

House of Representatives

Supplementary Order Paper

Wednesday, 29 September 2021

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

Proposed amendments

Hon Todd McClay, in Committee, to move the following amendments:

Clause 7

In *clause 7*, after *new section 461S(2)* (page 15, after line 18), insert:

- (3) Every climate reporting entity to which an exception in **section 461ZAA** applies must ensure that there are kept at all times records that—
 - (a) will enable the climate reporting entity to ensure that—
 - (i) the determination required by **section 461ZAA** is made in accordance with applicable climate standards; and
 - (ii) the document required by **section 461ZAB(1)(b)** complies with **section 461ZAB(2) and (3)**; and
 - (b) will enable the assurance engagement required by **section 461ZAB(1)(a)** to be readily and properly carried out.

In *clause 7*, after *new section 461ZA* (page 19, after line 3), insert:

Exceptions

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

- (1) A climate reporting entity (A) is not required to prepare climate statements or group climate statements under **section 461W or 461X** for an accounting period if, in accordance with applicable climate standards, A reasonably determines that the activities of A or

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

461ZAB Conditions applying to exceptions

- (1) A climate reporting entity (A) may not rely on an exception in **section 461ZAA** that applies to A unless—
 - (a) A obtains an assurance engagement with a qualified CRD assurance practitioner in relation to A's determination under that section; and
 - (b) A prepares a document that complies with **subsections (2) and (3)**; and
 - (c) A delivers to the Registrar for lodgement, and to the FMA, within 4 months of A's balance date, a copy of—
 - (i) the document referred to in **paragraph (b)**; and
 - (ii) the assurance practitioner's report.
- (2) The document required by **subsection (1)(b)** must—
 - (a) contain a statement by A to the effect that A has reasonably determined, in accordance with applicable climate standards, that the relevant activities are not materially affected by climate change; and
 - (b) contain an explanation by A as to how A has reached that determination.

- (3) The document (including A’s statement and explanation contained in the document) must comply with applicable climate standards.
- (4) In **subsection (2), relevant activities** means,—
 - (a) if A is relying on an exception in **section 461ZAA(1)**, the activities of A or A’s group:
 - (b) if A is relying on an exception in **section 461ZAA(2)**, the activities of A’s New Zealand business or A’s group’s New Zealand business:
 - (c) if A is relying on the exception in **section 461ZAA(3)**, the activities of the fund:
 - (d) if A is relying on the exception in **section 461ZAA(4)**, the activities of the scheme.

In *clause 7*, new *section 461ZC(1)(a)(iv)*, replace “; and” (page 21, line 9) with “:”.

In *clause 7*, after new *section 461ZC(1)(a)(iv)* (page 21, after line 9), insert:

- (v) the document prepared by the entity under **section 461ZAB** or the determination made by the entity under **section 461ZAA** to which the document relates; and

In *clause 7*, after new *section 461ZO(1)* (page 26, after line 21), insert:

- (2) However, if the climate reporting entity has relied on an exception in **section 461ZAA**, the address or link required by **subsection (1)(b)** is the address of, or link to, the Internet site where copies of the following can be accessed:
 - (a) the document referred to in **section 461ZAB**; and
 - (b) the assurance practitioner’s report.

Clause 20D

In *clause 20D*, new *section 461ZDB(1)*, after “**sections 461W to 461Z**” (page 33, line 16), insert “, or for an assurance engagement under **section 461ZAB**”.

Schedule 1

In *Schedule 1*, new *Part 7 of Schedule 4*, after *clause 93* (page 45, after line 6), insert:

- 94 Assurance engagement obligations relating to exceptions do not apply until 1 January 2025**
 - (1) **Section 461ZAB(1)(a) and (c)(ii)** (which relates to assurance engagement matters as conditions of exceptions) applies on and from 1 January 2025.
 - (2) The provisions in **sections 461ZD to 461ZDE** (as inserted by **section 20D** of the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Act 2021) apply, to the degree that

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those provisions relate to **section 461ZAB**, on and from the date set out in **subclause (1)**.

Explanatory note

This Supplementary Order Paper amends the Financial Sector (Climate-related Disclosures and Other Matters) Amendment Bill. The bill as reported from the select committee removes the “explain” part of the “comply-or-explain” requirements, meaning businesses who are not materially affected by climate change must still report and incur the associated compliance costs. The comply-or-explain approach was a fundamental component of this bill as originally introduced. Under the bill as reported from the select committee, firms will be required to prepare climate statements even if their operations will not be materially affected by climate change. The “comply-or-explain” approach should be reinstated into the bill as originally introduced.