17 February 2023

Sustainable Development Reform Hub

Climate Disclosure Unit
Market Conduct Division
The Treasury
Email: climatereportingconsultation@treasury.gov.au

Re: Preliminary submission to the Treasury Climate Disclosure Unit, responding to the Consultation Paper on Climate-related financial disclosure.

Introduction

1. As members of the Sustainable Development reform Hub (SDR Hub) at the University of New South Wales with relevant subject matter expertise, we welcome the opportunity to contribute views regarding the design and implementation of a standardised disclosure framework in Australia for climate-related financial risks, opportunities, and antecedent matters.

2. The key points raised in our submission can be summarised as follows:

   (a) The scope and coverage of the mandatory disclosure regime should take a whole-of-economy stance, which extends its scope to larger non-listed entities, while taking an appropriately phased approach.

   (b) Standards should be aligned with current leading international standards, given the potential for mutually beneficial cross-governmental collaboration, and the implementation benefits offered by increased standardisation.

   (c) The proposed disclosure framework should be designed to provide sufficient regulatory agility to respond to international developments in broader sustainability-related standards beyond merely climate, appreciating the likelihood that improvements and understandings will continue to develop in line with understandings of businesses as actors operating within ecosystems.

Context and background

3. Given the enormity of the threat posed by climate and broader environmental crises to Australia, it is positive to see the Australian Government taking strong action on addressing climate change, starting with the introduction of Australia's first national-level Climate Change Act late last year. Fulfilling his obligations under that Act in delivering his first Annual Climate Change Statement to Parliament, the Hon Chris Bowen, Minister for Climate Change and Energy, heralded the new climate legislation as a move to show the world that Australia was "open for business", providing a stable economic environment to attract extensive investment in renewable energy and zero emissions technologies.[1] With respect to the climate ambitions set out in that legislation, the Minister emphasised the Government's desire to be "accountable, transparent and open about the opportunities, progress, stumbling blocks and challenges in meeting this most important national task."[2]

4. Australia's emissions reduction commitments are unachievable by the public sector alone; the private sector should also adhere to a similar level of transparency and accountability.

5. The present lack of comprehensive reporting on climate and sustainability-related risk across the private sector currently inhibits public access to information regarding the true scale of Australia's contribution to the climate crisis and impedes investors' ability to adequately assess the true risk of investment. Establishing a mandatory reporting and disclosure system with respect to climate-related risks is a positive step in delivering the transparency and accountability needed to action the Government's climate ambitions, and give greater public access to information to make informed choices.

[1] he Hon Chr s Bowen MP, Annua C mate Change Statement to Par ament (1 December 2022).
[2] he Hon Chr s Bowen MP, Annua C mate Change Statement to Par ament (1 December 2022).

6. However, successful implementation can only be achieved where those mandatory requirements are coupled with requisite proficiency by businesses to accurately identify, understand, assess, manage and disclose the impacts climate change is having on their business, and the impacts of their operations as drivers for ongoing climate change.

7. We considers the proposed regime a positive step, putting it in line with global efforts from other economies including New Zealand, the United Kingdom and the European Union. Additionally, such a regime provides a significant opportunity to support Australia's net zero emissions target, climate change adaptation plans and wider efforts to promote sustainable finance globally, particularly through aligning with international reporting practices.

Summary of submission

The scope and coverage of the mandatory disclosure regime should take a whole-of-economy approach, extending beyond ASX-listed corporate entities, and take a phased approach to implementation based on defined thresholds (Questions 2 and 3)

8. The consultation paper asks for views and feedback on the appropriate coverage and scope of the legislation, initially suggesting a phased approach to implementation, starting with ASX-listed entities and large financial institutions that meet certain size thresholds. The SDR Hub supports the proposal for a phased approach to implementation, which allows time for smaller organisations to build up the capacity, and leverage off the learnings of larger businesses who have more available resources to implement the institutional changes needed to effectively measure, assess, and report against the proposed disclosure requirements. In practice, this could be done by defining the 'reporting entity' in legislation, with a complementary power to include additional entities into the definition through regulations.

9. With respect to the question of scope and coverage more broadly, the SDR Hub's view is that the regulatory regime must extend beyond large, listed entities and large financial institutions to eventually cover a much wider breadth of corporations operating in the Australian economy irrespective of listing status. Limiting the regime's scope to ASX-listed entities, and excluding non-listed entities creates the potential for distorted outcomes and neglects a significant proportion of the economy who should be subjected to the same transparency and accountability standards.

10. Exempting non-ASX-listed entities from reporting against the proposed disclosure standards has the potential to incentivise businesses to restructure or offload emissions-intensive arms and/or business assets to private equity and other non-listed entities to insulate themselves against reporting and disclosure of significant climate-related risks. This effectively shifts emissions and the associated climate-related risks off the accounting books of one part of the economy to another, creating an informational distortion and a highly undesirable policy outcome. Moreover, some of the most significant contributors to global emissions are not publicly listed on the ASX, and therefore would not be captured if a narrower scope were taken. Broadening the scope of application to non-listed corporations that are registered under Australian corporations law takes a whole-of-economy approach which necessarily levels the playing field for businesses.

11. For these reasons, we consider the way in which these 'reporting entities' are defined should be carefully considered. Taking a phased approach to implementation of the regime, the proposed disclosure regime should initially apply to all large financial entities and corporations over a certain size threshold (set by market capitalisation, net turnover, employees, or other means, rather than focusing on listing-status) should be initially obligated to report against the proposed disclosure standards.

12. In this context it is worth noting that this approach has already been taken up by the European Union's recently adopted Corporate Sustainability Reporting Directive (CSRD), which came into effect on 5 January 2023. The CSRD was implemented to ensure adequate information was available to the public regarding the risks that sustainability issues present for companies, and the impacts of companies

themselves on people and the environment. Under its phased approach, the CSRD rules will apply both to entities listed on EU regulated markets and to large entities that meet certain threshold criteria relating to their net turnover, balance sheet and/or number of employees. Certain non-EU entities that meet specific net turnover thresholds, and/or having a large or listed EU subsidiary will also eventually be subject to the disclosure requirements under its phased approach[3] – a position which rightly recognises the global nature of corporate operations and the associated risks brought about by the various climate and sustainability-related challenges businesses are facing.

The regulatory regime should align with current international standards, and have the regulatory agility to respond to further international climate and sustainability-related reporting standard developments (Questions 1, 4, 11 and 17)

13. The Consultation Paper seeks views on a range of questions regarding alignment with current and future international standards in relation to climate-related financial disclosures such as the TCFD, as well as broader environmental and sustainability initiatives including the ISSB standards set to be finalised in 2023. In the same way we have seen national responses to the TCFD standards for climate, once the ISSB standards are released, it will be up to national governments worldwide to decide whether reporting against the ISSB standards will be mandatory in some form.

14. There are beneficial outcomes from an active decision to align Australia's national regime with current international standards while building in sufficient regulatory agility to respond to future international developments as they crystallise. Choosing to align with internationally recognised reporting standards:

    (a) practically simplifies the implementation process for businesses captured by the regime, by allowing access to a much larger, global pool of knowledge and resources. Indeed, some of these entities may already have international operations that are applying a full complement of TCFD recommendations in line with mandatory reporting requirements occurring in that country. Likewise, a number of Australian companies are already voluntarily reporting against the TCFD recommendations to varying degrees,[4] and are therefore already well-placed to adjust to a regulated regime;

    (b) allows Australia to take the benefit of the design work already completed at the global level, and provides increased opportunity for mutually beneficial collaboration with other national government efforts to adopt legislation that gives effect to those international standards; and

    (c) delivers improved comparability across global disclosure frameworks, giving the Australian public and investors a greater ability to compare and assess climate-related business risks and impacts at a national and global scale.

15. The standards produced by internationally coordinated bodies such as the TCFD, ISSB (and indeed other bodies such as the Taskforce for Nature-related Financial Disclosures) represent the culmination of multiple rounds of global-level consultation and apply a broad range of global expertise. These standards are generally designed in a way that is conducive to adoption by national governments, and the government is at liberty to make contextually appropriate adjustments to the standards through the course of the legislative process.[5]

16. We recommend that an Australian regime align with the ISSB standards once finalised to cover considerations beyond climate. Whether this can take place as part of the initial disclosure proposal, or pursuant to some later revisions to the national disclosure framework will depend on the timing for the release of the ISSB's sustainability standards this year. The ISSB builds on the TCFD and provides more

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[3] For further nformat on, see the European Comm ss on's webpage on the CSRD.
[4] See the KPMG press re ease, wh ch repo t that near y three quarters (74%) of the ASX100 are a ready us ng the 'go d standard' CFD framework.
Refer to the consu tat on rounds unde taken by the Externa Report ng Board n New Zea and, who was charged w th deve op ng the nat ona c mate re ated f nanc a report ng standards mode ed off the CFD.

specific climate-related disclosures (particularly in relation to Scope 3 emissions) than the TCFD, and expands into broader matters of sustainability addressed under the ISSB, which more comprehensively address non-financial business risk within the wider context of the ecosystems that they operate. Adopting the full set of ISSB standards, beyond climate therefore offers a much more robust transparency and accountability framework linked back to the concept of sustainability in both the long and short term, whereby climate risk forms one component.

The regulatory regime should be designed so as to deliver the appropriate regulatory agility to respond to developments in the sustainability disclosure landscape, while retaining the appropriate checks and balances (Questions 1, 4, 11 and 17)

17. The pace of development observed across the climate and sustainability-related disclosure landscape since the development of the TCFD in 2017 is significant, and likely to continue developing. It is therefore imperative that the proposed regime has sufficient regulatory agility to appropriately respond to developments in this area as they come to bear.

18. It is therefore important that the new regime is designed to be flexible and adaptive to improve and expand on the content of disclosure requirements to respond to improvements and revisions to certain standards as they are released at the international level, while ensuring the proper checks and balances remain in place.

19. The importance of retaining this regulatory agility links to the growing understanding of businesses operating within ecosystems, whose actions have implications across environmental, social and human rights-related issues, and associated dependencies on certain components within the ecosystems that they operate. Two examples of this expanding school of thought, which may be a useful comparator when assessing the appropriate scope of a proposed Australian regime, are the ISSB's general disclosure requirements for sustainability-related financial information, and the EU's recent CSRD are some of the first to directly capture this:

    (a) In December 2022, the ISSB released an announcement on regarding its proposed definition for 'sustainability' for inclusion as part of its General Sustainability-related Disclosures Standard (S1). That standard will describe sustainability as "the ability for a company to sustainably maintain resources and relationships with and manage its dependencies and impacts within its whole business ecosystem over the short, medium and long term." It added that sustainability is "a condition for a company to access over time the resources and relationships needed (such as financial, human, and natural), ensuring their proper preservation, development and regeneration, to achieve its goals."[6]

    (b) In January 2023 the CSRD came into force, taking a phased approach to requiring companies operating in the EU that meet certain size thresholds to publish regular reports on a broad range of environmental and social issues, and on the impacts of their activities on people and the environment.[7]

20. This is supported by the global trend of moving from a segmented approach to risk assessment for individual crises, such as climate and human rights toward a more comprehensive multi-pronged approach to business risk identification and assessment of sustainability in the short, medium and long-term.

21. Finally, we propose that the current disclosure standards are expanded beyond climate, to ensure that investors and other stakeholders have access to the information they require to make informed investment and consumption decisions regarding the complex and systemically interrelated risks arising from climate change and other sustainable development challenges. A broader "nature+climate"

[6] See the SSB's 14 December 2022 announcement.
[7] For further nformat on, see the European Comm ss on's webpage on the CSRD.

disclosure framework could inter-link with ongoing work in Australia under the Taskforce on Nature-related Financial Disclosures,[8] and could be grounded in the recent globally standardised frameworks available for environmental-economic accounting,[9] which have an established track record of implementation both in Australia and internationally.

22. We welcome opportunities to participate in further discussion, as appropriate, regarding the matters raised in this preliminary submission. Should you have any further questions or comments, please contact us.

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[8] See: https://tnfd.g oba

[9] See: https://seea.un.org and https://eea.env ronment.gov.au