BCA
Business Council of Australia

BCA Submission

Treasury Sustainable Finance Strategy Consultation Paper

December 2023

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Overview

The Business Council of Australia (BCA) welcomes the opportunity to respond to the Treasury's Sustainable Finance Strategy Consultation Paper.

We welcome the development of this Sustainable Finance Strategy as an opportunity to further enable Australia to pursue its net zero objectives — as efficiently, effectively and equitably as possible — and to support our regional trading partners on their pathways to net zero.

The BCA participated in both rounds of consultation by the Treasury on development of Australia's mandatory disclosure requirements scheduled to commence 1 July 2024.

Our members support continuous improvement in the quality of climate-related financial disclosures to guide investment decisions and alignment of Australia's disclosure framework with the International Sustainability Standards Board's (ISSB) foundation for a global baseline for sustainability disclosures.

Context

Australia and the world are transitioning to a net zero future where all anthropogenic sources of emissions will have been mitigated — either by avoidance or removal of those emissions.

The scale, breadth and complexity of the transition to net zero has been described as the next industrial revolution by some commentators[1] and equated with world war mobilisation efforts by others.[2]

Government is in a unique position to provide the extraordinary level of coordination and integration required across the economy and the community to transition to net zero.

A successful transition is being able to achieve a net zero economy while maintaining energy security, reliability affordability, and our international competitiveness — each vital to maintaining living standards and economic prosperity.

The key to driving a successful transition and attaining these broader goals is to make Australia one of the most attractive investment destinations in the world.

In two BCA reports — Achieving a net zero economy (2021)[3] and Seize the moment (2023)[4] — we offer detailed blueprints for a broader government policy framework and approach to make Australia an attractive investment destination.

The Net Zero Australia study estimates a cumulative capital investment of $7 to 9 trillion would be required to transition our economy to net zero.[5]

A well designed Sustainable Finance Strategy has an important part to play in attracting this capital.

Key take aways

- The core objective of this Strategy should be to improve the transparency of sustainability related information and enable capital markets to better assess and manage risks and opportunities related to the net zero transition.
- Australia should continue to strive for international alignment and consistency in the development of this Strategy and learn from approaches taken in other jurisdictions.

[1] https://grattan.edu.au/news/achieving-net-zero-requires-a-new-industrial-revolution/
[2] https://www.nytimes.com/2019/11/30/climate/john-kerry-climate-change.html
[3] https://www.bca.com.au/achieving_a_net_zero_economy
[4] https://www.bca.com.au/seize_the_moment
[5] Net Zero Australia, 'Final modelling results, charting pathways to net zero', April 2023.

- Pursuing the development of Australia's sustainable finance arrangements as quickly as possible should be balanced with the need for rigorous policy design and realistic implementation timeframes.
- This Strategy should complement other elements of the broader policy framework — such as the six sectoral emission reduction pathways being developed and any reforms to the Climate Active Program.
- The Strategy should guide businesses in how best to disclose their transition plans without diminishing or curtailing the role and responsibility of boards and executive teams in this regard.
- This Strategy should encourage (and not discourage) capital flowing into the harder to abate sectors, noting transition planning is challenging in these sectors and may often need to be ambitious for this very reason.
- Capacity building — such as the public provision of sustainability related information, and sustainability skills related training and development — is essential to support compliance with this Strategy.
- A Sustainable Finance Taxonomy for making credible and useful assessments of sustainability alignment is an important element of this Strategy but its potential regulatory application needs to made clear upfront.
- A labelling system to verify that investments are 'true to label' is an important element of this Strategy but this should not result in an over simplified dichotomy of 'good' and 'bad' investment products.
- Australia's existing misleading or deceptive conduct laws — which are more stringent than laws in comparative jurisdictions — are sufficient to address greenwashing.
- The Australian Securities Investment Commission has an important role to play in setting its expectations of businesses and providing clear and practical guidance to businesses as to how to meet these expectations.

Main points

Policy considerations

- The core objective of this Strategy should be to improve transparency of sustainability related information with a view to helping investors form the most rigorous view possible of sustainability related risks and opportunities as they pertain to investments.
  - Transparency is fundamental to an efficient financial market because it helps participants assess and manage risk and uncertainty associated with climate change.
  - Transparency does not remove the underlying risks and uncertainties associated with climate change which businesses and their investors will need to navigate and continually adjust to over time.
  - Transparency in conjunction with existing economy-wide legislative arrangements for addressing misrepresentation is the best way to address 'greenwashing' in Australia.
- Australia should continue to strive for international alignment and consistency in the development of this Strategy and learn from approaches taken in other jurisdictions — such as the United Kingdom and the European Union — that have been leading the way in this space.
- Pursuing the development of Australia's sustainable finance arrangements as quickly as possible should be balanced with the need for rigorous policy design and realistic implementation timeframes.
  - Consistent with global practice, the Government's adoption of a 'climate first' approach to sustainable finance reforms is sensible and practical.
  - Development of Australian climate disclosure standards — in line with the ISSB's IFRS S2 Climate-related Disclosures and IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information — needs to be done in close consultation with industry to ensure that the final standards are fit for purpose.

- We note growing investor expectations for greater transparency on nature related issues (beyond climate) and consider that government should continue its ongoing efforts to build understanding and engage with industry on nature related issues.
- However the Strategy's focus should not turn to nature related issues (or any other sustainability related issues) until there is a degree of comfort from industry that Australia's mandatory climate disclosure framework has been successfully implemented.

- This Strategy should complement other elements of the broader policy framework — such as the Safeguard Mechanism, the six sectoral emission reduction pathways being developed, the approach to Australian carbon border policy being developed, the Australian Carbon Credit Units Scheme, and the Climate Active Program.
  - The transparency objective of this Strategy means that investors should have good visibility of businesses' interaction with other elements of the broader policy framework.
  - It is not the role of this Strategy to overreach by attempting to perform the role of other policy elements — for example, by imposing rates of own site emission reduction in transition plans or by specifying the source or technology underlying offsets eligible for use.

Financial disclosures

- Financial reporting under Chapter 2M of the Corporations Act is a sound basis for coverage of the incoming mandatory disclosure requirements, subject to the proposed size thresholds.
  - However, where useful decision making information is already provided for investors and other stakeholders, duplication or separate reporting on a local entity level is not warranted.
  - We note that other jurisdictions do not require separate reporting at the entity level for subsidiaries in such circumstances.
  - There should be a 'subsidiary exemption' available to entities with parent corporations that are required to report climate related financial disclosures at an aggregated level — either in Australia or in another jurisdiction aligned to the ISSB Standards.

Transition planning

- The Strategy should guide businesses in how best to disclose their transition plans without diminishing or curtailing the role and responsibility of boards and executive teams in determining the most appropriate transition plan for their stakeholders.
  - Businesses should have the option to use transition plan templates and 'off the shelf' scenario analyses and sources of data (for scope 3 emissions for example) as inputs to their plans.
  - These transition plan templates need to be developed in close consultation with industry so that if adopted, businesses can take ownership of the templates and being measured against them.
  - We note that the Transition Planning Taskforce Framework initiated by the United Kingdom Government in March 2022 is designed to be consistent with, and build on, the ISSB's final Climate-Related Disclosures standard (IFRS S2).
  - Government should consider the merits of aligning the development of an 'Australianised' transition plan template with the Transition Planning Taskforce Framework being led by the United Kingdom with a view to strong international alignment.
  - We note that the current consultation on reforming the Climate Active Program is proposing the use of transition plans as a requirement for certification.

  - There needs to be clarity around how the operation of transition plans in mandatory frameworks will interface with their operation in voluntary frameworks (such as the Climate Active Program).

- This Strategy should encourage (and not discourage) capital flowing into the harder to abate sectors and activities in the economy where meaningful transition investments are occurring, noting transition planning is particularly challenging in these sectors and may often need to be ambitious for this very reason.
  - Businesses should not be penalised (for factors outside of their control) if the future does not unfold according to their plans if their plans were made on a genuine and best endeavours basis.
  - Clarity and consistency of language and terminology will go a long way to helping businesses make meaningful distinctions between factors inside and outside their control, so investors are able to understand this when making decision about where to allocate their capital.
  - In many cases government support and incentives (delivered via the policy environment) are crucial to help develop and scale up emerging zero and low emission technologies necessary for businesses in harder to abate sectors to commercially implement aspects of their transition plan.
  - 'Failure' is a necessary part of solving technically challenging problems and the innovation process and therefore should be expected and accommodated for in the transition planning process.

Capacity building

- Capacity building — such as the public provision of sustainability related information, and sustainability skills related training and development — is essential to support compliance with this Strategy.
  - This will need to cater to large businesses initially as they build their internal capacity to meet new mandatory disclosure requirements and it will also need to cater to medium and smaller sized businesses as the coverage of disclosure requirements is broadened over time.
  - Medium and smaller businesses, even if not covered by mandatory requirements, may still need to provide information to larger third parties who are covered by mandatory requirements.
  - The provision of scope 3 emissions data is a priority area for the provision of guidance and resources to assist businesses involved in compliance with disclosure frameworks.
  - Government should consider the merits of providing high quality sustainability data in the one place (akin to the Australian Bureau of Statistics database) including climate mitigation and climate impact related data and eventually data on other nature related issues.
  - This source of data would be a one stop shop for consistent, comparable and reliable data, which can be accessed by anyone and as an option for preparers of disclosure information for compliance purposes.
  - The capacity of the existing sustainability professionals and auditing sector will need to scale up rapidly to avoid bottlenecks in the supply of these services to businesses looking to comply with new disclosure frameworks.
  - A range of organisations are well placed to assist with sustainability skills capacity building, such as the Net Zero Authority, the Australian Institute of Company Directors, the university and TAFE sectors.

Taxonomy and labelling

- A Sustainable Finance Taxonomy for making credible and useful assessments of sustainability alignment (with respect to different firms, market and economic activities) and one that is interoperable with other jurisdictions' taxonomies is an important element of this Strategy.

- However the way in which this taxonomy will be incorporated in businesses' disclosure requirements overtime should be determined before it is developed in any detail because this could have implications for its design.
- The potential regulatory use case options canvassed in the consultation paper need to be worked through with industry before any decision is made and preferably as soon as practicable.

- A labelling system for investment products marketed as sustainable that enables investors to verify that investments are 'true to label' is an important element of this Strategy.
  - However this should not result in an over simplified dichotomy of 'good' and 'bad' investment products which fails to signal the value and importance of investing in the harder to abate sectors and activities in the economy that are critical to transitioning to net zero.

Regulatory frameworks

- Australia's existing regulatory and governance frameworks are well positioned to support development of this Strategy.
  - It is well accepted that company directors (in discharging their duty of care) need to consider whether climate change is material to their organisation, and if so, take reasonable steps to mitigate foreseeable risks.
  - Existing misleading or deceptive conduct laws also sufficiently address greenwashing and are more stringent than laws in comparative jurisdictions such as the United Kingdom and the United States.
  - The United States precludes liability for forward-looking statements where appropriate cautionary language is applied, while the United Kingdom only imposes liability on directors for misleading or deceptive conduct where knowledge or recklessness is established.
  - Australian law does not contain such 'safe harbour' provisions, applying strict liability to misleading or deceptive conduct claims.
  - The heightened liability exposure faced by Australian organisations and directors is reflected by the fact that Australia has the second highest number of climate litigation cases in the world (second to the United States).
- In the area of superannuation and managed funds the government should continue to assess the potential merit of regulatory frameworks and/or industry codes to support effective investor stewardship as a tool to promote positive sustainability outcomes.
- As regulator of corporations, markets and financial services, the Australian Securities Investment Commission has an important role to play in setting its expectations of businesses and providing clear and practical guidance to businesses as to how to meet with these expectations.