant stranded asset and infrastructure exposure risks
- linking the importance of climate-related financial disclosures to national and international commitments, such as the Zero Carbon Act and the Paris Agreement.

INFINZ suggested including the four ‘thematic areas’ covered by TCFD – governance, strategy, risk management and metrics/targets – in the objectives. It suggested their inclusion might help users understand what is involved in TCFD-based reporting.

► Defining a core policy objective of climate-related disclosures as managing risks to the overall financial system risks underscores the importance of robust reporting frameworks across the economy and increases the scope and urgency of establishing a policy response to the systemic risks of climate change. ◀

– *Investor Group on Climate Change*

Q.5 Do you agree with the problem definition? Are there other aspects we should consider?

The problem definition

The discussion document set out two main problems:

- the market does not currently have the information it needs
- the status quo is not delivering information at the required pace.

We also explored the challenges of the status quo on disclosure, the benefits of adopting TCFD-aligned disclosures early and concerns about introducing mandatory reporting.

We received 47 responses to this question, with 68 per cent of respondents (32) agreeing with the problem definition. The responses were fragmented, with a few significant themes.

Respondents suggested refining the problem definition to state the status quo is not delivering clear, comprehensible, comparable information at the required pace. Further, respondents felt ‘early movers’ were being unfairly disadvantaged in the current system. For example, Lawyers for Climate Action NZ Inc (LCANZI) suggested the status quo:

...may have an unintended consequence of giving an advantage to those entities who have the resources to voluntarily consider and release climate-related financial

information or, conversely, it may give an advantage to the entities which are most exposed to climate-risk but which fail to give disclosure, with the result that the market is unable to accurately price that risk.

Mandatory climate-related financial reporting was seen as a means to solve these issues.

New Zealand was perceived to be falling behind international standards, with mandatory reporting providing an opportunity to take leadership in environmental stewardship. Supporters of this approach noted countries actively managing climate-related risks are expected to be increasingly attractive to capital flows.

A few respondents commented many companies have not even begun taking into account climate-related risks and will have to build their capability and access to reliable data before disclosing. This current lack of accounting for climate-related risks was seen as problematic for the timely provision of consistent, comparable reporting.

RBNZ surveyed a sample of New Zealand insurers and banks in February 2019. The results highlighted that despite broad concern climate change exposes the financial system to significant risk, there was little evidence this concern influences daily business decisions. Further, only 60 per cent of surveyed banks and around a third of surveyed insurers disclose any climate-related information. RBNZ believes that, based on evidence from other jurisdictions, relying on market forces may not lead to a fast enough response and some form of public intervention may be beneficial.

Chapter 3: Climate-related reporting obligations in New Zealand

Q.6 What are the implications of section 211 of the Companies Act 1993 for the disclosure of material, climate-related information in annual reports?

We received 37 responses to this question, with 78 per cent of respondents (29) suggesting that section 211 of the Companies Act is not an appropriate mechanism for climate-related disclosures. The reasons given included:

- section 211 is retrospective, while climate-related financial disclosures should be forward-looking
- the requirements are not principle-based and may therefore reduce the quality of climate-related financial reporting.

Transpower noted that:

...there is the potential for reporting on climate-related risks (or premature disclosure of opportunities) to be harmful to a business, and therefore currently able to be withheld under the Companies Act. Mandatory disclosure would likely remove the ability of a company to withhold harmful information.

Nevertheless, four respondents argued section 211 of the Companies Act already includes climate change as a risk that needs to be managed and reported. Six respondents suggested that section 211 could require disclosure of material, climate-related information if enough guidance was also provided. AMP Capital Investors argued making use of section 211 risks regulatory overlap if new regulation is introduced, resulting in duplication of effort and disclosure.

Q.7 What are the implications of the NZX Listing Rules for the disclosure of material, climate-related information by (a) equity issuers and (b) debt issuers?

We received 35 responses to this question. Respondents argued the NZX ESG Guidance Note already encourages issuers to disclose climate-related information in annual reports and specifically refers to the TCFD framework (and other reporting frameworks). However, most respondents did not feel the NZX Listing Rules met the policy objectives in the discussion document for the reasons below.

- The guidance is ESG focused rather than focusing on strategy and/or risk management or longer-term impacts of climate change. Reporting on climate change is not explicitly required.
- The guidance is not specific enough to elicit consistent and comparable information. Respondents argued it resulted in ad hoc and retrospective reporting.
- The guidance note is voluntary and therefore lacks monitoring provisions or enforcement of compliance.

- Under the listing rules, the threshold tests relevant to continuous disclosure cannot be met with sufficient accuracy using forward-looking information, so TCFD-aligned information under the NZX rules may lead to breaching of FMCA Section 270, resulting in penalties.

Lawyers for Climate Action New Zealand Inc pointed out that:

...the guidance offered is very limited and is not specific to climate-related disclosure. The effect of this is that climate change is not explicitly required to be considered and is often not at the forefront of companies' operations and risk-management and investment behaviour but is rather an afterthought...

Respondents also noted any introduction of climate-related financial disclosures must subsequently be reflected in NZX code 4.3.

As with the previous question, some respondents warned reliance on the NZX Listing Rules restricted the types of entities in scope of this reporting requirement.

Q.8 How should proposed adaptation reporting under the Climate Change Response (Zero Carbon) Amendment Bill and the climate-related financial reporting disclosures proposed in this discussion document best work together?

We received 36 responses to this question. Most respondents stressed the importance of avoiding regulatory overlap or conflict on the basis of limiting cost and administrative burden. To achieve this, respondents supported the proposal TCFD reports could be used to satisfy information requests under the Zero Carbon Act. A small number of respondents recommended all reporting organisations under the Zero Carbon Act should be required to use the TCFD framework to report.

Submitters felt allowing TCFD reports to be used to comply with both requirements would help reduce the compliance burden. They felt this would also ensure greater consistency of data outputs to be used by investors, the Government, the Climate Change Commission and the RBNZ.

Several other respondents noted, however, that while there are interrelationships, the focus of the information sought under each regime is different, presenting issues which have yet to be resolved. Chartered Accountants Australia and New Zealand submitted:

...TCFD recommendations are focused on the risks and opportunities of climate change on organisations. As such, these recommendations do not impose any requirement to include details of the action plans developed to address any matters arising from the disclosures themselves.

►► We expect that to comply with new climate-related financial disclosures, the adaptation information requested under the Zero Carbon Act would be summarised as part of a TCFD disclosure with a specific focus on the financial implications. This would sit alongside transition risks to provide an interested party a complete picture of climate risk. ◀◀

– Vector

Chapter 4: Directors' legal obligations and climate change

Q.9 Do directors' legal obligations in New Zealand result in consideration, identification, management and disclosure of climate-related risks?

We received 39 responses to this question. All respondents noted directors' legal obligations did require them to consider, identify and manage climate risks, to the extent they are material risks. However, the efficacy of these obligations is unclear.

While 14 respondents felt current obligations are adequate to achieve that outcome, all remaining responses (25) indicated that, in practice, current obligations have not resulted in directors considering climate change at an appropriate scale. Reasons given for this included:

- lack of clarity (such as no explicit requirement to consider climate change) in the obligations
- directors' poor knowledge of how climate change may present risks
- a tendency for directors to prioritise short-term risks
- the challenge directors face in assessing forward-looking risks accurately.

Where climate change was considered, respondents felt the current state of obligations may not result in disclosure or management. Instead, it may result in very different approaches between directors:

There is a large range of practice from proactive well-considered disclosure to none at all. There are boards with directors who are sceptical about the need to address climate change risks and believe that this represents cost rather than risk and opportunity for the business. Regulation provides a level playing field and ensures that minimum disclosure is a business necessity and "license to operate" that directors must address.
(*Toitū Envirocare*)

There was near consensus amongst respondents there should be greater guidance or an explicit requirement to consider and manage climate change risks.

Q.10 Do you agree with the legal opinion prepared for the Aotearoa Circle?

The legal opinion

Chapman Tripp's 2019 legal opinion stated:

"169. We have sought to clarify current legal obligations on directors and scheme managers as to whether, and if so, how they must take climate change into account in their decision-making. In essence, our findings, which reflect commercial common sense, are that:

169.1. ...directors must act reasonably to inform themselves about, consider and decide how to respond to climate change risk, as they would any other financial risk; and

169.2. ...scheme managers must take climate change into account when making investment decisions and/or designing investment policies, where to do otherwise could pose a material financial risk to the investment portfolio.”

We received 26 responses to this question, including a response from Chapman Tripp. All but one of the 25 other respondents stated they agreed with the Chapman Tripp 2019 [legal opinion](#).

Several respondents also noted that, as with Q.9, while the legal argument was clear, in practice this was not always the case. One respondent questioned why enforcement has not been successful and several respondents reiterated the need for more explicit climate change disclosure requirements.

Chapman Tripp itself noted the conclusion that directors and fund managers must assess and manage climate risk as they would any other financial risk. This becomes more significant in a regulatory context where certain entities, including listed issuers and fund managers (asset managers), are required to publicly disclose certain aspects of their climate-related financial risk, as proposed in the discussion document.

Chapter 5: Designing a comply-or-explain disclosure system for New Zealand

Q.11 Do you favour the status quo or new mandatory disclosures?

We received 57 responses to this question, with 79 per cent of respondents (45) favouring new mandatory disclosure requirements. Respondents supported this for the following reasons:

- the status quo will not achieve the policy objectives as set out in the discussion document
- there is urgency in improving the understanding of climate risks to financial stability
- mandatory reporting would result in consistency of approach and increased capability
- mandatory reporting would provide legal clarity.

However, respondents urged us to consider the design of the system carefully to ensure this is embedded into the mainstream financial system and not simply seen as a compliance requirement.

Of those respondents who did not support new mandatory disclosures, several felt mandatory requirements might not have the intended effect, and asked that we consider non-regulatory solutions and improving how the status quo works. They noted, in particular, the status quo should not be thought of as voluntary disclosure given existing duties. Chartered Accountants Australia and New Zealand (CA ANZ) raised a wider question as to why the proposals did not seek to address the lack of application of the NZX Code and other duties, but rather sought to introduce another regime, noting the TCFD was designed as a voluntary framework.

An alternative view was the market pressures which exist under the status quo (eg, stakeholder expectation, litigation threat) will equally help to ensure high-quality reporting under a mandatory regime.

BusinessNZ argued there should be more consideration of other policy options before introducing mandatory disclosures. It proposed the idea of traveling up the 'regulatory pyramid'. This would include considering non-regulatory options first, moving 'up the pyramid' to generic light-handed options, and introducing more stringent measures only if clearly warranted.

►► We believe that the TCFD recommendations are flexible enough that mandating their use will not add unnecessary additional burden to organisations that are increasingly disclosing this information under the status quo. Rather, they afford organisations flexibility to address the intersection of climate change and their business in a way that is best suited to their business while ensuring clear and consistent disclosures. ◀◀

– PwC

►► Incorporating the TCFD recommendations in existing disclosure requirements (as intended by the TCFD) and instead focusing effort and resource on awareness raising, education and enforcement could result in a better outcome. ◀◀

– Chartered Accountants Australia and New Zealand

Q.12 If a mandatory approach is adopted, do you agree with the Productivity Commission that a mandatory (comply-or-explain) principles-based disclosure system should be adopted?

We received 48 responses to this question, with 83 per cent of respondents (40) supporting a comply-or-explain, principles-based disclosures system, for the following reasons:

- Comply-or-explain provides sufficient flexibility to account for differing circumstances of companies, and allows them to report in a relevant and appropriate manner.
- It is a well understood and practised concept in the reporting world.
- Such a system provides transparency and accountability, resulting in greater board oversight. Even if a company finds climate change is not material, it increases awareness of climate risks and opportunities.
- A comply-or-explain system allows organisations to avoid unnecessary compliance cost if climate change is not material to them.

Several responders argued, however, that few if any companies will be unaffected by climate change, and therefore able to use 'explain'.

A recurring theme was the importance of enforcement and penalties for unsatisfactory reporting to ensure 'explain' is not seen as a way out of compliance. EY suggested control systems to manage non-compliance, such as a register for compliance, which would let investors search non-compliant entities.

Another suggestion was for organisations taking the 'explain' route to have to provide robust reasons that could be reviewed. As the Institute of Directors suggested:

...for 'comply or explain' to work effectively there needs to be genuine commitment to good governance and meaningful, open explanations. A constructive culture needs to be fostered where explanations are assessed on their merit rather than assuming non-compliance is inherently negative. Explaining why the entity has not complied and providing sound reasons for why not is important for transparent corporate reporting.

On the other hand, BusinessNZ considered the 'comply-or-explain' approach as defined in the discussion document would be too onerous:

The comply or explain catch-22 would force firms uncertain of their responsibilities to undertake extensive research as to their climate impact if they wish to seek an exemption from undertaking research as to their climate impact. This effectively eliminates any complete exemption [and] would force firms uncertain of their responsibilities to undertake extensive research as to their climate impact if they wish to seek an exemption from undertaking research as to their climate impact.

Another theme was the need for reporting organisations to be supported by coherent and consistent guidance on disclosure. In particular, respondents pointed out a principles-based system may result in poor comparability of disclosures, so that guidance on specific reporting metrics could be helpful.

Respondents raised a number of other interesting points on this question.

EY noted that:

...research from the UK and Germany shows the level of full compliance to the corporate governance codes varied between 40% and 51% despite company directors reported as feeling considerable pressure to conform. Non-compliance appeared as a second choice but was undertaken by directors if necessary. This research highlights how, despite there being a desire to comply, in reality a significant number chose to explain instead. With non-financial reporting still developing, we believe the level of initial effort companies will have to put into the TCFD Recommendations may lead to a large proportion opting to explain.

While EY agreed with the Productivity Commission, CA ANZ submitted if the 11 recommended categories of disclosures from the TCFD were made mandatory, that would constitute a fairly prescriptive, rather than principles-based, system. As such, the proposed system would not satisfy the recommendation of the Productivity Commission.

Q.13 If the status quo is retained, how can government and investors be confident that risks would be routinely considered in business and investment decisions?

We received 39 responses to this question, with 66 per cent of respondents (26) stating they did not feel that government and investors could be confident in the desired outcomes being achieved by upholding the status quo. To illustrate, Milford Asset Management noted:

A recent Forsyth Barr report stated that only 46% of NZX 50 companies (excluding the Australian banks ANZ and Westpac) provide aggregated scope 1-3 emissions disclosures. This percentage rises to 56% of companies providing some emissions disclosure. Further, the format of disclosures is inconsistent and therefore onerous to analyse.

Of the remaining third, some felt the market benefits of disclosure, in addition to investor and shareholder pressure, would drive risks to be routinely considered in decision-making. Others argued for strengthening the existing levers to drive that change. For example:

- guidance from government
- raising awareness
- regulators setting clearer expectations
- Government having investigatory powers to explore and assess whether the objective was being achieved, could strengthen the status quo.

BusinessNZ pointed to the voluntary nature of the UN Principles for Responsible Investment² as an example of how a voluntary, industry-led approach can drive greater consideration of climate risks.

² The [UN Principles for Responsible Investment](#) are a set of six principles that provide a global standard for responsible investment with regards to environmental, social and governance (ESG) factors. Nearly 2700 signatories follow these principles on a voluntary basis.

Q.14 Do you consider the TCFD framework to be best practice in relation to climate-related financial disclosures?

We received 47 responses to this question, with 70 per cent of respondents (33) agreeing that the TCFD is currently best practice in relation to climate-related financial disclosures, noting in particular the widespread international support and uptake. One submitter felt it was not best practice, as it is not mandatory in any other jurisdiction. Nine respondents were unclear, and four did not specify whether or not they agreed.

As with Q.1, many respondents pointed to the developing nature of the TCFD, noting best practice may evolve beyond the TCFD in the future. As such, respondents suggested a regulatory regime must be flexible to incorporate improvements in best practice over time.

Several respondents also pointed to the current challenges and limitations of TCFD reporting. For example, Fonterra, Mercury and the Investor Group on Climate Change noted that, at this stage, the disclosed information using the TCFD is not consistent and comparable. Government will therefore need to provide more guidance to achieve comparability – including which TCFD-aligned frameworks would be permitted in a New Zealand disclosure system, and which assumptions would be appropriate for scenario analysis.

► We note that the TCFD Framework is in its infancy. We expect that it will take a few years of trial and error before disclosures against the Framework are fulsome enough to meet desired objectives. However, transitioning to the TCFD should not be a reason to delay reporting on emissions as this is a relatively well developed aspect of climate-related reporting. ◀

– *Guardians of New Zealand Superannuation*

Q.15 What are your views about whether the TCFD's recommended disclosures will provide useful information to institutional investors and other users?

We received 45 responses to this question. A major theme was the TCFD disclosures would provide useful information to investors and other users. However, to be useful they would need to be comparable and consistent, and the quality of information matters. To this end, several respondents noted the role of the Government in providing consistent metrics and guidance (discussed further in Q.36).

Air New Zealand noted there should be an explicit link between reporting and resulting risk management and action, to be truly useful. Regardless:

Even where the financial disclosures are of low quality, institutional investors and other users may find value in the disclosures as a qualitative signal of the extent to which companies (and their directors) are identifying particular risks and addressing them.

Reporting will provide a de facto indicator of strength of governance and management capability based on quality for institutional investors and other users, such as lenders.

The Investor Group on Climate Change (IGCC) and New Zealand Bankers' Association (NZBA) noted for information to be helpful in the New Zealand context, it should be reported at the country level rather than the group level (for multinationals headquartered outside of New Zealand). Reporting at the group level may omit a New Zealand-specific context for investors.

Q.16 Do you think the proposed disclosure system will encourage disclosing entities to make better business decisions?

We received 37 responses to this question, with 84 per cent of respondents (31) agreeing the proposed disclosures system would encourage better decision-making.

Many of these respondents noted the value of the TCFD framework as an exercise:

TCFD is less about final data and more about due diligence of readying a company for future shocks and strains of climate change impacts.
(Responsible Investment Association Australasia)

Linked to this, the New Zealand Bankers' Association noted:

We would expect that the benefits to the organisation will be proportionate to the degree of focus applied (ie the more a company puts into TCFD, the more it gets out of it).

Three respondents felt disclosure would have a limited effect on improving decision-making and that this would rely on wider factors, such as appropriate education and enforcement, and other trends relating to awareness of climate risks. The UK-based Local Authority Pension Fund Forum advised there needs to be clear and comprehensive reporting on the link between the provision of information and decision-making.

Only one respondent felt disclosure would not lead to better decisions, but they provided no reasons. One respondent was unsure, noting scenario analysis rather than disclosure would result in behaviour change.

Q.17 Is the definition of materiality in the IASB Conceptual Framework for Financial Reporting appropriate for this purpose?

We received 33 responses to this question, with 88 per cent of respondents (29) agreeing the definition of materiality in the IASB Conceptual Framework for Financial Reporting is appropriate. Supporters agreed there is plenty of robust guidance available to interpret materiality. Two respondents thought the definition could potentially be used and one submitter disagreed on the basis that the definition does not adequately take into account long-term risks.

A recurring theme was the difference between assessing materiality for business strategy and for financial reporting. There is a need for more guidance on making materiality judgements on both business strategy and non-financial information. Additionally, the IASB definition is retrospective, whereas climate change risk information is forward-looking.

The need to better define the primary users of climate-related financial information through legislation was another key theme. For example, would the users be limited to the users of general purpose financial reports?

Finally, a few respondents hoped to shift the perspective from a shareholder to a broader stakeholder perspective. EY noted:

...in the context of climate change risks, shifting from a shareholder perspective to stakeholder perspective is important given that the TCFD recommended disclosures are designed to be used by companies in providing information not only to investors but to other stakeholders.

Q.18 What comments do you have on our proposal that non-disclosure would only be allowable on the basis of the entity's analysed and reported conclusion that they see themselves as not being materially affected by climate change, with an explanation as to why?

We received 44 responses to this question. There was significant disagreement between respondents as to the 'comply or explain' element of the proposals. A large number of responses noted there are few or no situations where an entity would not be materially affected by climate change due to the systemic nature of the risk, echoing points made in response to Q.12. Therefore, any non-disclosures are likely to be short term in their analysis, undermining the objective.

The New Zealand Bankers' Association said:

It has the effect of requiring each organisation to consider the implications of climate change on its business and the disclosure of any rationale for non-disclosure ensures that the decision is subject to public scrutiny. It also enables companies that demonstrably are not exposed to avoid compliance cost. However, we note that it is likely to be rare that an entity of scale is not exposed to some degree of climate-related risk, even if limited to potential business continuity impact through supply chain or physical risk to assets. We would suggest that the basis for non-disclosure should be revisited and reaffirmed at regular intervals.

Respondents offered solutions to refine the proposal. For example, as part of their explanation, a non-disclosing entity should include:

- the basis on which it has reached its conclusion (eg, timeframe for the assessment and the rationale for selecting that timeframe)
- a description of its governance and approach to risk management.

This could be supplemented by guidance from Government or regulators on selecting appropriate parameters and identifying material, climate-related risks, including through supply chains and in relation to investor expectations. A number of other respondents recommended greater scrutiny of non-disclosure by a government agency.

Several respondents argued the proposals are not truly principles-based and flexible. Instead, they recommended using a similar approach to the NZX Code which allows for greater flexibility, particularly for forward-looking information.

Another suggestion was to broaden what is permissible under ‘explain’, allowing companies to explain why they can’t fulfil the full reporting requirement, and to set out their pathway to full reporting in the future, including targets which can be reviewed.

► It would represent a much higher standard than comply-or-explain. It establishes clear liability that eliminates the possibility of superficial or perfunctory justifications for non-disclosure. We view this as positive insofar as it raises the bar for businesses impacted by climate change. Despite recognised challenges around disclosure, compulsory analysis ensures appropriate resources are allocated to progress the objectives of the TCFD. However, this mandated allocation of resources is onerous for businesses genuinely unaffected by climate change given the expenditure and time required to conduct adequate analysis to justify this conclusion. ◀

– Milford Asset Management Limited

Q.19 What are your views about providing a transition period where incomplete disclosures would be permissible?

We received 51 responses to this question, with 86 per cent of respondents (44) supporting a transition period. Four more respondents did not specify whether or not they supported a transition period, but raised further matters for us to consider. To support the transition period, two submissions suggested the Government’s understanding of ‘incomplete disclosures’ should be clearly defined.

Most supporting responses noted the relative immaturity of practical implementations of the TCFD, and climate reporting generally, in New Zealand. Time is required to build capacity, reduce cost and ensure disclosures are high quality and robust. The New Zealand Law Society articulated the staged transition process reporting entities will undertake:

There appear to be two stages to a company’s ability to meet the reporting requirements set out in the TCFD framework, and the regime will need to allow both stages to occur before requiring full compliance. The first is to create and embed the framework, involving (for a large organisation) creating a new board governance and risk management process, conducting enterprise risk assessment reviews and scenario analysis, devising internal policy documents, compliance plans, operational risk-testing processes and reporting models. The second stage is to understand the nature and extent of the impacts of the risks as assessed, allow the new processes time to run and the information to flow, and from there frame the related disclosures.

A number of respondents noted the requirements could be rolled out in a phased approach: for example, different categories of disclosure could be phased (although there was disagreement on which categories should be introduced first, or the type of reporting entity could be phased, with a roadmap towards full reporting.

Three responses opposed the idea of a transition period for the following reasons:

- a transition period would result in unnecessary delay
- incomplete disclosure should not be penalised for the first few years, in which case there should be no need for a transition period

- the iterative approach taken in the discussion document means a transition period is unnecessary.

Q.20 If there is to be a transition period, what are your views on it being for one financial year?

We received 42 responses to this question. Out of the responses:

- 14 respondents supported the transition period being one financial year (or less)
- 21 respondents called for a longer transition period. Of these:
 - 5 did not specify a timeframe
 - 4 called for a 2-year period
 - 3 called for a 3-year period
 - 4 supported a phased approach (2 within a 3-year timeframe)
 - 2 called for a 2 or 3- to 5-year timeframe
 - 3 called for a 5-year timeframe.
- 3 did not support a transition period, but rather suggested a grace period, and 4 did not specify a timeframe.

Respondents supporting a longer transition period believed it would enable entities to achieve higher-quality disclosure. The longer companies have to prepare, the more time entities have for building capability, collecting data and setting up appropriate internal systems.

In line with Q.19, several respondents advocated for a phased approach to commencement, and several others supported a grace period in which penalties would not be enforced in lieu of a transition period. A grace period would allow entities to test their analysis and reporting methodology before full disclosure was mandated.

PwC framed it as an iterative exercise:

...we believe that one financial year is likely appropriate for organisations to ensure basic compliance. However, we note that the quality of the first year of disclosures is likely to be mixed. Therefore, while it may only take a year for an organisation to be compliant, it is likely to take at least two further years for the disclosures to achieve a level of quality necessary to deliver the full potential of the TCFD recommendations... The benchmark for the first reporting year should be compliance, with an understanding that quality takes more time to achieve.

Q.21 Should all of the following classes of entity be subject to mandatory (comply-or-explain), climate-related financial disclosures: listed issuers, registered banks, licensed issuers, asset owners and asset managers?

We received 51 responses to this question, with 61 per cent of respondents (31) agreeing only the specified entities should be subject to mandatory disclosures. Eight respondents argued

the scope of reporting organisations should be expanded (see Q.22, below). Three respondents suggested asset managers should not fall within scope.

Several respondents requested clearer definitions of the five proposed entity groups as they felt there were grey areas – specifically, non-bank deposit takers and non-deposit-taking lending institutions, as well as private savings schemes, family trusts and Māori business groups. Whether or not these groups are included in the current definitions in the discussion document is ambiguous.

A recurring theme was the cascade of data required by some entities who rely on data from their investee companies to assess their own risk accurately (see box 1 below). Chapman Tripp noted, “It might therefore be appropriate to delay the implementation of all types of mandatory disclosures for asset managers by an appropriate period. The same difficulties may also arise for banks and insurers”.

Responses echoed concerns we heard during the roadshow about the obligations on multinational organisations. Some respondents recommended data is consolidated in a single report to provide clearer communication with investors, while reducing duplication of effort and the risk of conflict across different jurisdictions. Another respondent recommended New Zealand operations should be required to make New Zealand-specific disclosures (also see Q.15).

BOX 1: THE CIRCUMSTANCES OF ASSET MANAGERS

A number of respondents argued asset managers were in a unique position as they are only able to assess their own risk exposure once there is high-quality data from their investee companies. Further, internationally based investees’ greenhouse gas data may be unobtainable, leaving asset managers with an incomplete dataset. Kiwi Wealth argued that:

...funds managed by asset managers should be included in a second phase of the regime, once the companies that those funds invest in are themselves providing good reporting information for the asset managers to use.

It was suggested asset managers could be required to disclose on governance and risk management, then wait until a sufficiently robust volume of data was available from investee companies to do scenario analysis and report on their metrics and targets.

A further challenge for asset managers is where to report this information. Asset managers’ annual reports are not suitable, as investors are interested in performance on a fund-by-fund basis, rather than at the aggregate fund manager level. However, the main disclosure fund managers use to communicate with investors is the Product Disclosure Statement (PDS), which is highly prescribed. The more suitable place to include climate-related information may be in the Statement of Investment Policy and Objectives (SIPO), but the readership of this is generally low.

Q.22 Should any other classes of entity be required to disclose?

We received 52 responses to this question. The other classes of entities respondents felt should also be required to disclose are set out below (The number of times each class was raised by respondents is included in brackets. Some responses named more than one entity.)

- private companies (23)
- local government and other public sector entities (17)
- central government (15)
- high-emitting organisations regardless of whether they are private or public (10).

Other suggested entities included water services, utilities, trusts, extractive industries, property, agriculture, transport, infrastructure companies, and not-for-profits and/or charities. Three respondents did not feel there should be other classes of entities required to respond.

NZX argued if private companies were not included, an arbitrary barrier would be created which discourages listing and weakens New Zealand’s capital markets. NZX noted there are approximately 1200 larger private companies with revenues exceeding \$30 million (compared to 70 listed issuers of the same size). Further, five of the top eight greenhouse gas-emitting companies in New Zealand are not listed.

A few respondents argued a trickle-down effect from lenders would not play enough of a role to drive non-listed entities to report climate risk. Non-mandated scrutiny by banks and other sources of capital was predicted to be inconsistent, if it happens at all. EY submitted:

We are not of the view that the financial sector entities will put enough pressure on non-listed entities, as these entities are less likely to tap public capital markets (e.g. privately held companies and cooperatives). If entities are not voluntarily disclosing their climate related financial disclosures currently, we believe that this may be unlikely to change if the regulation does not include these unlisted entities.

Some respondents felt the criteria should be based on exposure to risk, to improve resilience and financial stability. Therefore, private businesses above a certain threshold should also be captured by the requirements (particularly those non-financial groups highlighted by the TCFD as highly impacted sectors – energy, materials and buildings, transportation, and agriculture, food and forest products).³

A few respondents mentioned the public sector’s significant climate risks. They felt the public sector has an opportunity to lead by example. In New Zealand, the public sector is a notably large part of the economy, with ratepayers represented as investors. The Mana Whenua Kaitiaki Forum pointed out that, in June 2017, local government owned \$119 billion of fixed assets and had an annual operating expenditure of \$9.9 billion and operating income of \$9.4 billion.⁴

Q.23 Should there be an exemption for smaller entities?

We received 44 responses to this question, with 52 per cent of respondents (23) supporting an exemption for smaller entities. Eleven respondents were unsupportive, while the remaining nine did not give a yes or no response, but raised other questions.

³ TCFD, 2017.

⁴ Productivity Commission, 2018, as quoted in The Mana Whenua Kaitiaki Forum’s submission.

Respondents supporting an exemption for smaller entities did so on the basis of capacity and burden for smaller organisations (noting that smaller entities should be enabled to report voluntarily). Lawyers for Climate Action New Zealand Inc (LCANZI) cautioned against starting with too broad a regime, as this might result in large-scale non-compliance which would damage confidence in the system.

However, many respondents (both those who supported and objected to an exemption) suggested it might not be appropriate to exempt small entities with material exposure to climate risk, as that might hide material climate risk within the economy. Moreover, there was a good case for all businesses to understand their climate-related risks and opportunities, regardless of size. CDP and the Climate Disclosures Standards Board (CDSB) stated in their joint submission:

It is important to note that materiality of climate risk is not related to the size of entity and in some cases, smaller entities may have more material climate risks than larger ones. However, smaller entities often have less capacity to prepare detailed reports. As such, some form of proportionality should be considered for smaller entities.

Some responses that did not support an exemption instead proposed smaller entities could be subject to a less detailed disclosure requirement. Others felt acknowledging the qualitative nature of the system, or the 'explain' option of the proposals, enabled sufficient leeway for smaller organisations. Another suggestion was to extend the transition period for smaller entities (see Q.34).

Several respondents recommended further investigation to determine the appropriate size threshold for a small entity exemption. For example, regulators should assess the implications of financial stability and make recommendations, or the Government could consider net costs for different types of organisations.

Some respondents felt any exemptions could be reviewed in the future, once the TCFD reporting practice is more mature.

Q.24 If there were to be an exemption: (a) What criterion or criteria should be used: annual revenue, total assets, a combination of the two, or some other measure or measures? (b) Which dollar amount or amounts would be appropriate? (c) Should there be a requirement to adjust for inflation from time to time?

We received 29 responses to this question. In response to part (a) there were 20 responses, (b) 7 responses and (c) 8 responses.

In response to (a), suggestions for measures of size included:

- a combination of total assets and annual revenue
- sector and size of the company
- the materiality of climate change risk
- carbon footprint

- models based on [section 204](#) or [section 208\(1\)](#) of the Companies Act 1993
- a model based on the External Reporting Board's (XRB) Accounting Standards Tiers.

Suggestions for which dollar amount would be appropriate (b) included:

- assets above \$60 million and/or revenues above \$30 million (same criteria as section 45 of the Financial Reporting Act 2013)
- insurers with a Gross Written Premium of below \$100 million should be exempt
- not only a dollar threshold. The activities of the business should also be factored.

In response to (c) all those who submitted agreed any dollar amounts should be adjusted for inflation from time to time.

Q.25 What are your views about our proposal to have a stand-alone, climate-related financial disclosure report within the entity's annual report?

We received 49 responses to this question: 55 per cent of respondents (27) agreed with the proposal, 18 disagreed, 3 did not give a clear answer and 1 agreed for some entities, but not others.

Responses revealed a tension between accessibility of climate information and flexibility for reporting entities.

The 27 responders supporting a stand-alone report within the annual report said it would enable climate information to be quickly identified, making it transparent and easy to access while ensuring greater accountability. Otherwise, it might get lost among the large amount of information within the annual report.

Many of the respondents who did not support the proposal (12 of the 18) supported including climate information in the annual report to foster engagement with shareholders and investors, but not as a standalone report. The main reason given was to ensure climate risk was thought of alongside other business risks, not as a separate issue. A number of respondents also argued climate disclosures should align with integrated reporting, as a more holistic means of understanding the wider social and environmental context of decisions.

Both Vector and Guardians of New Zealand Superannuation noted climate disclosure is unlikely to change significantly year to year. Vector suggested only material changes each year should be included in annual reports to reduce repetition.

One respondent supported disclosure in a stand-alone report, but not in the annual report, as they felt a wider scope of organisations should be included in the proposals, many of whom do not have annual reports.

Several respondents pointed out that asset managers and asset owners do not communicate with their stakeholders through annual reports or mainstream financial filings (see Box 1). Three of these (Fund Managers Forum, Chapman Tripp and the McGuinness Institute) supported appropriate entities including climate-related information in Statements of

Investment Policy and Objectives (SIPOs). Milford Asset Management did not support this proposal unless the owner/manager had a specific 'green' fund with an ESG or impact focus.

Q.26 What are your views about providing for disclosing entities to include cross-references or mappings within that report to assist users to find relevant information?

We received 39 responses to this question, with 82 per cent of respondents (31) favouring cross-references or mapping, while 3 respondents were against it. Two respondents favoured a more flexible approach for reporting entities and three did not express a clear position.

Those in favour of cross-referencing argued it would enable deeper understanding (for example, about underlying assumptions of analysis) without increasing the volume of information in annual reports. This would reduce unnecessary duplication of information and enable better communication with more stakeholders. Opinions differed on requirements: some respondents felt cross-referencing should be mandatory, whereas others felt it should be allowed. Most did not state a preference either way.

CDP and CDSB were against cross-referencing, however, arguing any additional content, such as a mapping table, would add length to already long reports. Therefore, cross-referencing would not improve the reports usefulness for decision-making. CPA Australia and IAG, while in favour of the approach, noted cross-referencing should not undermine the coherence of the information disclosed in mainstream filings.

Other reasons for not including cross-referencing were that it is not common practice within financial statements and may cause greater confusion for users of annual reports.

Q.27 What are your views about requiring explanations for non-compliance to be included in the annual report?

We received 38 responses to this question, with 92 per cent of respondents (35) agreeing reasons for not disclosing should be explained (also see Q.18). Three respondents noted explanations should be included in the same place as disclosure (which may be financial reports).

A few responses argued not disclosing is *not* the same as non-compliance under a comply-or-explain system. Explanations could include information on why climate-related risks are not material, timeframes over which the assessment was made, and the process for identifying risks. However, there should be a way of flagging when those explanations are unsatisfactory. Some respondents suggested organisations unable to report should be required to identify a timetable for compliance.

Q.28 Should there be mandatory assurance in relation to climate-related financial disclosures?

We received 53 responses to this question. Most respondents acknowledged limitations in the assurance sector, including lack of capability and expertise, and the fact qualitative and forward-looking disclosures are challenging to assure. For these reasons, 20 respondents felt

mandatory assurance should be introduced (or revisited) in the future (see Q.32). These were the same reasons given by the seven respondents who felt there should be no mandatory assurance.

Twenty-one respondents supported mandatory assurance for the reasons below.

- Any information contained within financial reporting should be subject to an audit and assurance process, otherwise market confidence in the credibility of disclosed information would be damaged.
- Not requiring assurance could imply that climate-related information is of secondary importance.
- Three respondents (OAG, CA ANZ & McGuinness Institute) noted climate-related financial information could, arguably, already be assured under current assurance standards.

The remaining five respondents did not specify a clear 'yes' or 'no' answer. Three respondents recommended the Government support voluntary assurance, while signalling that mandatory assurance will be introduced in the future to incentivise the market's development of assurance products (IGCC, PwC, New Zealand Bankers' Association).

A number of respondents also stated many of the entities in the proposed scope were not currently required to produce audited, financial statements. As a result, two respondents suggested only those reports currently subject to mandatory assurance should be captured under this proposal.

A significant point raised here was that the Government must consider attributing reasonable share of liability for material mis-statements, noting that reporting on forward-looking scenarios should not be seen as a projection and therefore should not result in liability.

Q.29 What classes of information should be subject to assurance if it were to be mandatory?

We received 28 responses to this question. A majority of respondents (15) felt the 'metrics and targets' element of TCFD reporting could be assured as the only quantitative measure. By and large, these responses specifically referred to greenhouse gas emissions (see Q.30). Three respondents felt all classes of information in the TCFD should be subject to mandatory assurance.

The remaining responses were more fragmented. Other suggested areas for assurance included:

- inputs and assumptions around scenario analysis
- potential liabilities arising from physical or insurable risks
- comparison of identified risks against comparable entities
- data sources, processes and methodologies
- effectiveness of governance arrangements
- progress against meeting greenhouse gas emissions reduction targets
- any information that is financially material.

One respondent noted assurance of qualitative data could only be useful if the Government provided guidance on minimum expectations for each TCFD recommendation.

► The TCFD Recommendations are very flexible, so the value of this type of additional assurance would be questionable. For example, if it was disclosed that boards are informed on climate risks every three years, this would be adequate to meet the TCFD Recommendations and would therefore not be a finding in an assurance engagement, but this frequency would not be sufficient to meet the expectations of stakeholders. Therefore, this assurance is not useful. Assurance over other elements in TCFD disclosures would be useful if the Government (or other interest group) provided guidance on the minimum expectations for each TCFD Recommendation. Assurance could then be provided against this guidance. ◀

– EY

Q.30 Do you consider that assurance should be required in relation to GHG emissions disclosures?

We received 29 responses to this question, with 83 per cent of respondents (24) supporting assurance for greenhouse gas GHG emissions disclosures. One did not support assuring greenhouse gas emissions disclosures. Two argued it should be introduced in the future, and the remaining two did not give a clear answer.

Most respondents argued assurance of greenhouse gas emissions was sufficiently mature as to justify mandatory assurance. Emissions are measurable and verifiable, supported by existing international standards (ISO14064-3 or ISAE (NZ) 2310). Two respondents specified greenhouse gas assurance should only include scope 1 and 2 emissions. Meridian Energy, however, recommended mandatory compliance with the GHG Protocol's Corporate Value Chain Standard to improve Scope 3 reporting quality.

Several respondents noted mandatory greenhouse gas emissions assurance is not part of the New Zealand Emissions Trading Scheme (NZ ETS) and introducing it could help ensure the robustness of the NZ ETS. Conversely, Refining NZ felt the New Zealand Emissions Trading Scheme Reform Bill proposals would meet any assurance requirements.

Vector suggested an emissions-level threshold for entities requiring mandatory assurance on the basis of a relative cost for low-emitting organisations:

For other emitters this may be a costly exercise with little value for users of the information. This money might be better spent by an organisation on scenario development for example which will better inform their strategies and in turn improve overall climate-related disclosures.

Q.31 Is limited assurance the only practicable approach in relation to TCFD disclosures, or is reasonable assurance also feasible?

We received 31 responses to this question. Of which, 11 respondents felt limited assurance was the most practicable approach, due to the subjective nature of much of the TCFD framework.

A further 11 respondents felt reasonable assurance would be feasible, although they all supported developing this approach over time and agreed that, in the short term, limited assurance was the most appropriate approach. Seven respondents argued a mixed approach would be appropriate, with reasonable assurance applied to objective areas such as greenhouse gas emissions, and limited assurance for other areas.

Q.32 If we do not introduce mandatory assurance when a disclosure system comes into effect, should it be reconsidered in the future?

We received 32 responses to this question, with 84 per cent of respondents (27) supporting a review of the introduction of mandatory assurance in the future. Of the supporting responses, six recommended a review in three years and three proposed a range of three to five years. The others did not specify a timeframe.

The respondents supported reconsidering mandatory assurance in the future on the basis that greater information about assurance priorities and further capability was likely to be developed over time. This would ensure audited information was fit for purpose. CPA Australia pointed out that:

...this matter warrants ongoing monitoring by government recognising that the factors which will impinge on developments are not exclusively within the realms of TCFD; and will be dictated by both wider advancements in non-financial reporting along with market and regulatory forces affecting the audit and assurance profession.

CDP and CDSB recommended reviewing mandatory assurance regardless of the outcome at some point in time.

Four respondents reiterated the argument mandatory assurance should be introduced from commencement, while two suggested a transition period would allow for capability development within the assurance industry.

Q.33 What comments do you have on the proposal to bring the disclosure system into force for financial years commencing six months on or after the date that the regulation is introduced?

We received 41 responses to this question. The wording of the question may not have been sufficiently clear, as several respondents conflated the date of commencement and the one-year transition period proposed. A number of responses therefore called for a longer transition period (refer to Questions 19 and 20) in response to this question, or qualified their response in terms of the transition period.

Notwithstanding, 21 respondents supported the proposal, referring to the urgency of advancing climate-risk reporting. Meridian for example, suggested:

The disclosure system should come into force immediately given the one-year grace period that is proposed, within which incomplete disclosures will be allowable. With both the later commencement date and the one-year transition, it may be several years before full reporting is undertaken by the reporting entities covered. Meridian considers this too much of a delay. Reporting entities should not be surprised by the disclosure regime, as they will have seen the discussion document and will be able to track progress of any legislation in the House to give effect to the Government's decisions.

However, many respondents are expecting a lower quality of initial disclosures given the relatively short deadline. To facilitate high-quality disclosures, some responders recommended expediting education and guidance, regardless of the legislative process. While some entities have already begun TCFD-style disclosures, reporting entities will require a better understanding of the current practice and the pace at which it is evolving. To this end, CDP and CDSB noted sufficient resources exist for all affected companies to prepare a compliant report within the six-month timeframe.

► Early disclosures will likely be limited in their insights and level of detail, and will require businesses' practices to embed and mature before the quality of the disclosures and their supporting analyses improve. Individual businesses are competing for capital, customers and standing with various stakeholders and will want to ensure that there is a level playing field and that they have the time to put their best foot forward.

Guidance and support will be needed to raise standards and consistency, and it will take a little time for this to emerge and be widely adopted amongst disclosing entities. Setting a commencement date that balances the urgent need for action, emerging capability, the usefulness of the information being disclosed, and fairness for competing entities requires a better understanding of the current practice and the pace at which it is evolving. Officials should continue monitoring the situation once the disclosure obligations are finalised and provide further advice on commencement to the responsible Minister(s). ◀

– IAG

Q.34 Do you consider that smaller entities should be provided with a longer transition if there were to be no exemption for them? If so, how long should that additional period be?

We received 30 responses to this question, with 60 per cent of respondents (18) supporting smaller entities being provided with a longer transition period if there was no exemption. However, there was no clear consensus within responses on how long the additional period should be. Respondents' suggestions for transition periods are set out below (The number of times each class was raised by respondents is included in brackets.)

- one year (2)
- one to two years (4)
- two years (2)

- three years (2)
- three to five years (2)
- five years (1).

Three respondents reiterated there should be an exemption for smaller entities, therefore, no additional transition period was necessary. Conversely, three other respondents argued there should be no differentiation (including exemptions) for smaller entities.

Four respondents proposed smaller entities could be granted a less comprehensive disclosure requirement, thus removing the need for exemptions or a longer transition period.

Two respondents noted that, in any case, smaller entities would require greater awareness, education and clear frameworks. The regime could, therefore, encourage and enable voluntary reporting, reducing smaller entities' cost over time. Responsible Investment Association Australasia stated:

It may make sense to phase in the disclosure legislation so that larger companies, with better resources report early and report comprehensively, leading the way and providing examples for smaller companies. There is a circular challenge that this consideration provides due to the inability of larger companies, especially in the financial services sector, to adequately report until their smaller partners from within their supply chains, also do so.

Q.35 Do you have any views about the legislative means for implementing new mandatory (comply-or-explain) disclosure requirements?

We received 30 responses to this question, with no clear consensus or themes emerging. Five respondents felt existing regulations should be amended to avoid creating another form of reporting. Six others argued new regulations should be introduced to allow for greater flexibility, given the proposals are different in nature to the existing architecture for financial reporting.

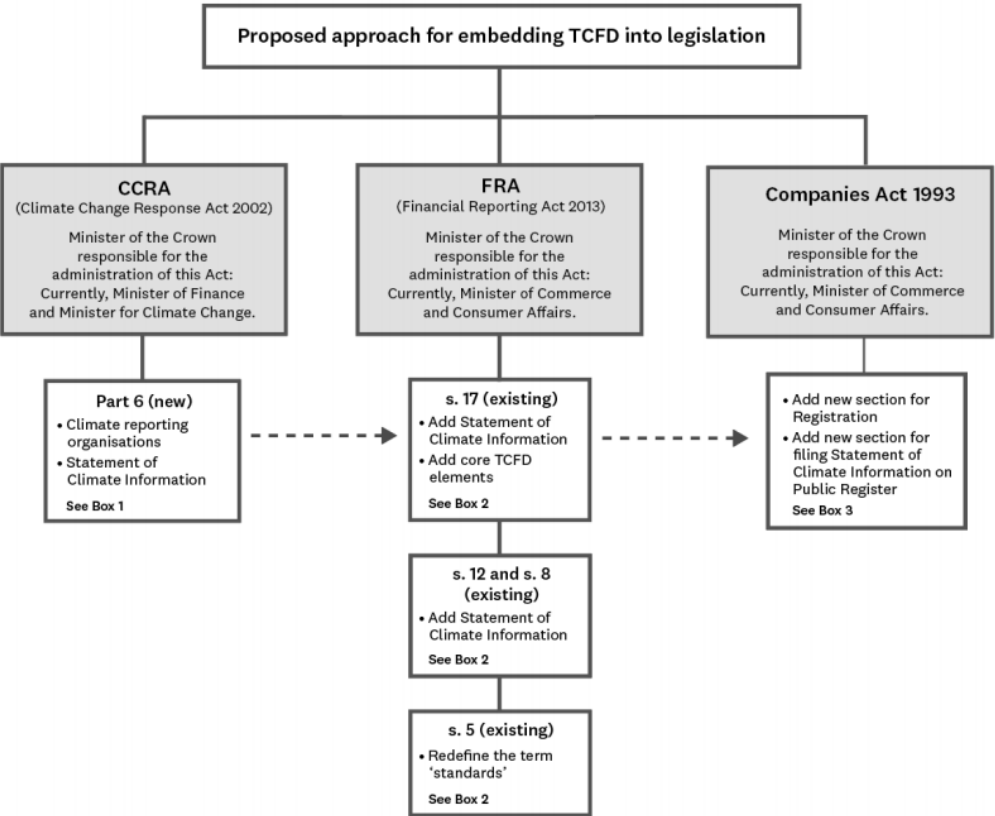
Respondents raised the following concerns. Any legislation must:

- have clear and precise requirements
- not conflict with existing reporting obligations
- provide appropriate liability
- avoid unintended consequences, for example creating investor pressure for smaller, non-mandated organisations within the supply chain
- allow a broader range of potential, additional ESG disclosures to be introduced at a later time.

As TCFD implementation remains at an early stage, regulation and standard setting should be separate. Several submissions stated the XRB should therefore play a role.

The McGuinness Institute proposed an alternative approach to embedding the TCFD in legislation (see figure 4). It argued this approach would provide regulators with the most cost-effective, durable and flexible framework in the short to medium term.

Figure 4: The McGuinness Institute proposed approach for embedding TCFD into legislation



Q.36 Do you consider that there is a role for government in relation to guidance, education, monitoring and reporting?

We received 54 responses to this question, with 89 per cent of respondents (48) considering there was a significant role for the Government in relation to guidance, education, monitoring and reporting. Four respondents felt there was a limited role for the Government, and one did not consider the Government best placed to provide such functions.

A recurring theme amongst respondents was the Government should focus on ensuring comparable and useful information. It could do so by developing consistent and clear tools to enable scenario analysis in a cost-effective manner that can be replicated across organisations (eg, an approved range of scenarios or standards for scenario analysis). Respondents also called for better, cost-effective access to New Zealand-specific data sets on a range of risks, as well as economic and social data.

For example, Air New Zealand stated the Government and industry should work closely together as we move toward implementation. Specifics of the requirements for implementation will arise from close collaboration with businesses and it may be that the Government has a role to play in facilitating sector-based guidance to encourage consistency in disclosures.

Beyond implementation tools, responses also called for greater guidance and clarity in understanding what was expected from organisations to be considered compliant. Several

respondents suggested holding workshops and distributing best practice case studies. Additionally, many respondents suggested monitoring disclosures and publishing findings (such as the quality of reporting, pathways for improvement) and highlighting relevant themes on risks and opportunities that emerged from the disclosures. These could be included on a central register or repository for disclosures.

Another theme was the need for a regulatory body with clear enforcement functions. There was a preference for a non-punitive approach in initial years, focusing instead on education and improving understanding of climate risks. Some respondents noted the need for these functions to be adequately resourced.

Two respondents suggested the Government itself undertaking TCFD would allow it to learn by doing and act as a role model. It is clear it will be important for the Government to work with industry to develop useful guidance.

Q.37 Are there other activities that a government agency could usefully carry out?

We received 37 responses to this question. Many respondents reiterated or echoed points raised in response to Q.36 (such as providing data sets and scenarios), so we have not repeated those responses.

A number of additional activities were suggested by respondents, as listed below.

- Scenario analysis from the RBNZ, alongside an assessment of financial stability.
- Provide national risk and climate-hazard data that entities can use in managing risk in the scope of mandatory reporting through the National Climate Change Risk Assessment process.
- In line with the Sustainable Finance Forum interim report recommendation,⁵ develop a credible and objective sustainability 'language' fit for New Zealand, linked to international standards.
- Create platforms to develop sector-level alignment in reporting approaches, methodologies and metrics to make reported information more comparable and enable the exchange of experience internationally.
- Improve the public's financial capability for investing in the context of climate change, including making available simple information and tools to support decision-making such as comparison websites.
- Reporting on the Government's actions in reducing or minimising transition risk to entities.

A key recommendation was if the Government does not introduce mandatory reporting, it has an important role in better education, monitoring and enforcement of disclosure to improve how disclosure works in practice under the current system.

⁵ [Sustainable Finance Forum](#), 2019. p 54–55.

Q.38 Which government agency or agencies will be best able to carry out these functions?

We received 31 responses to this question, with little consensus. Responses varied significantly, depending on the respondent's view of the regime's scope and the functions they felt government agencies should have.

The agencies, and reasons for them carrying out functions suggested, are set out below. (Note the number in brackets is the number of times respondents suggested this agency. Some responses named more than one agency.)

- Ministry for the Environment (MfE) – as initiators of the consultation and given its broad environmental remit and implementation of the related adaptation reporting requests under the Zero Carbon Act
- Climate Change Commission (CCC) – as it has a mandate to lead the transition and approach to adaptation and could develop scenario guidance aligned with recommended emissions budgets (7)
- Ministry of Business, Innovation and Employment (MBIE) – as initiators of the consultation and due to its interaction with the business community (5)
- Financial Markets Authority (FMA) – as it is well suited to monitoring and enforcement, given current jurisdiction and disclosures will be in annual reports, as long as it is sufficiently resourced (5)
- National Institute of Water and Atmospheric Research (NIWA) – with the function of modelling physical impacts of climate change and providing scenarios on which reporting entities can base their analysis (3)
- External Reporting Board (XRB) – as it is responsible for setting the financial reporting strategy and issuing standards for both financial reporting and auditing and assurance (3)
- Reserve Bank of New Zealand (RBNZ) – as it has a strong role in assessing financial stability and managing macroeconomic risks (1).

Several respondents recommended a cross-agency approach, with different agencies taking on different functions. Respondents also noted the importance of working with the NZX, Institute of Directors and business associations.

Q.39 What would you need to assist you with a full set of TCFD disclosures?

We received 31 responses to this question, many echoing responses to Q.36. Many respondents wanted access to robust, high-quality datasets (such as on emissions and physical, transition, ecological and economic impacts of climate change). They also wanted more information on the NZ ETS parameters and the Climate Change Commission's emissions budgets to ensure their reports are starting from a common baseline. The provision of New Zealand-specific scenarios would also reduce the cost of analysis and improve comparability of outputs.

Other responses suggested providing case studies of international best practice and access to workshops and training resources. A need for specific guidance on government expectations

was identified, including clarifying timeframes for analysis alongside feedback on the quality of disclosures.

Q.40 What information do you have about the cost implications relating to these proposals?

We received 33 responses to this question. Most respondents could not provide estimates for the cost implications of the proposals, and figures that were provided ranged widely.

One organisation estimated the cost of an initial report at more than \$100k, whereas an organisation that already had mature environmental measurement and reporting practices estimated its own cost at closer to \$20k per year. A climate services provider estimated scenario planning at around \$150k (if the entity was outsourcing analysis), with a further \$10 to \$20k for advisory services and reviewing annual reports. SkyCity Entertainment suggested a high-level indication of cost of around \$1m, noting this money could be better spent on other sustainability initiatives.

Costs are likely to arise from labour, data collection, training, hiring third party consultants or research providers, assurance, and establishing new processes and systems. In terms of proposed disclosures, greenhouse gas quantification and scenario analysis are likely to be the most costly aspects. Cost may be challenging for smaller entities, who will also be starting from a lower baseline of disclosure preparedness, thus incurring higher proportional net costs.

Costs for compiling a greenhouse gas inventory are likely to vary widely too. A bank suggested costs could amount from tens to hundreds of thousands of dollars depending on the entity. The costs would vary significantly depending upon a range of factors, such as the nature and size of the business, its liability and exposure to regulatory changes, its exposure to and changeability of consumer and investor expectations, and its investment strategies.

However, costs are anticipated to decline over time as reporting becomes standard practice, and the availability of tools and capability increases. Responders suggested Government could mitigate short-term costs by developing market guidance, tools and resources to help implementation. It was also argued costs would be higher if implementation was delayed.

Many respondents argued disclosure should be considered as an investment rather than a cost. Undertaking the exercise could improve resilience and understanding of risk, and increase investor confidence and financial stability. Some submitters contended the cost of inaction was far greater than the cost of compliance:

Costs are incurred through several activities, primarily the staff time required to undertake the analysis and some consultant assistance to ensure that the reporting is consistent with the guidance. However, it is our opinion that these internal costs should be routinely incurred by any organisation with exposure to climate change, as part of its long-term strategy development, and should not be seen as additional costs incurred due to the current proposal. (Meridian Energy)

BNZ, NZ Winegrowers and BusinessNZ stated officials had not done an adequate job of estimating the costs of proposals before releasing the discussion document.

Q.41 What information do you have about costs for specific types of reporting entities?

We received eight responses to this question. No respondents were able to provide further evidence.

CDP and CDSB suggested we review the UK's regulatory impact assessments of the Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013, as well as the European Commission's Non-Financial Reporting Directive.

Milford Asset Management has been investigating engaging a research provider who offers collection and aggregation tools for carbon metrics (including MSCI ESG, Sustainalytics, ISS-ESG, S&P TruCost). Preliminary investigations found the MSCI tool, for example, could cost upwards of NZ\$40,000 (the carbon analytics is part of a wider subscription package) and the ISS-ESG carbon analytics tool could cost approximately NZ\$6,500 per portfolio analysed.

Q.42 Do you have any other comments?

We received 38 responses to this question. Many of the respondents took the opportunity to offer help through further discussion and to provide information on their climate disclosure experience through voluntary channels.

A few respondents were concerned with the omission of proposals regarding consequences and enforcement. They equated a mandatory system without compliance to maintaining the status quo. One respondent strongly cautioned against relying on the strength of market forces to operate in lieu of a monitoring, enforcement and assurance framework.

Further consultation was suggested as proposals evolve and more specific details are decided upon. The Institute of Finance Professionals in New Zealand suggested a workshop approach similar to that used for the National Climate Change Risk Assessment. Respondents felt climate-related reporting is a rapidly changing area which needs continuous support and input from key stakeholders.

While respondents were generally supportive of the proposals, several stated the proposals did not go far enough given the considerable urgency to respond to climate change risk. Suggestions included increasing the scope of entities required to disclose and requiring action beyond providing information.

Conclusion

We will use the submissions received during consultation to inform the Government's final decisions about the proposed regime on climate-related financial disclosures.

We will seek agreement from Cabinet to make recommended changes. If ministerial and Cabinet approval is given, officials will begin the process of introducing new regulation.

It is our intention to work with affected entities and other government agencies to develop regulations and robust regulatory guidance, noting the feedback from the consultation that this is a rapidly developing area which would benefit from ongoing stakeholder input.

Submissions can be found on the Ministry for the Environment's website.

References

Chapman Tripp. October 2019. *Climate change risk – implications for New Zealand company directors and managed investment scheme providers: legal opinion*. Retrieved from <https://www.chapmantripp.com/Publication%20PDFs/Chapman%20Tripp%20Aotearoa%20Circle%20Climate%20Change%20Risk%20Legal%20Opinion.pdf> (14 February 2020)

Ministry for the Environment and Ministry of Business, Innovation & Employment. 2019. *Climate-related financial disclosures – Understanding your business risks and opportunities related to climate change: Discussion document*. Wellington: Ministry for the Environment.

Sustainable Finance Forum. October 2019. *Interim Report*. The Aotearoa Circle. Retrieved from https://static1.squarespace.com/static/5bb6cb19c2ff61422a0d7b17/t/5dd3b114d0279f0fb06e00f3/1574154539204/1013241_Sustainable+Finance+Report_FINAL_NEW+%28002%29.pdf (14 February 2020)

Task Force on Climate-Related Financial Disclosures (TCFD). 2017. *Final Report: Recommendations of the Task Force on Climate-related Financial Disclosures*.