Submission on discussion document:
Adjustments to the climate-related disclosures regime

Your name and organisation

Name	Judene Edgar Principal Advisor – Governance Leadership Chapter Zero NZ Lead
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Organisation (if applicable)	Institute of Directors / Chapter Zero New Zealand
Contact details	Email: Judene.edgar@iod.org.nz Mobile: 021 541 927

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Responses to discussion document questions

About the Institute of Directors

The Institute of Directors (IoD) is New Zealand's pre-eminent organisation for directors, and is at the heart of the governance community. We have over 10,500 members connected through our regional branch network and national headquarters. We believe in the power of governance to create a strong, fair and sustainable future for New Zealand.

Our role is to drive excellence and high standards in governance. We support and equip our members who lead a range of organisations from listed companies to large private organisations, state and public sector entities, small and medium enterprises, not-for-profit organisations and charities.

Our Chartered Membership pathway aims to raise the bar for director professionalism in New Zealand, including through continuing professional development to support good governance.

About Chapter Zero New Zealand

The IoD is proud to be the host of Chapter Zero New Zealand, the national Chapter of the Climate Governance Initiative. The Climate Governance Initiative has Chapters in over 70 countries worldwide. A Chapter is a group of board directors in a particular country or region who have formed a network dedicated to enabling and empowering chairs, non-executive and independent directors to take climate action.

Chapter Zero NZ is guided by a steering committee made up of high-profile business leaders and is supported by a Working Group comprising corporate partners, collaborators and other climate change organisations across Aotearoa New Zealand. The mission of Chapter Zero NZ is to "mobilise, connect, educate and equip directors and boards to make climate-smart governance decisions, thereby creating long term value for both shareholders and stakeholders".

Our role in climate-related disclosures

The IoD has identified climate change as one of our Top Five Issues for Directors each year since 2018 – for 2025 our climate-related theme is *Climate as a competitive edge*, which aligns with the need to ensure New Zealand's capital markets and businesses are competitive. In addition to being part of their fiduciary duty, directors see climate action as a key leadership theme, which is evidenced by director member feedback in a range of surveys, including our annual Director Sentiment Survey and the Global Network of Director Institutes biennial survey. With this focus, boards have a very real opportunity to be a powerful force in taking action on climate-related issues and reducing the environmental impact of their organisations.

We fully support mandatory climate reporting requirements and consider them a vital step towards a sustainable future. To this end, we have been actively engaged with the climate-related disclosures (CRD) regime since it was first introduced, including submitting on the draft legislation and Standards.

It is noted that we also wrote to Ministers Bayly and Watts 23 September 2024 outlining our concerns about director liability. Our concerns have subsequently been expanded on in an article on the Chapter Zero NZ website which also includes a link to our letter to the Ministers.

Many of our members are directors of climate reporting entities (CREs) that are directly affected by the CRD regime. Meeting the Standards has been a challenging process for many CREs, even those that had previously been voluntary reporters. The potential liability of the legislation has raised concerns for directors, given the new and evolving state of data and advice being given.

Responses to discussion document questions

Chapter 2: Reporting Thresholds	
1	Do you have any information about the cost of reporting for listed issuers?
	Currently, the sentiment from directors is that the investment – from internal resourcing and upskilling, to external support – and benefits are out of balance. Anecdotally, directors have informed us that the climate reporting standards are resulting in due diligence processes and associated or related costs that far exceed those for financial reporting, particularly in terms of market disclosures. Figures provided range from low to mid-$000,000. In particular, the focus on managing legal liability – exacerbated by a scarcity of best practice, and the complexity of the effort required to produce the information needed to comply with the disclosure requirements – has added to the cost. While expectations are that, as maturity increases, systems and processes are established, and all parties involved (including external experts) increase their experience with the requirements, the costs may reduce, legal advice on the liability settings suggests this aspect will remain under the current settings and the cost of assurance will add to this again.
2	Do you consider that the listed issuer thresholds (and director liability settings) are a barrier to listing in New Zealand?
	As noted in the Discussion Document, Australia has adopted a tiered implementation approach with reporting requirements for Groups 1, 2 and 3 being phased in over several years. Group 3 entities' first annual reporting starts for the period on or after 1 July 2027. For those who meet the two-out-of-three criteria tests, while they may have some time reprieve, they will ultimately still need to report if they meet the materiality requirements. For those who meet the criteria test for Group 3 entities that do not consider they meet the materiality requirements, they are still required to disclose a statement that they have no material risks or opportunities as well as an explanation as to how this conclusion was reached (subject also to assurance). New Zealand similarly notes information required by the Climate Standards must be disclosed if it is (based on the judgement of the entity) material, and that immaterial information should be eliminated. The Australian regime will apply to a significantly wider group of entities than the New Zealand regime, including both listed and unlisted public and large private companies. Once the Australian regime has been fully implemented, some of the perceptions about New Zealand's regime may shift, including that it is a barrier to listing. Further, as more countries adopt climate-related disclosures, it will become a business norm as businesses are increasingly required to meet overseas standards, regulations, trade agreements and legislation. Nonetheless, liability settings remain a key issue for boards and may impact listing decisions. To address these concerns, we believe that differential climate-related reporting through the Climate Standards is the most appropriate mechanism as outlined further below.

	When considering the listed issuer reporting threshold, which of the three options do you prefer, and why?
3	Due to the significance of the reporting burden and liability settings for climate reporting entities, we note below (see question 13) that our preference is for thresholds to be located in primary legislation to give ongoing certainty and confidence for reporting. However, to align with Australia's regime requires legislative change which would not be adopted until approximately early 2026, and the potential of a stop-start approach to reporting. We recognise the option for differential reporting, as proposed by the XRB, as a methodology to address the threshold issues and that there is an inherent simplicity in this. Further, the introduction of differential reporting could be a more timely approach to mitigating the issues identified with issuer reporting thresholds. However, there remains insufficient details on the proposed differential reporting to enable a clear preference of approach and the preference will reflect the type and size of entity (to this end, we note the NZX has submitted supporting legislating an increase in thresholds). If regulatory arbitrage is the primary concern, it is noted that while Australia's regime may appear more beneficial in the short-term, within the mid-term their requirements, particularly in relation to full assurance, are potentially more onerous. A primary benefit of being part of the mandatory CRD regime is consistency of reporting (and reading) which supports investment decisions. In the short-term, focussing on the materiality of information to be reported presents potential benefits to all of NZ's CREs.
	If the XRB introduced differential reporting, would this impact on your choice of preferred option?
4	Having read the document released by the XRB in December 2024, we believe that differential reporting provides an elegant and timely solution to the concerns outlined in the Discussion Document. As the first country to implement a mandatory reporting regime, we did not have the benefit of learning from others' experiences and analyses. Despite this, there is now a raft of data from other countries that can now be evaluated. By bringing forward this element of the post-implementation review, and reviewing how Australia, the European Union and other jurisdictions have scaled climate-related reporting for entities, we can learn from their approaches, and consider how these best relate, in particular to smaller New Zealand entities. We do not believe that legislative solutions and differential reporting are mutually exclusive, and both provide good approaches to address the various issues outlined in the Discussion Document.

	Do you think that a different reporting threshold for listed issuers should be considered (i.e., not one of the options above) and, if so, why?
5	We consider that the options and issues are well traversed within the Discussion Document. However, we would also support the CRD framework being applied to private or unlisted entities. We do not believe there is any reason to differentiate between listed and unlisted entities given the purpose of the CRD framework is to ensure the effects of climate change are routinely considered in business, help entities better demonstrate consideration of climate issues, and to smooth New Zealand's transition to a more sustainable low-emissions economy. New Zealand's legislation does not cover large, privately owned businesses and it therefore creates an unlevel playing field between public and private companies regarding emissions reporting and transparency. Private and unlisted entities are included in the CRD regime in other jurisdictions meaning the New Zealand regime does not align with other countries (including but not limited to Australia). Similarly, as highlighted in the Discussion Document, over 80% of New Zealand's exports by value are going to markets that have mandatory ESG reporting in force or proposed. Companies that meet mandatory disclosure standards can find it easier to access global markets, particularly jurisdictions with strict ESG regimes, and are generally better positioned to meet supply chain partner expectations.
	If Option 2 or 3 was preferred do you think that some listed issuers would still choose to voluntarily report (even if not required to do so by law)? And, if so, why?
6	While we do not have specific evidence, we consider it is probable many listed issuers would continue to voluntarily report their climate risks and opportunities (as they did prior to mandatory disclosures) due to: - **Improved risk management** – identifying risks, proactive measurement, and building long-term resilience. - **Enhanced investor and stakeholder confidence** – maintains transparency and accountability, meeting stakeholder expectations, and access to sustainable finance. - **Strengthened reputation and market position** – leadership position, builds customer trust, and provides brand differentiation. - **Unlocking opportunities** – costs savings/efficiencies, driving innovation, and securing/maintaining competitive advantage. - **Alignment with global standards and trade expectations** – global alignment, market access and supply chain integration. - **Facilitating long-term strategic planning** – informed long-term strategic decision-making and helping prepare for future scenarios. - **Supporting national and global climate goals** – contributing to New Zealand's Nationally Determined Contribution, and collaboration with industry and government. We note that regardless of the CRD framework, in the NZX Corporate Governance Code recommendation 4.3 recommends that an issuer should provide non-financial disclosure at least annually, including in respect of environmental factors and practices. In addition, recommendation 6.1 recommends that an issuer should report the material risks facing the business and how these are being managed (with the Code commentary noting that these may include ESG factors). Issuers of equity securities are required to report the extent to which they have complied with Code recommendations in their annual corporate governance reporting under NZX Listing Rule 3.8.1(a). Similarly, signatories to the United National Principles for Responsible Investment are required to report on their responsible investment activities each year. Further, where an issuer has investors who have adopted the NZ Stewardship Code, there is likely to be greater demand for climate reporting given the obligations these investors have to incorporate material ESG matters in their investment decision-making, and to report the effectiveness of their stewardship practices.

7	What are the advantages and disadvantages of a listed issuer being in a regulated climate reporting regime?
	Some of the key advantages of inclusion in the CRD framework are outlined in question 6 above. In addition to the advantages listed above, there are key advantages to being part of a mandatory regime as opposed to a voluntary one including: - Increased credibility and investor confidence in disclosures - Consistency and comparability of disclosures - Greater stakeholder accountability, engagement and trust - Facilitated access to global markets Under the current CRD reporting regime the key disadvantage identified by directors has been the liability that attaches to directors. IoD does not consider the nature of climate-related disclosures warrant personal criminal liability for directors, given the inherent difficulties in measuring the matters that are required to be disclosed. The effect of this is a significant cost on publicly listed companies related to additional legal fees and assurance. Other issues that have been raised, that have already been traversed in the Discussion Document and this submission include the cost associated with reporting (particularly though as it relates to director liability), timing of returns, assurance, and access to and efficacy of data.
8	Do you have information about the cost of reporting for investment scheme managers?
	We do not have information about the costs of reporting for investment scheme managers.
9	Do you have information about consumers being charged increased fees due to the cost of climate reporting?
	We do not have any data relating to consumers being charged increased fees due to the cost of climate reporting.
10	When considering the reporting threshold for investment scheme managers, which of the three options do you prefer, and why?
	We support Option 3 ($5 billion per scheme) which would align with the approach taken in Australia. We consider that the current CRD reporting thresholds for investment scheme managers are significantly different to the thresholds that will apply in Australia, and could act as a disincentive for investment scheme managers operating in New Zealand.
11	If the XRB introduced differential reporting, would this impact on your choice of preferred option?
	We consider it would be useful for the XRB to introduce differential reporting standards for investment scheme managers, to reflect that these reporting entities are reporting the emissions of entities in which their funds invest. While we support differential reporting, we acknowledge the benefits of core aspects of the regime being within primary legislation (refer question 13).

12	Do you think that a different reporting threshold for investment scheme managers should be considered (i.e., not one of the options above) and, if so, why?
	As noted above, and as outlined in the Discussion Document, differential reporting allows for a tailored implementation, ensuring that reporting obligations are commensurate with the size and complexity of the entities involved, however full details of this proposal are yet to be fully developed.
13	When considering the location of the thresholds, which Option do you prefer and why?
	We consider it is appropriate for the thresholds to be included in primary legislation, given the significance of the reporting burden and liability settings for climate reporting entities (even if the proposals to alter the liability settings contained in the Discussion Document are affected). The time and cost involved in preparing climate statements is significant, and it is important for entities to have certainty as to whether and when they will fall within the regime.
14	For Option 2 (move thresholds to secondary legislation) what statutory criteria do you think should be met before a change may be made, e.g., a statutory obligation to consult. What should the Minister consider or do before making a change?
	While we don't support this option, if the reporting thresholds were moved to secondary legislation, we consider there should be a statutory obligation to consult on the changes, and a requirement that the thresholds are not set at a level that is lower than necessary to achieve the purposes of the legislation.
Chapter 3: Climate reporting entity and director liability settings	
15	When considering the director liability settings, which of the four options do you prefer, and why?
	We support Option 3 (amend section 534 by repealing section 534(1)(cb) and amend section 23). We consider Option 3 would address the concerns articulated in paragraph 102 of the Discussion Document which clearly sets out the concerns raised by directors in relation to the current liability settings. Of note, we agree with your assessment in relation to temporary safe harbour settings and time-restricted protections from civil actions. We consider Option 3 to be appropriate given the need to incentivise the right behaviours and to nonetheless drive transparent, timely reporting and climate action. Legislation is an important tool for aligning corporate behaviour with long-term sustainability, and liability settings are important in driving this, and there needs to be consequences for knowingly failing to report or comply with the Standards. Accordingly, we note that director liability would remain under section 461ZG which creates liability for a director who knowingly allows climate statements to fail to comply with the Standards at the time of lodgement.
16	Do you have another proposal to amend the director liability settings? If so, please provide details.
	We are happy with the proposed options and support Option 3.

17	If the director liability settings are amended do you think that will impact on investor trust in the climate statements?
	We do not consider the proposed amendments will negatively affect investor trust when relying on climate statements and note that the changes would bring them in line with other jurisdictions, including but not limited to Australia. The proposed amendments to the director liability settings will not remove the broader liability framework which retains director liability where a director knowingly allows climate statements to be lodged which do not comply with the climate standards, and broader liability for climate reporting entities. We consider investors will continue to take confidence that the FMA is monitoring climate statements for compliance with the climate standards. We also consider the modified liability settings will continue to be sufficient to incentivise reporting entities to ensure their climate statements comply with the Standards.
18	If you support Option 3, should this be extended so that section 23 is disapplied for both climate reporting entities and directors? If so, why?
	We do not support section 23 being disapplied for both directors and climate reporting entities (rather we prefer it to be amended as outlined in question 15).
19	If you support Option 4 (introduce a modified liability framework, similar to Australia) what representations should be covered by the modified liability, i.e., should it cover statements about scope 3 emissions, scenario analysis or a transition plan, and/or other things?
	We do not support Option 4. In addition to the comments provided in the Discussion Document relating to timing, we consider Option 3 is preferable to a modified liability period as applies in Australia, noting also that the class action culture in Australia differs from New Zealand's, and the broader CRD liability framework differs from the framework in Australia including that under Option 3 liability will remain for climate reporting entities and directors where there is an element of knowledge.
20	If you support the introduction of a modified liability framework, how long should the modified liability last for? And who should be covered, i.e., should it prevent actions by just private litigants, or should the framework cover the FMA as well? (Criminal actions would be excluded)
	We do not support Option 4. However, if it were to be adopted, we consider the timing needs to take into account the evolving nature of reporting, especially the inclusion of scenarios, transition planning and assurance over Scope 3 emissions. As noted above, we do not have the same class action culture regime in New Zealand as Australia, so believe that policy settings need to reflect this also.

Chapter 4: Encouraging reporting by subsidiaries of multinational companies	
21	Do you think that there would be value in encouraging New Zealand subsidiaries of multinational companies to file their parent company climate statements in New Zealand?
	We do not have strong views on this subject, but nonetheless provide the following thoughts for your consideration. There could be some confusion if the parent company's climate statements are filed on a New Zealand register, especially if they do not meet our Standards (but those where the parent company is domiciled). It may also not be the natural place for people to look for the climate statement of a parent company, unless it was grouped with the New Zealand subsidiary. Nonetheless, we support transparency and believe that it would be beneficial for foreign parent companies to be required to make their climate statements available via the New Zealand subsidiaries' website, rather than through a separate register.
22	Do you think that, alternatively, there would be value in MBIE creating a webpage where subsidiaries of multinational companies could provide links to their parent company climate statements?
	Please refer to our response to question 21.
Final comments	
23	Please use this question to provide any further information you would like that has not been covered in the other questions.
	Mandatory climate-related disclosure requirements is a critical step in getting directors to consider the impacts of climate change in decision-making. The obligation that legislation imposes serves as a cornerstone for driving compliance and encouraging behavioural change. Liability settings are important in driving the much-needed changes, and there needs to be consequences for knowingly failing to report or comply with the Standards. However, while legislation can be a powerful tool to drive behaviour change and incentivise sustainable outcomes, the current liability settings resulted in directors navigating a landscape where some found the fear of legal repercussions stifled meaningful disclosures, ultimately hindering the very transparency the regulations are meant to promote. This chilling effect on disclosure underscores the need to balance accountability with the freedom to report fully and honestly. Without this balance, legislation designed to promote sustainability risks becoming a barrier to it. For New Zealand's directors, climate-related disclosures are more than a compliance exercise; they represent a strategic imperative. To maintain a competitive advantage, global standing and drive meaningful climate action, New Zealand must evolve its legal frameworks to encourage honest, forward-thinking reporting. By reassessing liability provisions, policymakers can ensure that legislation remains a force for positive change – promoting transparency, innovation, and sustainability. Ultimately, the goal of legislation should be to guide businesses towards a sustainable future, not to trap them in a cycle of fear and risk aversion. We do not support a "backing off", rather we acknowledge that with thoughtful reform, New Zealand can achieve the right balance, ensuring that climate disclosures serve their intended purpose: to foster resilience, accountability and progress in the fight against climate change.