



NEW ZEALAND'S EXCHANGE  
TE PAEHOKO O AOTEAROA

NZX Limited  
Level 1, NZX Centre  
11 Cable Street  
Wellington 6140  
New Zealand

[www.nzx.com](http://www.nzx.com)

30 April 2024

Financial Markets Authority  
Level 2, 1 Grey Street  
Wellington, New Zealand

By email only: [consultation@fma.govt.nz](mailto:consultation@fma.govt.nz)

## **NZX Submission: Proposed class exemption for certain green, social, sustainability, and sustainability-linked bonds**

1. NZX Limited (**NZX**) submits this response to the Financial Market Authority's (**FMA**) consultation on its proposed class exemption for certain green, social, sustainability, and sustainability-linked (**GSSS**) bonds (**Consultation**). We would like to thank the FMA for the opportunity to provide a submission.
2. NZX is a licensed market operator and operates the NZX Debt Market (**NZDX**), New Zealand's flagship market for listed debt securities. The NZDX has a total market capitalisation of around \$56bn, with approximately \$6.9bn made up of 'green bonds'. The green bond market has seen a 17.7% increase in market capitalisation in the past year<sup>1</sup>, highlighting the surge in GSSS bond listings and investor demand for these products. NZX is also a member of the Sustainable Stock Exchange Initiative which has identified the facilitation of investment into financial products that support the United Nations Sustainable Development Goals<sup>2</sup> as an action area for its members.
3. NZX strongly believes that the proposed exemption will provide a more efficient route for the issuance of GSSS bonds in New Zealand, encourage the growth of New Zealand's GSSS bond market, and provide a broader range of sustainable financial products to New Zealand retail investors.
4. Nothing in this submission is confidential.

### **Response to Consultation**

Q1. In your opinion, do the current regulatory settings in New Zealand disincentivise offers of retail GSSS bonds, and is this detrimental to the New Zealand bond market? Is an exemption required? Please give reasons for your view.

Q2. Are green, social, and sustainability bonds sufficiently similar to vanilla bonds that would otherwise be of the same class to justify an exemption? How can we ensure the market will be adequately informed to efficiently price the products, and investors understand the different features of the bond?

---

<sup>1</sup> NZX Monthly Shareholder Metrics – March 2024

<sup>2</sup> Information about the action plan is available [here](#).

Q7: How does pricing typically differ between green, social, sustainability and sustainability-linked bonds and vanilla bonds? How is pricing impacted if the issuer does not follow through on its commitments? Please provide any relevant evidence, analysis, or studies. and

Q13. How would the proposed exemption impact NZ retail investors, including any benefit or detriment to investors' interests or information available to investors?

5. We consider that the requirement for issuers to prepare a full disclosure document under Part 3 of the Financial Markets Conduct Act 2013 (**FMC Act**) for GSSS bonds, where they have equivalent quoted vanilla debt products and are subject to continuous disclosure under the NZX Listing Rules, is impeding the growth of New Zealand's GSSS bond market.
6. The current regulatory settings impose disproportionate costs on issuers compared to the risk these products pose to investors. Generally, GSSS bonds have identical rights, privileges, limitations, and conditions as quoted "vanilla bonds" (outside of maturity dates and interest rates), and the sole difference lies in the 'green', 'sustainable' or 'ethical' nature of the products. These are non-financial benefits attaching to GSSS bonds, and we consider that the additional disclosure requirements related to these benefits in the proposed exemption conditions, combined with the protections of the fair dealing provisions in Part 2 of the FMC Act, provides appropriate protection and information for investors to make informed investment decisions.
7. The significant compliance burden on issuers to produce a full disclosure document could explain the relatively small pool of NZX debt issuers that currently offer GSSS bonds. As of March 2024, there are a total of 48 NZDX retail issuers, with 11 issuers offering 'Green Bonds' and 3 issuers offering 'Sustainability Bonds'<sup>3</sup>. Alleviating some of the compliance burden may encourage more issuers to consider issuing GSSS bonds, resulting in a wider range of debt securities available to local retail investors, and more capital being raised to fund green and sustainable initiatives in a potentially wider range of industries. We also note that the proposed exemption aligns with the key themes of the Capital Markets 2029 report, namely maintaining investment choices for domestic investors and retaining local access to capital for potential issuers<sup>4</sup>.
8. We note that in February 2023, the Treasury issued an insights report into the issue of New Zealand's first Sovereign Green Bonds (issued in November 2022). The report considered the reasons behind the issue of Sovereign Green Bonds and noted that there had been broad commentary about a possible premium associated with the issue. However, it concluded that it was not possible to "conclusively disentangle a 'greenium' from any usual new issue premium and the range of estimates for fair value"<sup>5</sup>. This

---

<sup>3</sup> These bonds are designated by NZ RegCo in accordance with the NZX Listing Rules and the [Designations Practice Note](#).

---

<sup>4</sup> [Growing New Zealand's Capital Markets 2029](#), at 20.

---

<sup>5</sup> [NZDM Insights – New Zealand Sovereign Green Bonds](#), at 4.

aligns with examples on the NZDX where vanilla bonds with similar maturity and yield are trading at a similar price to green bonds issued by the same issuer<sup>6</sup>.

Q4. Do you consider any exemption should apply to both 'use of proceeds' bonds and 'sustainability-linked' bonds? What are your views on any risks and mitigations associated with granting an exemption relating to sustainability-linked bonds?

and

Q17. If you consider an exemption should be inclusive of sustainability-linked bonds, should we consider limiting the exemption to bonds where the issuer's sustainability performance targets are linked to the interest rate of the bond? Are there other financial or structural variations for sustainability-linked bonds we should consider including, and why?

9. We consider that the exemption should cover both use of proceeds and sustainability-linked bonds (**SLBs**). We support the proposal that the exemption cover SLBs that link an issuer's progress against predetermined objectives in its sustainability framework to the interest rate paid on the bond. We would also support settings that would enable flexibility for investors to have access to a full range of GSSS products, including SLBs which include structural characteristics beyond a change in interest rate /coupon, provided there was appropriate disclosure allowing investors to understand the differential characteristics of such products from those of an issuer's vanilla bonds. In this regard we note that the FMA is proposing a condition to the exemption that the consequences of failure, if the bond does not achieve the desired non-financial outcomes, is disclosed in the cleansing notice for the products. We consider that GSSS products represent a significant opportunity for both issuers looking to access capital and investors looking for investment opportunities. There is also a wider social benefit to increasing the amount of capital being allocated to these products, and providing issuers with further flexibility in relation to the design and structure of these products.

Q14: Do you agree with the proposed scope of the exemption and the circumstances in which it would apply and not apply? Are there any other provisions of the FMC Act we should consider an exemption from, such as Part 4, and on what basis?

and

Q15: Should offers under the exemption remain regulated offers, or should we provide that offers made in reliance on the exemption are not regulated offers? Are there any further advantages or disadvantages associated with either approach?

10. We agree with the scope of the proposed exemption and consider that the exemption should align as closely as possible with the FMC Act schedule 1 clause 19 "same class" exclusion. This exclusion is currently being relied on extensively in the market and is well understood from an issuer perspective.

11. We support the effect of the exemption replicating the compliance and liability outcomes that apply to issuers making an offer under the same class exclusion. We understand

---

<sup>6</sup> For example, at the date of this submission [Auckland Council](#) have both vanilla and green bonds on issue. AKC100 (vanilla bond) is trading at a similar price to AKC120 (green bond), with any pricing differential being attributable to differences in yield.

that there are several references in legislation where compliance obligations do not apply to regulated offers, or same class offers (non-regulated offers), including the approved issuer levy under the Stamps and Cheque Duties Act 1971 (**Stamp Duties Act**), and the resale provisions of Part 2 of Schedule 1 of the FMC Act. As we understand that the exemption cannot alter the settings under the Stamp Duties Act, it may be simpler for exemption offers to be treated as regulated offers, so long as other operative provisions of the FMC Act (such as the governance provisions (Part 4) and advertisement provisions (Subpart 3 of Part 3)) are dis-applied to maintain parity with the obligations applying to same class offers, and no unintended consequences arise under other legislative instruments.

12. We note the proposed circumstances where the exemption would not apply include:

- (a) Where the offer is made within 3 months of (or in connection with enabling) a change to the essential nature of the issuer's business, or
- (b) a transaction for which the issuer has provided (or will be required to provide) disclosure to the NZX Debt Market as if it were listing on that market.

As a technical point we would like to clarify our understanding that (b) above refers to a situation where an issuer is undertaking to a Backdoor or Reverse listing and is required to make disclosure in accordance with NZX Listing Rule 1.11.

Q19: Do you agree with the proposed conditions, including that issuers would be required to disclose information relating to the bond's GSSS features? Why or why not?

and

Q20: Do you agree with the disclosure themes relating to GSSS bond features? Is there anything else issuers should disclose to assist investors' understanding of the bond, or other conditions we should consider placing on any exemption?

13. We agree that the proposed conditions, particularly the additional condition requiring an issuer to provide information on the GSSS features of the bond, will provide sufficient information to investors to provide an understanding of the product. We presume that the proposed condition which relates to the risks or costs associated with the GSSS features of the bond refers to risks or costs to an investor rather than to the issuer.

14. The proposed disclosure themes align with what we currently see where GSSS bonds have been issued in accordance with Part 3 of the FMC Act, in particular disclosure around reporting on GSSS features and any external reviews being undertaken.

Q24: Do you agree that, for GSSS bonds that signal climate related outcomes, an issuer's CRD transition plan may be a useful reference point for the meaningfulness of any GSSS bond commitments?

15. We agree that the disclosures made by issuers in their climate-related disclosures, including in relation to transition plans, may provide relevant context for such products. However we note that many issuers are preparing these disclosures for the first time, and many will be relying on Adoption Provision 3 which provides an exemption for an entity's first reporting period from the requirements to disclose the transition plan



NEW ZEALAND'S EXCHANGE  
TE PAEHOKO O AOTEAROA

aspects of an entity's strategy<sup>7</sup>. We would also not anticipate that an issuer's climate-related disclosures would have the status of disclosures made in a cleansing notice in terms of FMC Act liability.

16. We also note that a debt issuer who has quoted debt securities with a total face value of less than \$60 million is not a climate reporting entity (unless an alternative limb of the definition applies) and we would support these smaller issuers being able to make offers in reliance on the proposed exemption.

### Conclusion

17. NZX supports the development of appropriate regulatory settings that will support the development of the GSSS bond market. We consider that the proposed exemption will provide the necessary relief for debt issuers to encourage more GSSS bond listings, which will assist in delivering a sustainable and productive economy for all New Zealanders.
18. The proposed exemption will be a significant enhancement to New Zealand's capital market settings, enabling greater innovation and flexibility for issuers to offer financial products to raise capital domestically, supporting both New Zealand's commitments in relation to the United Nation's Sustainable Development Goals and 2050 emissions targets, and providing better access to diverse investment products for New Zealand investors.
19. We would be happy to arrange a meeting with you to discuss any of the matters set out above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kristin Brandon'.

Kristin Brandon  
Head of Policy and Regulatory Affairs  
NZX Limited

---

<sup>7</sup> [Adoption of Aotearoa New Zealand Climate Standards \(NZ CS2\), Adoption Provision 3.](#)