

Submission

to the

Financial Markets Authority

on the

Consultation: *Review of expiring
class exemption notices and
designations*

17 July 2025



About NZBA

1. The New Zealand Banking Association – Te Rangapū Pēke (**NZBA**) is the voice of the banking industry. We work with our member banks on non-competitive issues to tell the industry's story and develop and promote policy outcomes that deliver for New Zealanders.
2. The following seventeen registered banks in New Zealand are members of NZBA:
 - ANZ Bank New Zealand Limited
 - ASB Bank Limited
 - Bank of China (NZ) Limited
 - Bank of New Zealand
 - China Construction Bank (New Zealand) Limited
 - Citibank N.A.
 - The Co-operative Bank Limited
 - Heartland Bank Limited
 - The Hongkong and Shanghai Banking Corporation Limited
 - Industrial and Commercial Bank of China (New Zealand) Limited
 - JPMorgan Chase Bank N.A.
 - KB Kookmin Bank Auckland Branch
 - Kiwibank Limited
 - Rabobank New Zealand Limited
 - SBS Bank
 - TSB Bank Limited
 - Westpac New Zealand Limited

Contact details

3. If you would like to discuss any aspect of this submission, please contact:

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Introduction

4. NZBA welcomes the opportunity to provide feedback to Financial Markets Authority (**FMA**) on the Consultation: *Review of expiring class exemption notices and designations* (**Consultation**). NZBA commends the work that has gone into developing the Consultation.
5. Overall, we support the renewal of each of the below notices, primarily on the basis that the previous rationale in each case continues to apply. In each case, we are of the view that the costs involved in compliance – in the absence of the notice – would outweigh any benefit to users / investors.
6. We have set out more detailed responses on each of the notices that we support below, including potential consequences if the notices were not to be renewed.

Financial Markets Conduct (Requirement to Include Climate Statements in Annual Report) Exemption Notice 2023

7. NZBA supports the renewal of this class exemption. A large number of our members rely on this exemption, and would continue to do so if it remains available.
8. We propose that this renewal should be for a period of five years – with a further review of whether the exemption remains appropriate at that time – to allow sufficient time for the climate reporting regime to mature, and for upcoming changes to be finalised and bedded in.
9. Under s 461ZJ(2)(b) of the Financial Markets Conduct Act 2013, climate reporting entities (**CREs**) are required to include their climate statements, or a link to their climate statements, in their annual report. Registered banks and listed issuers are required to publish their disclosure statements (including their annual reports) or annual reports (respectively) within three months of their balance dates. Without this exemption notice, some banks and listed issuers would therefore need to publish their climate statements within three months of their balance date, rather than the four months contemplated under the climate-related disclosures (**CRD**) regime.
10. Additionally, some banks may elect to publish their disclosure statements earlier than required by statute, on dates that align with their parent's annual reporting timelines or to enable the prompt updating of funding programme offer documents. Without this exemption, those registered banks' climate reporting timeframes would be even more compressed.
11. Extending the exemption would allow banks and listed CREs the same four-month period that other CREs have to prepare climate statements. There are a number of reasons that CREs and primary users would benefit from this:



- 11.1. Climate statements are highly complex and descriptive documents, which can include future climate change projections (for example in scenario analysis disclosures). The challenge in meeting these requirements has been recognised by the XRB, who approved changes providing CREs with an additional year of relief from the disclosure and assurance of Scope 3 emissions and anticipated financial impacts.
 - 11.2. CRD reporting is still in a period of maturation and stabilisation, particularly where certain new reporting metrics are introduced (such as Scope 3 financed emissions for the 2025 reporting year). Full reporting is not yet embedded, and the collection of certain data remains a challenge.
 - 11.3. Banks may rely on third parties and / or customers for information for certain complex metrics (e.g. financed emissions and anticipated financial impacts of risk) that are critical to inform their reporting. Collecting this information from third parties often takes substantial time, especially when third parties are providing data for many of their customers. Shorter timeframes can result in less data being available up to the CRE's balance date, which may lead to the use of estimates for certain data points, in turn leading to the risk of less accurate methodologies. More time improves the reliability and integrity of climate statements.
 - 11.4. Overseas-owned banks need time to obtain relevant documents and data from their parents
12. Although this exemption was originally intended to be temporary, the challenges it was designed to address (i.e., implementing a new reporting regime) remain. The regime is still new and complex, and as noted above, a number of adoption provisions remain in place.
 13. As the regime matures and market practice is developed, we expect that many CREs will continue to invest significant time and effort over the next few years into improving their disclosures to make them as useful as possible to their primary users. An extension to the exemption would support banks and listed issuers to work through these challenges and continue to improve the quality of their climate statements.
 14. The exemption is subject to conditions that require the CRE to specify in its annual report where and when the climate statements will be made available. This ensures that investors reviewing an annual report will be able to easily locate the CRE's climate statements once they are available.
 15. The regime is also new to investors, many of whom are still working out how to incorporate climate reporting into their investment decisions. We consider that allowing climate statements to be published separately to financial statements, to



assist in preparing reports of the highest possible quality, is a worthwhile trade-off and consistent with the purposes of:¹

- 15.1. promoting efficient and transparent financial markets; and
 - 15.2. providing for timely, accurate and understandable information to be provided to investors to assist them to make decisions relating to financial products.
16. We also recommend that the extended exemption notice be amended to clarify that the exemption applies to all climate statements for accounting periods that end while the exemption is in force, even if the relevant climate statement is published after the exemption notice has expired.
17. We note this appears to be the FMA's policy intention,² but could be articulated more clearly in the exemption notice itself.

Financial Markets Conduct (Climate-related Disclosures – Overseas Banks and Insurers) Exemption Notice 2024

18. NZBA supports the extension of this exemption, as a number of our overseas members rely on it.
19. It is logistically challenging to have overseas-based directors of overseas banks across the specific detail and compliance requirements of climate statements that have been prepared specifically for New Zealand purposes, particularly where those directors are not directly involved in the preparation of the climate statements.
20. It would take a significant amount of time to provide sufficiently detailed explanations to overseas directors to the degree required to sign the climate statements, along with additional advice and education on all of the detail of Part 7A of the Financial Markets Conduct Act 2013 (**FMCA**) and local compliance requirements.
21. Directors would typically rely on local input and approval processes for a disclosure statement and financial reporting process that is well established and understood. This is already common practice for disclosure statements, which are permitted to be signed by an appropriate representative (typically the New Zealand-based CEO) under s 82 of the Banking (Prudential Supervision) Act 1989. In both respects, providing a New Zealand representative with the delegated authority to sign the statements is an efficient and effective process.
22. In the absence of a renewal, those members who rely on the exemption would face difficulties in arranging for two directors to sign climate statements. Boards typically

¹ Financial Markets Conduct Act 2013, ss 3 and 4.

² For example, the Consultation provides that "the exemption applies to all climate statements for accounting periods that end while the exemption is in force from 8 December 2023 to 7 December 2025" at page 12.



supervise multiple countries' branches: it would be both time- and resource-intensive to ensure directors are sufficiently briefed to ensure their comfort in signing climate statements, while adding no apparent benefit.

Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2021

23. NZBA supports renewal of this notice, on the basis that the rationale for its most recent renewal continues to apply. We understand that most of our overseas incorporated members rely on this notice.
24. The costs and regulatory burden of a requirement for an exempt entity to prepare New Zealand generally accepted accounting practice (**GAAP**) compliant financial statements, and have these audited, would far outweigh the benefits to investors. These costs would grow increasingly prohibitive the more jurisdictions a bank operates in.
25. Where the financial reporting required or permitted in an overseas jurisdiction, and the nature and extent of regulatory oversight for the exempt entities and their auditors, are of high quality and broadly equivalent to those that apply in New Zealand, there is no clear argument for requiring New Zealand-specific compliance.
26. In relation to Question 11, we have no comment on whether this similar signing requirement should be introduced. However, if this approach is decided on, care should be taken not to prohibit entities from having two directors sign their financial statements where this is practical for them. This could be achieved by either:
 - 26.1. including optionality in the conditions; or
 - 26.2. separating the exemptions in clause 6(b)(ii) (and corresponding conditions) from those in clauses 6(a) and (b)(i) to make it clear that overseas banks and issuers can choose not to rely on that part of the exemption, while relying on the remainder of it.

Financial Markets Conduct (Incidental Offers) Exemption Notice 2021

27. NZBA supports the renewal of this exemption because it provides an efficient way for overseas-listed issuers (including those with a secondary listing on NZX) to include their New Zealand investors in any offers to other investors.
28. The original rationale for granting this exemption continues to apply. The exemption applies only to listed issuers from well-regulated overseas jurisdictions, so New Zealand investors already benefit from the comparable protections of an issuer's home jurisdiction.



29. New Zealand investors who hold financial products issued by overseas-listed issuers (including dual-listed issuers) typically understand that the issuer may be regulated under the laws of its home jurisdiction rather than New Zealand law, and make the decision to accept that when purchasing the financial products. Relying on compliance with the laws of the issuer's home jurisdiction provides a cost effective, lower-risk way for overseas issuers to include New Zealand investors in offers to other investors.
30. If this exemption were not available, issuers would face additional:
 - 30.1. costs to ensure compliance with New Zealand law; and
 - 30.2. risk of inadvertent, technical non-compliance.
31. This could lead some issuers to exclude some or all New Zealand investors from offers that currently rely on this exemption.

Financial Markets Conduct (Overseas Banks Offering Simple Debt Products) Exemption Notice 2021

32. NZBA supports the renewal of this notice on the basis that the original rationale for this exemption continues to apply (for the reasons set out in the notice) and the conditions outline good practice in this context.

Financial Markets Conduct (Forward Foreign Exchange Contracts) Designation Notice 2017

33. We support the extension of this designation notice on the basis that the FMA's stated reasons for granting the designation (as set out in the designation notice) remain relevant and valid. Its renewal would be consistent with the purposes of the FMCA.
34. Short duration forward foreign exchange contracts are not, in economic substance, derivatives. Without the designation, short duration forward foreign exchange contracts would need to be offered under a derivatives issuer licence, or in reliance on the prescribed currency forwards exemption for registered banks. This would be a disproportionate outcome and may create confusion among investors about the economic substance of short duration forward foreign exchange contracts. Additionally, it could result in significant costs from changes to internal processes and customer documentation.
35. The impact would likely be greater for market participants offering foreign exchange services that do not currently hold a derivatives issuer licence, or could not rely on the prescribed currency forwards exemption for registered banks.
36. Compliance costs for market participants would depend on whether the issuer:
 - 36.1. already holds a derivatives issuer licence; or



- 36.2. could rely on other exemptions (such as those listed above).
37. In any event, those costs would not, in our view, outweigh the benefits to customers, given the simple nature of the products when compared with other products that, in economic substance, are derivatives.

Financial Markets Conduct (Overseas FMC Reporting Entities) Exemption Notice 2021

38. NZBA supports the extension of this exemption notice, which exempts overseas listed issuers from the obligation to prepare entity or group financial statements in accordance with GAAP in New Zealand. Instead, overseas listed issuers can prepare financial statements that comply with GAAP in their home jurisdiction.
39. The rationale for our support is the same as that set out in respect of the *Financial Markets Conduct (Overseas Registered Banks and Licensed Insurers) Exemption Notice 2021* at paragraphs 23-25 above.

Financial Markets Conduct (Disclosure Using Overseas GAAP) Exemption Notice 2022

40. NZBA supports the extension of this exemption notice, which allows certain overseas issuers to use their home jurisdiction's GAAP for financial information in a regulated offer of financial products.
41. We consider it would be helpful to retain this exemption to provide flexibility in situations where an overseas parent of a New Zealand-registered bank wishes to issue retail debt into the New Zealand market, or offer further shares in a way that would require a full product disclosure statement.