Ministry for Regulation
Te Manatū Waeture

Consultation, international obligations, and advance regulatory plans

Guidance for agencies

Version 1.0

Contact for enquiries about this guidance: **RMS@regulation.govt.nz**

Published in June 2026 by the Ministry for Regulation, Wellington, New Zealand.

This document is available on the Ministry for Regulation website: **regulation.govt.nz**

Contents

Introduction and key points

About this guidance

This document is part of a suite of guidance published by the Ministry for Regulation to support the implementation of the Regulatory Standards Act 2025 (the Act)[1] and the expectations set out in Cabinet Office circular CO(26)2: Expectations for good law-making[2].

More specifically, it is intended to help agencies give effect to Part 2 of Cabinet Office circular CO(26)2, which is concerned with external consultation expectations and obligations, and advance notice requirements for major regulatory proposals.

- The sections on external consultation, and consultation obligations in international agreements, may be relevant to any agency that administers or makes legislation.
- The section on advance regulatory plans will be relevant to certain major regulatory agencies and to other agencies that work in some of the same regulatory systems as the major regulatory agencies.

This document is designed primarily for agency staff that will design, coordinate and oversee an agency's processes for developing and consulting on legislation, including the provision of advance regulatory plans for some of their regulatory systems.

It is not a comprehensive step-by-step guide for agency staff that need to contribute to meeting these obligations and expectations. The major regulatory agencies, in particular, have important design, process and presentation choices to make before they can instruct staff on what to do.

Key points

- External consultation on proposed regulatory changes is a widely endorsed regulatory norm. It helps produce more workable and durable legislation and generates greater policy acceptance and operational compliance.
- Effective consultation requires good process and design but has time and resource costs for all parties. There are options to help manage those costs, but consultation may still not be worthwhile or even appropriate in some cases.
- Consultation can also be a legal obligation that responsible agencies need to provide early advice on so it can be incorporated into the legislative development process.

---

[1] **Regulatory Standards Act 2025 | New Zealand Legislation**
[2] **CO (26) 2: Expectations for Good Law-making | Department of the Prime Minister and Cabinet (DPMC)**

- Agencies may need to seek expert advice to identify consultation obligations in international agreements that may be relevant to their work. They tend to have low visibility and it can be hard to identify if or how they might apply to particular proposals.
- Such consultation obligations are common in trade-related agreements but also exist in other areas. They can apply to a wide range of legislative proposals.
- To further support effective consultation, and to meet an international obligation, Cabinet has agreed that certain major regulatory agencies will prepare and publish advance regulatory plans, giving notice of planned regulatory initiatives.
- Advance regulatory plans should be organised by regulatory system to support regulatory system stewardship, but plan presentation, publication and updating can be tailored to meet stakeholder needs. There is no set template or timing.
- Plans must include proposed changes expected within 12 months but should include changes beyond that if possible. Plans should be updated at least every six months.
- Changes to primary legislation should not be included unless already publicly announced, and other initiatives should not be included unless they have Ministerial support.
- Plans need not be limited to specified legislative changes – plans can also include major operational changes or initiatives simply seeking views on potential legislative changes.
- Advance regulatory plans can be combined with required plans for reviews of existing legislation[3] for the same regulatory system if convenient.
- Plans should be published on the website of the responsible major regulatory agency, in a place suited to supporting engagement with the relevant stakeholders.
- The Regulatory Initiatives Calendar already published by the Council of Financial Regulators is a good illustrative example of an advance regulatory plan.

[3] See the Ministry for Regulation's guidance on **Plans for Reviews of Existing Legislation**

External consultation is good regulatory practice

1. Why we consult

Consultation is a structured process through which policymakers seek feedback from affected or interested parties on a particular proposal or set of options, with a genuine intention to consider that feedback before making a recommendation or decision.

Consultation can be more effective when part of a broader process of stakeholder engagement. Engagement is an ongoing process of interaction and relationship building with key stakeholders across different stages of the policy cycle. Engagement processes exist on a spectrum, ranging from information-sharing to collaboration and co-design.

Effective consultation and ongoing external engagement help policy-makers test assumptions and identify and address practical issues early. It does so by drawing on the perspectives, experience, and specialist or operational knowledge of a range of interested people and groups.

Through consultation, stakeholders and interested parties can help policymakers to:

- better understand the nature and scope of current or emerging issues
- highlight potential unintended consequences, implementation barriers or gaps, including interactions with other existing regulatory arrangements
- assess likely compliance costs and distributional effects
- identify possible alternative options or the need for exemptions, thresholds or transition arrangements.

An effective consultation process can lead to:

- better clarity and targeting
- greater workability, proportionality and cost-effectiveness
- reduced risk of legal challenges or the need for post-implementation fixes
- greater public acceptance, in turn leading to better operational compliance and lower implementation and enforcement costs.

2. Effective consultation requires good process and design …

Consultation with external stakeholders and interested parties is viewed around the world as a key component of good regulatory practice.

Guidance on good external consultation or engagement practices[4] can be found in many places – both internationally and domestically. Some New Zealand examples include:

- a series of guides on community engagement published by the Policy Project at the Department of Prime Minister and Cabinet[5]
- resources on inclusive and accessible engagement and consultation design published by the Ministry of Disabled People – Whaikaha, which agencies should use to make it easier for disabled people to be involved when the government is consulting the community[6]
- the Te Tautuhi ō Rongo framework and Guidelines for Engagement with Māori published by Te Puni Kōkiri, which can help agencies identify who to engage, for what purpose, and how to engage with Māori on matters affecting Māori and their collective and individual rights and interests[7].

In general, however, it is good practice to:

- clearly identify your range of stakeholders and interested parties at the outset
- consult at stages when there is most scope to inform the policy outcome, which is likely to include an early stage in the policy process
- be clear about the purpose and scope of consultation
- consider using different consultation methods and channels to suit the range of groups who might wish to be heard
- give early notice of consultation opportunities and set reasonable timeframes for responses, to support the quality of feedback provided
- be transparent about feedback received and the changes or choices made as a result of consultation, in a timely way.

Reasonable timeframes are important. Short consultation periods limit the quality and scope of feedback received and are a frequent source of public complaint. The New Zealand government has obligations in some of its free trade agreements to undertake consultation when developing legislation. These are discussed further in section 7, but several agreements include an obligation that the New Zealand government will provide a “reasonable opportunity” to comment.[8]

What is a “reasonable opportunity” will be a matter of judgement. It may depend on the importance of the issue, the complexity of the proposal, or the nature and range of interested

---

[4] Our focus here is on consultation external to government, but appropriate consultation within government is also important and expected when developing legislation – see the consultation section in Chapter 7 of the Cabinet Manual for more information - **Cabinet Manual | Department of the Prime Minister and Cabinet (DPMC)**.

[5] **Community engagement | Department of the Prime Minister and Cabinet (DPMC)**

[6] **Engagement resources | Whaikaha - Ministry of Disabled People**

[7] **Our Policy Approach – Te Tautuhi ō Rongo** and **Crown engagement with Māori**

[8] For example, see Article 22.7 in **NZ-EU FTA Text and Associated Documents | New Zealand Ministry of Foreign Affairs and Trade**

stakeholders. Six weeks is a common consultation period in New Zealand, but at least one of our international agreements contains a default expectation of "no less than 60 days" for comments on proposed regulations relating to any matter covered by that agreement.[9]

More generally, while Ministers or other decision-makers may make their own assessment, the Ministry recommends that 60 days is a good place to start when considering what would be a "reasonable opportunity" for comment on major or technical legislative proposals.

3. … but consultation is not always worthwhile or appropriate

Consultation has many potential advantages. But it also has time and resource costs for both stakeholders and government. Good consultation design can help avoid unnecessary costs, but key stakeholder groups can still experience consultation fatigue or frustration.

To help manage the consultation burden, the government needs to weigh different consultation options and consider an approach that is proportionate to the nature and importance of the issue. The solution may be a more focussed consultation topic, some simpler feedback options, a more targeted consultation group[10], or changes in when consultation is undertaken.

Nonetheless, in some cases, consultation may still not be worth pursuing – the costs to the government and other parties of undertaking any meaningful consultation would exceed any likely policy benefits. Other sources of information that may help to compensate or substitute for this include:

- previous consultation on a closely related issue
- independent research
- expert advice
- administrative data
- operational insights from regulators or service providers.

In other cases, consultation won't even be appropriate, including:

- if advance consultation would likely defeat the regulatory objective
- if advance consultation could lead to serious disruption or dysfunction in a market
- if consultation could adversely affect national security or international relations
- in emergency situations where speed is necessary to avoid or limit imminent harm.

---

[9] See Article 26.2.4 on transparency in the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership texts | New Zealand Ministry of Foreign Affairs and Trade**

[10] Though targeting should not favour particular groups or disadvantage others (e.g. disabled people) without good reason.

4. Consultation and effective impact analysis

Consultation is also an important contributor to the provision of good regulatory impact analysis, now to be summarised for Cabinet in a Regulatory Analysis Summary (RAS).

As indicated in Cabinet Office circular CO(26)2: Expectations for Good Law-making[11], a RAS must be quality-assured by an independent panel before it is provided to Cabinet. One of the key quality assurance criteria is about consultation undertaken. In particular, it asks:

- does the RAS show evidence of efficient and effective consultation with stakeholders, key affected parties and relevant experts?
- does it show how any issues raised have been addressed or dealt with?

Except in those situations where consultation is not appropriate, if there has been no or very limited external consultation at this stage, and any available proxies for consultation are insufficient, then the consultation criterion will not be met. In these cases, the overall published QA rating for the RAS normally cannot be more than "partially meets".[12]

A discussion document is a common consultation device used to help inform impact analysis. The Ministry of Regulation has produced guidance on developing effective discussion documents.[13]

5. Consultation and the Regulatory Standards Act

Consultation is one of the principles of responsible regulation under the Regulatory Standards Act 2025. Section 9(i) of the Act refers to:

> "the importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation".

For legislative proposals subject to the requirements of the Act, the responsible agency must, among other things, assess whether the proposal is inconsistent with this consultation principle. Any finding of inconsistency must be publicly reported and will require the responsible Minister to briefly explain the government's reasons for the inconsistency.

Please refer to the guidance issued under section 26 of the Act for advice on how to assess whether a legislative proposal is inconsistent with the consultation principle[14].

Note, however, that the consultation principle in the Act is a basic standard designed for a transparency purpose. It is not intended to represent best consultation practice, and it takes no

---

[11] **CO (26) 2: Expectations for Good Law-making | Department of the Prime Minister and Cabinet (DPMC)**
[12] See section 5.3.3 of **Quality Assurance of Regulatory Analysis Summaries – Guidance Note | Ministry for Regulation**
[13] **Discussion Documents and the Regulatory Analysis Summary requirements – Guidance Note | Ministry for Regulation**
[14] **Guidance issued under section 26 of the Regulatory Standards Act 2025 | Ministry for Regulation**

account of more specific consultation obligations or government expectations that will apply to some legislative proposals.

6. External consultation obligations

External consultation is not just a good regulatory practice when developing legislation; it is sometimes also a legal obligation.

The administering or responsible agency needs to be able to advise the relevant decision-maker, as early as possible in the legislative development process:

- that a consultation obligation exists, or will exist if the proposal meets certain criteria
- on consultation options that will satisfy the relevant obligation.

This will allow consultation to be built into the development process and timetable. The responsible agency will need a way to ensure it can provide such advice reliably.

Section 7 below examines consultation obligations in international agreements ratified by New Zealand because these are not well covered by other guidance material. However, there are other potential sources of consultation obligations for making or amending legislation, which responsible agencies will also need to keep in mind.

Quite a number of Acts explicitly require the decision-maker to consult before they can exercise a power to make secondary legislation. For example:

- land transport rules under the Land Transport Act 1998
- information sharing agreements under the Privacy Act 2020
- sustainable fishing measures under the Fisheries Act 1996
- some cost recovery levies under the Customs and Excise Act 2018.

Sometimes, this consultation must include identified groups (e.g. representatives of Māori or iwi) and/or follow specific procedures. Generally, though, any statutory consultation obligation and conditions should be easy to identify from the enabling legislation.

Beyond explicit legislative provisions requiring consultation, consultation obligations may also arise:

- under the common law
- from Crown duties under te Tiriti o Waitangi/the Treaty of Waitangi
- under general Treaty of Waitangi provisions (such as those referring to the principles of the Treaty) included in some Acts.

Consultation obligations in international agreements

7. Consultation obligations in selected international agreements

International agreements or conventions ratified by New Zealand may also contain consultation obligations that apply when New Zealand develops legislation.

Unlike consultation obligations set out in primary legislation, it is not always obvious:

- whether and which international agreements contain consultation obligations that could apply to a particular legislative proposal
- which legislative proposals will be caught by the consultation obligation, just based on the text of a particular international agreement.

Consequently, the administering or responsible agency may need to do research or get advice to identify consultation obligations that may be relevant to their work or to determine whether an obligation applies in a particular case.

There is no currently published list of international agreements that contain consultation obligations or expectations that apply to New Zealand. In addition, for both practical and legal risk reasons, it is not possible to provide definitive advice in this guidance on the coverage and legal interpretation of consultation provisions in particular agreements. Nonetheless, this section highlights several international agreements or conventions that contain consultation obligations that may be relevant to a broad range of legislative proposals, and where agencies can go for more information.

7.1. Modern broad-based trade agreements

International trade agreements are a common source of consultation obligations or expectations. If your legislation relates to any matter that may, directly or indirectly, affect international trade (goods or services), international investment, or the cross-border movement of people, then a consultation obligation is likely to apply.

These obligations are driven by awareness of the impact of behind-the-border regulatory barriers on trade and investment. They often require that consultation is open to the public, including to persons from other countries that are parties to the agreement. Typical provisions are that New Zealand must, to the extent practicable (or to the extent possible and appropriate):

- publish in advance any proposed laws or regulations relating to matters falling within the scope of the agreement, or publish sufficient details about the proposed measures to allow any interested person to assess whether and how their interests might be affected

- provide interested persons a reasonable opportunity to comment on such proposed measures
- consider any comments received.

Supplementary requirements or expectations may include:

- publication of the proposal on an official website
- providing an explanation of the purpose and rationale for the proposed measure
- endeavouring to provide at least 60 days for comments
- encouragement to provide a summary of the results of the consultation and comments received or explain any modifications made after the comment period.

In some cases, the obligation may only apply to "major" regulatory measures.

Agreements in which these sorts of consultation obligations can be found include:

- the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)[15]
- the NZ-EU Free Trade Agreement[16]
- the Indo-Pacific Economic Framework for Prosperity Agreement relating to Supply Chain Resilience[17]
- the World Trade Organisation (WTO) Joint Initiative on Services Domestic Regulation[18] (which applies to measures relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards affecting trade in services).

Some of these agreements cover a very wide range of matters. Hence the consultation obligation will apply to a wide range of legislation. There are also substantial overlaps in the matters covered by these different agreements, so the most prescriptive consultation requirements across the different agreements could apply in many cases.

If your agency would like advice on how your proposed legislation may be affected by these or other consultation provisions in international trade agreements, please contact the Trade Law Unit in the Ministry of Foreign Affairs and Trade by emailing **dm-lgl@mfat.govt.nz**.

---

[15] See Chapter 26 of the **Comprehensive and Progressive Agreement for Trans-Pacific Partnership texts | New Zealand Ministry of Foreign Affairs and Trade**

[16] See Chapter 22 of the **NZ-EU FTA Text and Associated Documents | New Zealand Ministry of Foreign Affairs and Trade**

[17] See Article 4 of the Supply Chain Agreement at **IPEF statements and resources | New Zealand Ministry of Foreign Affairs and Trade**

[18] See paragraphs 14-17 of the Disciplines on Services Domestic Regulation incorporated into New Zealand's schedule of commitments at **WTO | Services Domestic Regulation**

7.2. TBT and SPS agreements

Two long-standing WTO agreements are the Agreement on Technical Barriers to Trade (TBT)[19] and the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS)[20].

These agreements apply to technical regulations, standards and conformity assessment procedures.

- The SPS Agreement is concerned with measures to protect human, animal and plant life and health from risks arising from the entry or establishment of pests or diseases, or from additives, contaminants or toxins in foods or beverages.
- The TBT Agreement is concerned with technical regulations other than SPS measures.

The definition of technical regulations is reasonably wide – it covers the regulation of product characteristics and related processes and production methods, including related terminology, symbols, packaging, marking or labelling requirements. Quite a few agencies will be responsible for legislation containing provisions that meet this definition.

The TBT and SPS Agreements contain specific notification and transparency requirements that are broadly equivalent to a consultation obligation. These requirements may be further supplemented or extended by specific TBT and SPS Chapters in a range of non-WTO trade agreements. For example, the TBT Chapter in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) extends the transparency obligation to all proposed technical regulations that may have a significant effect on trade, even when it is based on an international standard.

The WTO provides further guidance on interpreting these Agreements through the work of their committees, including on transparency provisions. For example, the Committee on TBT has recommended that the minimum comment period for notified technical measures should be 60 days, with developed country members like New Zealand encouraged to offer a longer comment period such as 90 days. [21]

While they have other responsibilities, New Zealand's designated enquiry or contact points for the TBT and SPS Agreements can provide guidance and advice to agencies on whether a particular regulatory proposal is covered by an Agreement and on how to discharge the obligations.

- The New Zealand SPS enquiry point is based in the Ministry for Primary Industries (MPI) and can be contacted at **sps@mpi.govt.nz**. MPI itself is responsible for developing the vast majority of qualifying SPS measures.
- The New Zealand TBT enquiry point is based in the Ministry for Business, Innovation and Employment and can be contacted at **wto@mbie.govt.nz**. MBIE has also published a

[19] **WTO | legal texts – Agreement on Technical Barriers to Trade**
[20] **WTO | legal texts - Agreement on the Application of Sanitary and Phytosanitary Measures**
[21] **Decisions and recommendations adopted by the TBT committee since 1 January 1995 | WTO iLibrary**

regulator's guide to New Zealand's TBT obligations[22], alongside other information and resources relating to TBTs.

7.3. Non trade-related agreements or conventions – An example

Consultation obligations are less common in other international agreements but do exist.

A good example that may apply to a wide range of New Zealand's legislative proposals is the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)[23], ratified by New Zealand in 2008.

The Convention aims to "promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity". Article 4(3) of the Convention provides that:

> "In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations."

To identify whether proposed legislation is covered by this obligation requires interpretation of several phrases, including what is meant by "issues relating to persons with disabilities".

For the UNCRPD, there is further guidance available from the United Nations, in the form of "General Comment No.7 on Articles 4.3 and 33.3".[24] Paragraph 18 of the General Comment include the following statement:

> "The phrase "concerning issues relating to persons with disabilities", as referred to in article 4(3), covers the full range of legislative, administrative and other measures that may directly or indirectly impact the rights of persons with disabilities."

This endorses a broad interpretation that would apply to general laws (such as constitutional rights, access to justice and policies relating to education, health, work and employment) as well as disability-specific laws (such as financial or personal support and accessibility requirements).

Other paragraphs of the General Comment also define what is meant by "closely consult with and actively involve" (paras 21-23) and "representative organisations" (paras 10-12).

Agencies wanting more information about the UNCRPD or engaging with disabled people and their representative organisations can contact the Ministry of Disabled People – Whaikaha at **contact@whaikaha.govt.nz**.

---

[22] The regulators guide can be found on this page **Trade barriers | Ministry of Business, Innovation & Employment**
[23] **Convention on the Rights of Persons with Disabilities | OHCHR**
[24] See the final English version at **General comment No.7 on Article 4.3 and 33.3 - the participation of persons with disabilities in the implementation and monitoring of the Convention | OHCHR**

Providing advance public notice of proposed legislation

The following guidance is relevant mainly to the major regulatory agencies listed in section 8. However, it will also affect any other agencies that work within regulatory systems that the major regulatory agencies identify as including at least some legislation relating to a matter covered by the NZ-EU Free Trade Agreement (FTA).

8. Major regulatory agencies to prepare advance regulatory plans

Cabinet has agreed that certain "major regulatory agencies are to provide stakeholders with advance public notice of major regulatory proposals that the agencies reasonably expect will be adopted in the near term".[25]

The major regulatory agencies will do this by preparing and publishing advance regulatory plans. They include:

- Department of Conservation
- Department of Internal Affairs
- Inland Revenue Department
- Land Information New Zealand
- Ministry for Primary Industries
- Ministry of Business, Innovation and Employment
- Ministry of Cities, Environment, Regions and Transport
- Ministry of Education
- Ministry of Health
- Ministry of Justice
- New Zealand Customs Service
- Reserve Bank of New Zealand
- The Treasury

---

[25] See paragraph 44 in **CO (26) 2: Expectations for Good Law-making | Department of the Prime Minister and Cabinet (DPMC)**

These agencies have policy responsibilities for legislation and regulatory systems that include matters covered by the CPTPP Agreement or the NZ-EU FTA, based on an initial assessment done by MFAT. Both these international agreements include an advance public notice expectation or obligation.

9. Why we provide advance notice

Advance public notice of proposed changes to legislation is another good regulatory practice that supports effective consultation.

Regardless of any international obligation, advance notice has benefits for domestic stakeholders, which agencies should seek to maximise. Advance notice of proposed regulatory changes provides regulated parties and other stakeholders with more time to:

- think about the issues and potential changes and prepare to provide timely feedback to the government
- prepare for future regulatory changes.

From a consultation point of view, advance notice should:

- help improve the quality of feedback ultimately received
- increase the likelihood that stakeholders will be able to comment on the proposal scope, timing and potential interactions with other planned initiatives in related areas
- provide an opportunity for better coordination between government agencies, who may be proposing related or connected initiatives.

10. Advance regulatory plans can be tailored to engagement needs

The default expectations for the scope, form and content of advance regulatory plans, as set out in Cabinet Office circular CO (26) 2 and elaborated further below, are intended to:

- align with and reinforce government expectations for regulatory system stewardship and associated reporting by regulatory agencies
- ensure that New Zealand can meet its international obligations to provide advance notice of proposed regulatory measures
- give people confidence in what information to expect when they access advance regulatory plans.

Nonetheless, the major regulatory agencies still have some flexibility in how advance regulatory plans are presented, published and updated. There is no specific form or template that agencies must use, and no common dates on which updated plans need to be published. This is to allow the plans to be tailored to the circumstances, stakeholder interests and approaches to ongoing stakeholder engagement that exist in different regulatory systems.

Agencies are therefore encouraged to think carefully about how they want to use, and promote awareness of, the advance plan material before making design choices. Advance plans are less likely to be used or useful if they are not built into existing arrangements for engaging with relevant stakeholder communities.

Appendix 1 includes an outline of the Regulatory Initiatives Calendar published by the Council of Financial Regulators, including how it is used as part of regular engagement with key stakeholder groups.

11. Regulatory systems and advance regulatory plans

11.1. Advance plans should be organised by regulatory system

Identifying regulatory systems

The Ministry for Regulation estimates the government is responsible for around 170-200 regulatory systems, depending on how agencies choose to define those systems. Some major regulatory agencies have already identified and report on the regulatory systems in which they are involved. For other agencies, this may be something they need to do for the first time.

A regulatory system is a set of rules, organisations and their practices, designed to work together to shape how people behave and interact, in pursuit of a broad policy goal or outcome. Most regulatory systems include multiple pieces of legislation and the formal responsibilities of more than one organisation.

Identifying and defining the regulatory systems in which they operate is a key first step for agencies seeking to practice regulatory system stewardship. Regulatory system stewardship is:

- a responsibility of chief executives under section 15 of the Regulatory Standards Act 2025, and
- outlined in more detail in Part B of the **Government Expectations for Good Regulatory Practice**

Some guidance on defining regulatory systems can be found in **Starting out with regulatory stewardship: A resource** – see Stewardship Topic 1

A key default expectation is that advance plans should be organised by regulatory system. This should help external stakeholders locate material relating to their interests and obtain an integrated picture of the major developments proposed for that regulatory system. It will also support the major regulatory agencies to discharge their regulatory system stewardship responsibility and help meet the government's enduring expectations for reporting on regulatory systems.

Often this will involve publishing a separate regulatory plan for each relevant regulatory system. However, advance plans for related regulatory systems could be presented together where they have common or overlapping stakeholder groups.

The Regulatory Initiatives Calendar published by the Council of Financial Regulators, discussed in **Appendix 1**, is an example of a plan covering related regulatory systems.

11.2. Advance plans are only required for some regulatory systems

Cabinet has agreed that major regulatory agencies only need to produce an advance regulatory plan for those regulatory systems that include at least some legislation relating to a matter covered by the NZ-EU FTA. The advance regulatory plan should include qualifying regulatory proposals for the whole regulatory system, however, even if only some of its associated legislation is covered by the FTA.

Agencies unsure if they are responsible for legislation relating to a matter covered by the NZ-EU FTA can seek advice from the Trade Law Unit of MFAT by emailing **dm-lgl@mfat.govt.nz**.

For other regulatory systems, the Ministry for Regulation encourages the provision of advance regulatory plans where they could add value, given their purpose is to support effective consultation. The major regulatory agencies are also subject to the more general government expectation that their reporting on regulatory systems should include "current plans for legislative and operational improvements to those regulatory systems", which an advance regulatory plan would satisfy.[26]

11.3. Other agencies in those systems should contribute to advance plans

Only the major regulatory agencies are required to prepare advance regulatory plans. But when organised by regulatory system, advance regulatory plans should include all qualifying regulatory proposals for that regulatory system, regardless of which central government agency is the responsible or lead agency for the proposal.[27] Where possible, we want other central government agencies involved in those systems to add their qualifying regulatory proposals into the relevant advance regulatory plan.

Ideally, this would be part of the cross-agency coordination and prioritisation effort associated with good regulatory system stewardship. If these system governance arrangements are not yet in place, the major regulatory agencies should contact other central government agencies that could be responsible for regulatory proposals in the same regulatory system to:

- discuss the proposed scope, form, content and update frequency of the advance regulatory plan, and how the plan will be promoted and used, with the intention to reach common agreement if possible

---

[26] The Ministry will provide separate advice to the major regulatory agencies on general expectations for regulatory system reporting, in line with government decisions taken in 2015 and reaffirmed in 2023.
[27] If two or more major regulatory agencies are involved in the same system, they can decide between them which agency will take the lead responsibility for coordinating and publishing the advance plan.

- agree on the process by which the other agencies will be prompted and able to provide regular input for updating the advance plan, ideally designed to minimise double-handling and make updating easy.

However, the prime responsibility for identifying relevant regulatory proposals, and for providing timely and accurate information about those proposals for inclusion in a plan, should continue to rest with the responsible agency for the proposal in each case.

For transparency, the published plan should be clear about responsibility for the different content. If an agency does not contribute or update material, for whatever reason, this should be acknowledged without judgement in the relevant version of the plan.

11.4. Producing advance plans in the absence of defined regulatory systems

Where the relevant regulatory system is not yet defined, or it is not practicable to do so, but the major regulatory agency has responsibility for legislative proposals relating to a matter covered by the NZ-EU FTA, the agency should prepare an advance regulatory plan that includes, at minimum, all otherwise unassigned regulatory proposals that would be covered by the advance notice obligation in that Agreement.

12. Initiatives that should (and should not) be included in advance regulatory plans

Our international agreements provide exclusions and thresholds, but the range of regulatory proposals included in an advance regulatory plan should be guided by its two main purposes – to support effective consultation opportunities and help stakeholders plan for likely regulatory change.

12.1. Plans should include initiatives of interest to stakeholders, including significant operational changes

To this end advance regulatory plans should aim to include any planned or potential change to a regulatory system likely to be of real interest to stakeholders. It could be a significant operational change, or it could be an initiative seeking views on potential legislative changes without necessarily committing to pursue a change. Any genuinely minor changes will still be excluded under these criteria.

12.2. Plans should include proposed changes beyond 12 months, where possible

At minimum, advance regulatory plans must include qualifying changes expected to be made within 12 months. However, the longer the period of advance notice for proposed changes, especially major changes, the better for stakeholders.

If advance plans only include changes to occur within 12 months, and the plan is not then updated until 6 months has passed, stakeholders will sometimes have a very limited forward window on proposed changes.

It is therefore common for advance regulatory plans to look ahead more than 12 months. In Canada, departments are expected to provide advance notice of changes up to 24 months ahead, as part of their forward regulatory plans.[28] In New Zealand, the Regulatory Initiatives Calendar produced by the Council of Financial Regulators extends out 3 years. See **Appendix 1** for more details. The extent to which this will be possible for other regulatory systems may depend on the approach taken to the development and approval of agency work programmes.

12.3. Inevitably, some changes at short notice might not get included

Sometimes regulatory changes need to be made at short notice. If they aren't known about at the time a plan update is being prepared, and are completed before the next plan update, they will likely never appear in the plan. Where speed is necessary to avoid or limit imminent harm, there will not be time for consultation in any case.

12.4. Plans should be updated at least every 6 months, but could be more frequent

At minimum, advance plans should be updated every six months. Even for initiatives that are not progressed at short notice, the initiative details and timing are likely to change as time passes.

However, the advance plan will be more accurate and complete[29], and hence of more value to stakeholders, if it is kept up to date more frequently. The Regulatory Initiatives Calendar, for example, is updated every three months – see **Appendix 1**. Updating in real time is also an option to consider, especially for important proposed changes.

12.5. Changes to primary legislation should <u>not</u> be included unless announced

Cabinet has agreed that potential changes to primary legislation should <u>not</u> be included unless they have been publicly promised or announced by the government. This is necessary to avoid compromising the normal confidentiality of the government's legislative programme. The NZ-EU FTA allows for this by excluding primary legislation from the scope of the advance notice obligation.

12.6. Other changes or initiatives should <u>not</u> be included unless they have support

Potential changes to secondary legislation or other initiatives should <u>not</u> be included unless their consideration or development have the actual or implied support of the responsible Minister or other decision-maker.

This is necessary to avoid surprises for the Minister or decision-maker and the risk that stakeholders think a change is more likely than it is. Without that support, it is difficult to argue that a change, or an initiative to investigate possible change, is reasonably likely to proceed.

Support should not be interpreted to require formal Cabinet or decision-maker approval for specific policy decisions or legislative content before initiatives are included in a plan. Waiting

---

[28] See section 7 on forward regulatory plans in **Policy on Regulatory Transparency and Accountability - Canada.ca**
[29] Including by capturing more of any changes being progressed in tight timeframes

until that point in the policy process is likely to undermine the value of advance notice. It takes no account of the value of consultation in helping to understand the issues and assess the merits of different policy options, which is often best done before policy decisions are taken.

Rather, it should be sufficient in most cases that the responsible Minister or decision-maker:

- has agreed that the responsible agency can or should investigate or pursue regulatory options to address an identified issue or objective, or
- has indicated support for a work programme that contains such options.

Upcoming elections increase the uncertainty about future government support. What is included in the plan should reflect the plans of the current government on the assumption that they will continue to govern. Once a new government is in place, appropriate changes can then be made to the advance regulatory plan if required.

12.7. In rare cases it will not be appropriate to include a proposed change

As with consultation, it will not always be appropriate to include a proposed change in an advance plan. The confidentiality of the government's legislation programme has already been mentioned. Other cases where inclusion would not be appropriate include those identified in section 3.

12.8. It may be useful to combine advance plans and plans for reviews

Combining advance plans and plans for review may appear to blur the lines between what is a review and what is the development of a regulatory proposal. In fact, many policy processes combine elements of both. This is one reason why it may make sense to bring together in one place the advance regulatory plan and the required plan for reviews of existing legislation for the same regulatory system[30]. Interest and input from stakeholders can be just as relevant to the effective conduct of reviews as it is to the development of regulatory proposals.

13. Expected content for initiatives included in advance plans

To be useful for stakeholders and interested parties, agencies should aim to provide the following information for each initiative included in an advance regulatory plan.

- A meaningful title for the initiative (for easy ongoing reference)
- A brief description of the scope, nature and purpose of the initiative, in plain language, including who is likely to be affected (this could include a link to further information)
- The expected timing of any changes, if change is proposed (if timing is uncertain, this could be expressed as a time range, or a "not before" or "no later than" date)

[30] For more information see Part 4 of Cabinet Office circular CO(26)2 and the "**Plans for reviews of existing legislation - Guidance for agencies**" issued by the Ministry for Regulation.

- The nature and expected timing of any consultation opportunities for interested stakeholders and regulated parties
- The lead agency and an agency email contact point for further information
- The date on which the information above was last changed.

For Bills that have already been introduced and are being considered by the House of Representatives, it may not be appropriate to provide all this information. However, in these cases, appropriate links could be made to material on the Parliamentary website relating to the Bill, its scrutiny, and progress.

An initiative previously on the plan that has been cancelled or indefinitely postponed should, for a limited period, continue to have an entry on the plan that indicates that it has been cancelled.

An initiative that is substantially changed from its previous entry on the plan should explicitly indicate that it has been substantially changed.

If there are no relevant initiatives scheduled in the plan period, agencies should publish either a note or a plan with an empty schedule to indicate that this reflects the actual situation and is not an oversight.

14. The publication and updating of advance regulatory plans

Advance regulatory plans should be published on the website of the responsible major regulatory agency. Consistent with its main purpose, agencies should publish their plans in a place most suited to supporting engagement with stakeholders in the relevant regulatory system(s). If this place is not in the pages set up by the agency to report on each of its regulatory systems, then a link to the advance regulatory plan should be provided in those pages.

At this time, no common date is proposed for the establishment or updating of each advance regulatory plan. Agencies can determine the dates and frequency of updates to suit the circumstances and stakeholder needs in each regulatory system, as long as the plan is then updated at least every six months. On a six-month rotation, a good default option could be the end of the first and third quarters of each calendar year.

Further, no date has been set by which agencies are expected to have published their first advance regulatory plans. Agencies already publishing something akin to an advance regulatory plan should continue to do so and make any necessary adjustments to future plans as soon as they are ready to do so.

Most major regulatory agencies, however, might not have obvious existing arrangements to build on and will likely need time to confirm:

- the scope of their regulatory systems and which require advance plans
- coordination arrangements with other central government agencies involved in their regulatory systems

- their preferred approach to the presentation, publication and updating of plans to best support stakeholder engagement.

For agencies and regulatory systems in this situation, the first advance regulatory plans are unlikely to be able to be finalised and published until after the 2026 election.

To support monitoring and accountability for the production and content of advance regulatory plans:

- regular plan updates should be published as new documents, with earlier versions still accessible for at least two years
- plan snapshots should be recorded at least every six months for plans that are updated in real or close-to-real time.

Please advise the Ministry for Regulation (at **RMS@regulation.govt.nz**) when advance plans for different regulatory systems are published for the first time, including links to where the plans are located.

Appendix 1 - The CoFR Regulatory Initiatives Calendar

A current New Zealand example of an advance regulatory plan is the Regulatory Initiatives Calendar published by the Council of Financial Regulators.

CoFR's Regulatory Initiatives Calendar (RIC) | Kaunihera Kaiwhakarite Ahumoni - Council of Financial Regulators

The Calendar may not provide all the information suggested for plans in the guidance above, but it is a great example of designing a plan with both government co-ordination and external stakeholders in mind.

The Calendar helps support the Council's objective that regulatory initiatives impacting the New Zealand financial system are developed and implemented in a joined-up manner.

The way the Calendar is presented has evolved over time, including in response to user feedback. At the time this guidance was written the Calendar has:

- arranged initiatives by type, covering formal consultations and planned legislative changes but also planned engagements, implementation work, compliance reporting obligations and reviews,
- identified the affected sector and the responsible regulator for each initiative, including initiatives relevant to the financial sector led by agencies outside of the five regulatory agencies represented on the Council, and
- sought to provide expected timeframes for different stages of an initiative, spread across the period covered by the Calendar.

The Calendar seeks to provide comprehensive coverage of initiatives relating to the New Zealand financial system, looks ahead 3 years, and is updated and published each quarter. The Calendar is a regular agenda item for engagement meetings with industry representatives, and this has supported more strategic discussion of the issues. Anecdotally, industry representatives find the Calendar useful and will complain when they become aware of missing items.