

ARA SUBMISSION

CLIMATE-RELATED FINANCIAL DISCLOSURE: EXPOSURE DRAFT LEGISLATION

FEBRUARY 2024

The Australian Retailers Association (ARA) welcomes the opportunity to provide comments on the draft legislation for climate-related financial disclosures.

The ARA is the oldest, largest, and most diverse national retail body, representing a \$420 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects, and unifies our independent, national, and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate across the country and in all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA is proud to represent the rich diversity of Australian retail, from our largest national and international retailers to our small and medium members, who make up more than 95% of our membership. This submission has been informed by consultation with the ARA's Advisory Committees and our diverse membership base.

EXECUTIVE SUMMARY

Retailers are cognisant of the significant risks they face due to climate change, encompassing all areas of their operations and supply chains.

As a result, the ARA and our members have a strong commitment to Australia's transition to net-zero emissions as evidenced by the ARA Net-zero Roadmap, ARA Climate Action Plan and educational resources to support retailers in implementing and accelerating their own transition to net-zero.

Our members are also well-versed in managing their reporting obligations in relation to environmental, social and governance risks, with many leading the way in terms of voluntary disclosure and reporting.

From the draft legislation and prior consultation, we understand the government's intent is to leverage climate-related financial disclosures to ensure that the financial impacts of climate change are routinely reported and considered in an organisation's operational, design and investment decisions.

The ARA supports these objectives. The proposed legislation and disclosure framework will provide the requisite flexibility for reporting entities to meet their obligations in relation to climate-related financial reporting, while establishing the foundation for natural capital disclosure and supporting transparent public disclosure of all value chain emissions.

The ARA acknowledges several of the recommendations raised in our previous submission to Treasury have been reflected in the draft legislation. We welcome the confirmation of an internationally aligned framework and the confirmation of the phased implementation approach.

However, we make a number of subsequent recommendations in this submission, based on our review of the draft legislation.

RECOMMENDATIONS

Phased implementation approach

The ARA is supportive of a four-year phased implementation approach but recommends that the commencement date should be delayed until the 2025-26 financial year.

This will allow for at least 12-months notice after legislation is enacted and for the release of the Australian Accounting Standards Board (AASB) standards, which will play a critical role in this reporting regime. Given the consultation on these standards is continuing until March 2024, entities would have an unworkably short lead time to prepare for the 2024-25 reporting period if the commencement date is not deferred.

If this recommendation was adopted, Group 1 entities would report for the first time for the 2025-26 financial year. This additional time will not only provide entities with more time to prepare, but will also allow audit professionals to build additional assurance capacity and capability to meet the needs of covered entities when they report under the legislation.

Additionally, the inclusion of National Greenhouse Energy Reporting Scheme (NGERS) reporting entities within Group 1 and Group 2 of the scheme will result in the capture of smaller entities, who may find it challenging to meet requirements in their first reporting year.

As proposed in previous submissions, the ARA recommends that small and medium sized businesses (with revenues up to \$100 million) be exempt from climate-related financial disclosure requirements until the 2027-28 financial year, as these businesses have less capacity to resource, manage and monitor the reporting process.

Introduction of a subsidiary exemption

In line with our previous submission, the ARA urges Treasury to consider the implementation of a subsidiary exemption wherever a parent company discloses at an aggregated level.

Considering the fluid nature of the global climate-reporting landscape and the fact that some businesses operating in Australia are already required to report overseas, reporting by subsidiaries will create significant and unnecessary administrative burden for multinationals.

The legislation, as currently drafted, will result in a duplication of reporting and make it difficult for regulators and consumers to make meaningful comparisons of a multinationals climate performance and disclosure.

The ARA recommends that Treasury consider subsidiary exemptions similar to:

- Corporate Sustainability Reporting Directive (CSRD) legislation in the European Union (*Article 19, paragraph 9*) that allows subsidiary companies in member states to refer to the report of the parent company and require only the following to be submitted where:
 - A statement of exemption including information about the name and registered office of the parent company and web links to the consolidated report; or
 - Translation of the consolidated report into local language (only if required by the member state in which the exemption is being sought).

- Singapore's Sustainability Reporting Advisory Committee consultation paper (page 17)

C14. To reduce compliance burden, we propose to have a non-listed company exempted from reporting climate-related disclosures if both conditions are met:

(a) its immediate, intermediate or ultimate parent (local or foreign), determined according to the prescribed accounting standards in Singapore, is minimally preparing climate or sustainability reports in accordance with the prescribed climate-related disclosure in Singapore or deemed equivalent; and

(b) its activities are included in that parent's report, which is available for public use.

In the absence of a subsidiary exemption, any legislation should have full interoperability with the European Union CSRD, given reporting under this standard is far more extensive. Full interoperability will ensure that companies subject to CSRD can also comply with other standards without redundant or conflicting obligations.

Provisions for safe harbour

The ARA commends Treasury for acknowledging stakeholder concerns about the risks associated with forward looking statements and Scope 3 emissions reporting, through the provision of a fixed three-year period (between 1 July 2024 and 30 June 2027) for Scope 3 disclosures.

The ARA acknowledges our previous recommendation for the exclusion of transition planning has been accepted by the Department.

However, in acknowledgement of the fact that complete assurance regarding forward looking and Scope 3 statements is not available, the ARA suggests that Treasury consider the following measures.

- **Extending the scope of safe harbour provisions**

The draft legislation does not extend safe harbour provisions to transition planning or forward-looking statements, as originally proposed in the government's consultation paper. Forward-looking data and predictions are naturally uncertain and subject to change when new information becomes available.

Until there is complete assurance in reporting frameworks and audit capability, forward-looking statements will continue to result in a degree of uncertainty, creating a risk of perceived deceptive conduct and greenwashing.

To encourage proactive transition planning, the inclusion of a safe harbour for forward looking statements would encourage reporting entities to take a more comprehensive approach to risk identification and adapt disclosures as necessary.

- **Extending the duration of safe harbour provisions**

The current safe harbour from 1 July 2024 to 30 June 2027 is not sufficient time to allow companies to improve Scope 3 data to assure sufficient level of quality and assurance.

The ARA recommends that safe harbour provisions extend beyond this transitional implementation period and should be contingent on compliance with complete audit standards until 1 July 2030.

Similarly, any instance where a disclosure made is found to be inaccurate due to factors outside of organisational control should be covered under the safeguard provisions.

Educating and upskilling affected businesses

The ARA recommends that government and regulators consider taking an active role in upskilling and supporting impacted businesses to prepare for these changes.

There is significant variation in the level of understating about climate-related financial disclosures across the retail sector, particularly amongst smaller to medium sized businesses who may find it challenging to understand implications for their business.

The ARA welcomes the opportunity to be involved in the design and delivery of education and awareness campaigns targeted at retailers, who have uniquely climate risks in comparison to other sectors.

Thank you for the opportunity to provide a submission to this inquiry. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.