

PRI RESPONSE

AUSTRALIAN TREASURY CONSULTATION: PUBLIC COUNTRY-BY-COUNTRY REPORTING

March 2024

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To inform this briefing, the following investor group have been consulted: PRI Tax Reference Group and PRI Regional Policy Reference Group for Australia. This consultation is not an endorsement or acknowledgement of the views expressed in this briefing.

PRI Association

Registered office: 25 Camperdown Street
London, UK, E1 8DZ Company no. 7207947
T: +44 (0) 20 3714 3220 W: www.unpri.org E: info@unpri.org



United Nations
Global Compact

ABOUT THE PRI

The Principles for Responsible Investment (PRI) works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The PRI has been working with institutional investors to promote corporate tax responsibility since 2015. We initiated our work with a [guide](#) to help investors understand the risks related to tax avoidance and provide a framework for investor-company dialogue on the issue. In 2017, the PRI supplemented this guidance with a set of [disclosure recommendations](#) for companies to strengthen corporate income tax disclosure on tax policy, governance and risk management, and reporting areas. Between 2017-19, 36 institutional investors representing US\$2.9 trillion in assets under management collaborated to engage large healthcare and information technology companies to enhance corporate tax transparency. The findings of this engagement are published on [PRI's website](#). In 2021, the PRI published a [discussion paper](#) to explore the concept of tax fairness and its relevance to investors.

ABOUT THIS CONSULTATION

As part of the October 2022-23 Budget, the Australian Government announced a transparency measure for multinational entities to publicly disclose certain tax information on a country-by-country basis and a statement on their approach to taxation. Treasury is currently seeking feedback on its [Exposure Draft](#) on the *Treasury Laws Amendment Bill 2024: Multinational tax transparency – country by country reporting*, which seeks to more closely align its proposed country-by-country reporting regime with the European Union's regime and includes deferring the start date by 12 months (to 1 July 2024). Treasury has consulted stakeholders on two previous occasions. The PRI submitted a [response](#) to the [first consultation](#) held in August 2022 and a [response](#) to the second [consultation](#) held in April 2023 where a first draft legislation was presented.

For more information, contact:

Margarita Pirovska

Director of Policy

margarita.pirovska@unpri.org

Kazuma Osaki

Policy Specialist

Kazuma.osaki@unpri.org

Sebastien Akbik

Governance Specialist

Sebastien.akbik@unpri.org

PRI RESPONSE

The PRI welcomes the opportunity to share our feedback on this important issue. In our two previous responses, we highlighted to Treasury the benefits of public disclosure of country-by-country (CBC) information for all countries of operation. The initial proposal would have positioned Australia as the first jurisdiction to mandate the public disclosure of full CBC information. The proposed approach is now to require in-scope entities to disclose CBC information for Australia and a list of specified jurisdictions determined by the Minister. Information for operations in the rest of the world will be aggregated and not disclosed on a CBC basis.

Since the start of our work programme on tax responsibility in 2015, the PRI has consistently recommended that CBC information is publicly reported for all jurisdictions of operation. This information is practical for large multinationals to disclose and represents the most appropriate level of granularity to enable investors to:

- understand an entity's exposure to potential changes in jurisdictional tax legislation and the ensuing risks and opportunities;
- assess income tax information that affects cash flow forecasts and capital allocation decisions;
- examine the economic scale of operations in different jurisdictions, identify those companies that are best prepared for upcoming regulatory changes and withstand increased scrutiny at the jurisdictional level;
- raise questions with companies where tax structures and strategies might not align with economic value generated and therefore, might lead to higher exposure to risks of challenges by tax authorities;
- gain a better understanding of corporates tax practices, overall contributing to a more informed dialogue between corporates and investors, and facilitate more responsible corporate behaviour.¹

In 2021, the PRI sent a [letter](#) undersigned by 35 investors representing US\$5.6trn in assets under management calling on the EU to require multinational companies to provide CBC information for all countries of operation. We therefore reiterate our support for full CBC reporting consistent with the GRI 207-4 and the EU and OECD reporting regimes. Our recommendation is in line with our previous recommendations to the EU.

Investors need information for all countries of operation as tax related risks can manifest themselves in any jurisdiction and not just the jurisdictions outlined in the Exposure Draft. However, we note that Treasury has identified forty-one jurisdictions for which entities will have to disclose CBC information

¹ [PRI Evaluating-and-engaging-on-corporate-tax-transparency_Investor-guide.pdf \(unpri.org\)](#)
[PRI Advancing tax transparency: outcomes from the PRI collaborative engagement](#)

that are part of the specified jurisdictions in the existing International Dealings Schedule. In our view, full CBC reporting is the appropriate level of disclosure for investors. For example, a tax authority in a high-tax jurisdiction not included in the Exposure Draft could challenge a company's transfer pricing practices with related entities located in a low-tax jurisdiction. It is therefore important for investors to have a full picture of a company's tax contributions to identify potential patterns of profit shifting from one jurisdiction to another. For this, investors need to be able to compare or cross-reference a company's CBC information in a low-tax jurisdiction included in the Exposure Draft with CBC information for other high-tax jurisdictions. Without complete CBC information, investors will have to make assumptions or raise questions directly with companies, which is costly for both investors and businesses.

From a reporting entity perspective, it is in companies' interest to disclose CBC information for all countries of operation as it will help them properly contextualise and explain their tax practices globally and pre-empt any misinterpretation or misrepresentation of their tax footprint.

Accordingly, we strongly recommend that the proposed bill be amended to require public country by country reporting on a full basis. However, if the Australian Government proceeds with requiring disclosure of partial CBC information, we would welcome the inclusion of the forty-one jurisdictions set out in the Exposure Draft. We acknowledge that this high number of jurisdictions includes significant jurisdictions that may be "associated with tax incentives, tax secrecy and other matters likely to facilitate profit shifting activities" and increases the level of information published. Investors need to understand how a company's presence in such jurisdictions are based on genuine and legitimate business needs. CBC information for these jurisdictions can provide greater reassurance to investors that a company's tax affairs are more likely to withstand increasing stakeholder and regulatory scrutiny.

Further, we welcome the explicit mention for companies to report on either a CBC basis or an aggregated basis for the rest of the world. We consider this feature to be an improvement from the EU reporting regime. In this spirit, we would encourage the Australian Government to include in the proposed legislation a requirement to disclose CBC information for the rest of the world on a comply or explain basis. If companies choose not to disclose information for the rest of the world on a CBC basis, investors would benefit from having a reasonable justification. This will help investors better comprehend companies' motivations and potential concerns around the disclosure of full CBC information and promote mutual understanding.

In conclusion, we support the Australian Government for its continued focus on improving tax transparency and recommend that it proceeds with the implementation of the proposed legislation. This limited partial disclosure regime will still help advance tax transparency and will provide some level of much-needed information to investors. Our firm recommendation remains that the Australian Government requires full CBC reporting. If that approach is not adopted, we recommend the Government proceeds with the partial list of jurisdictions while mandating full CBC reporting on a comply or explain basis.