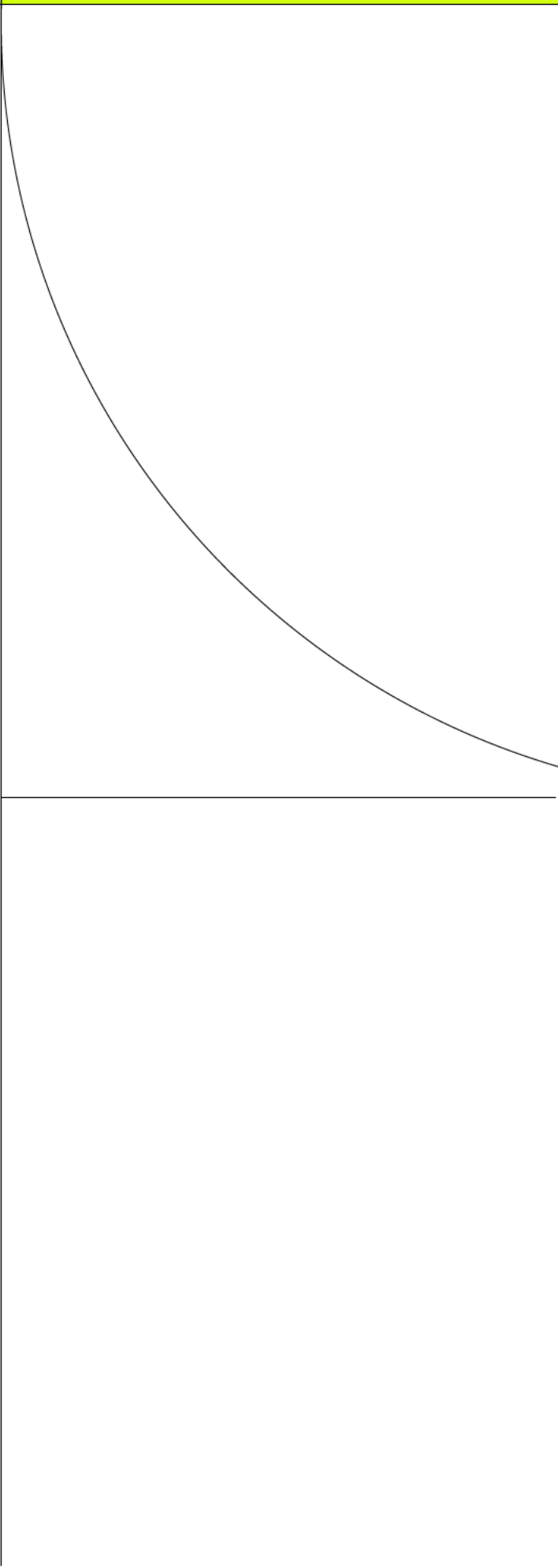


Climate-related Financial Disclosure Consultation paper

BCA Submission

February 2023



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Executive summary

The Business Council of Australia (BCA) welcomes the opportunity to engage with Treasury on the Climate-related financial disclosure consultation paper and the development of standardised, internationally-aligned reporting requirements for Australian businesses to make disclosures regarding governance, strategy, risk management, targets and metrics — including greenhouse gasses (the new reporting requirements).

Our members support continuous improvement in the quality of climate-related financial disclosures to guide investment decision making needed to decarbonise our economy efficiently.

In our view, the primary purpose of the new requirements must be to help investors (and other stakeholders) form the most rigorous view (possible) of climate risks and opportunities as they pertain to individual businesses and their specific assets and operations.

The BCA's main conclusions and recommendations in response to the consultation paper are outlined below.

Covered entities and timing

- The long term goal for the new reporting requirements should be to facilitate and encourage high quality disclosures across as much of the economy as is practicable, and with coverage to be phased in overtime.
- The start date for the initial tranche of covered entities should be at least 12 months from the time legislation is passed to accommodate the time required to invest in and build compliance systems.
- While there is general support for the largest organisations in the economy — including listed, unlisted, private and public — to be the initial tranche of covered entities, other determinants such as emissions intensity, should also be considered when defining subsequent coverage tranches.
- An indicative timetable for phasing in subsequent coverage tranches should be outlined at the outset of the new reporting requirements so that all entities in Australia are granted as much lead time as possible.
- A policy review cycle of two to three years is needed to monitor roll out of the coverage timetable, including an assessment of local entities system readiness, coverage in other jurisdictions, and scope for adjustment.

International alignment of disclosures

- The International Sustainability Standards Board (ISSB) is the appropriate starting point for international alignment of climate reporting in Australia.
- Once finalised the ISSB standards should be reviewed to ensure they are fit for purpose in an Australian financial reporting context and appropriate modification made if found to be necessary.

Regulatory framework for required climate disclosures

- The regulatory framework for the new reporting requirements should be consistent with the broader framework for financial reporting in Australia, while also aligning with the reform principles outlined in the consultation paper.

Periodic reporting requirements

- Covered entities should be given the choice to include reporting requirements in their operating and financial review or in a separate report released together with the annual report.

Materiality and assurance of climate risks

- The definition of materiality used in i) the new reporting requirements and ii) the existing ISSB guidance, both need to be aligned with the International Financial Reporting Standards definition of materiality.
- The appropriate level of assurance required for specific disclosure obligations under the new reporting requirements should be guided by the availability and quality of data relevant to those disclosures.

- Where and while data gaps exist, a phased approach to the introduction of assurance requirements is appropriate, for example, in the case of scope 3 emissions for some industries.
- An indicative timetable for phasing of assurance requirements for different disclosure obligations should be outlined at the outset so that all entities in Australia are granted as much lead time as possible.
- Assurance providers should be subject to the same independence and quality management standards as financial auditors.

Reporting of metrics, offsets and transition plans

- The obligation to disclose scope 1 and scope 2 emissions should commence with the new reporting requirements, with appropriate safe harbour provisions for scope 2 emissions reporting where and while estimation difficulties exist.
- The obligation to disclose scope 3 emissions should be guided by the availability and quality of relevant data in different industries and phased in where and while data gaps exist.
- An indicative timetable for phasing in the obligation to disclose scope 3 emissions should be outlined at the outset so that all entities in Australia are granted as much lead time as possible.
- Once phased in, appropriate safe harbour provisions should also be used for scope 3 emissions reporting obligations where and while estimation difficulties exist.
- The Corporate Emissions Reduction Transparency scheme is likely to be a source of unnecessary confusion to users of reported information, in parallel with the new reporting requirements, and should be phased out.
- The definition of consistent metrics for disclosures, including both economy wide and industry-specific metrics, will require extensive consultation with industry before becoming obligations.
- In general, metrics for disclosure should be balanced across transition risks and physical risks associated with climate change.
- Disclosure obligations relating to forward looking information need to avoid being too granular or overly rigid and should be accompanied by appropriate safe harbour provisions to encourage disclosure on a good faith, best endeavours basis.
- Clarification is sought from the government on how the use of Australian Carbon Credit Units (ACCU) and Safeguard Mechanism Credits (SMC) will need to be reported upon in relation to covered entities' transition plans under the new reporting requirements.

Data and capability to support climate reporting

- The government should invest in the development of new economic data sets related to climate change, including data on value chain emissions across industries and on physical risks across industries.
- Covered entities should be encouraged rather than penalised by the new reporting requirements to transparently call out data gaps as part of their reporting, which will also benefit users of the information and government decisions over how best to allocate resources to improving information.
- The government needs to support education and training for sustainability professionals in general to continuously improve the quality of sustainability reporting across the economy.

Governance of supporting information for disclosures

- A public repository of 'compliant' climate scenarios is needed for covered entities to draw upon when responding to the new reporting requirements, without limiting their flexibility to use other scenario sources.
- All scenario information used as part of the new reporting requirements needs to include the Paris Agreement temperature goals as an 'anchor' for comparisons.

Proportionate application of liability

- The judicious use of safe harbour provisions for some disclosures under the new reporting requirements is crucial to promoting good faith, fulsome disclosures on a best endeavours basis, without removing appropriate accountability.
- Because of the particularities of Australian law, a lack of such liability safeguards would mean Australian entities (and directors) had significantly more liability exposure relative to their international counterparts when making representations to the market on climate-related matters.

Interaction with other reporting obligations

- The existing continuous disclosure obligations and fundraising disclosure obligations — requiring covered entities to monitor and update any material changes to prior disclosures — is adequate for the purposes of the new reporting requirements.

Sustainability reporting and digital sustainability reporting

- While the flexibility to incorporate additional sustainability reporting should be contemplated in the design of the basic architecture of the new reporting requirements, creating a robust framework for climate reporting must be the first priority.
- Given that digital financial reporting does not yet exist in Australia, digital sustainability reporting should not be mandatory under the new reporting requirements.
- The potential to phase in digital reporting should be revisited and assessed as part of the policy review cycle and in light of developments in other jurisdictions.

Implementation structure options

- The creation of a new governance body to regulate the new reporting requirements is not supported because existing financial regulatory and advisory bodies are well placed to administer the new reporting requirements, subject to additional resourcing and expertise where required.

Next steps and further consultation

It is crucial to the workability and success of this new policy that industry is consulted further on the specifics of obligations, metrics, assurances that will be mandatory on day one of the new requirements, before such details are finalised and legislated.

The BCA looks forward to the next round of consultation on the new reporting requirements, as flagged in the consultation paper.

A. Introduction

The Business Council of Australia (BCA) welcomes the opportunity to engage with the Treasury on the Climate-related financial disclosure consultation paper (the paper).

The recent passing of the climate bill(s) into law is a 'water shed' moment for Australia and hopefully the beginning of a new era of stable climate policy that will see Australia through to achieving a net zero economy by 2050.

The goal of a domestic climate policy framework is to help drive investment to build a net zero emissions economy by 2050 in an orderly and economically prosperous way — that is, equitably, effectively and efficiently.

There is a significant amount of new investment capital required to decarbonise the global economy. Modelling by Bloomberg New Energy Finance (Bloomberg) for its New Energy Outlook 2022 report has found supply side investment in low-carbon power alone, could total \$45.8 trillion by 2050. According to Bloomberg's net zero scenario, spending on renewable power (excluding abated fossil fuels) needs to increase dramatically in the near term, to an average \$1.4 trillion per year between 2022 and 2030.¹

Australia's economy and its businesses need to be competitive in global capital markets in order to attract our slice of the global green investment pie. From an investor perspective there are two critical enablers for this

1. durable policy settings to minimise policy uncertainty impacting investments, relative to other countries' policy environments
2. high quality information and transparency about the impact of climate-related risks on investments made in Australia.

The BCA acknowledges this government for taking significant action towards a durable climate policy framework, including the enactment of the climate change bills; and policy development work underway on the Safeguard Mechanism Reforms, Powering the Regions Fund, National Electric Vehicle Strategy, Rewiring the Nation, the National Energy Transformation Partnership and the National Energy Performance Strategy.

Corporate Australia is also taking significant action in response to stakeholder expectations which includes making climate commitments and disclosures voluntarily. Analysis of public reporting by ASX200 companies up to 31 March 2022 found that "management and disclosure of climate-related risks and opportunities" continues to improve.²

- Net zero commitments are now the norm for Australian companies with \$1.59 trillion or 70 per cent of the ASX200's collective market capitalisation adopting net zero commitments — representing 95 companies, almost double the number from March 2021.
- The majority of companies are adopting and disclosing against the Taskforce on Climate-related Financial Disclosures (TCFD) with 103 companies either fully or partially aligning their disclosure to the framework — a dramatic lift in adoption compared to when the TCFD framework was first established in 2017 and only 11 companies used it.

The BCA recognises the government's role in facilitating internationally comparable disclosures as the breadth and depth of reporting increases globally. We also support the role of the International Sustainability Standards Board (ISSB) in developing a comprehensive global baseline for climate disclosure based on the TCFD.

The BCA offers the following comments in relation to the introduction of the new reporting requirements.

¹ BloombergNEF, *Wind and Solar Propel Net-Zero Power Supply Investment*, January 2023.

² ACSI, *Promises, pathways & performance - Climate change disclosure in the ASX200*, July 2022.

B. The costs and benefits of standards for climate reporting

Question 1: What are the costs and benefits of Australia aligning with international practice on climate-related financial risk disclosure (including mandatory reporting for certain entities)? In particular:

- 1.1 What are the costs and benefits of meeting existing climate reporting expectations?*
 - 1.2 What are the costs and benefits of Australia not aligning with international practice and in particular global baseline standards for climate reporting?*
-

Ideally, the design and implementation of any new public policy measures will to be guided by consideration of the community wide benefits and costs. In practical terms, this involves identifying the key benefits and costs (what they are and to whom they accrue) and then calibrating key design and implementation parameters so that the largest net benefit possible is captured.

Key benefits of the new reporting requirements include (but are not limited to)

- a more efficient allocation of capital with respect to climate-related risks and opportunities as investors, lenders, reinsurers, rating agencies and other stakeholders³ (users) are better able to discern the relative risk and opportunities of Australian based entities
- lifting the general standard of climate-related governance practices in Australia overtime
- better visibility of Australia's systemic financial risk with respect to climate-related risks and opportunities from the perspective of Australian regulators and policy makers
- the progression of more countries towards a single (more standardised) taxonomy for climate-related financial reporting globally reducing inconsistency and complexity for reporting entities when preparing information, and the uncertainty associated meeting market expectations.

Key costs of the new reporting requirements include (but are not limited to)

- the additional system and governance resources required to comply with a more granular (higher) standard of climate-related financial reporting than many entities are currently reporting against voluntarily⁴
- possible competitive distortions between covered and uncovered entities, at least for an interim period until the new requirements have been fully phased in.

C. Covered entities and timing

Question 2: Should Australia adopt a phased approach to climate disclosure, with the first report for initially covered entities being financial year 2024-25?

- 2.1 What considerations should apply to determining the cohorts covered in subsequent phases of mandatory disclosure, and the timing of future phases?*

Question 3: To which entities should mandatory climate disclosures apply initially?

- 3.1 What size thresholds would be appropriate to determine a large, listed entity and a large financial institution, respectively?*

³ Other stakeholders include downstream customers and upstream suppliers looking to reduce their own emissions (for example).

⁴ This includes the significant upskilling for both report preparers, assurance professionals as well entity directors who are ultimately required to sign off on the disclosures.

3.2 *Are there any other types of entities (that is, apart from large, listed entities and financial institutions) that should be included in the initial phase?*

In principle the regulatory environment governing climate-related financial reporting in Australia should have as its long term goal, to facilitate and encourage high quality disclosures across as much of the economy as is practicable and where there is a net benefit from doing so. This will ultimately assist all entities in reporting on their climate-related risks and opportunities from a broader value chain perspective (including scope 3 emissions for example).

There are three critical design and implementation factors for determining timing and coverage of the new reporting requirements

1. the start date for covered entities in the initial tranche
2. the appropriate metrics and thresholds to determine coverage
3. the timetable for phasing in additional tranches.

The start date for covered entities in the initial tranche

The start date for the initial tranche of covered entities needs to accommodate the time required to invest in and build the systems required to gather the relevant data, analyse it, assure it and report on it. Covered entities will need to have their data collection practices, governance uplifts, risk assessments and other supporting internal processes in place on day one of the application of the new reporting requirements.

We note that some initially covered entities are relatively advanced in voluntary disclosure practices and have existing dedicated reporting structures, systems and processes within the organisation, while others have little or no reporting or disclosure and potentially minimal or no structure or cost provisions for climate disclosures.

In light of the gap between current disclosure practices and disclosure under the ISSB standards, a minimum of 12 months — from the time legislation is passed — is required prior to the new reporting requirements coming into effect.

The appropriate metrics and thresholds to determine coverage

BCA members hold a range of different perspectives, some in favour of specific size thresholds and metrics and others supporting the use of additional metrics not related to entity size but related to the nature of operations and emissions.

- Entity size does not necessarily capture those businesses with the greatest climate-related risks and opportunities and might see businesses within the same sector, with similar risk exposure, subject to different levels of scrutiny and administrative burden, with unintended impacts on competitive neutrality in both product and capital markets.
- Emissions intensity and absolute emissions are appropriate metrics for determining coverage and they would capture smaller (and unlisted entities) possibly before some larger (and listed entities).
- Emissions intensity and absolute emissions are inappropriate metrics for determining coverage because they exclude physical climate risks and impacts and are irrelevant to many other sustainability topics, which are likely to be integrated into the new requirements overtime.
- The Australian Accounting Standard Board's Statement of Account Concepts definition of a reporting entity is worthy of consideration because it includes relevant factors such as the spread of ownership of the entity, the extent of separation between management and ownership, economic or political importance of an entity, the indebtedness of an entity, and whether the entity is a wholly owned subsidiary of a larger entity.
- Size thresholds should be based on the standard metrics of revenue, gross assets and employees contained in the Corporations Act, which defines a large Australian proprietary limited company as an entity with more than \$25 million of revenue or more than 50 employees, and more than \$12.5 million of assets.

- Coverage of ASX 300 and financial institutions with more than \$100 million in consolidated annual revenue is appropriate for covered entities in the initial tranche.
- All ASX companies with a market capitalisation over \$300million should be included as covered entities in the initial tranche.
- Large listed and unlisted entities and non-Corporations Act entities — including state-owned entities, not for profit enterprises, wholly owned subsidiaries of large multinationals — should be included as covered entities in the initial tranche.

The timetable for phasing in additional tranches

An indicative timetable for phasing in additional entity tranches should be outlined by policy makers at the outset of the new requirements so that all entities in Australia are granted as much lead time as possible.

The timetable would include a regular policy review cycle of two to three years to monitor progress on the ground, with scope to make adjustment to the timetable in line with an assessment of the system readiness of additional entity tranches and in line with the progress other jurisdictions are making to expand coverage.

D. International alignment of disclosures

Question 4: Should Australia seek to align our climate reporting requirements with the global baseline envisaged by the International Sustainability Boards?

- 4.1 *Are there particular considerations that should apply in the Australian context regarding the ISSB implementation of disclosures relating to: governance, strategy, risk management and/or metrics and targets?*
- 4.2 *Are the climate disclosure standards being issued by the ISSB the most appropriate for entities in Australia, or should alternative standards be considered?*

The ISSB is currently the most detailed in coverage and international reach, having consolidated three large frameworks and standard setting bodies around the world.⁵ We understand that the ISSB intends to finalise its standards by June 2023.

The BCA considers the ISSB a good starting point for international alignment of climate reporting in Australia given the common disclosure pillars of ISSB and TCFD and the strong uptake of TCFD recommendations locally.

In terms of considerations that should apply in the Australian context

- once finalised the ISSB standards should be reviewed to ensure they are fit for local application, provide sufficient coverage of topics relevant to stakeholders in the Australian environment and clearly identify the areas requiring modification for the Australian reporting framework context and advancing the Australian Sustainable Finance Institute (ASFI) taxonomy.⁶
- the reporting framework must be subject to relevance and materiality thresholds, meaning that not all disclosures and metrics suggested by the ISSB will be disclosable. This is consistent with the application of Australia of Accounting Standards (AAS) issued by the International Accounting Standards Board (IASB) in Australia.
- the proposed ISSB standards require estimation of risks and opportunities which are inherently uncertain and may be deemed misleading under existing Australian law.⁷ Safe harbour provisions or first time adoption

⁵ i) The Integrated Reporting ii) the Sustainability Accounting Standards Board and iii) the Climate Disclosure Standards Board.

⁶ The ASFI Taxonomy Project is an industry-led initiative, working closely with government and regulators, to develop an Australian sustainable finance taxonomy

⁷ Such as 769C of the Corporations Act 2001 (Cth), s 12BB of the ASIC Act 2001 (Cth) and s 4 of the Australian Consumer Law.

provisions will assist in mitigating risk for entities until such time as content, standards and frameworks are well understood.

- it would assist in the adoption of new reporting requirements if guidance is provided detailing existing data sets that entities could use to support their reporting obligations — for example, national emissions factors to support financed emissions reporting for financial institutions.

E. Regulatory framework for required climate disclosures

Question 5: What are the key considerations that should inform the design of a new regulatory framework, in particular when setting overarching climate disclosure obligations (strategy, governance, risk management and targets)?

The BCA concurs with the considerations outlined in the paper as to “where the overarching climate disclosure obligations might best sit within the overall regulatory framework”. In addition, we consider that the regulatory framework should

- be transparent and focus on key areas of risk and value to ensure that reporting is useful to users
- be reliable, consistent, rigorous, flexible where needed and generally apply the principles of financial reporting
- incentivise disclosure on a good faith, best endeavours basis without the fear of disproportionate liability risk
- only apply penalties for conduct such as a failure to produce a report, submission of a materially false or misleading statements, or where there is evidence of gross negligence or recklessness in reporting
- reduce duplication and inconsistency with existing disclosure regimes to minimise compliance costs for covered entities and confusion and complexity for users
- avoid the creation of additional regulatory or standards bodies and utilise existing bodies to administer the new reporting requirements
- contemplate, and be flexible enough to evolve with, international, scientific, policy and technology developments
- include guidance for covered entities seeking to expand their disclosures voluntarily (beyond what is required).

F. Periodic reporting requirements

Question 6: Where should new climate reporting requirements be situated in relation to other periodic reporting requirements? For instance, should they continue to be included in an operating and financial review, or in an alternative separate report included as part of the annual report?

New reporting requirements should be as flexible as possible, without undermining the effectiveness of policy with regards to serving users. Covered entities should be given the choice as to whether to include new reporting requirements in their operating and financial review or, in a separate report released together with the annual report.

G. Materiality and assurance of climate risks

Question 7: What considerations should apply to materiality judgements when undertaking climate reporting, and what should be the reference point for materiality (for instance, should it align with ISSB guidance on materiality and is enterprise value a useful consideration)?

Question 8: What level of assurance should be required for climate disclosures, who should provide assurance (for instance, auditor of the financial report or other expert), and should assurance providers be subject to independence and quality management standards?

The definition of materiality

The BCA supports the intention to align with ISSB guidance on materiality. We note that additional work is required to improve the clarity of the ISSB definition of materiality to align it more closely with traditional concepts of financial materiality outlined in the International Financial Reporting Standards.

Aligning with current materiality guidelines governing financial statements would mean, for example, linking a combination of quantitative and qualitative criteria to the specific metrics reported where less than 5 per cent is immaterial, 5 to 10 per cent is judgemental and more than 10 per cent is material. Such alignment supports consistent application by preparers across accounting and sustainability standards.

We note that the ISSB is currently reformulating its definition of 'enterprise value' and, as such, will refrain from comment until a revised definition is available for consideration.

Level of assurance

Third party assurance is important to foster transparency and confidence by users in financial reporting. However, some aspects climate related financial disclosures are fundamentally different from traditional financial reporting. They involve far greater uncertainty, much longer time frames and a dependence on factors completely outside an entity's sphere of influence and control.

The appropriate level of assurance for climate related financial disclosures will therefore vary depending on the nature of the disclosure, the time frame over which the disclosure applies, and the industry to which the disclosure relates. There are certain climate disclosures where even limited assurance may not be practicable or value adding initially (such as forward looking metrics and statements). Other disclosures may warrant reasonable assurance from the commencement of the new reporting requirements, such as scope 1 and scope 2 emissions.

We note that, with respect to scope 3 emissions particularly, the capacity to provide assurance varies across different industry value chains, with the range of capability including

- being able to provide limited assurance for performance against scope 3 emissions and commitments from commencement of the new reporting requirements
- only being able to provide limited assurance for performance against scope 3 emissions and commitments for material scope 3 emissions (as defined in a given industry and subject to the materiality level for the covered entity)
- not being able to provide assurance for performance against scope 3 emissions and commitments for an interim period, until there is readily measurable and auditable data available.

The BCA supports a phased approach to assurance for scope 3 emissions, being one that does not impose assurance for scope 3 emissions before there is readily measurable and auditable data. An indicative timetable for inclusion of scope 3 emissions in assurance should be provided at the outset of the new reporting requirements to ensure that all entities are granted as much lead time as possible.

We note that some covered entities will have the incentive and capacity to go beyond this (sooner than it is phased in) because their stakeholders are demanding the information and because they are able to provide it for their industry value chain.

Assurance providers

Assurance providers should be subject to the same independence and quality management standards as financial auditors. As reporting by Australian entities expands to include sustainability disclosures in general, we see no reason to depart from the utilisation of auditors that are currently covered by existing quality management standards and independence requirements.⁸

However, these systems and standards would need to be adjusted to reflect the increasing use of non-accountants for sustainability disclosures assurance, and the existing assurance firms would need to expand their capabilities and skill base to support auditing these new disclosures.

H. Reporting of metrics (including emissions), offsets and transition plans

Question 9: What considerations should apply to requirements to report emissions (Scope 1, 2 and 3) including use of any relevant Australian emissions reporting frameworks?

Question 10: Should a common baseline of metrics be defined so that there is a degree of consistency between disclosures, including industry-specific metrics?

Question 11: What considerations should apply to ensure covered entities provide transparent information about how they are managing climate-related risks, including what transition plans they have in place and any use of greenhouse gas emissions offsets to meet their published targets?

Question 12: Should particular disclosure requirements and/or assurance of those requirements commence in different phases, and why?

The compliance burden associated with an additional mandatory reporting standard on entities is significant, especially in the climate reporting space due to the multitude of existing reporting arrangements relating to climate, emissions and sustainability more generally (including voluntary reporting).

Greenhouse gas emissions

The BCA supports consistency and mutual recognition with other climate-related reporting requirements. For example, existing NGER reporting of scope 1 and scope 2 emissions should be leveraged as much as possible under the new reporting requirements.

There is general support across our membership for a requirement to report scope 1 and 2 at commencement of the new reporting requirements, with safe harbour provisions for scope 2 emissions reporting initially (where and while estimation difficulties exist). This should be supported by a consistent disclosure format for the publication of scope 1 and 2 emissions to enable users to evaluate the emissions position of covered entities consistently.

The BCA supports phasing in scope 3 emissions reporting requirements in line with the availability of measurable and auditable data over time. We note that this availability varies across industry and economic activity. Once phased in, appropriate safe harbour provisions should also be used for scope 3 emissions reporting obligations where and while estimation difficulties exist.

⁸ For example, APES 110 Code of Ethics for Professional Accountants (including Independence Standards) and Auditing Standard ASQM 1 Quality Management for Firms that Perform Audits or Reviews of Financial Reports and Other Financial Information, or Other Assurance or Related Services Engagements.

An indicative timetable for inclusion of scope 3 emissions in reporting should be provided at the outset of the new requirements to ensure that all entities are granted as much lead time as possible.

The Corporate Emissions Reduction Transparency scheme is likely to be a source of unnecessary confusion to users of reported information, in parallel with the new reporting requirements, and should be phased out.

Other metrics

The definition of consistent metrics for disclosures, including both economy wide and industry-specific metrics will be important to the effectiveness of the new reporting requirements. These metrics will require extensive consultation across industry sectors before they form the basis of formal disclosure requirements.

There appears to be a tendency in climate reporting to focus heavily on emissions (and associated transition risks) and less on damage and adaptation (and associated physical risks). A broad range of climate-related disclosure metrics will be needed to ensure that all key transition and physical risks are disclosed.

Offsets and transition plans

The role of offsets and transition plans in an entity's approach to managing climate-related financial risks and opportunities are critical and as such should be part of the new reporting requirements.

However, disclosure obligations relating to forward looking information need to avoid being too granular or overly rigid and should be accompanied by appropriate safe harbour provisions to encourage disclosure on a good faith, best endeavours basis. Transition plans are made in the face of high degrees of policy, technology and environmental uncertainty and therefore flexibility in new reporting requirements will be important.

It is critical that disclosure requirements do not inadvertently discourage covered entities from using high quality carbon credits and offsets as part of their strategy to manage climate risks (and opportunities). The market can make its own assessment of the value of the strategy without requirements being overly prescriptive.

There is also the distinction between how voluntary versus regulatory actions should be reported under the new reporting requirements with respect to a covered entities' transition plans. For example, can an entity count its emissions reductions under the Safeguard Mechanism and SMCs towards achievement of interim targets in its transition plan?

The BCA requests advice from the government on the extent to which entities will be required to disclose the use of ACCUs and SMCs as part of their transition plans, and how disclosures under the new reporting requirements will intersect with disclosures to the Clean Energy Regulator as part of NGER and the Safeguard Mechanism.

Phasing of specific disclosure requirements

The BCA supports a phased approach to introducing some disclosure requirements in order to promote meaningful disclosures and avoid forcing baseless disclosures with no value to users, due to

- a lack of quality data being available
- a lack of available and suitably skilled assurance professionals
- very high levels of inherent uncertainty where and while these persist.

This is practical and reasonable from the perspective of covered entities and users, and it gives the assurance and auditing sector time to build its limited pool of qualified assurance professionals in response to strong growth in demand for climate and other sustainability related services.

The types of disclosures that require a phased approach include

- scenario analyses beyond the near term, until a public repository of 'compliant' climate scenarios is agreed upon and available (as one option for covered entities to use)
- scope 3 emissions reporting requirements in line with the availability of measurable and auditable data (and sufficient capacity in the assurance and auditing sector).

I. Data and capability to support climate reporting

Question 13: Are there any specific capability or data challenges in the Australian context that should be considered when implementing new requirements?

13.1 How and by whom might any data gaps be addressed?

13.2 Are there any specific initiatives in comparable jurisdictions that may assist users and preparers of this information in addressing these challenges?

The measurement and management of climate risks and opportunities is fraught with uncertainty and the only partial antidote to this uncertainty is good data about the risks. The quality of climate reporting is very much determined by the quality of and access to good data. Having said this, uncertainty can never be removed completely by data, no matter how good it is, because of the long time frames and nature of climate change.

There are specific data challenges worth highlighting. Scope 3 emissions and the physical risk/ impacts of climate change are two notable areas where data challenges exist and where there are limited resources available to source and improve the quality of data. Scope 3 emissions data requires information from across the value chain. This means data must be gathered from third parties who operate under different rules or reporting requirements — such as customers or suppliers — and often in circumstances where it is very difficult to ascertain the reliability of the data available.

In December 2021 the Climate Change Authority (CCA) recommended that the Australian Government “invest in the development of new economic data to help Australia identify and respond to the challenges and opportunities that lie ahead”. In its Insights Paper⁹, the CCA found that economic data for a decarbonising world presents three key insights

- while high level information can help simplify information to guide investment and purchase decisions, only granular data can help decision makers to understand and plan for the transformation of the economy
- bring datasets together to improve alignment of economic, emissions and other data in a more detailed, comprehensive and timely way would be a sensible step
- as well as tracking economic impacts, economic data could yield insights about what might be to come for the economy.

The BCA supports the thrust of the CCA's recommendation and contends that it should include i) data on value chain emissions across different economic activities/industries and ii) data on physical risks across different economic activities/industries. It is important that the provision of such data does not limit the flexibility for covered entities to use other sources of data for any scope 3 reporting and physical risk reporting (if and when these are required).

It is important that reporting entities are encouraged (and not penalised) by the new reporting requirements to transparently call out data gaps as part of their reporting. This will also benefit users of the information and government decisions over how best to allocate resources to improving information

In terms of capability gaps, sustainability reporting is a new and emerging field, with rules that are under development and where the availability of appropriately skilled practitioners currently is limited. The government

⁹ Climate Change Authority, *Economic Data for a Decarbonising World*, 15 December 2021.

needs to support education and training for sustainability professionals in general, to continuously improve the quality of sustainability reporting across the economy.

J. Governance of supporting information for disclosures

Question 14: Regarding any supporting information necessary to meet required disclosures (for instance, climate scenarios), is there a case for a particular entity or entities to provide that information and the governance of such information?

There is a case for government to develop a public repository of 'compliant' climate scenarios drawing on domestic and international institutions data. This would lower the cost for entities (particularly smaller entities) using these scenarios as inputs to their climate reporting and enable greater comparability for users. It is likely that scenarios pertaining to physical risks/ impacts are more amenable to this approach than those pertaining to transition risks.

It is important to maintain flexibility, noting that

- the use of one source of scenario data should not be mandated over another
- covered entities should be able to use alternative sources of climate scenarios (outside of the public repository)
- it mitigates against the risk of 'group think' with respect to a view of the future
- some very large global energy businesses provide their private data as inputs to public agencies like the International Energy Agency and may wish to use their own scenarios for reporting purposes.

To make a flexible approach workable, all scenario information used as part of the new reporting requirements

must include the source of the information, the date of the information, and the version of the information.

Understand the intent
Work for doing so

The regulator should also provide guidance notes with examples that will assist entities to understand the rules and what information is required to comply, noting that there is already a framework under the accounting standards.

K. Proportionate application of liability

Question 15: How suitable are the 'reasonable grounds' requirements and disclosures of uncertainty assumptions in the context of climate reporting? Are there other tests or measures that could be used to ensure liability is proportionate to inherent uncertainty within some required climate disclosures?

The level of uncertainty associated with climate change means that covered businesses will frequently rely on third party data and assumptions and respond to technology and policy developments that are unpredictable (in terms of timeframes, costs and impacts).

Therefore, striking an appropriate balance between incentivising disclosure and penalising non-compliance is critical to a robust policy design and implementation. A worst case would be where covered entities are deterred from making best endeavour disclosures for fear of being penalised, or where covered entities are not deterred from making baseless disclosures.

The use of a safe harbour provision for some disclosures — such as forward looking statements on emissions — could help with achieving the appropriate balance of incentives. This is important to address concerns about liability risks for individual directors and officers, and companies (particularly a

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emissions and forward-looking statements) may undermine an otherwise robust and transparent reporting framework.

Similarly, it is imperative that the framework does not introduce multiple avenues of liability or empower multiple agencies with the ability to enforce non compliance. For example, the Competition and Consumer Law covers misleading or deceptive statements and is regulated by the Australian Competition and Consumer Commission. The framework should empower only the regulator of the new reporting requirements to take action in relation to misleading or deceptive statements.

Because of the particularities of Australian law, the lack of liability safeguards would mean Australian entities (and directors) have significantly greater liability exposure relative to their international counterparts when making representations to the market (particularly forward-looking representations). This is likely to have at least 2 negative flow on effects for the Australian economy

- directors and officers insurance providers will not cover these risks, or the cost of cover will increase significantly making it unattainable for many Australian entities
- it will become more difficult to attract directors relative to other jurisdictions.

L. Interaction with other reporting obligations

Question 16: Are there particular considerations for how other reporting obligations (including continuous disclosure and fundraising documents) would interact with new climate reporting requirements and how should these interactions be addressed?

Existing continuous disclosure obligations and fundraising disclosure obligations require covered entities monitor and update any material changes to prior disclosures, including forward looking statements. Therefore, there is no need to introduce further obligations. However, it may be beneficial for covered entities if the broader regulatory framework offered guidance as to what categories of climate-related information are likely to be market sensitive in the context of broader continuous disclosure obligations.

M. Sustainability reporting and digital sustainability reporting

Question 17: While the focus of this reform is on climate reporting, how much should flexibility to incorporate the growth of other sustainability reporting be considered in the practical design of these reforms?

Question 18: Should digital reporting be mandated for sustainability risk reporting? What are the barriers and costs for implementing digital reporting?

Additional sustainability reporting

It is important that the regulatory framework governing the new reporting requirements is designed and implemented to accommodate the integration of additional sustainability reporting subject areas particularly as these evolve internationally.

However, creating a robust framework for climate reporting must be the first priority, given the extensive amount of work involved in establishing these disclosures from preparers, auditors, regulators and professional bodies. Additional reporting subjects such biodiversity, human capital, water, and circular economy will be integrated into the reporting requirement more easily if the underlying infrastructure is built properly.

Digital reporting

Given that digital reporting does not yet exist in financial reporting in Australia, we do not recommend mandating digital sustainability reporting under the new reporting requirements. We note the potential value of user friendly digital reporting in the longer term but acknowledge that it may not be practicable for all covered entities for the foreseeable future. The phasing in of digital reporting could be revisited and properly assessed as part of the two to three year policy review cycle.

N. Implementation structure options

Question 19: Which of the potential structures presented (or any other) would best improve the effectiveness and efficiency of the financial reporting system, including to support introduction of climate-related risk reporting? Why?

The BCA does not support the creation of a new governance body to regulate the new reporting requirements (Potential Structure 2 in the paper). Existing financial regulatory and advisory bodies are well placed to administer the new reporting requirements, subject to additional resourcing and expertise where required. The establishment of a new body creates a risk of divergence from broader financial reporting methods and principles and potential for confusion, duplication and waste.

Potential Structure 1 contemplates an amendment to the Corporations Act to install the Australian Accounting Standards Board (AASB) as the agency responsible for developing, making, and monitoring climate and sustainability related risk disclosure standards. The AASB would continue to be overseen by the Financial Reporting Council (FRC) and the Auditing & Assurance Standards Board (AUASB) would develop and maintain assurance requirements for climate and sustainability related disclosures. The advantages of this proposal include

- the AASB, FRC and AUASB are well placed to take on those roles given their current functions
- it aligns with current practices and therefore would likely assist with a smooth, phased introduction of the new reporting requirements
- it ensures a strong link to financial reporting methods and principles and therefore consistency
- it leverages the AASB's involvement in the developments of other international standards.

It would also avoid the cost, bureaucratic and timing risks associated with the other proposed approaches.

The Proposed Structure 3 in the paper is not preferable given that it includes introducing broad reforms to the financial reporting system (and risks more associated uncertainty) at a time when covered entities will already be grappling with significant new reporting requirements.

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