
CHAMBERS GLOBAL PRACTICE GUIDES

ESG 2025

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New Zealand: Law & Practice

Hannah Bain, Hannah Wilson and John Powell
Russell McVeagh



NEW ZEALAND

Law and Practice

Contributed by:

Hannah Bain, Hannah Wilson and John Powell
Russell McVeagh



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Russell McVeagh is a top-tier law firm in New Zealand with offices in Auckland, Wellington, Queenstown and Dunedin. The firm advises on the full spectrum of sustainability and ESG law and policy issues. It brings together market-leading experts from specialist areas to provide tailored, practical advice to help organisations with their governance, risk-management, culture and conduct, and compliance needs. The Russell McVeagh team supports businesses with

their ESG transition by drawing on its deep experience navigating change in regulated contexts, and its extensive network of relationships with both private sector and government stakeholders. Russell McVeagh also leads the market in advising on sustainability-linked and green-based borrowing, and advises on climate-related projects, including in relation to solar, wind and hydrogen renewable power.

Authors



Hannah Bain is a special counsel at Russell McVeagh and leads the firm's climate change practice. She advises clients on a wide range of issues relating to the transition to a low-emissions, climate-resilient future, including mandatory climate-related disclosures, greenwashing risk, the emissions trading scheme and climate-related litigation. Hannah leads the firm's work on the implementation of New Zealand's mandatory climate-related disclosures regime, and advised the Climate Change Commission in connection with its review of the 2050 emissions-reduction targets under the Climate Change Response Act 2002. Hannah is a member of the New Zealand Law Society's Climate Change Law Reform Subcommittee.



Hannah Wilson is a partner at Russell McVeagh and advises clients on all aspects of corporate and commercial transactions, including domestic and cross-border M&A, complex

commercial contracting, joint ventures and shareholder arrangements. She has broad experience assisting clients in relation to ESG governance and ESG supply chain risks. Hannah regularly works with New Zealand's largest corporates to deliver innovative solutions to their most strategically important and complex commercial transactions.



John Powell is a partner at Russell McVeagh and is a specialist in sustainable lending, asset, development, corporate and acquisition finance, complex debt restructuring solutions, export credit financing and specific asset, lease and supply-chain financing arrangements. John provides expert advice to banks, mezzanine funders and borrowers/issuers. He is sought out for his expertise in the New Zealand sustainable finance market.

Russell McVeagh

Level 30,
Vero Centre
48 Shortland Street
PO Box 8
Auckland 1140
New Zealand

Tel: +64 4 819 7865
Email: hannah.bain@russellmcveagh.com
Web: www.russellmcveagh.com

**Russell
McVeagh**

1. Introduction

1.1 General ESG Trends

New Zealand's legal and regulatory landscape in relation to environmental, social and governance (ESG) matters is continuing to evolve. Regulation of ESG issues has been fragmented, and to date New Zealand has not introduced comprehensive frameworks covering all aspects of corporate ESG. However, New Zealand is an early adopter of mandatory climate-related disclosures and has an established legislative framework in relation to climate change under the Climate Change Response Act 2002 (CCRA).

In 2025, reports under New Zealand's recently introduced mandatory climate-related disclosures regime (the "CRDs regime") continued to be published, marking the second time that most entities have produced annual climate statements under that regime. The CRDs regime was introduced under the Financial Markets Conduct Act 2013 (the "FMC Act") for certain large organisations known as "climate-reporting entities" (CREs). Starting from financial years commencing on or after 1 January 2023, CREs are required to prepare and lodge on a public register climate statements that comply with climate standards issued by the External Reporting Board (XRB). The XRB's Aotearoa New Zealand Climate Standards (NZ CS) follow the four themes originally promulgated by the Taskforce on Climate-Related Financial Disclosures, being climate-related governance, strategy, risk management, and metrics and targets. CREs also have obligations to keep "CRD records". CREs with subsidiaries need to prepare their climate statements on a group basis.

Like many overseas jurisdictions, ESG has arguably played a less prominent role in political discourse in 2025 than it has in previous years, reflecting a shift of focus towards cost-of-living pressures and geopolitical instability. The current government has also shifted away from the previous government's focus on direct policy interventions to support the transition to a low-emissions, climate-resilient future. However, there have been some key political and legal developments in 2025, including the introduction of a less ambitious domestic emissions reduction target for methane alongside other changes to New Zealand's

overarching climate architecture, a narrowing of the climate-related disclosures regime, and the introduction of a controversial Members' Bill that endeavours to prevent financial institutions from withdrawing services from customers for "non-commercial" ESG reasons.

Details of other changes in ESG laws and regulations are set out in the sections that follow, including in relation to modern slavery (see **1.3 Social Trends** and **4.1 Soft Law Becoming Hard Law**), directors' duties (see **1.4 Governance Trends** and **2.3 Role of Directors and Officers**) and stock exchange listing rules (see **2.2 Differences Between Listed and Unlisted Entities**).

1.2 Environmental Trends

Under the CCRA, New Zealand has to date enjoyed a relatively stable overarching climate change architecture, including a "net zero by 2050" target (for all gases other than biogenic methane) and a framework for the government to produce emissions budgets and associated emissions reduction plans. The CCRA also provides for the government to produce a rolling series of reports and plans in relation to climate change adaptation. It also establishes an independent Climate Change Commission, responsible for advising the government in relation to climate change mitigation and adaptation.

In October 2025, the government announced that it would weaken New Zealand's 2050 domestic emissions reduction target for methane in the CCRA from a 24–47% reduction against 2017 levels to a 14–34% reduction. This change reflects the outcome of a review of New Zealand's methane target by an independent advisory group, which was tasked with reviewing methane science and the 2050 target for consistency with the concept of "no additional warming" from agricultural methane. This change will be passed into legislation under urgency by the end of 2025.

Most recently, in November 2025 the government announced a suite of other changes to the CCRA, including (but not limited to):

- amending the purpose of the CCRA to refer to "efficient and effective" policies;

- removing the requirement for price and unit settings in the New Zealand Emissions Trading Scheme (NZ ETS) to accord with New Zealand's nationally determined contributions under the Paris Agreement;
- removing the Climate Change Commission's role in routinely advising the government in relation to emissions reduction plans (although it will still advise on emissions budgets); and
- substantially reducing the requirements for public consultation on emissions budgets.

Outside the CCRA, there remain substantial differences between New Zealand's major political parties on the details of how New Zealand should respond to ESG issues. The current government has progressed a number of key changes in relation to climate change and environmental regulation, including:

- producing a draft second emissions reduction plan under the CCRA, which was finalised in December 2024;
- undertaking a cross-party inquiry into climate change adaptation, and publishing a high-level National Adaptation Framework in 2025;
- discontinuing the prior government's review of the New Zealand Emissions Trading Scheme (NZ ETS);
- passing legislation to restrict the extent to which productive farmland can be converted into forestry eligible for registration in the NZ ETS;
- reversing the prior government's ban on offshore oil and gas exploration;
- implementing a public electric vehicle (EV) charger network expansion plan;
- implementing changes to resource management and related laws, with a view to making approvals, permits and consents more efficient for a range of projects (including in relation to renewable energy); and
- announcing that it is working with the private sector on a sustainable finance framework, including the development of a sustainable finance taxonomy.

In 2024 and 2025, there have been a number of significant case law developments in relation to the "E" in ESG. These include the following.

In February 2024, the Supreme Court of New Zealand issued its much-awaited decision in *Smith v Fonterra* [2024] NZSC 5, the first case to be brought in New Zealand seeking to hold private parties liable in tort for damage caused by climate change. The Supreme Court determined that the claim can proceed to trial. The question before the Supreme Court was simply whether the claim ought to be struck out (on the basis that it raised no reasonably arguable cause of action), so the decision does not determine whether the defendants are in fact liable to Mr Smith. However, the case is significant because it leaves open the possibility of corporates facing tort-based liability in New Zealand in respect of greenhouse gas emissions produced by their activities.

In March 2025, the Court of Appeal of New Zealand issued its decision in relation to an appeal against the High Court of New Zealand's decision in *Lawyers for Climate Action New Zealand Incorporated v the Climate Change Commission* [2023] NZCA 443. That case related to the approach adopted by the Climate Change Commission in its May 2021 advice to the government in relation to emissions reduction pathways. The Court of Appeal dismissed the appeal, finding that the Climate Change Commission's advice to the government, together with subsequent Ministerial decisions based on it, was lawful. This case reinforced that the courts will typically be slow to interfere in public decision-making where the decision-maker has a level of discretion as to how to best achieve a policy objective.

Following trends overseas, two significant greenwashing claims have been lodged in the High Court (see **6.3 Greenwashing**), with one of those settling in October 2025.

1.3 Social Trends

New Zealand already has well-developed legal frameworks for certain components of the "S" in ESG, including in relation to health and safety and employment law. However, other aspects of the "S" in ESG are less developed, or are undergoing evolution, as described further below.

In New Zealand, ESG is often considered as encapsulating matters relating to te ao Māori (a holistic

world view that emphasises the interconnectedness between people and the environment) and tikanga Māori (customs and protocols), which are unique to New Zealand and reflect the world view, culture and practices of New Zealand's indigenous Māori population. While te ao Māori and tikanga Māori intersect with all aspects of ESG, these concepts are included here as part of the "S" in ESG, given their critical importance to the social fabric of New Zealand life.

While New Zealand law has for some time recognised matters relating to te ao Māori and (in particular) matters relating to the application of Te Tiriti o Waitangi (the Treaty of Waitangi) between Māori and the Crown, the legal recognition of tikanga and te ao Māori is evolving. Two important developments in recent years have particular implications in the ESG space.

- In September 2023, the New Zealand Law Commission released its study paper "He Poutama", which addresses how tikanga and state law might best engage in a way that maintains their individual coherence and integrity. It is an influential report that is likely to shape the way that ESG matters are considered by courts, individuals and businesses in the years to come in New Zealand.
- The Supreme Court's decision in *Smith v Fonterra* [2024] NZSC 5 briefly considered matters relating to tikanga in the context of a climate-related claim. The decision did not set out detailed principles for the implications of tikanga in the climate change context. However, the Supreme Court noted that the trial would need to grapple with the fact that the claimant purports to bring proceedings not only on behalf of himself, but also as kaitiaki (guardian) acting on behalf of the whenua (land), wai (water) and moana (ocean) as entities in their own right.

In July 2023, the prior government announced plans to establish a modern slavery regime, including a public register to require transparency over organisations' supply chains. This proposal would have required organisations with more than NZD20 million in revenue to report on their actions to address the risk of exploitation in their operations and supply chains. Following the 2023 general election, work in relation to the introduction of specific modern slavery legislation in New Zealand stalled; however, in 2025 two

members' bills (from a representative of each of New Zealand's two major political parties) were entered into the parliamentary ballot. While these bills appear to have now been withdrawn, it remains possible that specific modern slavery legislation will emerge in New Zealand.

In relation to case law, in 2024 the Court of Appeal issued its decision in *Bank of New Zealand v The Christian Church Community Trust* [2024] NZCA 654. This case followed an earlier decision of the Employment Court, which had found that certain members of the Gloriavale Christian Community were employees from the age of six years old, that ready access to child labour was a significant factor in the success of the Gloriavale Christian Community business model, and that those members were subject to rigorous, and sometimes violent, supervision while working as children. In 2023, the High Court was asked to consider the question of whether BNZ was entitled to stop providing banking services to the commercial and charitable entities associated with the Gloriavale Christian Community, in light of BNZ Group's Human Rights Policy. The High Court found that it was seriously arguable that BNZ had a contractual discretion rather than an absolute right to terminate, and that it was seriously arguable that BNZ had failed to act reasonably in deciding to cease the provision of banking services to the plaintiffs. However, this decision was reversed on appeal, with the Court of Appeal confirming the orthodox common law position that, in the absence of express contrary agreement or statutory impediment, a bank may terminate a banking contract on reasonable notice. This case is significant, as it is the first time the New Zealand courts have been asked to consider the circumstances in which a bank can terminate a banking relationship as a result of human rights concerns.

1.4 Governance Trends

New Zealand has an established framework of governance laws for companies, including (most significantly) through the Companies Act 1993 and, for listed issuers, the NZX Listing Rules. Among other things, the Companies Act sets out in legislation the duties that directors of New Zealand companies owe to companies and their shareholders.

Further details in relation to key recent developments in the regulation of ESG governance are set out in **1.6 Market Participants**.

In addition to those developments, many New Zealand organisations are required to report publicly on matters relevant to the “G” in ESG under the CRDs regime, which requires CREs to report on matters relating to their governance of climate-related risks and opportunities. This has led to many organisations adopting a more sophisticated approach to governance in this area (eg, by establishing sustainability committees as standing committees of the board of directors, maturing risk management systems, embedding regular governance reporting on ESG matters and working towards integration of ESG with core business strategy). This is also contributing to businesses expanding their consideration of ESG matters – for example, nature-related risks have gained more prominence in director and management discussions, in part due to increasing recognition that directors may need to both consider and respond to nature-related risks as part of discharging their directors’ duties.

1.5 Government and Supervision

Regulators play an important role in monitoring and enforcing New Zealand ESG laws and regulations. For example, the Financial Markets Authority (FMA) and the New Zealand Commerce Commission are responsible for monitoring and enforcing key ESG laws and regulations (see further at **5.4 Supervision**).

In addition, the Environmental Protection Authority is responsible for enforcement of the NZ ETS and other environmental laws.

From a supervisory perspective, the Reserve Bank of New Zealand (RBNZ) is the prudential regulator and supervisor of the New Zealand banking sector. One of the RBNZ’s key statutory objectives is promoting the stability of New Zealand’s financial system. The RBNZ considers that this objective requires it to assess the material risks of the entities that it regulates in order to understand the resilience of the financial system to shocks, including risks relating to climate change. Accordingly, the RBNZ has provided guidance to the banking sector about the management of climate-related risks, and undertook a climate stress

test in 2023 to assess the resilience of major New Zealand banks to plausible long-term climate-related challenges.

1.6 Market Participants

Most sectors of the New Zealand economy are likely to be affected by ESG laws and regulations in the coming years, with examples below.

The CRDs regime currently applies to most large financial institutions and large listed issuers. However, in October 2025 the government announced changes that will substantially reduce the number of organisations required to prepare climate statements, by lifting the market capitalisation thresholds that trigger reporting requirements for listed issuers and removing fund managers from the regime entirely. Organisations not directly subject to the CRDs regime (including those that the government has announced will be removed from scope) may also be indirectly affected by being in the “value chain” of CREs, as the regime indirectly incentivises CREs to work with their suppliers on initiatives responding to their climate-related risks and opportunities and to enable Scope 3 emissions reporting.

In addition, the NZ ETS prices emissions across all sectors of the economy (other than agriculture). As such, most New Zealand businesses are impacted by emissions pricing, either directly through participation in the NZ ETS, or indirectly through the cost of goods and services. Any future changes to the NZ ETS will therefore impact a wide range of stakeholders.

The financial sector is likely to continue to be affected by ESG laws and regulations, including any sustainable finance taxonomy that emerges. The financial sector is also the focus of a Members’ Bill introduced in 2025 that seeks to limit the extent to which financial institutions can consider ESG factors in making decisions about the provision of financial services.

1.7 Geopolitical Developments

Geopolitics and politics are both important determinants of the approach to ESG in New Zealand.

New Zealand is party to a range of international treaties on ESG-related issues, including the United

Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement. Under the Paris Agreement, New Zealand is required to prepare, communicate and maintain successive nationally determined contributions (NDCs) towards delivering on the goals of the Paris Agreement. New Zealand's first NDC (as updated in October 2021) equates to a 41% reduction in net emissions by 2030 from gross emissions in 2005. The second NDC was submitted in early 2025 and is a target of reducing net greenhouse gas emissions by 51% to 55% below gross 2005 levels by 2035.

While meeting New Zealand's first and second NDCs is likely to involve a combination of domestic measures and the purchase of offshore mitigation, the government has indicated that it wishes to prioritise domestic reduction initiatives. The recent announcement that NZ ETS price and unit settings will be de-linked from New Zealand's nationally determined contribution is reflective of that focus.

In addition to multilateral treaties, New Zealand is also party to bilateral free trade agreements that impose obligations on it in relation to ESG – for example, as follows.

- A recently concluded free trade agreement between New Zealand and the European Union (EU) includes a number of environmental provisions. It includes an obligation to effectively implement the UNFCCC and the Paris Agreement, including commitments with regards to NDCs.
- The free trade agreement between New Zealand and the United Kingdom, which entered into force in May 2023, also includes sustainability obligations. This agreement requires the parties to encourage private and public sector entities operating in its territory to take appropriate steps to prevent modern slavery in their supply chains.

Exports play an important role in the New Zealand economy and, accordingly, geopolitical factors that affect New Zealand's exports are very significant in relation to progress on ESG. For example, New Zealand exporters may be affected by regulations such as carbon border adjustment mechanisms, and these international dimensions are an increasingly important

driver for decarbonisation of New Zealand exports. New Zealand's imports are also impacted by geopolitical developments, although New Zealand's high levels of renewable electricity insulate it to some extent from shocks associated with oil and gas supply.

Domestic politics also influence the direction of travel on ESG. New Zealand has a relatively short (three-year) electoral cycle, which means that achieving certainty in ESG-related policies is particularly challenging. Cross-party consensus-building on key issues is accordingly critical. As noted in **1.2 Environmental Trends**, this cross-party consensus-building means that New Zealand has had a relatively stable climate change legislative architecture to date, although policy priorities differ significantly across the major political parties and recent changes announced by the government to the CCRA are calling into question the extent to which cross-party consensus on the overarching architecture remains.

2. Corporate Governance

2.1 Developments in Corporate Governance

The authors envisage several key areas of development in the next 12 months, as follows.

While there has already been a maturing of approach since the introduction of the CRDs regime, it is expected that the approach to climate-related governance will continue to evolve for those entities that remain in scope following the government's announcement of scope changes. While one noticeable trend in recent years has been the increase in the number of issuers with sustainability committees as standing committees of the board, it remains to be seen whether organisations that will be removed from the scope of the CRDs regime going forward will retain the same approach to climate-related governance or revisit their approaches.

Furthermore, in August 2024 the government announced its intention to progress a package of reforms modernising the Companies Act 1993 and other related corporate governance legislation. As part of these reforms, in August 2025 it was announced that the Law Commission would undertake a review

of directors' duties, including liability for breach of those duties and issues of enforcement. This review may also revisit the amendment to Section 131 of the Companies Act, introduced in 2023, which states that directors may have reference to ESG factors when determining the best interests of the company (as discussed further in **2.3 Role of Directors and Officers**).

At the same time as announcing changes to the scope of the CRDs regime, the government announced that it was proposing to change the director liability settings for the regime. While directors currently have automatic liability for non-compliance with climate reporting requirements, this automatic liability will be removed once legislation is passed in 2026, although directors may still have liability as accessories or for false/misleading information. Putting in place appropriate processes to support compliant disclosures accordingly remains important to support directors in complying with their obligations.

2.2 Differences Between Listed and Unlisted Entities

Entities with securities listed on the NZX must comply with the NZX Listing Rules, which set out a range of governance requirements. Among other things, the NZX Listing Rules require issuers to comply with the recommendations in the NZX Corporate Governance Code (the "Code"), on a "comply or explain" basis. This means that issuers of equity securities must provide a corporate governance statement (usually included in the issuer's annual report) on the extent to which it has followed the recommendations of the Code. If an issuer has not followed a Code recommendation, its statement must identify that recommendation and outline the reasons why the recommendation was not followed and what (if any) alternative governance practice was adopted.

In 2023, the Code was amended to include (among other matters) specific recommendations in relation to non-financial reporting, as follows.

ESG Reporting

The Code now recommends that issuers provide annual non-financial reporting disclosures on ESG factors and practices. ESG reporting can be presented as part of an issuer's corporate governance

report or in a standalone report. The commentary also encourages issuers to disclose the process by which the issuer has ensured that its non-financial disclosures are accurate, and whether these have been externally audited. Accompanying this change, the NZX also updated its ESG Guidance Note, which is designed to assist issuers in implementing the Code's recommendation. The ESG Guidance Note includes suggestions as to what issuers may want to report on, including the relevance of ESG factors to their business models and strategy, the ESG risks faced by the business and how they can identify, monitor and manage those risks (noting the overlap of these points with the CRDs regime). While the Code and NZX's ESG Guidance Note do not mandate a particular approach to ESG reporting, they note that many New Zealand issuers adopt international frameworks such as Integrated Reporting and the Global Reporting Initiative.

Gender Diversity Goals

S&P/NZX20 Index issuers are now recommended to have a measurable objective on gender diversity for board composition, which cannot be less than a target of 30% female and 30% male, within a specified period, which the issuer may determine. Issuers (particularly S&P/NZX50 issuers with more than 50 employees) are also encouraged to disclose gender pay gap information and to consider diversity beyond gender (eg, ethnicity, cultural background, sexual orientation, age, skills, etc) when designing their diversity policies.

2.3 Role of Directors and Officers

ESG requirements have become an important component of directors' roles and responsibilities in New Zealand, particularly following the introduction of the mandatory CRDs regime and the Companies (Directors Duties) Amendment Act 2023.

The Companies (Directors Duties) Amendment Act 2023 was passed in August 2023 by the departing government. This sought to clarify the director's duty to act in the best interests of the company, in Section 131 of the Companies Act 1993. The amended duty now specifies the following:

"To avoid doubt, in considering the best interests of a company or holding company for the purposes of this section, a director may consider matters other than

the maximisation of profit (for example, environmental, social and governance matters)."

The intention of the proposed reform was to make it clear that directors may consider a wide number of factors when making decisions, and are expected to embed ESG factors into their decision-making as part of their duty to act in good faith and in the best interests of the company. However, most commentators consider that the amendment does not impose any additional obligations on directors, as it was already accepted that directors were not limited in their decision-making to considering profit maximisation and already considered ESG factors when exercising their decision-making powers. The reform is likely to have more of a "signalling" rather than substantive effect, and could be repealed as part of the package of reforms referred to in **2.1 Developments in Corporate Governance**.

2.4 Social Enterprises

Unlike other overseas jurisdictions that have specific legal entity structures for social enterprises (eg, the Public Benefit Corporation in the United States and the Community Interest Company in the United Kingdom), there is no specific legal structure for social enterprises in New Zealand.

Instead, social enterprises and not-for-profits can choose from a wide range of entity structures used for business in New Zealand, which may be for-profit or not-for-profit. Common structures include a limited liability company or a trust, with or without "charitable status".

Obtaining "charitable status" requires an entity to have an established "charitable purpose" and to apply for registration on the Charities Register. Once registered, the entity will need to comply with ongoing obligations under the Charities Act 2005, including the requirement to complete an annual return and file financial statements.

2.5 Shareholders

The increasing importance of ESG considerations for shareholders could give rise to future shareholder activism. However, as set out further in **6.2 Climate Activism**, shareholder activism has played a lesser

role in New Zealand than it has in some other jurisdictions in relation to bringing ESG-related claims.

One recent example of shareholder activism was a 2023 public campaign by the New Zealand Shareholders Association (NZSA) in relation to shares of its members held in Colonial Motor Company, an NZX listed company. The NZSA indicated that it had planned to vote against all of the company's resolutions at the 2023 annual general meeting to encourage the company to improve its ESG governance disclosures and compliance with the Code. However, over the last 12 months, ESG matters seemed much less of a feature on activist agendas, with a focus on governance and value creation being prevalent.

3. Sustainable Finance

3.1 Progress in Green Financing

While the New Zealand government recognises the role that mobilising finance has in the climate transition, few specific legal steps were taken over the last year to promote sustainable finance in New Zealand.

One key development over the past 12 months has been progress on the development of a sustainable finance taxonomy for New Zealand. In early 2024, the government announced the establishment of an independent technical advisory group (ITAG) led by the Centre for Sustainable Finance, to recommend design principles for a New Zealand taxonomy. The potential development of a taxonomy was signalled in New Zealand's first National Adaptation Plan published in August 2022, which indicated that a taxonomy could help protect against greenwashing and (if aligned with best practice) support greater investment in New Zealand's climate-resilient projects.

If introduced, a sustainable finance taxonomy would classify which economic activities are aligned to a sustainable, low-emissions future, with a view to directing investment to the activities required for the transition.

The ITAG has now published its recommendations for the development of the taxonomy, which includes recommendations relating to the principles, purpose and outcomes of the taxonomy. The recommendations

report suggests prioritising five sectors, including agriculture, transport, construction/real estate, energy and industrial manufacturing, and aligning with other benchmark taxonomies such as Australia and the EU.

In 2025, further progress has been made on the development of taxonomy criteria, with the government working in partnership with the Centre for Sustainable Finance on taxonomy development. At this stage, the taxonomy is voluntary and there are no current proposals for this to become mandatory over time.

3.2 Sustainable Finance Framework

New Zealand does not have a specific regulatory framework for raising and providing sustainable finance. Rather, entities looking to raise or provide finance are required to comply with New Zealand's more general laws relating to financial markets. The primary piece of legislation regulating the offering of, and dealing in, financial products in New Zealand is the FMC Act.

The FMC Act defines "financial products" as including an equity security, a debt security, a managed investment product or a derivative. Sustainability-linked, social and green bonds are caught by this definition, as are ESG-related investment funds and superannuation schemes. In relation to offers, an issuer of financial products is required to publish a product disclosure statement (PDS) setting out key details in relation to the offer (unless it is able to rely on an exclusion – for example, for wholesale investors or for quoted financial product (QFP) offers of financial products of the same class as QFPs). For all offers, the FMC Act contains general "fair dealing" prohibitions on false or misleading conduct and the making of unsubstantiated representations, which govern the content of other communications in relation to the offer.

While not mandatory, in practice an important source of guidance for sustainable and green lending in New Zealand are the standards and frameworks published by (among others) the Asia Pacific Loan Market Association (APLMA). For example, the APLMA's sustainability-linked loan principles describe the standards against which key performance indicators and targets in sustainability-linked loans should be set, bench-

marked and disclosed. Other relevant guidelines include:

- APLMA principles for green loans and social loans;
- the International Capital Markets Association's principles for green, social, sustainable and sustainability-linked bonds and guidelines for sustainability bonds;
- Climate Bonds Initiative guidance and standards; and
- guidance from the Sustainable Agriculture Finance Initiative.

3.3 Access to Green Financing

At a general level, it remains relatively straightforward for large New Zealand corporates to access the market for sustainable and green finance. Indeed, a large proportion of major corporates in New Zealand now have sustainable or green-borrowing finance frameworks and/or one or more sustainable or green finance products in place, so the focus is now shifting from market establishment to maturing the approach.

Over the past few years, the sustainable finance market in New Zealand has been maturing, with more focus on small and medium enterprises (SMEs). SMEs are an important part of the New Zealand economy, but historically have had less access to sustainable finance products than larger organisations. Several New Zealand banks have also set and publicly disclosed sustainable finance targets, which is further incentivising innovation in the products offered as the banks work towards their goals.

On the investor side, the FMA has said that consumers are increasingly prioritising non-financial characteristics when making investment decisions, which means that there is opportunity to grow the sustainable finance market. However, the lack of a comprehensive framework for the way that sustainable investments ought to be described has contributed to confusion for retail investors, and there is scope to grow understanding through the development of a sustainable finance taxonomy as described in 3.1 **Progress in Green Financing**.

Some of the products available in the New Zealand market are as follows.

Green, Social, Sustainable and Sustainability-Linked (GSSS) Bonds

These include both use-of-proceeds bonds, where the proceeds are committed to a project that the issuer considers to have a sustainability benefit, and bonds linked to the issuer's progress against pre-agreed sustainability performance targets. Private issuance of green bonds over the past few years has been comparatively slow and concentrated in a small pool of issuers, owing in part to regulatory complexity associated with retail issuance of these products. The authors are only aware of one sustainability-linked bond having been issued in-market. In April 2024, the FMA consulted on proposals to reduce the regulatory burden on issuers of green bonds by exempting issuers of certain sustainable bonds from disclosure requirements where the bonds have identical rights, privileges, limitations and conditions to existing quoted bonds (except for a different interest rate, redemption date and GSSS status). The consultation has closed and the FMA has announced an intention to issue a class exemption effecting the change.

Green and Sustainability-Linked Loans

The market for sustainability-linked loans in New Zealand is already mature, and there are challenges with continuing to grow this market as a result of several factors, including establishment costs and challenges meeting audit/assurance requirements. Nevertheless, there remains scope for diversification in the green loan market.

Managed Funds

In line with trends overseas, there has been a proliferation of ESG-related investment funds in recent years, reflecting increased consumer appetite for these sorts of products. There is, however, some confusion in the retail market about ESG-related labels, and the FMA has signalled a regulatory focus on greenwashing in the context of managed funds. This is contributing to fund managers maturing the approach to labelling of their funds. In September 2025, the FMA opened consultation on Ethical Investing Disclosure Guidance, which is intended to set out good practice for disclosure of the ESG characteristics of financial products.

3.4 Stranded Assets and Non-Bankables

Like many international counterparts, New Zealand banks and other financial institutions are focused on portfolio decarbonisation initiatives. The CRDs regime is a key driver in this space, as large New Zealand financial institutions are required to report on their Scope 3 (including financed) emissions and the steps they are taking to respond to their climate-related risks and opportunities.

However, tensions arise between the imperative for decarbonisation and broader impacts on New Zealand's economy and society. For example, a sudden shift away from financing traditional New Zealand industries, including agriculture, would have significant effects on New Zealand's economy, as well as having social impacts for many New Zealanders. As such, the general market approach to date has been for the large banks to set emissions-reduction targets and work directly with their clients on proactive steps that they can take to manage the transition to a low-emissions, climate-resilient future rather than withdrawing banking services (although most major banks do have some exclusions). The authors understand that some lenders also have caps and collars to manage their ongoing exposure to high-emission industries.

One recent development in this space is that a Parliamentary Select Committee recently undertook an inquiry into banking competition in New Zealand, and its terms of reference included considering the effect of any bank lending policies relating to borrowers' emissions that result in additional lending costs and/or lending restrictions. The terms of reference also include ascertaining whether bank environmental and sustainability policies have, or are likely to result in, further increases in lending rates to the agriculture and horticulture sectors. This aspect of the inquiry appeared to respond, at least in part, to concerns raised by some stakeholders that the large banks may be adopting policies that limit access to capital for some sectors. The report of the inquiry, released in August 2025, made a number of recommendations in relation to banking competition more generally; however, it stopped short of finding that banks' environmental and sustainability policies are negatively affecting borrowers or that these should be restricted.

3.5 Challenges Ahead

Key challenges in the sustainable finance market in New Zealand over the coming years include the following:

- litigation and regulatory risks associated with greenwashing, especially in the absence of clear regulatory parameters around when ESG-related labels will be false and/or misleading; and
- likely challenges associated with the implementation of the sustainable finance taxonomy, once developed.

A further challenge in the New Zealand market is one of scale. For example, the small size of New Zealand's investment opportunities creates challenges for the provision of bonds to provide funding to low-carbon projects.

4. ESG Due Diligence

4.1 Soft Law Becoming Hard Law

Soft law instruments are not directly enforceable in New Zealand. However, there has been a recent increase in hard law relating to sustainability following the conclusion of the Paris Agreement, with notable examples including the passage of the Zero Carbon Act in 2019 and the introduction of mandatory climate-related disclosures. In addition to these regulatory developments, soft law has the potential to influence judicial reasoning both in the interpretation of domestic statutes and in the development of the common law, and in that way to contribute to the evolution of hard law. The authors expect soft law to continue to be referred to in this way.

4.2 Towards Vertical Responsibilities

As investing with ESG goals in mind becomes more widespread globally, companies in New Zealand (particularly those that are publicly listed) are coming under increasing pressure to have, and demonstrate that they have, sustainable and ethical value chains.

New Zealand does not have a modern slavery regime that requires upstream due diligence of its supply chain, and it is not clear whether recent proposals for legislative reform will lead to a regime being intro-

duced (see 1.3 Social Trends). However, it is generally considered that a business must have an understanding of its supply chain and be in a position to substantiate any public claims that it makes about its supply chains. Advisers are encouraging companies in New Zealand to think about how to map human rights and environmental risks and what action they might take if negative impacts were identified as part of a due diligence process.

The CRDs regime also has implications for company value chains. The NZ CS explicitly note that CREs must consider the exposure of their value chains to climate-related risks and opportunities, and CREs are also required to report on their Scope 3 (value-chain) emissions. While this regime does not impose direct due diligence obligations on CREs, in practice it is influencing organisations to take steps to investigate and respond to climate-related issues in their value chains.

4.3 Partner Selection

The factors discussed in the preceding sections are influencing the choices that companies make in working with supply chain partners. For example, many New Zealand organisations are considering modern slavery in their supply chains and managing climate-related risks and opportunities.

As New Zealand companies are dependent on global supply chains (both imports and exports), overseas trends in selecting supply-chain partners tend to be quickly integrated into New Zealand business practice. Accordingly, there is an increasing trend among New Zealand businesses to make decisions on supply chain partners with reference to ESG factors. New Zealand exporters are facing ESG-related regulations in some jurisdictions that they export to, and large international customers are also demanding a greater focus on ESG. In turn, this is influencing the approach that New Zealand businesses are taking to management of their own supply chains.

Increasingly, contracts contain ESG compliance clauses, which require supply chain partners to comply with ESG information disclosure obligations or minimum thresholds, driven by factors such as customer demand and reporting obligations (both the

CRDs regime and the reporting regimes of overseas customers and supply chain partners).

4.4 ESG in M&A Due Diligence

Specific ESG due diligence by purchasers in the mergers and acquisitions context is typically quite limited. Purchasers do not generally conduct specific ESG due diligence over and above general environmental and resource management law due diligence. One major exception to this is forestry transactions, in relation to which NZ ETS obligations are a critical component of due diligence.

While ESG due diligence is not currently a major focus for most New Zealand transactions, it is possible that there will be an increasing focus on ESG due diligence as buyer expectations continue to evolve. Similarly, where a target company is likely to be particularly susceptible to ESG risk (whether due to the industry sector or specific risks within the relevant business), the authors expect that ESG due diligence would play a greater role.

It is possible that, as ESG law and regulation continues to evolve in New Zealand (including as a result of the CRDs regime), the focus on ESG factors in due diligence may increase.

- listed issuers of quoted debt securities, where the face value of the issuer's quoted debt exceeds NZD60 million.

As noted in **1.6 Market Participants**, the government has recently announced changes to the scope of the CRDs regime, including the raising of the equity and debt thresholds for listed issuers from NZD60 million to NZD100 million and removing fund managers from the regime entirely. These changes have not yet been formally implemented through legislation, although the FMA has announced that it will not take regulatory action against affected entities pending passage of the relevant legislation.

Provided an entity meets the definition of a CRE, the reporting requirements themselves are generally the same for each type of above entity (including groups of entities). One major exception to this is that managers of registered schemes are required to report in respect of each scheme they manage rather than in respect of the manager as an entity. Most scheme managers are required to prepare their scheme-level disclosures on a fund-by-fund basis (although common information may be presented at a scheme level). Importantly, fund managers will not be required to report at all going forwards.

In addition, the NZX Listing Rules require certain listed entities to make ESG disclosures on a "comply or explain" basis (see **2.2 Differences Between Listed and Unlisted Entities**).

5. Transparency and Reporting

5.1 Key Requirements

New Zealand's mandatory CRDs regime currently applies (broadly) to the following CREs:

- registered banks, credit unions and building societies with total assets of more than NZD1 billion;
- managers of registered investment schemes with greater than NZD1 billion in total assets under management;
- licensed insurers with greater than NZD1 billion in total assets or annual gross premium revenue greater than NZD250 million;
- listed issuers of quoted equity securities where the market price of all of the issuer's equity securities exceeds NZD60 million; and

5.2 Transition Plans and ESG Targets

Under the CRDs regime, CREs are required to disclose the transition plan aspects of their strategy. The External Reporting Board's (XRB) climate standards define "transition plan" as an aspect of an entity's overall strategy that describes an entity's targets, including any interim targets, and actions for its transition towards a low-emissions, climate-resilient future. In the first year of reporting, CREs have the option of relying on a first-year exemption from the disclosure requirements relating to transition planning, though this adoption relief is no longer available for most entities given that they are now in the second year of reporting.

The XRB has published some high-level guidance to support CREs getting started on transition plans, and it is expected that additional guidance will be released to support disclosure in this area.

There is no direct legal obligation on organisations in New Zealand to commit to targets. However, the CRDs regime requires CREs to disclose the targets they use to manage climate-related risks and opportunities, and their performance against those targets. The CRDs regime is a disclosure regime and does not require organisations to set one or more targets; however, in practice, it is a powerful incentive for organisations to carefully consider their approach to target-setting. The challenge for organisations in this area is ensuring that their climate-related targets are ambitious enough to reflect the scale of the climate crisis, while ensuring that the targets are achievable to minimise the risks of greenwashing allegations being made.

5.3 Regulation of ESG Labels

New Zealand does not have a specific regulatory regime relating to ESG labelling and sustainability claims. However, these matters are covered by New Zealand's suite of general consumer protection and financial markets laws, as set out further below.

The Fair Trading Act 1986

The Fair Trading Act 1986 (FTA) is the primary regulatory framework prohibiting misleading conduct by businesses. The key provision is Section 9 of the FTA, which prohibits any person, in trade, from engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. In addition, the FTA includes a range of more specific prohibitions on certain types of misleading conduct (eg, conduct that is liable to mislead the public as to the nature, manufacturing process, characteristics, suitability for a purpose, or quantity of goods or services). The FTA also prohibits making unsubstantiated representations in trade that are representations made without reasonable grounds, irrespective of whether they are false or misleading.

While to date there has not been a significant number of ESG-related cases under the FTA, there is an established body of case law under the FTA as to when statements will be considered to be misleading. In

particular, whether a statement is false or misleading is a question of fact, considered from the perspective of what a "reasonable person" would understand the claim in question to mean. It is the overall impression that counts, and statements can be misleading either by the express words used or by implication. The use of imagery can contribute to an overall misleading impression if not carefully used.

In 2020, the Commerce Commission (the regulator responsible for enforcement of the FTA) issued "Environmental Claims Guidance" to assist businesses in better understanding their obligations under the FTA when making claims about the environmental impact of a good or service. While relatively high-level, the guidelines cover a range of green claims, including recyclable, "free-of", sustainable, biodegradable, renewable energy, carbon offset/neutral and organic claims. The guidelines also remind businesses that claims must be accurate, up-to-date and based on credible evidence at the time they are made, and that consideration should be given to the entire contents of a product and its life cycle before making an environmental claim.

Fair Dealing

Part 2 of the FMC Act provides for fair dealing in relation to financial products and financial services. The fair dealing provisions of the FMC Act prohibit, in trade:

- engaging in conduct that is misleading or deceptive or likely to mislead or deceive in relation to any dealing in financial products, or the supply or possible supply of a financial service or the promotion by any means of the supply or use of financial services; and
- engaging in conduct that is liable to mislead the public as to the nature, characteristics or suitability for a purpose, or quantity of financial products or services.

The fair dealing provisions also prohibit the making of false, misleading or unsubstantiated representations, in trade, in connection with any dealing in financial products, the supply or possible supply of financial services, or the promotion by any means of the supply or use of financial services.

As a general rule, the principles relevant to misleading statements in the FMC Act context are consistent with those developed under the FTA.

Climate-Related Disclosures

Under the CRDs regime, CREs are required to prepare climate statements that comply with climate standards issued by the XRB. One of the climate standards, NZ CS 3, includes a principle of “accuracy”, which provides that “[i]nformation is accurate if it is free from material error or misstatement”.

Since the CRDs regime is new, to date the courts have not considered the application of the accuracy principle. However, it is likely to invoke similar principles to the prohibitions against misleading statements and unsubstantiated representations in the FTA and FMC Act more broadly.

5.4 Supervision

The FMA is New Zealand’s conduct regulator for financial markets. In relation to ESG, the FMA is responsible for monitoring and enforcement of the FMC Act, including in relation to the CRDs regime and the fair dealing provisions.

In September 2025, the FMA commenced consultation on draft Ethical Investing Disclosure Guidance, which aims to provide guidance on how the disclosure obligations in the FMC Act apply when describing the ethical characteristics of financial products. This draft guidance intends to replace the FMA’s Disclosure Framework for Integrated Financial Products issued in 2020.

Outside the financial markets context, the primary regulator of sustainability marketing claims in New Zealand is the Commerce Commission, which is responsible for the enforcement of the FTA (among other things).

In addition, NZX (as the licensed market operator of New Zealand’s securities exchange) is responsible for monitoring and enforcing the rules under which the NZX’s markets operate. This function is carried out by NZ RegCo, which is an independently governed entity. Part of this function includes enforcing compliance with the NZX Listing Rules and the Code, which

requires certain issuers to make non-financial disclosures on a “comply or explain” basis, as set out in **2.2 Differences Between Listed and Unlisted Entities**.

The Advertising Standards Authority is the advertising industry’s self-regulator for responsible advertising and enforces the Advertising Standards Code (and relevant sector-specific codes). The Advertising Standards Code includes principles relating to greenwashing, including a general principle that advertisements must not mislead or be likely to mislead, deceive or confuse consumers. If an advertisement is found to be in breach of the Advertising Standards Code, the Advertising Standards Authority can order that it be changed or removed, although compliance is voluntary.

5.5 Enforcement

The penalties for non-compliance with the CRDs regime and for false or misleading ESG disclosures are potentially significant.

In relation to the CRDs regime, the CRE is primarily liable for breaches of the relevant requirements. However, directors have to date also had automatic liability for non-compliant disclosure, and civil liability may also be imposed on any person “involved in a contravention”. Certain defences to liability are available under the FMC Act. In 2025, the government announced that it will relax these director liability settings, with the relevant legislation to be passed in 2026.

The principal civil sanctions available under the FMC Act include pecuniary penalty orders and compensatory orders. The maximum pecuniary penalty is NZD1 million in the case of an individual or NZD5 million in any other case. The purpose of compensatory orders is to compensate aggrieved persons (and this could include investors).

The FMA has confirmed that it is taking a “broadly educative and constructive approach” towards compliance with Part 7A of the FMC Act in the first years of the CRDs regime, but misleading disclosures or failure to report are likely to attract enforcement action.

In relation to the fair dealing provisions in the FMC Act, a breach of these provisions may also give rise to civil liability. Again, both compensatory and pecuniary penalty orders are available. The maximum pecuniary penalty is the greatest of:

- the consideration for the relevant transaction;
- three times the amount of the gain made or loss avoided by the person who contravened the provision; and
- NZD1 million (for individuals) or NZD5 million (in any other case).

In some circumstances, criminal liability can also arise under the FMC Act. For example, CREs (and their directors) commit an offence if they knowingly fail to comply with an applicable climate standard. The FMC Act also provides for a general offence of knowingly making false or misleading statements. The FMC Act provides for a range of penalties for the FMC Act offences described, including significant fines (up to NZD500,000 in the case of an individual or up to NZD2.5 million in any other case) and terms of imprisonment (up to five years).

Civil and criminal liability can also arise for breaches of the FTA. In relation to criminal liability, the maximum penalty is NZD200,000 for an individual and NZD600,000 for a business (per offence). In addition, businesses that breach the FTA can be required to pay compensation to affected consumers and certain other enforcement mechanisms (eg, injunctions) are also available.

5.6 Expected Progress

Companies required to report going forward are likely to make substantial progress in meeting their reporting obligations as New Zealand's CRDs regime continues to mature, market practice evolves and expertise continues to improve.

However, substantial challenges remain, including in relation to:

- data availability and quality – for example, with respect to financed emissions;
- resource constraints in implementing the regime;

- assurance of greenhouse gas emissions disclosures;
- quantification of the financial impacts, climate-related risks and opportunities, in circumstances where these impacts are (in many cases) highly uncertain;
- alignment with international reporting frameworks, particularly for organisations with parent companies or other group structures which mean that they are required to report in multiple jurisdictions;
- a wide degree of variation in the approach to compliance across the market; and
- varying degrees of buy-in at the board level for climate-related disclosures.

In light of those challenges, the government and regulators have announced a range of changes to the regime, including:

- narrowing the scope of the regime, by removing the requirement for fund managers to report going forward and raising the debt and equity thresholds for listed issuers from NZD60 million to NZD1 billion;
- easing the director liability settings, by removing automatic liability for non-compliance with the CRDs regime;
- the FMA announcing a “no action” approach for organisations that will be removed from the scope of the regime in future, while legislation is awaited;
- the XRB announcing changes to adoption relief, giving entities that are still captured within the regime an additional two years to report on anticipated financial impacts of climate-related risks and opportunities, Scope 3 emissions and Scope 3 assurance;
- the FMA announcing a two-year extension to a current exemption from the requirement to include the climate statements (or a link to them) in an annual report, giving CREs the benefit of a full four months following balance date to prepare and lodge their climate statements; and
- the FMA issuing an exemption notice releasing Australian domiciled organisations listed on the NZX from the requirement to lodge climate-related disclosures in New Zealand, subject to certain conditions (such as lodging Australian sustainability reports on the New Zealand register).

6. Climate and ESG Litigation

6.1 Instruments for ESG Litigation

It is relatively straightforward to commence ESG-related cases against companies in New Zealand.

One way to attempt to start an ESG-related claim in New Zealand is to make a complaint to one of the regulators responsible for enforcement of a relevant regime, such as the FMA or the Commerce Commission. These complaints could be made by a competitor. However, these regulators have limits on their resources, and there is no guarantee that any individual complaint will be progressed.

Accordingly, it is also possible to take claims directly to the New Zealand courts. One key issue for claimants in considering whether to take such a claim will be whether the claimant has standing to sue the relevant counterparty. Some types of claims, for example, will only be able to be brought by shareholders in a defendant company. However, other avenues (such as claims under the FTA) are more easily brought by other stakeholders.

6.2 Climate Activism

Activists and NGOs are increasingly important in the New Zealand ESG litigation landscape. Over the past couple of years, several significant pieces of litigation have been commenced by activist and NGO groups. This includes several judicial review challenges against government decision-making on climate change issues (see, for example, **1.2 Environment Trends** for discussion of *Lawyers for Climate Action New Zealand Incorporated v Commerce Commission*). Lawyers, acting on a pro bono basis or as part of a climate action collective, have played a significant role in bringing climate-related cases to the New Zealand courts in recent years. While, to date, most of the claims brought by activist groups or NGOs in New Zealand have not succeeded at trial, these pieces of litigation have a wider significance in influencing both public perception and corporate action on climate change and other ESG issues.

One dynamic of the New Zealand market that distinguishes it from some other jurisdictions is that many New Zealand corporates are owned by offshore (espe-

cially Australian) parent companies or have other ownership structures that are different from a traditional diversified shareholder model. As such, shareholder activism has played a lesser role in New Zealand than it has in some other jurisdictions in relation to bringing ESG-related claims.

6.3 Greenwashing

Both the FMA and the Commerce Commission have signalled a regulatory focus on greenwashing. To date, formal enforcement action has focused predominantly on product-level claims (such as claims relating to the extent to which products can be recycled or composted) rather than entity-level claims (such as claims relating to the approach that an entity is taking to climate action). However, both regulators have indicated that they are sharpening their focus in this area and have been using a range of regulatory and non-regulatory tools to engage with the market. For example, the FMA undertook a review of integrated financial products relating to managed funds in July 2022 and, while the review fell short of finding instances of greenwashing, the FMA did identify “weaknesses in information disclosure”.

In the private litigation sphere, while no greenwashing cases have been brought by investors, two significant cases have recently been lodged, as follows.

- In late 2023, a group of NGOs lodged proceedings in the High Court seeking declarations that Z Energy had breached the FTA by misleading New Zealanders with its public claims on emissions reduction and climate change mitigation. The claim alleged, for example, that claims made that Z was “in the business of getting out of the petrol business” and associated claims about its progress on emissions reductions were false and/or misleading. This claim settled in October 2025, with the defendant publicly apologising for any confusion caused.
- In September 2024, Greenpeace New Zealand lodged proceedings in the High Court against Fonterra (a major dairy co-operative and one of New Zealand’s largest companies) in relation to claims made on “grass-fed” claims regarding its butter packaging. The relevant labelling has

subsequently been amended but Greenpeace has indicated that it intends to continue the claim.

6.4 A Turbulent Future Ahead

ESG-related proceedings are likely to grow in New Zealand, in line with developments overseas. Over the past few years, ESG-related cases in New Zealand have gradually proliferated, and several major ESG-related cases are now awaiting hearing or decision in the New Zealand courts. Further, it is possible that developments such as the Supreme Court allowing *Smith v Fonterra* to proceed to trial will increase the attractiveness of New Zealand as a jurisdiction that is potentially open to the development of the law relating to ESG.

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