

JULY 2024

Consultation: Guidance on references to climate statements in disclosure documents – proposed information sheet

About this consultation

The Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) is seeking feedback on a proposed information sheet that provides guidance for climate reporting entities (CREs) in relation to the following disclosure documents, in light of the climate-related disclosures (CRD) regime:

- any current or new Product Disclosure Statement (PDS) for their financial products
- the Other Material Information (OMI) on the offer register on Disclose for their financial products
- any Statement of Investment Policies and Objectives (SIPO) on the offer register on Disclose
- any annual report.

Setting out our guidance for CREs' disclosure documents in light of the new CRD regime contributes to our objective of promoting the confident and informed participation of businesses, investors and consumers in our financial markets.

Next steps

We welcome your feedback in response to the consultation questions at the end of this document, or any other matters related to the proposed guidance. Feedback closes on 30 August 2024. After this we will review submissions and finalise the information sheet.

This consultation is for climate reporting entities that are required to produce a PDS and related disclosure documents, their directors, and other interested parties.

It asks for feedback on the proposed information sheet setting out the FMA's guidance in relation to PDSs and related documents for climate reporting entities.

Proposed information sheet: References to climate statements in disclosure documents

This information sheet provides guidance about disclosure documents in relation to the climate-related disclosures (CRD) regime. It will be useful for climate reporting entities (CREs) that are required to produce a Product Disclosure Statement and other related disclosure documents, their directors, and other interested parties.

The FMA's role in the CRD regime

The main statutory objective of the Financial Markets Authority – Te Mana Tātai Hokohoko (FMA) is to promote and facilitate the development of fair, efficient, and transparent financial markets. We are responsible for independent monitoring and enforcement of the CRD regime set out in Part 7A of the Financial Markets Conduct Act 2013 (FMC Act).

About this information sheet

This information sheet provides guidance for CREs in relation to climate-related disclosures in the following disclosure documents:

- current or new Product Disclosure Statements (PDS) for their financial products
- the Other Material Information (OMI) on the offer register on Disclose¹ for their financial products
- Statements of Investment Policies and Objectives (SIPO) on the offer register on Disclose
- annual reports.

For the purposes of this information sheet, 'CRD regime' includes the requirements outlined in:

- [Part 7A](#) of the FMC Act; and
- the climate-related disclosure framework (CRD framework), including the Aotearoa New Zealand Climate Standards NZ CS 1, NZ CS 2, and NZ CS 3².

The FMC Act and the Financial Markets Conduct Regulations 2014 (FMC Regulations) prescribe disclosure requirements for entities that must use the offer register on Disclose in respect of their offers of financial products. These requirements are flexible enough to allow for the disclosure obligations specific to CREs. However, they don't specify where references to climate statements are most appropriately included in the PDS, or how much information or what type of information must be included.

¹ <https://disclose-register.companiesoffice.govt.nz/>

² More information about the Climate Standards is available [on the XRB website](#).

We will consider updating this information sheet if changes are made to the FMC Regulations that affect CREs, e.g. changes specifying where references to climate statements are to be included in the PDS, or the amount and type of information that must be included.

We recommend CREs consider the guidance in this information sheet regarding disclosures relating to climate statements.

Our [Climate-related Disclosures Monitoring Plan](#) published in June 2023 sets out our monitoring and enforcement approach to the CRD regime as a whole. It acknowledges that disclosure will evolve and improve over time, but also states that we expect CREs to make reasonable efforts to comply with the obligations in the CRD framework in the early years.

Our guidance note [Disclosure framework for integrated financial products](#) will also be relevant for some CREs.

Disclaimer

This document provides concise guidance for references to climate statements in disclosure documents. It does not constitute legal advice and should not be relied upon as such. Examples are provided purely for illustration. They are not exhaustive and are not intended to impose or imply particular rules or requirements.

1. PDS disclosure

Product Disclosure Statement content

Section 57 of the FMC Act requires the PDS and any register entry to contain all material information related to a regulated offer of financial products. The FMA considers that:

- the introduction of the CRD regime
- its effect on an issuer that is now classified as a CRE; and
- the climate statements of a CRE

are likely to be material information that may influence an investor's decision making. This would be particularly the case where climate risks are a material risk for the business.

Therefore, we are of the view that CREs that currently use a continuous issue PDS for a regulated offer need to consider whether their PDS and/or register entry should be updated. They should take into account what would be useful for investors, the CRE's particular circumstances and PDS space restrictions. Similarly, CREs that make new regulated offers need to consider what disclosures are appropriate.

We consider that the FMC Act and FMC Regulations are adequately flexible to allow for this disclosure to be made in a clear, concise, and effective manner.

Below we outline one way for CREs to comply with the statutory requirements to disclose all material information and present that information in an effective manner when referring to their climate statements in their PDS, including how much and what type of information is needed.

A brief disclosure explaining the issuer is a CRE and where their climate statements can be accessed, could be located in the “About” section of most types of PDS. This would be in:

- “About [name of issuing group]” section for debt³ and equity securities⁴
- “About [name of manager]” for managed investment products in managed funds⁵
- “About [name of manager]” for managed investment products in other schemes⁶.

In other types of PDS the disclosure could be in:

- “[Name of borrowing group] and what it does” for simple NBDT (non-bank deposit taker) debt securities⁷
- “About [name of issuing group]” for limited disclosure documents for bank debt securities⁸
- “About [name of issuer]” for limited disclosure documents for bank perpetual preference shares⁹.

The disclosure need not be lengthy, nor is it necessary to repeat or summarise the information in the climate statements. The main purpose of the disclosure is to alert investors to the issuer’s status as a CRE, and explain how to obtain a copy of the climate statements. Given existing word and page limits, the disclosure can be brief, as illustrated below.

Example for an equity issuer

[Name of issuer] is a climate reporting entity under Part 7A of the Financial Markets Conduct Act 2013. We are required to make annual disclosures called “climate statements” covering governance arrangements, strategy, risk management, and metrics and targets for mitigating and adapting to climate-related impacts. Our climate statements are included as part of our annual report and are on the Climate-related Disclosures Register, which can be accessed at <https://www.companiesoffice.govt.nz/all-registers/climate-related-disclosures/>.

³ Clause 7, Schedule 2 FMC Regulations

⁴ Clause 6, Schedule 3 FMC Regulations

⁵ Clause 43, Schedule 4 FMC Regulations

⁶ Clause 39, Schedule 5 FMC Regulations

⁷ Clause 4, Schedule 7 FMC Regulations

⁸ Clause 6, Schedule 9 FMC Regulations

⁹ Clause 5, Schedule 9A FMC Regulations

Example for a MIS manager

[Name of manager] is a climate reporting entity under Part 7A of the Financial Markets Conduct Act 2013. We are required to make annual disclosures called “climate statements” for [name of scheme/fund] covering governance arrangements, strategy, risk management, and metrics and targets for mitigating and adapting to climate-related impacts. The annual climate statements for [name of scheme/fund] are on the Climate-related Disclosures Register, which can be accessed at <https://www.companiesoffice.govt.nz/all-registers/climate-related-disclosures/> [and at disclose-register.companiesoffice.govt.nz/].

Where climate-related risk is a significant risk for an issuer

Where a climate-related risk is a significant risk to the business of the issuer, the issuer is required by the FMC Regulations to include information about the risk in the relevant risk section of the PDS.

For example, for equity issuers, if a climate-related risk creates a significant risk to the financial position, financial performance, or stated plans of the issuer then clause 42 of Schedule 3 of the FMC Regulations requires a description of the risk. Given the purpose of the PDS is to assist a prudent but non-expert person, it may be helpful in the risk description section for the issuer to refer investors to the issuer’s risk disclosures in its climate statements. If a climate-related risk is one of the most significant risk factors that could affect the value of the shares being offered, then clause 12 of Schedule 3 also requires a brief summary of the information that must be disclosed under clause 42 to be included in the Key Information Summary at the beginning of the PDS.

When to update your Product Disclosure Statement/register entry

Issuers that are CREs should consider updating their current continuous issue PDSs and/or their register entry within 12 months of the date of publication of the finalised information sheet, or when the PDS is next updated – whichever occurs first. Issuers can make the update with a replacement PDS or a supplementary document lodged under section 71 of the FMC Act.

This timeframe for updating the PDS and/or register entry is in line with our [Climate-related Disclosures Monitoring Plan](#) where we state we are initially taking a broadly educative and constructive approach to compliance with the regime, and moving to a more proactive regulatory role as the regime becomes established.

CREs that have a website should also promptly update the website to direct attention to their climate statements.

PDS for an Initial Public Offer

Disclosures that issuers should consider including in a PDS for an Initial Public Offer (IPO) where a company is not a CRE when it offers the IPO, but will become a CRE if the IPO is successful

Under Part 7A of the FMC Act, a listed equity issuer is a large listed issuer in respect of an accounting period if, as at the balance date of each of the 2 preceding accounting periods, it has quoted equity securities that have a total value, as implied by the market price, that exceeds \$60 million.

Where an issuer is likely to become a CRE if its IPO is successful, the issuer should consider including a brief disclosure in the “About [name of issuing group]” section of its PDS¹⁰.

Example

In the event the listing is successful [name of issuer] may become a climate reporting entity under Part 7A of the Financial Markets Conduct Act 2013. If so [name of issuer] will be required to make annual disclosures called “climate statements” covering governance arrangements, strategy, risk management, and metrics and targets for mitigating and adapting to climate-related impacts.

PDS for an offer of debt or equities

Disclosures that issuers should consider including in a PDS for a debt or equity issue where the issuer is not a CRE when it makes the offer, but will become a CRE if the offer is successful

Where an issuer is likely to become a CRE if its offer of debt or equities is successful, the issuer should consider including a brief disclosure in the “About [name of issuing group]” section of its PDS.¹¹

Example

In the event the offer is successful [name of issuer] may become a climate reporting entity under Part 7A of the Financial Markets Conduct Act 2013. If so [name of issuer] will be required to make annual disclosures called “climate statements” covering governance arrangements, strategy, risk management, and metrics and targets for mitigating and adapting to climate-related impacts.

¹⁰ Clause 6, Schedule 3 FMC Regulations

¹¹ Debt Clause 7, Schedule 2 FMC Regulations; Equities Clause 6, Schedule 3 FMC Regulations

2. Other material information

Where a CRE makes offers of financial products, do the CRE's climate statements have to be uploaded to the Disclose register as OMI, in addition to the new Climate-related Disclosures Register?

There is no mandatory requirement in the CRD regime for a CRE's climate statements to be uploaded to the Disclose register as OMI in addition to filing on the new Climate-related Disclosures Register.

However, the FMA considers that:

- the introduction of the CRD regime
- its effect on an issuer that is now classified as a CRE; and
- the climate statements of a CRE

are likely to be material information that may influence an investor's decision making. CREs should therefore consider their options in respect of filing climate statements in the light of section 57 of the FMC Act, and also what they say in the PDS about how to access the climate statements.

We note CREs should also have regard to the principles in the Aotearoa New Zealand Climate Standards to make the presentation of climate-related disclosures useful to investors. In particular the principle of coherence, which requires climate-related disclosures to be presented "in a way that allows primary users to relate information about [the entity's] climate-related risks and opportunities to the entity's financial statements".

Two good options for a CRE to consider in respect of its climate statements (where it is required to file its financial statements on the Disclose register) are to:

- file its climate statements on both the Disclose register as OMI and the new CRD register at the same time it files its financial statements; or
- file its climate statements only on the new CRD register, and cross reference that filing in the PDS and in any relevant document in the OMI.

Where the CRE is not required to file financial statements on the Disclose register¹², an option is for the CRE to consider filing its climate statements on both registers if climate risk is a key risk for its business.

3. SIPOs

Under the FMC Act, all Managed Investment Scheme (MIS) managers must ensure there is a Statement of Performance Objectives (SIPO) for each MIS they manage. Our [current guidance document on SIPOs](#) does not specifically address climate-related investment policies. However, it does state:

"You should consider including policies that are directly relevant to achieving the investment objectives and strategies of the MIS and any related operational matters. The FMA expects there will be an explanation of the policies set out in the SIPO. If the policies are available elsewhere then it may be preferable to provide a link to these."

¹² For example, for an offer of bank perpetual preference shares

In accordance with this current guidance, if a CRE's climate-related investment policies are directly relevant to achieving the investment objectives and strategies of the MIS, we expect the SIPO to include either an explanation of these policies or a link to them. We have a number of regulatory tools available, as well as providing specific guidance to large managers that are CREs, to ensure climate-related investment policies are appropriately covered in SIPOs.

4. Annual report

This section of the information sheet applies to every CRE that is required to prepare—

- a) climate statements or group climate statements, except managers of registered schemes; and
- b) an annual report under the Companies Act 1993 or any other law.

This section summarises the annual report requirements in Part 7A of the FMC Act and the Aotearoa New Zealand Climate Standards (including noting a class exemption notice that affects annual climate reporting for some categories of CREs).

A CRE may provide its climate-related disclosures (i.e. its climate statements) in a standalone document or within another document (for example, its annual report, or a sustainability or integrated report).¹³

Where the climate-related disclosures are provided within the annual report, the CRE also must include a table within the annual report clearly identifying the location of the climate-related disclosures prepared in accordance with the Aotearoa New Zealand Climate Standards.¹⁴

Section 461ZJ of the FMC Act requires each company that is required to produce an annual report to include in each annual report —

- a) a statement that it is a climate reporting entity for the purposes of the FMC Act; and
- b) a copy of the climate statements or group climate statements prepared by it, or the address of (or a link to) the Internet site where a copy of those statements can be accessed.¹⁵

¹³ See XRB NZ CS 3, para 14

¹⁴ See XRB NZ CS 3, para 15

¹⁵ Refer to the [Financial Markets Conduct \(Requirement to Include Climate Statements in Annual Report\) Exemption Notice 2023](#), which provides some transitional relief to some CREs in respect of this requirement.

Consultation questions

Number	Question
1.	What are your views on the proposed guidance for PDS content?
2.	What are your views on the proposed timing for updating each PDS?
3.	What are your views on the proposed guidance for OMI?
4.	What are your views on the proposed guidance for SIPOs?
5.	What are your views on the proposed information about annual reports?
6.	Is anything missing that should be included in the information sheet? Please explain.
7.	What are your views on the examples provided in the information sheet? Are they helpful? Are there any other examples we should include?
8.	Do you need any further guidance or support from the FMA in relation to disclosure requirements in relation to the CRD regime?

Feedback form

Consultation: Proposed guidance on references to climate statements in disclosure documents

Please submit this feedback form electronically in both PDF and MS Word formats and email it to us at consultation@fma.govt.nz with 'Consultation: Proposed guidance on references to climate statements in disclosure documents: [your organisation's name]' in the subject line. Thank you. **Submissions close on 30 August 2024.**

Date: Number of pages:

Name of submitter:

Company or entity:

Organisation type:

Contact name (if different):

Contact email and phone:

Question number	Response

Feedback summary – *if you wish to highlight anything in particular*

Please note: Feedback received is subject to the Official Information Act 1982. We may make submissions available on our website, compile a summary of submissions, or draw attention to individual submissions in internal or external reports. If you want us to withhold any commercially sensitive or proprietary information in your submission, please clearly state this and note the specific section. We will consider your request in line with our obligations under the Official Information Act.

Thank you for your feedback – we appreciate your time and input.