

Climate Disclosure Unit
Market Conduct Division
The Treasury
Langton Crescent
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via email: ClimateReportingConsultation@treasury.gov.au

Treasury consultation on Climate-related financial disclosure: exposure draft legislation

The Australian Public Policy Committee (APPC) appreciates the opportunity to respond to the Treasury's consultation on Climate-related financial disclosure: exposure draft legislation. The APPC comprises the six large professional services firms in Australia being BDO, Deloitte, EY, Grant Thornton, KPMG and PwC as well as the professional accounting bodies Chartered Accountants Australia and New Zealand and CPA Australia. Our objective is to promote positive public policy outcomes in respect of audit, accounting and related regulated services.

The APPC audit firm members provide audit services for the vast majority of Australia's largest ASX listed companies and are the largest employers of external auditors in Australia. Each firm also provides services that support their clients in the disclosure of non-financial information, including sustainability information.

The APPC supports the passage of this legislation as it marks a key milestone in Australia's path to ensuring that Australian organisations mandatorily disclose consistent, comparable, and credible climate-related financial information. This legislation will support the integrity of the capital markets, and also investors and other stakeholders who rely on climate-related information in the same way as they rely on financial information. However, we submit that there is room for enhancement and clarification of the draft legislation. Our key areas of focus, which are centred on the assurance aspects, are outlined below:

- APPC members appreciate the significance of these changes for both preparers and auditors and as such, we welcome the staged approach the government is taking over the next six years. While we understand the need for a transitional period for assurance requirements, we are concerned about the impact of having such a small amount of mandatory assurance over climate-related disclosures in the initial phase. One option the government may want to consider is changing the approach from prescribing what assurance *is* required (as currently scope is initially just limited assurance for scope 1 and 2), to prescribing what *isn't* required (for example scope 3 or quantitative scenario analysis).
- In the previously communicated consultation documents, it was clear that there would be a pathway developed for assurance requirements for the transitional period of 1 July 2024 to 30 June 2030. In our view, the draft legislation does not provide sufficient clarity around who is responsible for the development of this important pathway. The transition from limited assurance on scope 1 and 2 emissions through to assurance over all climate change disclosures is significant. We believe it would be beneficial for the government to clearly articulate whether they see the Treasury or the AUASB taking on this role.

- Regarding thresholds:
 - Paragraph 1.1 of the explanatory materials states that the exposure draft legislation is intended to apply to entities that lodge financial reports under Chapter 2M of the Corporations Act. It is not clear how this is reflected in the exposure draft legislation, as s292A does not appear to include whether an entity lodges a financial report as a threshold to be in scope of sustainability reporting.
 - The exposure draft introduces ‘asset owners’ as a new reporting entity criterion. We have observed some uncertainty regarding the intended application of this criterion. This is because the ‘asset owners’ criterion appears to be focused on financial services entities, based on the commentary in the policy position statement. Some have therefore understood this criterion to apply only to financial services entities. However, the exposure draft legislation does not define an ‘asset owner’—or even use that terminology—and does not restrict the application of the criterion to any specific sectors. Therefore, we recommend clarification on the definition of an asset owner. Also, the Policy Position Statement refers to *assets under management* whereas the legislation refers to assets that are *controlled*. This should also be clarified.
- Regarding liability, we submit that the government clarifies that the measures in the draft legislation on ‘limited immunity for statements in new sustainability reporting’ also extend to auditors in addition to directors. Providing a limited immunity to directors but not auditors would potentially undermine the effectiveness of this measure.
- Other matters:
 - Remove the timings outlined in Section 1705D. The draft legislation requires the AUASB to have implemented the first set of auditing standards before 1 July 2024. We recommend removing this deadline as it may not be feasible for the AUASB to achieve this by the specified date while also meeting the required due process and international alignment. The International Auditing and Assurance Standards Board (IAASB) is not expected to have finalised the International Standard on Sustainability Assurance (ISSA) 5000, General Requirements for Sustainability Assurance Engagements by 1 July 2024. Australia’s general approach to assurance standard setting is to align with international standards where possible, so to release domestic standards ahead of international standards runs the risk of undermining international alignment.
 - We recommend the legislation clarifies whether the assurance provider is an *individual* auditor or the *audit firm*. We note that for financial reports, it is the audit firm that is appointed notwithstanding the requirement for the individual auditor to sign the audit report in their own name as outlined in Section 324AB of the Corporations Act.
 - Better describe assurance terminology. The draft legislation refers to the terms “audit” and “review”:

*Section 9 (definition of **audit**) Repeal the definition, substitute: audit means:*

- (a) an **audit** conducted for the purposes of this Act; or
(b) without limiting paragraph (a)—a **review** of the following conducted for the purposes of this Act:
- (i) a financial report for a financial year or a half-year;
 - (ii) a **sustainability report for a financial year**.

These terms have a specific meaning in the AUASB audit and assurance standards and only relate to engagements of historical financial information, for example, an audit of a financial report. Relevant AUASB standards for sustainability reports or disclosures use the defined term “assurance” which can be either reasonable or limited in scope. A solution would be to have a separate definition in the legislation referring to assurance rather than adding the sustainability report to the definition of audit. This will ensure consistency with the AUASB standards and prevent inefficiencies in needing to reword existing standards to be compliant with legislation, etc. It is terminology that is familiar to existing practitioners and consistent with the terminology used in other jurisdictions which have introduced or proposed assurance over climate information. In our view, the wording **sustainability report for a financial year** should be removed from the definition of **audit**. We recommend that this be inserted into the legislation as a new definition under **assurance**.

Thank you again for the opportunity to provide our view. Should you have any further questions on our submission, please do not hesitate to contact Liza Maimone on 0414 746 742 or Shaun Kendrigan on 0455 667 114.



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