

9 February 2024

Director
Climate Disclosure Unit
Climate & Energy Division
Treasury
Langton Crescent
PARKES ACT 2600

Via Email: ClimateReportingConsultation@treasury.gov.au

Dear Sir/Madam,

Climate-related financial disclosure – exposure draft legislation

Accounting Professional & Ethical Standards Board Limited (APESB) welcomes the opportunity to make a submission on the Treasury's consultation on the *Climate-related financial disclosure: exposure draft legislation*.

APESB has made two submissions to the Treasury on its previous climate-related financial disclosure consultations. APESB's [submission](#) on the December 2022 Consultation Paper provided an overview of APESB's role in Australia's Financial Reporting Framework and the Sustainability Reporting and Assurance architecture, as well as the International Ethics Standards Board for Accountants (the [IESBA](#))'s role in International Sustainability Reporting and Assurance framework. APESB has not reproduced that content in this submission.

In APESB's [submission](#) on the June 2023 Consultation Paper, we noted the limited coverage in the consultation paper on the framework for professional and ethical standards. APESB recommended that the Treasury consider the comprehensive requirements in APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)* ([the Code](#)), which could be applied to all those preparing and presenting climate-related information and those who provide assurance. The submission also provided an update on the IESBA's development of sustainability-related professional and ethical standards.

Consideration of the proposed draft legislation

APESB has considered the draft legislation and noted a few matters of concern, which are outlined below.

The implementation date for Group 1 entities

APESB supports the position to adopt a phased approach to the introduction of climate disclosures, beginning with larger entities that are deemed to have greater resources to respond to the new reporting requirements effectively. However, we are concerned that the proposed introductory

deadline for Group 1 entities is 1 July 2024. As the standards and legislation have yet to be finalised for Sustainability Reporting, Sustainability Assurance and the underlying Ethics and Independence Standards for Sustainability, we support the postponement of the commencement date to 1 January 2025.

Assurance providers

The position paper states that the financial report auditor will be responsible for assuring the sustainability report, supported by technical climate and sustainability experts, where required. APESB is of the view that the proposed draft legislation is confusing and needs to make this position explicitly clear. The drafting approach in the proposed legislation replicates existing sections relevant to the financial reporting auditor, thereby creating separate sections and requirements for the auditor of the sustainability report. It creates the possibility that the auditor of the financial report and the sustainability report are two separate individuals or firms. The draft legislation does include amendments to refer to 'auditor's reports,' but we are concerned this is too obscure for stakeholders to understand the importance of this phrase.

Within the Code, professional competence and due care is one of the five fundamental principles that guide an accountant's professional and ethical behaviour. APESB is concerned about the short timeframe in which financial report auditors will need to acquire the necessary skill set to assure sustainability-related material as intended by the proposed legislation. Our understanding is that, in practice, the skills required to be sustainability assurance providers are different to financial statement auditors.

We acknowledge that the same assurance firm may have practitioners who are financial statement auditors as well as sustainability assurance providers. In contrast, some may not have personnel within the firm who have both skill sets, either individually or collectively. Accordingly, this approach will create significant barriers to entry for mid-tier firms to engage in sustainability reporting if these firms are unable to forge robust partnerships with independent sustainability assurance practices within the required timeframe. This has the potential to reduce both competition and choice in the market for sustainability assurance services.

APESB agrees that financial report auditors will need to be supported to undertake sustainability-related assurance engagements. In January 2024, the IESBA released proposed amendments to the International Code to establish a framework for professional accountants to evaluate whether an external expert has the necessary competence, capabilities and objectivity to allow the professional accountant to use the expert's work.¹ The draft framework is principles-based and could be utilised to consider a range of experts. The IESBA is expected to approve the final revisions to the International Code in December 2024.

Adaptability for future revisions

APESB envisages that, over time, further disclosures about broader and more complex sustainability matters will become mandatory. These changes could see additional expertise required and further impact the capacity of the existing financial reporting auditors to undertake assurance over these matters.

¹ Further details are available in the IESBA Exposure Draft [Using the Work of an External Expert](#).

We note that the IESBA is currently developing sustainability-related professional and ethical standards that are professionally-agnostic for use by all sustainability assurance practitioners, irrespective of whether professional accountants or other professionals conduct the assurance engagement. This recognises that a broader range of practitioners (accountants and non-accountants) may be required to undertake different sustainability assurance engagements. However, the recruitment of non-accountants into assurance teams will create the need for induction and training in ethical and assurance standards and the establishment of quality management practices over sustainability assurance reports.

Further details on the IESBA developments are set out below.

We encourage the Treasury to consider whether the proposed draft legislation has the flexibility to adapt to future changes in sustainability disclosures and the related resource requirements without requiring further legislative amendments.

Professional and ethical requirements

APESB supports the proposed amendments in the draft legislation to include independence requirements for auditors of sustainability information (e.g. section 307AB, section 307AC and section 336) as professional and ethical standards play an integral role in developing trustworthy climate-related disclosure.

However, we are concerned that the requirements are focused only on assurance practitioners rather than those preparing and presenting sustainability disclosures. APESB is of the view that the legislation should also require those preparing and reporting sustainability disclosures (for example, the Board, CEO and CFO) to comply with appropriate ethical codes of conduct to address the risk of the entity's board and management bias to report on sustainability information selectively.

For assurance practitioners, APESB also recommends that the Treasury consider incorporating a specific reference in the legislation to the comprehensive independence requirements in the Code. This approach was taken in *Superannuation Industry (Supervision) Regulations 1994* ([Reg 91.06](#)), and it, in effect, gave legal enforceability to the independence requirements in the Code for SMSF auditors. This approach will facilitate enforcement action against sustainability assurance providers.

IESBA exposure drafts on new ethics benchmark for sustainability reporting and assurance

On 29 January 2024,² the IESBA issued two exposure drafts that proposed a comprehensive suite of global standards on ethical considerations in sustainability reporting and assurance. The proposed standards aim to foster greater trust in all publicly communicated sustainability information through the application of a consistent ethical approach for assurance providers and preparers of sustainability information.

² Further details are set out in the IESBA Media Release: [IESBA Launches Public Consultation on New Ethical Benchmark for Sustainability Reporting and Assurance](#).

The two global exposure drafts are:

- [International Ethics Standards for Sustainability Assurance ED](#) proposes a clear framework of expected behaviours and ethics provisions for use by all sustainability assurance practitioners, regardless of their professional backgrounds, as well as professional accountants involved in sustainability reporting.
- [Using the Work of an External Expert ED](#) proposes an ethical framework to guide professional accountants or sustainability assurance practitioners, as applicable, in evaluating whether an external expert has the necessary competence, capabilities and objectivity in order to use that expert's work for the intended purpose.

APESB has provided input into these proposed global exposure drafts as our CEO, Channa Wijesinghe, is an IESBA Board Member, a Member of the IESBA's Sustainability Taskforce – Independence Workstream, and the Chair of the IESBA Sustainability Reference Group.

IESBA will gather stakeholders' feedback between late April and mid-May 2024, with the aim of finalising these new standards by the end of 2024.

APESB intends to adopt these revisions into APES 110 and, where applicable, incorporate consequential amendments to its [suite of 20 pronouncements](#) after the completion of APESB's due process.

Concluding Comments

APESB would welcome the opportunity to discuss the proposed draft legislation and APESB's recommendations to establish the Code as the applicable independence requirements for auditors of sustainability reports. We would also be happy to discuss global developments with respect to international professional and ethical standards for sustainability reporting and assurance.

We trust you find these comments useful in your deliberations. If you wish to discuss this further or require additional information, please get in touch with APESB's Chief Executive Officer, Channa Wijesinghe, at channa.wijesinghe@apesb.org.au.

Yours sincerely



Nancy Milne OAM
Chairman