Responsible Investment Association Australasia

Submission to Consultation: Sustainable Finance Strategy

1 December 2023

Contents

About RIAA

1. The Responsible Investment Association Australasia (RIAA) champions responsible investing and a sustainable financial system in Australia and Aotearoa New Zealand. It is dedicated to ensuring capital is aligned with achieving a healthy society, environment and economy.

2. RIAA has more than 500 members and represents US$29 trillion in assets under management (AUM) globally, making it by far the largest and most active network of people and organisations engaged in responsible, ethical and impact investing across Australia and New Zealand. Our membership includes super funds, KiwiSaver providers, fund managers, banks, consultants, researchers, brokers, impact investors, property managers, trusts, foundations, faith-based groups, financial advisers and individuals. RIAA's membership makes up 75% of all managed funds in Australia.

3. RIAA achieves its mission through:
   a. providing a strong voice for responsible investors in the region, including influencing policy and regulation to support long-term responsible investment and sustainable capital markets;
   b. delivering tools for investors and consumers to better understand and navigate responsible investment products and advice, including running the world's first and longest-running fund certification program and the online consumer tool Responsible Returns;
   c. supporting continuous improvement in responsible investment practice among members and the broader industry through education, benchmarking and promotion of best practice and innovation;
   d. acting as a hub for our members, the industry and stakeholders to build capacity, knowledge and collective impact; and
   e. being a trusted source of information about responsible investment.

Overview

4. The Responsible Investment Association Australasia (RIAA) thanks Treasury for the opportunity to comment on the Sustainable Finance Strategy Consultation paper (consultation paper).

5. RIAA strongly welcomes the Government's efforts to create a Sustainable Finance Strategy as a pivotal milestone in Australia's trajectory to net-zero. The Sustainable Finance Strategy and the output of a roadmap for implementation (Sustainable Finance Roadmap or Roadmap) presents Australia with an opportunity to align with global trading partners in transitioning to a sustainable finance framework. It underscores the government's vital role in shaping a sustainable finance agenda, a perspective long championed by RIAA.

6. It is also an opportunity to ensure the finance sector and government work hand-in-hand to harness capital towards more sustainable outcomes for the Australian economy, environment and society, and ensure that the energy transition is a just one. The transition to a sustainable economy is a complex and urgent undertaking requiring creativity and a systems perspective to achieve shared goals. This Strategy can assist to articulate this whole-of-economy transition, how Australia can benefit and how we can avoid the potential pitfalls and possible negative consequences for other sustainability goals.

7. Australia is late to this national policy discussion and must move quicky but purposefully to catch up to other global economies. RIAA emphasises the importance of a balanced approach in implementing a regime that doesn't create an overburdened regulatory regime over finance and puts the right incentives and structures in place to attract capital. Moving quickly while taking a considered approach can be achieved in many cases by leveraging existing industry efforts.

8. To this end, RIAA's key asks include:
    a. integrating First Nations' voices and knowledge into policy responses;
    b. ensuring initiatives such as disclosures and the sustainable finance taxonomy are broadened to encompass non-climate sustainability goals;
    c. ensuring existing industry efforts are incorporated into the proposed product labelling regime;
    d. removing barriers and deterrents to responsible investment, in particular, the Your Future, Your Super (YFYS) performance test which currently acts as a disincentive to long-term sustainable investment;
    e. expanding portfolio holdings disclosure requirements to managed funds, and to require granular details of holdings; and
    f. establishing an advisory body made up of industry representatives to help track progress of the Strategy.

9. RIAA's responses to Treasury's consultation questions are detailed below. RIAA's position aligns with our other recent submissions on sustainability standards:
    a. RIAA was an active contributor to the detailed cross-industry submission on the agenda priorities of the International Sustainability Standards Board (ISSB): Joint Australian bodies submission to the International Sustainability Standards Board (ISSB) request for information consultation on agenda priorities (September 2023);
    b. Climate-related financial disclosure Consultation paper June 2023 (Design consultation) (July 2023);
    c. Climate-related disclosures (February 2023);
    d. On the review of YFYS measures: Review of Your Future, Your Super Measures (October 2022), Exposure Draft: Superannuation Industry (Supervision) Amendment (Your Future, Your Super— Addressing Underperformance in Superannuation) Regulations 2023 (May 2023);
    e. On legislating the objective of superannuation: (March 2023), (September 2023);
    f. Empowering the AASB to deliver sustainability standards (December 2022);

g. Submissions to ISSB draft standards: ISSB [Draft] IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information and ISSB [Draft] IFRS S2 Climate-related Disclosures (July 2022);
h. AASB consultation on ISSB standards: AASB ED 321: ISSB Draft Standards – S1 General Requirements for Disclosure of Sustainability-related and Financial Information and S2 Climate-related Disclosures (July 2022); and
i. RIAA was also an active contributor to the detailed cross-industry submission on the ISSB's draft standards: Joint Australian bodies submission on the International Sustainability Standards Board's draft standards (July 2022).

10. To inform this submission, RIAA sought feedback from its large and diverse membership base, which represents 75% of managed funds in Australia. RIAA members have direct experience in many, if not all priorities covered by the consultation paper.

11. RIAA members indicated their top 3 most important priorities covered by the consultation paper as:

Priority 1 Establish a framework for sustainability-related financial disclosures	Priority 3 Support credible net zero transition planning	Priority 7 Addressing data and analytical challenges

12. RIAA thanks its members for their engagement and contribution to this pivotal development in Australia's sustainable finance industry.

Outline of RIAA's recommendations

General recommendations

- Establish a Sustainable Finance Advisory Council to leverage industry knowledge and experience to measure progress of the Sustainable Finance Strategy
- Integrate First Nations peoples' experience and expertise into the Strategy from Day 1
- Build a truly economy-wide, whole-of-government approach
- Utilise all available public policy levers in progressing the net-zero objective
- Suggested additions to the Sustainable Finance Strategy implementation roadmap

Recommendations on Sustainable Finance Strategy priorities

Priority 1: Establish a framework for sustainability-related financial disclosures

- Ensure only minimal changes are made to the global standards set by the ISSB, including ensuring that domestic standards are sufficiently flexible to apply to non-climate sustainability factors.
- Establish a coordinated policy framework for capability development across financial and non-financial skills and capabilities.
- Plan for digitisation of the sustainability reporting regime.
- Consider quick fixes to support upskilling across the sustainable finance ecosystem

Priority 2: Develop a Sustainable Finance Taxonomy

- Align the sustainable finance taxonomy with the primary purposes for which it was established, as outlined by the ASFI roadmap.
- Embed the taxonomy in regulatory infrastructure, striking the balance between prescriptive and principles-based frameworks and ensuring relevant bodies are properly funded and resourced.
- Sufficient useful guidance should be provided by policymakers and regulators.
- Support the taxonomy to expand to other sustainability factors, with the priorities of nature/biodiversity, labour rights and First Nations Peoples' Rights.

Priority 3: Support credible net zero transition planning

- Build up guidance for preparers and users of transition plans.
- Review and update policy on offsets – are they fit for purpose within the ambition of the Sustainable Finance Strategy?
- Ensure transition planning has the best chance of success.
- Introduce commitments of the GBF into domestic laws and progress non-climate sustainability factors in to transition planning expectations.

Priority 4: Develop a labelling system for investment products marketed as sustainable

- Avoid devoting government resources to creating a wholly new labelling regime.
- Endorse the well-established, industry-accepted and rigorous framework within RIAA's Certification Program as the basis for a product labelling regime for sustainable investment products.
- Resource RIAA to expand the Responsible Investment Certification Program and develop the labelling regime with the oversight of relevant government bodies (including Council of Financial Regulators) and consultation with industry.
- Appoint RIAA as the service provider of the finalised product labelling regime.

Priority 5: Enhancing market supervision and enforcement

- Prioritise the development of a product labelling regime in accordance with the recommendations to Priority 4 of this submission.
- Move quickly to expand mandatory sustainability reporting to other areas.
- Develop guidance in consultation with industry and ensure consumer education is progressed.
- Regulate ESG ratings as financial services, focusing on transparency and good governance.

Priority 6: Identifying and responding to potential systemic financial risks

- Consider how current policies or legislation affect all sustainability-related risks, including protection of nature and biodiversity and First Nations Peoples' Rights.

Priority 7: Addressing data and analytical challenges

- Establish a free and fit-for-purpose single repository of climate-related data.
- Provide internationally-aligned, Australia-specific scenarios for scenario analyses.
- Reconsider timeline for CFR's assessment and outline which data gaps will be addressed as a matter of priority in the Sustainable Finance Roadmap.

Priority 8: Ensuring fit for purpose regulatory frameworks

- Prioritise resolving the unintended consequence of the YFYS performance test on the superannuation sector's ability to invest in the transition to a net-zero economy.
- Implement full portfolio holdings disclosure, including for managed investment schemes.
- Minimum mandatory requirements for financial advisers to attain knowledge of a client's interest in investing sustainably.
- Establish a formal stewardship code, with consultation from industry, including on the appropriate governance model
- Examine policy reform that addresses barriers to effective stewardship, such as structural barriers and industry limitations; lack of resources, capacity, skills; and knowledge gaps, and accountability and reputation.

Priority 9: Issuing Australian sovereign green bonds

- Encourage growth of green capital markets by developing policy on accessible data, sustainable credentials and use of proceeds.

Priority 10: Catalysing sustainable finance flows and markets

- Support CEFC to take a central role in providing early-stage investment which supports transition to a net-zero economy and nature and biodiversity protection and restoration.

Priority 11: Promoting international alignment

- Properly integrate all aspects of the economy into Australia's net zero transition plans, to promote credibility on the international stage.

Priority 12: Position Australia as a global sustainability leader

- Leverage Australia's progress in domestic sustainable finance policy to deepen Australia's international engagement including on taxonomy development and transition finance.
- Take a targeted leadership role in areas which can set international standards.

General comments

Establish a Sustainable Finance Advisory Council

13. RIAA recommends that an industry advisory body – the Sustainable Finance Advisory Council (Council) – be constituted to provide advice and feedback to Treasury and other relevant parts of government and regulators on the implementation of the Sustainable Finance Strategy and Roadmap over the coming 3 years.

14. RIAA welcomes the genuinely open and consultative approach taken by the Australian Government in developing the path ahead for sustainable finance. In fact, it is proposed that the Council build on the experience and effectiveness of the roundtable discussions convened by the Council of Financial Regulators to inform responses to the ISSB consultation.

15. The purpose of this Council will be to be a formal platform that supports strong cross industry and government consultation, advice and feedback to government relating to the multiple streams of work that will be addressed by the Sustainable Finance Strategy development and implementation, to ensure those streams of work are complementary, aligned and effective. The Council is proposed to complement and not replace formal consultations on specific elements of the Sustainable Finance Strategy and will provide a consistent and continued forum for advice and observations to government.

16. The Council would be a representative cross-section of industry with objectives such as:
    a. providing strong ongoing advice and consultation with government to support the timely implementation of the Sustainable Finance Strategy;
    b. providing a macro view of the numerous aspects of the Sustainable Finance Strategy and Roadmap which must develop cohesively for successful implementation;
    c. being a timely and consistent point of engagement with industry across the implementation timeline; and
    d. complementing real economy consultation and strategy.

Recommendation
• Establish the Sustainable Finance Advisory Council as a formal mechanism to efficiently facilitate industry consultation and provide feedback and advice to Government throughout the implementation of the Sustainable Finance Strategy and Roadmap.

Integrate **First Nations peoples' experience and expertise into the Strategy** from Day 1

17. If done right, the global energy transition offers opportunity to ensure all communities and workers thrive, and to address long-standing disadvantage, including that faced by Australia's First Peoples. This strategy offers the opportunity to address the gap between the rights enjoyed by Indigenous and non-Indigenous people. This strategy must be broadened immediately and more explicitly to include action on sustainability issues other than climate.

18. RIAA was pleased to see the Government acknowledge in the consultation paper that markets are increasingly focusing on non-climate sustainability issues. RIAA has seen a growth in investment managers considering factors relating to Indigenous Peoples with the growth of norms-based screening practices. RIAA's 2023 Australian Responsible Investment Benchmark Report (2023 Benchmark Report) found that:
    a. 34% of respondents are specifically screening against the UN Declarations of the Rights of Indigenous Peoples (up from 14% in 2021);
    b. norms-based screening overall grew by 85% when compared to 2021, representing $255 billion AUM; and

    c. more than half (56%) of surveyed investment managers incorporate norms-based screening into their investment processes.

> **Definition**
>
> **Norms-based screening** refers to the screening of investments based on minimum standards relevant to business practices. Standards applied are based on international norms and conventions, such as those defined by the United Nations (UN).
>
> In practice, norms-based screening may exclude companies that contravene standards such as the UN Convention on Cluster Munitions. It may also include positive screening, based on ESG criteria developed through international bodies such as the United Nations Global Compact, International Labour Organization, the United Nations Children's Fund and the UN Human Rights Council.

19. RIAA's members are keenly interested in ensuring First Nations people's voices are heard by, and their interests served through, responsible investment practices. RIAA established the First Nations People's Rights Working Group in 2020 to address and advance the rights of First Nations people, elevate First Nations' participation and voices in investment and increase access, scale and impact of First Nations Peoples-related investment activity. The Working Group supports RIAA members in their stewardship responsibilities in respect of First Nations peoples' rights in their business operations and their portfolio of companies.

20. RIAA accepts the Government is looking to adopt a 'climate-first' approach, but notes that this would best be served by explicitly integrating First Nations people's knowledge and experience from the beginning, acknowledging:
    a. the deep connection to Country and custodianship held by the First Nations population;
    b. the mutual benefit which could be afforded by harnessing ancestral knowledge and advancing the economic empowerment of the First Nations peoples; and
    c. leveraging existing relationships First Nations peoples have with industry in key geographical areas.

21. First Nations expertise in looking after Country has the capacity to provide a significant advantage to the implementation of the Sustainable Finance Strategy (even where a 'climate-first' approach is taken), as well as support the Government's intention to position Australia as a global sustainability leader (see below). For example, incorporating Indigenous knowledge into how nature is measured will improve nature-related financial disclosures. And protecting Indigenous cultural heritage and legislating for Free, Prior and Informed Consent in relation to renewable energy projects through national law reform will provide greater certainty, a level playing field and baseline requirements. This will reduce operational and reputational risk in investing in clean energy.

22. Crucially, First Nations land title covers more than 50% of the Australian land mass, and more than 80% in northern Australia. It is recognised that a high proportion of renewable energy, critical minerals and biodiversity conservation and restoration projects are, and will be, located on First Nations peoples' lands. RIAA submits that it is therefore critically important that First Nations people are treated as equity partners in the policy framework to support Australia's decarbonising economy. If First Nations interests are not accorded this status, the risks at a national level are twofold;
    a. a historic opportunity to generate sustainable wealth for First Nations communities in regional and remote Australia will not be achieved; and
    b. inevitable tension between proponents and First Nations groups could delay or prevent approvals for development projects.

23. RIAA submits the Sustainable Finance Strategy provides the ideal opportunity to establish a new approach to creating agreements between industry and First Nations land holders aimed at achieving equity and sustainable shared benefits, to be informed by the UN Declaration on the Rights of Indigenous Peoples, which Australia has endorsed.

24. RIAA supports the Government's acknowledgement of the importance of First Nations involvement in the energy transition through the First Nations Clean Energy Strategy (FNCES) consultation:
    - Minister for Climate Change and Energy Chris Bowen: "By providing the opportunities for First Nations communities to share their perspectives, government and industry are better equipped to ensure the First Nations Clean Energy Strategy delivers for Indigenous Australians".
    - Minister for Indigenous Australians Linda Burney: "First Nations people have strong local and cultural knowledge, including management of Country, and this can and should inform how Australia transforms its energy systems to achieve net zero by 2050."
    - FNCES consultation paper at 1.2 The importance of authentic partnerships with First Nations peoples for clean energy transformation.

25. Observations such as these should be integrated through Australia's approach to sustainable finance in a holistic way from the outset through this Strategy.

Recommendation
• Integrate the involvement and participation of First Nations Peoples into the Sustainable Finance Strategy and Roadmap from the outset.

Build a truly economy-wide, whole-of-government approach

26. RIAA encourages the Government to use the Sustainable Finance Roadmap to holistically bring together in a whole-of-government way, the various strategies and initiatives that will progress Australia to a net-zero economy. RIAA suggests that the Roadmap articulate a shared level of ambition and urgency in achieving the transition to net-zero and maps the policy positions and strategies across industries, real economy and financial economy which have this shared goal.

27. The move to, and implications of, a net-zero economy require effort well beyond finance and energy sectors; it involves all industries across all government portfolios. RIAA endorses the number of initiatives the Government has progressed in support of a renewable and sustainable future across many industries. This includes recent announcements such as the FNCES consultation paper; expanding the Capacity Investment Scheme to increase the energy grid capacity; updating the Environment Protection and Biodiversity Conservation Act 1999 to strengthen and streamline Australia's environmental laws; committing to national law reform on Indigenous cultural heritage protection; establishing the Net Zero Authority; signalling support for increased sustainability disclosures beyond climate; reviewing modern slavery reporting requirements to make the more robust; and supporting the Taskforce on Nature-related Financial Disclosures (TNFD).

28. Sustainable finance will interact and influence most, if not all, of these (and future) initiatives through its role in financing Australia's transition to net-zero. The Sustainable Finance Strategy and Roadmap present an opportunity to articulate how this myriad of laudable initiatives fit together. Without this, the process of assessing the adequacy of the Sustainable Finance Strategy is difficult.

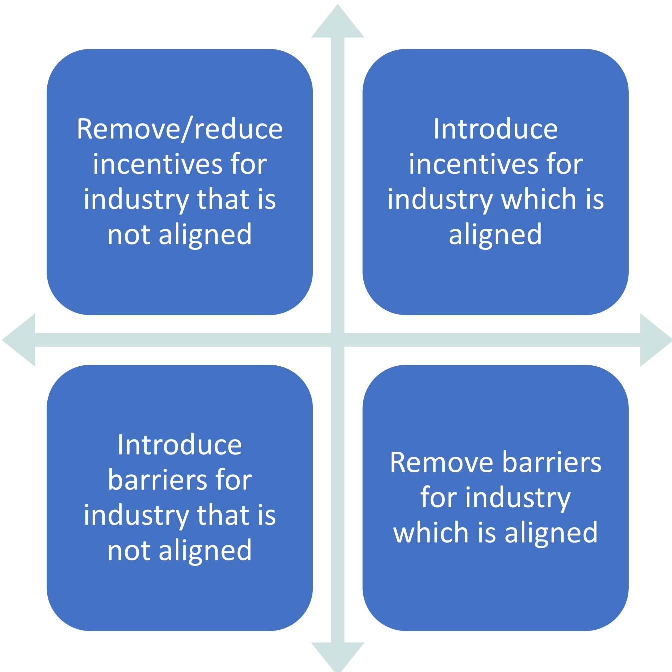
29. Furthermore, the interconnected nature of sustainability issues through the economy means that it is likely that activities which support transition to a net-zero future could have unintended negative consequences for other sustainability factors such as labour rights, First Peoples' rights, gender equality and biodiversity if not considered together. While the government has encouragingly included a "Do no significant harm" principle in the Strategy consultation, RIAA considers that, without a shared understanding across government and between government, industry and other stakeholder groups, it is difficult to understand how this will be applied in practice.

Recommendations
• Articulate an integrated, Whole-of-Government approach and shared level of ambition and urgency in achieving the transition to net-zero. • Publish a holistic, Whole-of-Government framework of initiatives and strategies that aim to progress Australia to a net-zero economy.

Utilise all available public policy levers in progressing the net-zero objective

30. RIAA encourages the government to broaden the methods through which it progresses the objectives of the Sustainable Finance Strategy, which (as above), intersect and overlap with several portfolios:
    a. mobilising the private sector investment needed to support net zero, Australia becoming a renewable energy superpower and other sustainability goals;
    b. ensuring Australian entities can access capital and pursue business opportunities that support the transition and are aligned with positive sustainability outcomes; and
    c. ensuring climate and sustainability-related opportunities and risks are well-understood and managed at the entity and systemic level.

31. While there are a number of restrictions or regulations, the Strategy does not go as far as it could in leveraging the government's ability to affect public policy change at the required scale. Figure 1 outlines the possibilities open for Government to push forward the objectives in relation to activities that are aligned with the net zero transition and those that are not aligned.



32. RIAA encourages the Government to review and update outdated policies and legislation that may be contrary to the ambition in its Sustainable Finance Strategy. For example:
    a. in accordance with the Government's commitments under the Paris Agreement and Global Biodiversity Framework, eliminate subsidies for harmful activities and remove incentives such as tax breaks that insulate high-emitting industries; and address the use of offsets to meet climate targets at the national or company level which can obscure true progress towards that goal;
    b. strengthen existing financial product requirements such as expanding portfolio holdings disclosure to managed investment schemes, updating ASIC's Regulatory Guide 65 Section 1013DA disclosure guidelines for more meaningful disclosures, and requiring baseline responsible investment as part of MySuper products (in a manner similar to KiwiSaver default provider requirements);
    c. introduce evidence-based incentives to assist the responsible investment industry adapting to new regulation and requirements, particularly where there is a skills gap and a reduced quality and availability of data;
    d. where possible, continue to remove barriers and deterrents to responsible investment. In particular, the YFYS performance test currently acts as a disincentive to long-term sustainable investment and must be reformed to ensure Australia's $1T+ superannuation sector can meaningfully invest in the transition for the long term; and
    e. introduce evidence-based disincentives for industries and practices that serve to increase emissions and that are not aligned with Australia's transition to a net-zero economy.

33. Reflecting the interconnected nature of sustainable finance, using all public policy levers will provide the government with the flexibility to address the transition to a net-zero economy with the scale and coverage that is required, whilst also meeting social goals. Bringing together the strategies across real economy and the finance sector (as mentioned above) will provide an opportunity to reform the various policies, regulations and legislative requirements that do not support an energy transition.

Recommendations
• Review and amend outdated policies, regulations and legislation that do not support the movement of capital to more sustainable investments. • Use all available public policy levers to support the transition to a net-zero economy.

Suggested additions to the Sustainable Finance Strategy implementation roadmap

34. With the contribution of its members, RIAA has identified areas which would benefit from further articulation in the Sustainable Finance Roadmap:
    a. how relevant non-climate sustainability considerations (such as Human Rights, modern slavery, First Nations Peoples' rights and diversity & inclusion) will be approached, to ensure a just transition;
    b. details around integrated education, training and workforce planning at the scale needed for the transition to a net-zero economy, bringing together welcome initiatives such as The Clean Energy Generation; and
    c. who the key stakeholders are of the Roadmap and working with them to address their specific barriers to delivering the goals of the Sustainable Finance Strategy. These include the disincentive posed by the YFYS performance test and the different opportunities investors have to invest sustainably depending on the asset class and investment style.

Recommendations
• Use the final roadmap as chance to articulate plans for a just energy transition. • Ensure the integration of workforce planning into the Roadmap.

Response to consultation questions

Priority 1: Establish a framework for sustainability-related financial disclosures

35. As detailed in our submission to Government earlier this year, RIAA strongly supports the introduction of a robust, fit-for-purpose mandatory climate-related financial disclosure regime in Australia. We reiterate that the key priorities for the new disclosure regime should be:
    a. alignment with the ISSB and adapting to Australia with a building-block approach using the global standards as a baseline, noting that the ISSB standards are aimed towards issuers of capital;
    b. a fit-for purpose regulatory framework that can be expanded to incorporate broader sustainability disclosures;
    c. government support for companies under the mandatory regime, including:
        i. prompt introduction, with targeted, time-bound transitional arrangements to address key challenges for preparers and audit/assurance providers;
        ii. support from government including free, fit-for-purpose data access, and climate scenarios; and
        iii. practical regulatory guidance on aspects of disclosures that present challenges.

What are the opportunities for Government, regulators and industry to support companies to develop the required skills, resources and capabilities to make climate disclosures under the proposed new obligations? How should the Government, regulators and industry prepare for global developments in sustainability-related financial disclosure frameworks and standards, including the TNFD?

36. As the energy transition will intersect with the achievement of other sustainability goals (see above), government, regulators and industry must be prepared for global developments in sustainability-related financial disclosure frameworks and standards, including in relation to knowledge and capability. This will require coordinated policy adoption in a range of non-finance areas such as the sciences, accounting and even engineering, and require adaptation of various tertiary, technical and executive training.

37. There are a number of gaps facing institutional investors ahead of the introduction of mandatory climate reporting, relating to:
    a. availability, timeliness and quality of data;
    b. skills gap, both in terms of knowledge and expertise (technical and scientific) as well as across the ecosystem (Board level, financial advisors, auditors, product and legal professionals, audit and assurance, and within government and regulators); and
    c. lack of consistent methodologies for measuring scope 3 (and 4) emissions.

38. As detailed in our submission to Government earlier this year, RIAA encourages the Government to design the climate disclosures framework to accommodate broader sustainability disclosure requirements in the future, in line with the direction of the ISSB, international markets and investor and community expectations. In addition, early digitisation of the reporting regime will improve efficiencies and insights.

Recommendations
• Ensure only minimal changes are made to the global standards set by the ISSB, including ensuring that domestic standards are sufficiently flexible to apply to non-climate sustainability factors. • Establish a coordinated policy framework for capability development across financial and non-financial skills and capabilities. • Plan for digitisation of the sustainability reporting regime.

Recommendations (cont.)
• Consider quick fixes to support upskilling across the sustainable finance ecosystem: o Mandatory continuing education for finance professionals to include competencies in sustainable finance. o Mandatory accreditation of audit and assurance providers, and associated training and clear articulation of expectations. o Fund and expand capacity building initiatives and collaborate with existing training providers. o Provide clear guidance on minimum requirements and support innovation of metrics as data and disclosures improve through time.

Priority 2: Develop a Sustainable Finance Taxonomy

39. RIAA is a strong supporter of an Australian sustainable finance taxonomy, having played a key role in the establishment of the Australian Sustainable Finance Initiative (ASFI) and Roadmap, including the recommendation to develop a taxonomy. The ASFI Roadmap outlines that the objective of "developing, or adopting, a sustainable finance taxonomy should be to align and harmonise with emerging international sustainable finance taxonomies and to build on existing frameworks, while also reflecting the unique characteristics of the Australian market. A sustainable finance taxonomy would support the measurement of financial flows towards sustainable outcomes."

40. The Australian taxonomy is unique in that it has to date been led by the private sector. The Australian taxonomy aims to be informed by best practice as well as decarbonisation pathways of each sector. With this approach, the taxonomy development has now managed to gain credibility with government as well. Going forward, a continued buy-in from diverse stakeholders within and outside of the finance system will be crucial to lend credibility.

What are the most important policy priorities and use cases for an Australian sustainable finance taxonomy? What are the key insights from international experience to date?

41. RIAA considers it important that the policy priorities are aligned with the primary purposes of the Australian taxonomy as outlined by the ASFI roadmap:
    a. direct capital flows into economic activities that substantially contribute to climate mitigation and other sustainability objectives;
    b. help guide an orderly and just transition to a sustainable economy; and
    c. address greenwashing.

42. RIAA agrees with the cases put forward in ASFI's submission to the consultation paper which relate to these three purposes of an Australian taxonomy, including supporting a product labelling scheme as one potential evidence base for claims. In addition, RIAA notes that these intended uses will have implications for Australia's financial regulators APRA, ASIC and RBA, and provide a reference for Australia's policy makers in the development of targets and strategies for achieving Australia's sustainable development commitments. The implementation of a taxonomy in a manner consistent with legal obligations (including competition law) will necessarily involve governments and other regulators.

43. In embedding the taxonomy in Australia's legal and regulatory framework, striking the balance between prescriptive and principles-based will be key to ensure:
    a. industry has sufficient certainty on allowable conduct and consequences;
    b. innovation and creativity are not stifled with over-regulation, especially in the context of Australia needing to move fast to align with global developments; and
    c. regulators have clear parameters in which they are able to lawfully stem greenwashing.

44. To ensure the sustainable finance taxonomy has the great chance of success:
    a. RIAA recommends that sufficient useful guidance should be provided by policymaker and regulators. Such guidance should set out the expectations of industry, noting that the development of regulatory requirements must occur alongside with skills and capability growth and the availability of data.
    b. Experience with overseas taxonomies shows that useability and interoperability will be key, along with accessible data.
    c. Relevant terminology should be adopted across industry where relevant, for example, matching categorisation of transition revenue with policies, especially for industries like gas and steel.

What are priorities for expanding taxonomy coverage after the initial focus on climate mitigation objectives in key sectors?

45. RIAA encourages the Government to support the taxonomy to expand to all sustainability factors. The taxonomy should not be limited to just climate, and RIAA is pleased to note the Government's intention to expand the taxonomy's remit. A focus solely on climate change may have negative consequences – this is especially pertinent for Australia, as we have to move faster than the EU did in implementing their taxonomy.

46. RIAA's active Nature Working Group of investors, established over two years ago, shows the importance investors place on nature risk, protection and restoration. RIAA supports the incorporation of nature into the taxonomy as a first priority, given the inter-relationship between climate and nature. Modern slavery and First Nations Peoples' Rights should also be included – addressing these issues through a sustainable finance lens will be key to facilitating a just transition.

47. While acknowledging that nature and biodiversity have rapidly developed, Australian investors are focused on a broad range of sustainability factors. The [2023 Benchmark Report] found that, while climate remained the primary focus of respondents, there is a growing trend towards engaging meaningfully in other areas, many of which support the Government's sustainability objectives in the environment and social sectors:
    a. sustainability-themed investing grew by 46%, from $161 billion in 2021 to $235 billion in 2022;
    b. social impact-related themes, which included a wide range of investments such as accessibility and disability housing, was designated by $41.7 billion of sustainability-themed funds;
    c. other significant sustainability themes include waste management, zero waste and circular economy-related investments worth $37.3 billion; and
    d. investments seeking to support natural capital, biodiversity, sustainable forestry, water and land management practices, amount to more than $42 billion.

What are appropriate long-term governance arrangements to ensure that the taxonomy is effectively *embedded in Australia's financial and regulatory architecture?*

48. RIAA encourages the government to aim for consistency across industry through the embedding the taxonomy in relevant regulatory infrastructure, whilst maintaining the flexibility to update the terms and requirements as the industry matures.

49. Fundamentally, the key bodies who are responsible for maintaining and enforcing the taxonomy should be appropriately resourced and funded, with the taxonomy based in science and informed by appropriate scientific experts.

Recommendations
• Align the sustainable finance taxonomy with the primary purposes for which it was established, as outlined by the ASFI roadmap. • Embed the taxonomy in regulatory infrastructure, striking the balance between prescriptive and principles-based frameworks and ensuring relevant bodies are properly funded and resourced. • Sufficient useful guidance should be provided by policymakers and regulators. • Support the taxonomy to expand to other sustainability factors, with the priorities of nature/biodiversity, labour rights and First Nations Peoples' Rights.

Priority 3: Support credible net zero transition planning

What are key gaps in Australian capability and practice, including relative to 'gold standard' approaches to transition planning developed through TPT and other frameworks? To what extent will ISSB-aligned corporate disclosure requirements improve the transparency and credibility of corporate transition planning? What additional transition disclosure requirements or guidance would be most useful in the medium-term? Are there related priorities and opportunities for supporting enhanced target setting and transition planning for nature and other sustainability issues?

50. RIAA refers to its previous submission and reiterates that the 'just transition' is best supported by integrated thinking, decision-making and reporting due to the wide range of investors and companies involved in the transformation to net zero. As submitted above, RIAA encourages the government to expand its transition policy to nature and First Nations Peoples' Rights, being national priorities, which require private sector support. Given the substantial intersection between climate/biodiversity and other sustainability issues (including social elements), the transition plan expectations should expand over time to incorporate these issues, rather than being seen as separate.

51. RIAA supports the mandatory disclosure of transition plans, including transparency around offsets, target setting and mitigation strategies. These should be consistent with emerging international transition planning requirements, including the ISSB, EU's and UK's approach. Providing information on how the entity's capital expenditure and investment commitments support the transition, and that all entities be required to disclose information about climate-related targets and progress. This would provide a solid foundation for credible transition planning and target setting and increases transparency, allowing capital markets and investors to make better-informed decisions.

52. RIAA considers taking a holistic policy position on transition plans would provide for a more robust framework. For example, industry frameworks such as Net Zero Investment Framework and the IGCC's Net Zero Stewardship toolkit could provide provisions on which to assess the credibility of transition plans and net zero carbon strategies. In addition, government can depart from the ISSB by requiring transition plans to be developed and providing guidance on what the transition plans should contain – i.e. not working backwards from disclosure obligations to transition plan creation.

53. We note that the UK's Transition Plan Taskforce (TPT) has released its Disclosure Framework, which provides "the basis for companies to set out credible and robust climate transition plans as part of annual reporting on forward business strategy. The Framework will support the creation of consistent, comparable company reports, and reduce the level of complexity faced by firms disclosing climate-related information." Along with the Disclosure Framework, TPT have provided additional guidance which includes:
    a. high-level sectoral guidance across 40 sectors to complement the main Disclosure Framework;
    b. guidance on the climate transition planning cycle;
    c. technical mappings and comparison between the Disclosure Framework and several other well-known reporting frameworks;
    d. legal considerations for companies preparing reports using the Disclosure Framework; and
    e. web-based implementation guidance.

54. Similarly, RIAA recommends the Australian government provides timely guidance to assist preparers and users of transition plans. Further, interim targets should be disclosed to allows investors to understand the trajectory towards long-term goals and see how these targets align with the 1.5C decarbonisation pathway.

55. To ensure transition planning has the best chance of success, RIAA recommends:
    a. transition planning be made mandatory across the economy;
    b. immediate priority given to industries with heavy scope 1 and 2 footprints, such as extractive industries, heavy manufacturing, chemicals and agriculture; as well as sectors with significant scope 3 emissions such as transport. For sectors with a low footprint, reduced requirements for planning could be imposed;
    c. recognise companies which provide solutions to mitigating or adapting to climate change;
    d. in mandating transition planning for business, the government should outline expectations of what a credible transition plan looks like;
    e. transition plans should be aligned with the government's sectoral pathways;
    f. apply the Strategy's 'do no significant harm' principle through the design of transition plan expectations, avoid 'carbon tunnel vision', and ensure business transition planning is flexible enough to incorporate negative impacts on biodiversity, human health and human rights;
    g. align transition planning with a 1.5C scenario;
    h. transition plans should recognise the different reporting needs for financial institutions and companies, and the intended audience and use case for the information;
    i. for Superannuation funds, reporting needs to be in members' best financial interests – for making better investment decisions and assisting members in making informed choices.

56. The AASB is consulting on the exposure draft of the proposed Australian Sustainability Reporting Standards, which includes requirements around transition plans. RIAA will be making a formal submission to this consultation.

57. RIAA supports the adoption into domestic legislation and policies Australia's international commitments under the Kunming-Montreal Global Biodiversity Framework (GBF), which aims to halt and reverse nature loss. We also recommend that the government establish a clear framework for developing and disclosing transition plans which supports a whole of economy just transition aligned with limiting global temperatures to 1.5°C.

Recommendations
• Build up guidance for preparers and users of transition plans. • Review and update policy on offsets – are they fit for purpose within the ambition of the Sustainable Finance Strategy? • Ensure transition planning has the best chance of success. • Introduce commitments of the GBF into domestic laws and progress non-climate sustainability factors in to transition planning expectations.

Priority 4: Develop a labelling system for investment products marketed as sustainable

58. RIAA strongly supports an internationally aligned financial product labelling scheme in Australia. Product labelling is a critical piece of Australia's sustainable finance strategy. A single, strong and Government-endorsed labelling scheme would be a highly effective way to address greenwashing and help to shift capital towards a net-zero economy.

59. RIAA's Responsible Investment Certification Program has been operating for over 18 years and is one of the world's oldest responsible investment product labelling schemes. Our experience provides a strong evidence base for the value of a national product labelling scheme. RIAA's internationally-aligned certification standard and rigorous application process have prompted numerous product issuers to significantly improve their product design, disclosures and marketing in order to gain certification. This in turn improves the products provided to consumers and reduces the likelihood of greenwashing. A labelling scheme could lift the integrity and comparability of financial product design, and improve claims made in product disclosure and marketing.

60. RIAA cautions the government against creating a new labelling regime. Noting that industry has stepped up to calls "to develop common sustainable finance-related terms and definitions, including relating to responsible investment approaches, to ensure consistency throughout the global asset management industry", there are a number of industry initiatives which are operating to provide a robust framework. RIAA is centrally involved in these initiatives as well as operating the Certification Program.

61. In addition, Treasury is looking to commence implementation of labelling reforms in 2024, following consultation, and consideration of international approaches and existing industry standards and practice as well as assessing integration with other frameworks such as the taxonomy. The Certification Program has integrated these developments within a robust governance framework. In addition, being a member body, RIAA is able to be informed by its members on challenges and unintended consequences and act quickly to improve the regime in the context of a highly dynamic landscape.

62. For the development of an integrated, interoperable product labelling regime in a timely manner to improve the quality of products and reduce the likelihood of greenwashing, RIAA recommends that government:
    a. endorse the well-established, industry-accepted and rigorous framework within RIAA's Certification Program as the basis for a product labelling regime for sustainable investment products;
    b. resource RIAA to expand its Certification Program and develop the labelling regime with the oversight of relevant government bodies (including the Council of Financial Regulators) and consultation with industry; and
    c. appoint RIAA as the service provider of the finalised product labelling regime.

What should be the key considerations for the design of a sustainable investment product labelling regime?

How can an Australian model build off existing domestic approaches and reflect key developments in other markets?

63. Through our extensive practical experience operating the Certification Program, RIAA proposes the following key considerations to design a robust Australian product labelling scheme:
    a. ensure close alignment with existing and emerging classification and labelling schemes, particularly in the EU, UK and US;
    b. ensure underpinned by strong ‘truth in labelling’ requirements, structured in a manner consistent with regulatory guidance on greenwashing;
    c. support social and governance objectives to encompass sustainable investing (outside of Do No Significant Harm), including supporting approaches that address sustainability issues beyond climate change, or which take a more integrated approach to sustainable development;
    d. support applicability to broader industry labelling regime across super, pension, and retail products, including passive products, exclusionary ESG products;
    e. support strategies which are already considered sustainable and those which support the transition;
    f. ensure appropriate disclosure requirements alongside the introduction of a labelling regime. For example, a difficulty faced by the EU’s SFDR was the development of wider corporate disclosure requirements after the implementation of the SFDR itself;
    g. introduce clear disclosure requirements to underpin product claims, beyond merely portfolio holdings and including areas as applicable such as approach to impact investing and stewardship practices, responsible investment policies, and voting records;
    h. consider obligations for non-sustainable funds to disclose negative exposures (or adverse impacts), to encourage investing in sustainable finance and to ensure there is not an outsized regulatory burden on sustainable funds that provides a disincentive to invest sustainably;
    i. ensure a means of whereby the Australian sustainable finance taxonomy (under development), including in relation to transition, can provide a point of evidence for substantiating sustainability claims;
    j. draw on international precedent and existing definitions (ISO/AS product labelling standard, CFA/PRI/GSIA definitions); and
    k. require independent verification of alignment to any such scheme whereby a deep assessment is undertaken by RIAA that confirms compliance to standards–RIAA’s Certification Program has undertaken this role for the last 18 years.

64. The Responsible Investment Certification Program fulfils these considerations and has an industry tested and approved process, guidance and governance. RIAA is now seeing very significant growth in the demand for certification. In our view, this demonstrates that Australian product issuers increasingly see value in distinguishing their products with a robust uniform standard and independent verification. This direction is understandable, given the close links of Australian financial institutions and investors with overseas markets which have or will soon have classification and labelling schemes.

65. Notwithstanding the success of the Certification Program, government endorsement is necessary to provide a level of authority and accountability to market participants who are interested in sustainability-related investment products. This in turn increases the consistency and reliability of the labels used and the information provided to investors.

RIAA Certification Program

66. RIAA Certification is informed and shaped by global definitions and standards with a local focus to ensure this labelling program aligns closely with the established and emerging labelling and classification systems for products globally. For example, RIAA worked with peer sustainable investment organisations through the Global Sustainable Investment Alliance (GSIA) who, together with the UN Principles for Responsible Investment (PRI) and the CFA Institute, developed and published in November 2023 definitive standardisation of the use of key terminology in RI – ESG Integration, screening, stewardship, impact and thematic investment – in the context of responsible investment.

67. In keeping with the move towards labelling for sustainable products, RIAA will soon release its Sustainability Classifications Initiative (SCI) which will introduce product classifications informed by international standards (such as the three tiers in the SDR, SFDR and SEC guidance) for products, to differentiate them on the basis of their intention to consider, address or target sustainability objectives and impacts.

68. This has been developed over the last 3 years and builds on RIAA's Responsible Investment Standard and existing guidance notes which relate to:
    - Guidance Note – Portfolio Holdings Disclosure
    - Guidance Note – Banking Product Certification
    - Guidance Note – Stewardship Practices and Disclosures
    - Guidance Note – Product labelling
    - Guidance Note – Multi-asset products
    - Assessment Note P3 – Avoid Significant Harm
    - Assessment Note P2 – Products trading with 'impact' in the label
    - Assessment Note – For RIAA certified products trading with 'sustainable' in the product label

69. The Sustainability Classifications Initiative is to be launched in early 2024.

70. RIAA Certification is focused on maintaining the rigour and credibility of the responsible investment sector and products in delivering this program, with approximately 70% of products assessed under RIAA's Certification Program required to make investment process or marketing material changes to comply with certification requirements. This ensures that RIAA's Certification Program continues to raise standards in the market with the aim of aligning capital with achieving a healthy society, environment and economy.

71. Consistent with the increased scrutiny on industry, RIAA's Certification Program continues to focus strongly on ensuring truth in labelling, including deep dive due diligence on products to ensure substantiation of claims made that would not mislead the average consumer.

Recommendations
• Avoid devoting government resources to creating a wholly new labelling regime. • Endorse the well-established, industry-accepted and rigorous framework within RIAA's Certification Program as the basis for a product labelling regime for sustainable investment products. • Resource RIAA to expand the Responsible Investment Certification Program and develop the labelling regime with the oversight of relevant government bodies (including Council of Financial Regulators) and consultation with industry. • Appoint RIAA as the service provider of the finalised product labelling regime.

Priority 5: Enhancing market supervision and enforcement

Are Australia's existing corporations and financial services laws sufficiently flexible to address greenwashing? What are the priorities for addressing greenwashing?

72. RIAA supports government's ongoing efforts to address greenwashing in the finance sector. Greenwashing distorts information that an investor might require to make informed investment decisions; does wrong by consumers who may make a decision based on false or misleading information; breaks the law; undermines the integrity of the investment marketplace, particularly those such as RIAA's certified members who are working hard to create and market products that have strong sustainability credentials; and reduces trust in the finance sector.

73. Greenwashing is multi-faceted issue, and can be intentional or unintentional, being a product of a number of different legal and policy weaknesses (see above). While Australia's corporations and financial services laws are overall sound, they fall short of being sufficient to address greenwashing due to:
    a. inadequate product labelling and naming conventions which provide a consistent standard across the market;
    b. significant skills and capability gap in all stages of the investment lifespan, both public and private sectors;
    c. uncertainty with regulatory expectations, particularly during a stage of transition; and
    d. tension between needing to innovate and progress transition with increased regulatory scrutiny.

74. Addressing these integrated public policy facets and setting a baseline of understanding and expectation among all actors in sustainable finance will address greenwashing through an increase in overall quality of information and products in the market. RIAA also suggests that industry be involved in the development of guidance, similar to the development of the Modern Slavery Reporting Investor Guidance. In addition, legal and regulatory development should be coupled with enhanced resourcing for consumer/investor education to identify and assess credibility on sustainability when selecting a financial services provider.

75. Setting a high standard of expectation of consumers, investors and market participants through a product labelling regime (see above) will ensure that this quality is maintained. The sustainable finance taxonomy and proposed product labelling regime are crucial to address greenwashing. Noting that the development of the taxonomy is underway, RIAA calls for the efficient development of a product labelling regime to commence without delay (see above for further details). for further details).

Is there a case for regulating ESG ratings as financial services?

76. RIAA agrees that ESG ratings should be regulated as financial services, leading to those who advise on or provide ratings to hold an Australian Financial Service (AFS) licence. As per the AFS licence regime, RIAA would expect additional obligations where a provider intends to provide ESG ratings to retail investors.

77. ESG ratings have been an important feature of the sustainable finance industry, particularly where corporate and issuer disclosure has been inconsistent. However, there are risks of an unregulated advice sector, and strengthened regulation would provide greater confidence and transparency that supports a professional sector whilst also protecting the intellectual property of unique methodologies and calculations between different providers of ESG ratings . In addition, trust between ratings providers and corporates and/or investors may be eroded if ratings are not seen to be of a high quality. Providing a regulated minimum standard could mitigate these concerns

and allow ESG ratings to supplement the network of policies supporting the transition to a net-zero economy.

78. Consistent with IOSCO's recommendations and the recent EU proposal to regulate ESG ratings activities, RIAA considers that the regulation of ESG ratings should promote issues such as transparency of methodologies, and integrate robust internal governance arrangements including with regards to conflicts of interest and impartiality. The AFS licence regime can be a suitable basis for such regulation.

Recommendations on Priority 5
• Prioritise the development of a product labelling regime in accordance with the recommendations to Priority 4 of this submission. • Move quickly to expand mandatory sustainability reporting to other areas. • Develop guidance in consultation with industry and ensure consumer education is progressed. • Regulate ESG ratings as financial services, focusing on transparency and good governance.

Priority 6: Identifying and responding to potential systemic financial risks

Are there specific areas where the Government or regulators could further contribute to market-wide understanding of systemic sustainability related risks, including climate-related financial risks?

79. RIAA supports a systems perspective on sustainability-related risks and encourages government to include non-finance sector policies and to consider all sustainability-related risks, not just climate. This reflects the interconnected nature of addressing sustainability challenges (see above).

80. RIAA's research shows there is growing recognition that investor stewardship is a tool to address systemic issues, and that this is likely to accelerate.

81. Investor interest is best served in many sustainability areas through the introduction and enforcement of strong baseline laws. For example, national laws that ensure adequate protection of Indigenous cultural heritage, including Free, Prior and Informed Consent as defined by the United Nations, will help to ensure companies on the ground are appropriately engaging with First Nations communities in their activities. This in turn minimises operational, financial and reputational risk in this area, about which investors are increasingly concerned. Likewise, strong environmental laws provide investors with greater certainty around the requirements of investee companies to protect nature and biodiversity. Appropriate baseline laws help maintain the long-term value of assets.

82. In addition, government should centralise relevant data and analyses on matters such as physical climate risk across Australia (see below). Government is in a unique position to contribute to market-wide understanding of systemic sustainability-related risks by providing sophisticated, up-to-date scenarios which capture the full, systemic impacts of climate change, including impacts to nature/biodiversity and social impacts.

83. Government should consider supporting the establishment of a national Stewardship Code, a mechanism that drives high standards of stewardship practices that are critical for investors to appropriately be considering and addressing systemic risks (see below).

Recommendations
• Consider how current policies or legislation affect all sustainability-related risks, including protection of nature and biodiversity and First Nations Peoples' Rights.

Priority 7: Addressing data and analytical challenges

What are the priorities for ensuring that data-related initiatives already underway are tailored to meet the needs of firms and investors? What key sustainability data gaps or uncertainties faced by financial institutions in Australia should be prioritised by the CFR?

84. As Convenor of the official Consultation Group for the TNFD, RIAA has received a significant amount of feedback highlighting a real or perceived data gap as a key constraint to TNFD reporting. We are encouraged to see government working to fill this gap through the establishment of the Environment Information Agency (EIA), to be the source of trusted national environmental data and information, with a mandate to advise the government on developing a new national standard for environmental data. It will also be responsible for TNFD implementation.

85. Government support for data and capability could significantly boost the quality and usefulness of disclosures for a broad array of companies, and level the playing field for companies under the mandatory regime. Key areas where Government could add significant value include:
    a. a free and fit-for-purpose single repository of Government climate-related data (for example, on physical risk) for companies to use to prepare strategies, plans and disclosures, and
    b. setting internationally-aligned, Australian-specific scenarios for scenario analysis, which would address a significant challenge for preparers and improve the credibility, consistency and comparability of disclosures for investors.

86. There are a number of data gaps which can and should be addressed by government as a matter of priority:
    a. carbon and climate related data.
    b. understanding the audit and assurance process and if and how validity of climate data could be increased;
    c. poor emissions data availability across the universe of investible securities, including the basis and measures of Scope 3 emissions;
    d. there should be standardisation and rigor with easy to use tools and calculators to reduce the financial and administration burden on smaller companies that will need to feed into larger companies' scope 3 reporting.

87. RIAA encourages the government to progress the assessment by CFR into key sustainability data gaps and priorities urgently. It is currently envisaged that CFR will publish the CFR assessment by the end of 2024. This is quite late for any entities looking to prepare their first-year Scope 1 and 2 reporting and others who are looking to prepare for Scope 3 reporting. RIAA strongly suggests that this timeline is abridged to the degree its possible.

88. Proper resourcing and funding of the EIA and any other government bodies created for the purposes of the Sustainable Finance Strategy will be crucial. This is particularly that case there are significant gaps and challenges in data related to biodiversity and nature. Most global biodiversity databases do not have enough coverage from the developing world, which greatly restricts their applicability on a global scale.

Recommendations
• Establish a free and fit-for-purpose single repository of climate-related data. • Provide internationally-aligned, Australia-specific scenarios for scenario analyses. • Reconsider timeline for CFR's assessment and outline which data gaps will be addressed as a matter of priority in the Sustainable Finance Roadmap.

Priority 8: Ensuring fit for purpose regulatory frameworks

Do you agree that existing regulatory and governance frameworks and practices have adapted well to support better integration of sustainability-related issues in financial decision making? Are there barriers or challenges that require further consideration? This may include:
– *Corporate governance obligations, including directors' duties*
– Prudential frameworks and oversight, including in relation to banks and insurers
– Regulation of the superannuation system and managed investment schemes

89. RIAA acknowledges that Australia has strong market and financial regulations. While these frameworks have served the market and industry well, the Sustainable Finance Strategy contemplates a fundamental shift with a mobilisation of capital at a scale Australia has not seen before. As such, there are aspects of the regulatory and governance frameworks are which require redress. This includes sustainability risks within capital requirements for regulated institutions (Prudential Standards APS110 and GPS110 – Capital Adequacy) and working with industry to develop a practical approach to measurement of sustainability risk.

SAFE HARBOUR IS NOT REQUIRED

90. RIAA supports transitional arrangements in relation to new disclosure and conduct requirements. However, RIAA disagrees that a safe harbour is required for directors, officers or Registrable Superannuation Entity (RSE) licensees.

91. There have been three influential legal opinions which considered existing director's duties in light of sustainability-related matters:
    a. commissioned by the Centre for Policy Development, Sebastian Hartford-Davis and Noel Hutley SC first confirmed in 2016 that directors have a duty to consider and manage climate risk. In 2019, the lawyers reinforced and strengthened their original opinion with an update, noting that material developments since 2016 had raised "the standard of care that will be expected of a reasonable director. Company directors who consider climate change risks actively, disclose them properly and respond appropriately will reduce exposure to liability. But as time passes, the benchmark is ris*ing."*
    b. commissioned by RIAA, ACSI and IGCC, Sebastian Hartford-Davis and Kellie Dyon provided that, under existing director's duties, Australian company directors should already be focussing on financially material issues such as climate risk and other sustainability matters and that directors should not face increased liability risks under ISSB standards and should not need any kind of 'safe harbour'. As ISSB Standards require disclosures of risks material to each company, it is expected that directors would already be considering and measuring those risks; and
    c. commissioned by Pollination Law and the Commonwealth Climate and Law Initiative, Sebastian Hartford-Davis and Zoe Bush advised that Australian company directors have a duty under corporations law to consider their company's exposure to nature-related risks. As Australia's ecosystems are under threat, and the Australian economy depends to a material degree on those ecosystems, it stands to reason that nature-related risks have the potential to cause harm to the interests of Australian companies. Any director who is not acting to identify and appropriately manage material risks will be exposing themselves to potential legal consequences for breaching their duties.

92. We refer to the opinion jointly commissioned by RIAA which considered the ISSB standards and concluded that a safe harbour was not required. The lawyers found that:
    a. "Investors and courts do not expect companies to predict the unpredictable, but instead to make sensible disclosures on a reasonable basis, and to update earlier disclosures if they become misleading by reason of later events" (para 59). For example, for scope 3 emissions disclosures, using a supplier's scope 1 and 2 emissions data would likely form a 'reasonable

basis', provided there was not a reason to mistrust that data, and that it included disclaimers about the reliability of the data.

b. Institutional investors make decisions which affect the wealth and retirements incomes of millions of Australians. There are significant real-life impacts of investor decision-making, and climate risk and opportunities are highly relevant to company valuation and performance. In this context, companies and directors should be legally required to make forward-looking statements about climate risks and opportunities on a reasonable basis.
c. The challenges faced by companies preparing climate disclosures, particularly in the early reporting periods, should be addressed through (i) Regulatory Guidance on what constitutes a 'reasonable basis' for forward-looking statements in climate and broader sustainability disclosures, (ii) disclosure of data sources, assumptions, methodologies and use of disclaimers which will assist investors to understand the 'reasonable basis' for forward-looking statements, and (iii) collaborative development of best practice guidance and tools for climate disclosures by companies, investors and regulators.

93. Despite this, RIAA encourages Government to consider providing education and guidance specifically for Directors.

MISALIGNED BENCHMARKS IN YOUR FUTURE, YOUR SUPER PERFORMANCE TESTING

94. As mentioned in our submission to Treasury on Legislating the objective of superannuation (28 September 2023), RIAA welcomes the acknowledgement that a comprehensive Sustainable Finance Strategy must reform any measures which are contrary to the Strategy's aims, and urges government to progress as a priority reform of the YFYS performance test.

95. The YFYS performance test currently disincentivises long-term sustainable investment approaches. Sensible reform on this test can deliver in the best financial interests of members whilst also ensuring alignment of superannuation with a low carbon economy, as well as sustainability themes other than climate: see Conexus Institute research and the Mandala Report (Submission by Mandala Partners to the Treasury Sustainable Finance Strategy consultation) for more information.

96. Superannuation fund members increasingly expect their money to be invested in line with their own values, in addition to returning strong financial returns. RIAA's study, From Values to Riches 2022: Charting consumer demand for responsible investing in Australia found:
   a. high expectations that funds will invest responsibly: 83% of Australians expect their bank account and their super to be invested responsibly and ethically. For over 80% of the population, this means that their investments deliver a positive impact to the world;
   b. belief that responsible investment performs better; and
   c. demand for action on climate change.

97. More recently in its Super Study, RIAA found that 42% of super funds have portfolio targets aligned with the Paris Agreement (net zero by 2050), compared with just 34% in 2021. However, trustees must navigate the tension between a heightened likelihood of failing the YFYS performance test at some point or having to reduce the degree to which longer-term transition activities are implemented, potentially inconsistent with investing in accordance with the long-term financial interests of members, and/or with members' sustainability preferences: see Conexus Institute research.

98. RIAA agrees with ACSI that, despite the extension of the performance test lookback, aspects of the YFYS performance test will remain challenging while the formulation of the benchmark continues to limit investors' ability to deviate in search of longer-term outcomes. Policy levers that encourage transition, rather than creating barriers to decarbonisation, must be implemented, and benchmarks must be investable in light of the transition.

99. There are significant differences between the views of older and younger Australians. For example, RIAA's [consumer demand research] found that different generations responded very differently to the question of whether they would be more motivated to try to save more if their savings and investments made a positive difference in the world:

- Gen Z: 83%
- Millennials: 75%
- Gen X: 57%
- Baby Boomers: 39%

100. We note that some Gen Z superannuation fund members today will retire in the 2070s, and that this cohort and time horizon should be considered significant when viewing the systemic risks of poor longer-term performance of unsustainable assets.

101. RIAA is working constructively with Treasury on proposed solution for the tension created by the YFYS performance test: between the benefits of superannuation members understanding the performance results of their superannuation fund against being a disincentive to the industry's ability to set and deliver on targets that are needed to deliver Australia's net zero commitments. These solutions include:
    a. to adjust the benchmarks used in the Performance Test to include renewable infrastructure and low-carbon equities; and/or
    b. widen the performance test threshold for climate transition at the strategic asset allocation (SAA) portfolio or benchmark level so that climate transition investments would still be assessed against the SAA reference portfolio benchmarks, but that there would be an appropriately widened performance test.

102. RIAA is consulting with a group of our members on the solutions and providing further detail and modelling to Treasury on these solutions.

FULL PORTFOLIO HOLDINGS DISCLOSURE BY SUPERANNUATION FUNDS AND MANAGED FUNDS

103. Whilst Australia's current requirements for portfolio holdings by superannuation funds are in place, these do not require a full look through to underlying companies (where held by external managers) and so fall short of international standards, and there are no similar disclosure requirements for managed funds.

104. Stronger portfolio holdings disclosure requirements would bring greater transparency for clients and consumers, as well as researchers and other stakeholders. Some funds which are not currently publishing full portfolio holdings may argue that would be difficult, burdensome and/or costly. However, many funds are already doing it well. For example, RIAA certified product issuers must disclose their full portfolio holdings every six months, with a 90-day lag. This is a reasonable requirement by international standards. Full portfolio holdings disclosure across managed funds as well as superannuation funds would level the field and prompt funds to better understand their own holdings and whether their claims align.

105. RIAA does not see any convincing reason not to expand holdings disclosure requirements to managed funds, and to require granular details of holdings. This is especially true given requirements overseas.

REQUIREMENT FOR FINANCIAL ADVISERS TO ASCERTAIN AND MEET CLIENT SUSTAINABILITY PREFERENCES

106. Financial planners and advisers have a key role in ensuring Australians who care about investing responsibly – particularly those with higher wealth – can invest in suitable products. But even more broadly, as part of fully understanding the broader long-term interests of clients, and to provide financial advice consistent with this, it is necessary to fully know your client including their values and their sustainability preferences.

107. While the relatively small number of RIAA-certified financial advisers are required to ask about their clients' sustainability preferences in investing (to retain their certification), the vast majority Australian advisers are not RIAA-certified and are not doing this.

108. The European Union Markets in Financial Instruments Directive (EU MiFID II) suitability rules were amended in 2022 to require advisers to collect client ESG preferences during suitability assessments. Depending on client preferences, advisers must source suitable products in alignment with the SFDR and/or taxonomy.

109. The Financial Planners and Advisers Code of Ethics 2019 could include an equivalent obligation. RIAA advocated for this when the Code was introduced. Complementary industry measures such as ensuring credible responsible investment products are available within platforms, on approved product lists (APLs) and ratings schemes are also important for this change to have a significant impact.

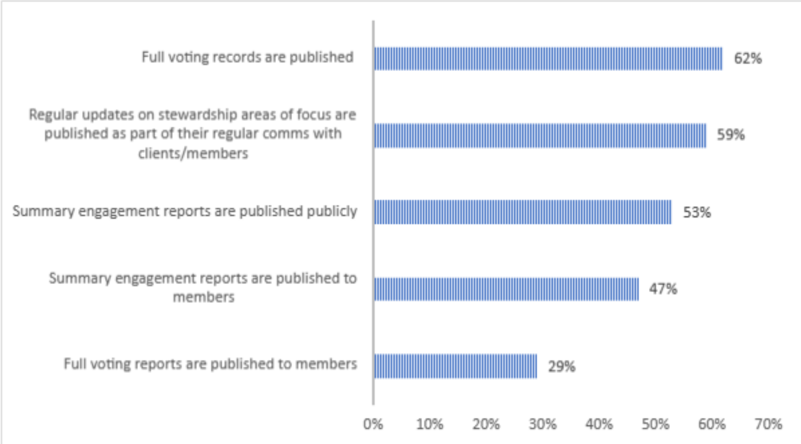
What steps could the Government or regulators take to support effective investor stewardship?

110. RIAA supports the introduction of a formal stewardship code in Australia. RIAA agrees with UNPRI that stewardship is a healthy part of corporate governance and an integral component of investors' fiduciary duties and risk management. When used well, stewardship can help mitigate both idiosyncratic and system-level risks investors face by encouraging appropriate corporate governance that minimises the risky behaviour of an investee company or other assets and their impacts on environmental and social factors. Australian investors have been undertaking stewardship activities on ESG issues for over two decades – through activities including corporate and policy engagement, collaborative initiatives, filing shareholder resolutions and proxy voting among other activities.

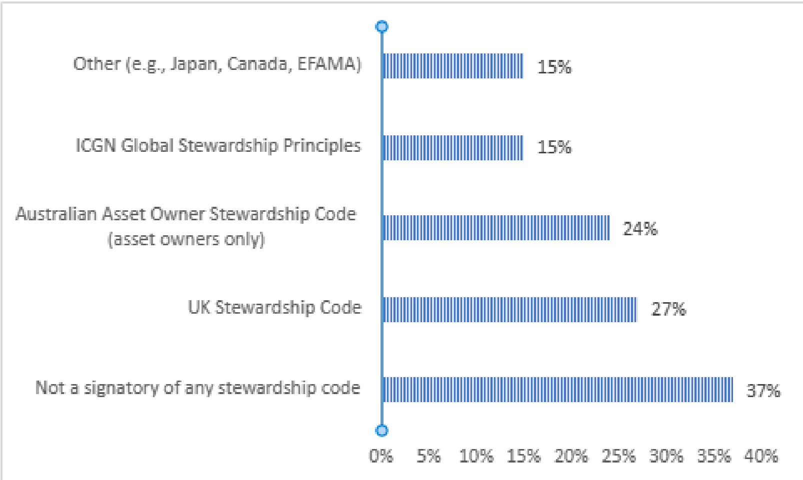
111. RIAA played a key role in developing Aotearoa New Zealand's Stewardship Code and is a co-cohost. New Zealand's first Stewardship Code gives investors a clear framework for using their influence to steer the companies they own on critical environmental, social and corporate governance issues. The NZ Stewardship code uniquely incorporates a Māori worldview, and an Australian code should similarly leverage First Nations' perspectives, in particular in relation to stewardship of Country.

112. The 2023 Benchmark Report showed that corporate engagement and shareholder action passed ESG integration to become the preferred responsible investment approach. The AUM covered by corporate engagement and other stewardship practices increased from $726 billion in 2021 to $790 billion in 2022, representing a 9% growth. Almost all respondents to RIAA's member survey support a formal industry-led Stewardship Code. There was also recognition, which RIAA agrees with, that a regulated stewardship code should apply to all institutional investors to stewardship practices across the sector, including by asset managers and service providers such as investment consultants. Acknowledging the reporting requirements and obligations, any code should make sure that the information being sought is useful to members and not result in a duplication of reporting.

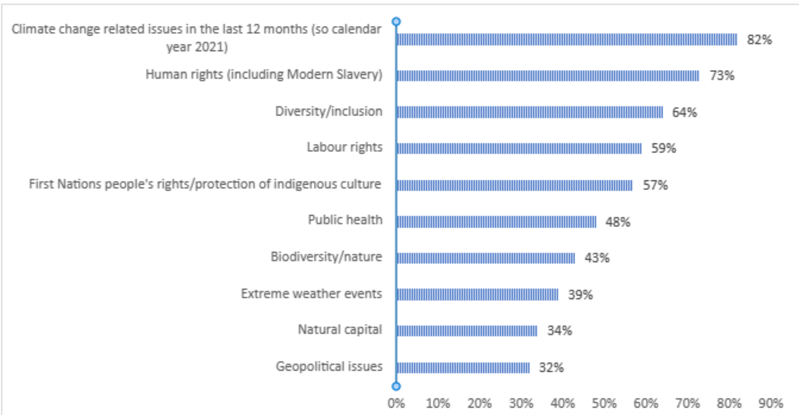
113. In 2022, RIAA published Engage, Advocate, Collaborate: Unpacking Stewardship in Australasia in 2022 (Stewardship Study) which details the stewardship trends and practices among investors in Australia and New Zealand. It provides investors with a framework approach to better understand what stewardship entails. When looking at the Australian data, it is clear that there is a strong acceptance of the importance and benefits that stewardship can provide.



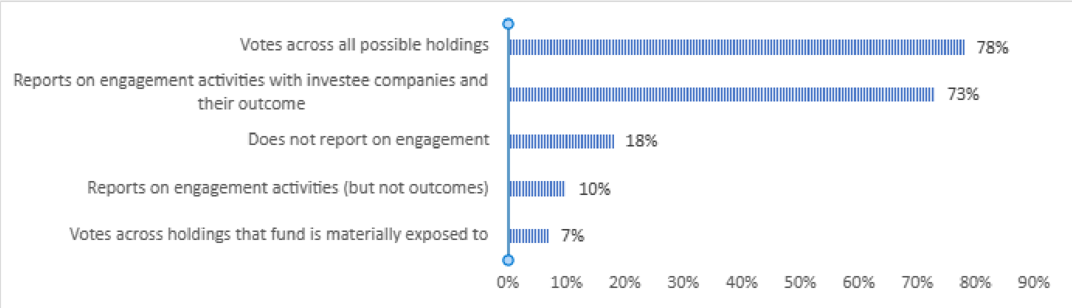
Publication of voting and engagement practices among Australian investment managers and asset owners in 2022



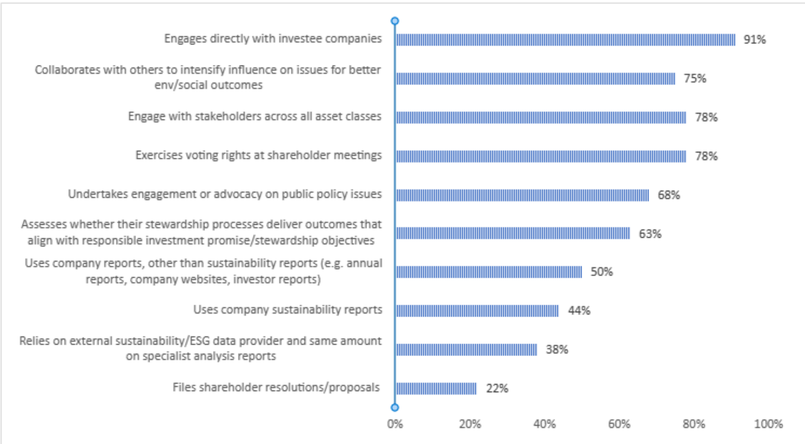
Proportion of Australian investors and asset owners that are signatories of different stewardship codes in 2022 (n=41)



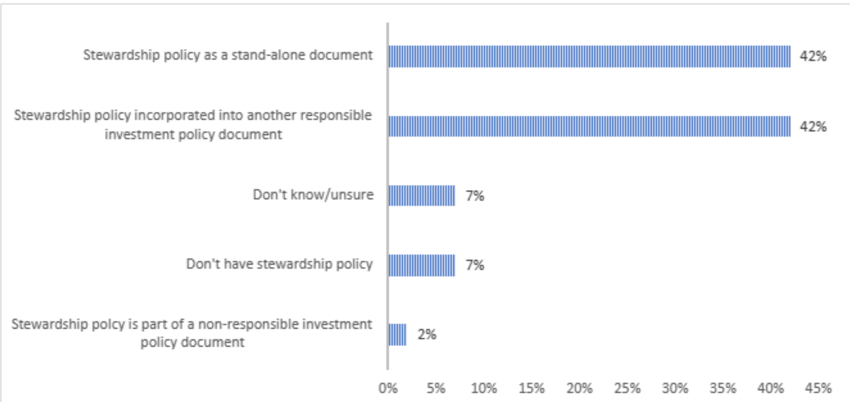
Environmental and social topics that Australian investment managers and asset owners engaged on in 2022 (n=44)



Voting and other engagement practices and engagement reporting practices among Australian investors and asset owners in 2022 (n=41)



Engagement practices and information sources used by investment managers and asset owners in Australia in 2022 (n=41)



Proportion of Australian investment managers and asset owners that have a stewardship policy in 2022 (n=71)

114. RIAA agrees with both ACSI and UNPRI that effective stewardship should be a critical aspect of the Sustainable Finance Strategy. To enhance the ability of investors to support the transition to net zero, there is an opportunity better to support investor stewardship as a tool to promote long-term corporate performance. Stewardship is increasingly recognised as a core fiduciary duty to maximise overall long-term investment value. Effective stewardship, focused on the long term, links stewardship to sustainable benefits for the environment, society and the economy, and consequently improves beneficiaries' financial outcomes. Consistent with the transition category in the taxonomy, stewardship should be recognised as contributing to the transition and incorporated into product labelling.

Recommendations
• Prioritise resolving the unintended consequence of the YFYS performance test on the superannuation sector’s ability to invest in the transition to a net-zero economy. • Implement full portfolio holdings disclosure, including for managed investment schemes. • Minimum mandatory requirements for financial advisers to attain knowledge of a client’s interest in investing sustainably. • Establish a formal stewardship code, with consultation from industry, including on the appropriate governance model • Examine policy reform that addresses barriers to effective stewardship, such as structural barriers and industry limitations; lack of resources, capacity, skills; and knowledge gaps, and accountability and reputation.

Priority 9: Issuing Australian sovereign green bonds

What are the key expectations of the market around issuance of, and reporting against, sovereign green bonds? What lessons can be learned from comparable schemes in other jurisdictions?

What other measures can the Government take to support the continued development of green capital markets in Australia?

What is your experience of green bonds and green capital markets in other jurisdictions? What are the benefits, challenges, risks, unintended consequences?

115. RIAA supports the issuance of the first Australian sovereign green bond in 2024 and agrees that this is an important step to signal Australia’s commitment to accelerating sustainable finance and supporting the net zero transformation. This will provide clarity and confidence for the market to direct private capital to these projects and access riskier projects but without taking any additional credit risk.

116. To support the continued development of green capital markets, it is open to the government to consider incentives to issue green bonds, developing transition and/or just transition bonds, easily accessible information such as a central database and a focus on the issuer’s sustainability credentials, not just use of proceeds. Further, green bonds should have a level of additionality and defined criteria to ensure unintended consequences do not arise (e.g., using bonds to help fossil fuel or high-emission companies decarbonise, particularly where there is a lack of appropriate climate transition planning). It will be critical to clearly define the selection criteria for green bond projects and to have parameters in place for the use of proceeds and impact/outcome reporting needed for verification. Independent verification will also be important for investor confidence.

Recommendations
• Encourage growth of green capital markets by developing policy on accessible data, sustainable credentials and use of proceeds.

Priority 10: Catalysing sustainable finance flows and markets

What role can the CEFC play to support scaling up of sustainable investment in Australia, as part of a more comprehensive and ambitious sustainable finance agenda?

What are the key barriers and opportunities for the CEFC to support financing and market development in areas with significant climate co-benefits, including nature and biodiversity?

117. RIAA supports the expansion of CEFC activities to support sustainable investment in Australia. As a government-owned corporate entity with a legislated purpose to facilitate increased flows of finance into the clean energy sector and to facilitate the achievement of Australia's greenhouse gas emissions reduction targets, the CEFC is able to provide financing where it would otherwise not be commercially viable for the private sector or is unable to be funded at the scale required.

118. Catalytic government investment is particularly important with early-stage innovation within the transition economy, where new or newly-applied technology may struggle to compete in the general funding market. Catalytic government financing is critical to encourage private investment for nature and biodiversity protection and restoration. Government interventions through financing and the use of blended finance will be critical for accelerating investment and changing the risk and return trade-offs which make new industries and investment financing expensive for the private sector. Government financing will help investors develop a sufficient investment case for funding at the scale required. Funding from CEFC can enable private sector engagement at a later stage, effectively increasing private investment. Catalytic government financing for nature should pay appropriate attention to the unique circumstances of each jurisdiction, encompassing its economic conditions, policy environment, and institutional capacity.

Recommendations
• Support CEFC to take a central role in providing early-stage investment which supports transition to a net-zero economy and nature and biodiversity protection and restoration.

Priority 11: Promoting international alignment

What are the key priorities for Australia when considering international alignment in sustainable finance?

119. RIAA applauds recent international engagement by the Australian Government on the global stage as highlighted in Box 7 of the Consultation Paper. International alignment and interoperability are critical features of a successful holistic legal and policy framework to mobilise capital towards net-zero. Acknowledging the global nature of capital flows, being a leader in capacity building and development in key regions will continue to strengthen Australia's own interests while paving a smoother path to net-zero.

120. Developing a cohesive sustainable finance strategy which works with real economy will ensure Australia can exercise its international influence from a position of credibility. A strategy which works with real economy will ensure Australia can exercise its international influence from a position of credibility.

Recommendations
• Properly integrate all aspects of the economy into Australia's net zero transition plans, to promote credibility on the international stage.

Priority 12: Position Australia as a global sustainability leader

What are other key near-term opportunities for Australia to position itself as a global leader in sustainable finance and global climate mitigation and adaptation? What are some longer-term international sustainability goals for Australia where sustainable finance can play a role? What are the key market, regulatory and institutional barriers to increasing private sector engagement in blended financing opportunities? How can these barriers be overcome? What are other means to mobilise private sector finance toward sustainability solutions in the Indo-Pacific region

121. RIAA welcomes the Government's commitment to establish Australia as a global sustainability leader rather than a laggard. Coupled with a cohesive Whole-of-Government policy on sustainability and sustainable finance, being a global leader will support the inflow of green capital to our economy. As the world moves towards net-zero with urgency, and as our investment partners pay increasing attention to other sustainability issues, Australia's credibility in this space will increasingly inform our global reputation and hence public diplomacy efforts. This strategy goes to the heart of Australia's credibility, alongside such commitments as our international climate goals.

122. RIAA agrees with ASFI's submission that Australia has a lot to gain from strong and effective engagement in international sustainable finance frameworks, particularly in the Asia-Pacific region. Deeper engagement can:
   a. support Australia's foreign policy ambitions by strengthening government to government relationships with key partners, many of whom are grappling with the challenges of attracting capital for their domestic net zero transition and recognise that Australia has significant capability and expertise;
   b. help build markets for Australia's green exports by promoting credible an effective climate and sustainable finance policy that accelerates demand in key economies for Australia's green energy and products;
   c. promote inter-operability of sustainable finance frameworks, particularly in the Asia-Pacific region which will help remove barriers to sustainable finance flows;
   d. ensure that emerging global sustainable finance frameworks appropriately reflect Australia's unique circumstances and interests; and
   e. support regional and global progress towards decarbonisation, nature restoration and social goals (such as gender equality and recognition of First Nations rights) and in doing so enhance Australia's reputation and influence.

123. Australia has a unique opportunity as a late mover to both leapfrog and fill gaps in international standards where the specific Australian experience can inform the development of international standards. Such areas include:
   a. transition (both from environmental sustainability and economics);
   b. nature and biodiversity;
   c. harnessing the wealth of knowledge and experience of First Nations people; and
   d. modern slavery and labour rights.

Recommendations
• Leverage Australia's progress in domestic sustainable finance policy to deepen Australia's international engagement including on taxonomy development and transition finance • Take a targeted leadership role in areas which can set international standards.