Australian
Finance
Industry
Association

9 February 2024

Hannah Skewes
Director, Climate Disclosure Unit
Market Conduct and Digital Division
The Treasury
Langton Crescent
Parkes ACT 2600

By email: climatereportingconsultation@treasury.gov.au

Dear Ms Skewes

CLIMATE-RELATED FINANCIAL DISCLOSURE: EXPOSURE DRAFT LEGISLATION

The Australian Finance Industry Association (AFIA)[1] appreciates the opportunity to respond to Treasury's *Climate-related financial disclosure: exposure draft legislation and accompanying explanatory materials* ('the consultation').[2]

This submission builds upon AFIA's two previous submissions made on the introduction of Australian mandatory climate-related financial disclosures, as well as the Government's Sustainable Finance Strategy consultation.[3]

AFIA is the only peak body representing the entire finance industry in Australia.

We represent over 150 providers of consumer, commercial and wholesale finance in Australia, including bank and non-bank lenders, finance companies, fintechs, providers of vehicle and equipment finance, car rental and fleet providers, and service providers in the finance industry. We are the voice for advancing a world-class finance industry and our members are at the forefront of innovation in consumer and business finance in Australia. Our members finance Australia's future.

We collaborate with our members, governments, regulators and customer representatives to promote competition and innovation, deliver better customer outcomes and create a resilient, inclusive and sustainable future. We provide new policy, data and insights to support our advocacy in building a more prosperous Australia.

1 www.afia.asn.au.
2 Treasury (January 2024) Climate-related financial disclosure: exposure draft legislation.
3 Please see AFIA (February 2023) Submission on Climate-related financial disclosure – consultation and AFIA Submission (July 2023) Second consultation on climate related disclosures. See also Treasury (November 2023) Sustainable Finance Strategy.

INTRODUCTORY COMMENTS

The finance industry plays a critical role in supporting consumers and businesses and we recognise that climate change poses a material risk to the financial system.[4]

Sustainability is a key priority for AFIA and we strive to champion a sustainable and timely transition to net-zero through green finance solutions and Environmental, Social and Governance (ESG) initiatives, including encouraging our members to use climate-related financial disclosures and supporting them in preparations for changes to financial reporting to build upon climate-related risks and opportunities.[5]

Our members finance Australia's transition to net zero through various initiatives such as expanding Electric Vehicle (EV) uptake, supporting the Government's National EV Strategy and providing finance for the solar market.[6] These products play a significant role in Australia's efforts to achieve climate goals by generating renewable energy, reducing emissions and encouraging innovation and investment.

AFIA supports and recognises the importance of the introduction of climate-related disclosure obligations in Australia. It is essential to ensure that we remain aligned with other major international markets.

AFIA has endorsed a global approach to the development and implementation of climate-related reporting standards.[7] AFIA members are affected by the development of mandatory climate-related reporting standards within other jurisdictions such as New Zealand, the United States and Europe. We consider it crucial for entities to be able to collect data efficiently and report in a way that avoids duplication.

We support in principle the Government's intention to implement the climate-related disclosure obligations, in so far that they are implemented in a scalable, proportionate manner, which provides reporting entities with sufficient time to prepare and upskill.

AFIA has consistently advised that it is essential when introducing these disclosure obligations, that the Government recognise the impact on reporting entities, who will face substantial costs and skills challenges when implementing the requirements. The requirements must be introduced in a proportionate manner, recognising the issue of scalability for smaller or less resourced entities.

We welcome the Government's acknowledgement of this importance within the consultation paper and support the proposal to introduce a materiality exemption for Group 3 reporting entities.[8]

[4] Australian Government, The Treasury (December 2022), Climate-related financial disclosure - Consultation paper, page 5.
[5] Please see AFIA Annual Review FY23, page 20.
[6] Please see AFIA (September 2023), EV Finance: Driving Down Australia's Emissions and AFIA (January 2023), The Economic impact of Buy now pay later in Australia.
[7] See AFIA (February 2023) Submission on Climate-related financial disclosure – consultation and AFIA Submission (July 2023) Second consultation on climate related disclosures.
[8] As recognised by the International Sustainability Standards (ISSB): IFRS Sustainability Disclosure Standards (June 2023), Effects Analysis, IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information and IFRS S2 Climate-related Disclosure, page 9.

AFIA has provided detailed comments and recommendations within **Appendix A** to this letter**.** Our recommendations include:

- clarification on the timing for publication of the final Australian sustainability reporting standards and alignment with the exposure draft legislation, ahead of the mandatory reporting regime commencing for Group 1 entities on 1 July 2024.
- further consideration of the challenges for reporting entities, including non-bank lenders, in estimating Scope 3 emissions.
- re-consideration of the proposal to mandate a detailed index table within the sustainability report.
- further recognition of the challenges around the capacity and maturity of the Australian assurance sector.

CLOSING COMMENTS

Should you wish to discuss our submission or require additional information, please feel free to contact me.

We look forward to continuing to work with Treasury and our members as the disclosure requirements develop.

Yours sincerely

Leisha Watson
Policy Director

APPENDIX A

Introduction

Climate change represents a material risk to the financial sector and the global financial system.[9] AFIA supports and recognises the importance of the introduction of climate-related disclosure obligations in Australia to help manage systemic risks.

It is essential to ensure that we remain aligned with other major international markets. Furthermore, it is vital that businesses, investors, regulators and the public have a clear and common understanding of obligations for entities to disclose climate-related financial risks and opportunities.[10]

AFIA supports the coordinated approach taken by Government and other jurisdictions to ensure that the requirements are aligned with the International Sustainability Standards Board (ISSB), who released its inaugural sustainability standards (IFRS S1 and IFRS S2) in 2023, providing a global baseline.[11] As previously stated in our submissions to Treasury, AFIA supports aligning the Australian sustainability standards with the ISSB standards as much as possible to avoid any risk of regulatory fragmentation and to align key definitions, concepts, terminologies, and metrics.[12]

We support in principle the Government's intention to implement the climate-related disclosure obligations, in so far that they are implemented in a scalable, proportionate manner, which provides reporting entities with sufficient time to prepare and upskill.

We note the obligations will require reporting entities to disclose information about their climate-related financial risks and opportunities in line with the Australian Accounting Standards Board (AASB) sustainability standards, which are subject to ongoing consultation until 1 March 2024. This must be disclosed within the annual financial report, with the first reporting period for 'Group 1' entities to commence on 1 July 2024.[13]

It is important that Group 1 reporting entities are provided with sufficient time to consider the final legislation and AASB sustainability standard ahead of 1 July 2024. AFIA recommends that clarification is provided on the timing for publication of the final AASB sustainability standard, ahead of the 1 July 2024 Group 1 reporting period commencing. Additionally, we believe that further collaboration will be required from Treasury and the AASB to ensure the standard and legislation are consistent which may impact publication.

---

[9] Treasury Laws Amendment Bill 2024: Climate-Related Financial Disclosure - Exposure Draft Explanatory Materials, page 7.
[10] *ibid.*
[11] International Financial Reporting Standards (IFRS) (News release June 2023), 'ISSB issues inaugural global sustainability disclosure standards'.
[12] AFIA (February 2023) Submission on Climate-related financial disclosure – consultation, page 3.
[13] AASB ED SR1: Australian Sustainability Reporting Standards - Disclosure of Climate-related financial information.

Reporting entities and phasing

AFIA has consistently recommended that the disclosure requirements be introduced in a proportionate manner, recognising the issue of scalability for smaller or less resourced entities. One of AFIA's key recommendations was that the requirements are introduced in a phased manner, proportionate to risk, in line with Treasury's principles guiding the disclosure reforms of scalability and proportionality.[14]

AFIA supports and welcomes the introduction of a materiality assessment for reporting entities captured in Group 3.[15] A 'comply or explain' element in the reporting requirements for Group 3 appropriately recognises the limited capacity of smaller entities and appropriately imposes a more proportionate disclosure expectation.

AFIA agrees with Treasury that the regulatory burden would be disproportionate to the benefit obtained from all of Group 3's inclusion, where there are no material risks to disclose. We agree with the consultation paper that the least regulatory burden option identified should be implemented for Group 3.[16]

AFIA recommends the Government support entities by providing clarity on the interpretation of materiality and expectations of its application in Australia, as well as providing illustrative guidance on how to apply materiality judgements when undertaking climate reporting.

Reporting content

AFIA recognises the need for the disclosure of Scope 3 emissions for comparable and consistent disclosures. We however continue to stress the associated challenges that come with the estimation of Scope 3 emissions. The calculation of Scope 3 for non-bank lenders can rely heavily on assumptions due to lack of technology and available data from third parties, requiring significant investments. Our previous recommendations have included provisions and protections for entities reporting uncertain Scope 3 emissions in good faith.

AFIA welcomes the Government's consideration of Scope 3 emissions and notes the proposal that the disclosure of material Scope 3 emissions would be required for reporting entities from their second year of reporting. We believe significant challenges will remain for reporting entities that could be addressed by consideration of additional protections and transitional periods.

The ability to measure Scope 3 emissions could be improved by initiatives to encourage measurement by entities who do not fall under the reporting regime.

[14] Treasury (December 2022) Climate-related financial disclosure - Consultation paper, page 6.
[15] Including entities that meet at least two of the following thresholds: $50 million or more consolidated revenue, $25 million or more by the End of the Financial Year (EOFY) consolidated gross assets, or 100 or more EOFY employees. See Treasury (January 2024) Mandatory climate-related financial disclosures - Policy position statement, page 2.
[16] Treasury (January 2024) Climate-related financial disclosure: exposure draft legislation, page 37.

It would be helpful to further understand Treasury's position on voluntary reporting within the climate disclosure framework. For example, allowing entities to report avoided emissions to assist in estimating Scope 3 emissions including the financing of any new technologies.

Climate resilience statements

We note the reporting requirements will include requiring entities to disclose climate resilience assessments against at least two possible future scenarios, and that one must align with the most ambitious goal in the *Climate Change Act 2022* (Cth).[17] AFIA believes it will be crucial for clear guidance to be provided to entities on the scenarios they will be expected to report against.

It would be helpful for Treasury to consider whether the reporting of at least two possible scenarios creates any risk in the consistency of reporting and provides sufficient flexibility, particularly for smaller, less resourced entities. We support the flexibility provided to entities by not specifying the second scenario.

We note the consideration by Treasury of the challenges within scenario analysis as this area matures, by the first introduction of qualitative scenario analysis, with quantitative analysis required after 1 July 2027.[18]

AFIA acknowledges the importance of the disclosure of forward-looking information through scenario analysis to enable users to understand the potential impact of different scenarios on the company's businesses, strategy and financial planning. There will be further challenges for entities however who have complex and diverse portfolios. AFIA previously recommended protection for reporting entities given the significant challenges around the availability of data, and the quantification of climate-related financial risks being inherently uncertain as this area matures. This uncertainty risks impacting the reliability of the scenarios which may be disproportionate to the resource burdens placed on reporting entities.

We understand that assuming a reporting entity chooses to proceed with setting a science-based target with the Science Based Targets Initiative (SBTi), the SBTi have yet to publish criteria for financing motor vehicles as it is considered out of scope.[19] As such, if an organisation were to publish such statements, this would be based on a general cross sector organisation and may not be fit for purpose should additional guidance inadvertently and materially change those statements.

Industry-based metrics

AFIA welcomes the clarification by Treasury that reporting entities will only be required to disclose against well-established industry-based metrics from 1 July 2030 onwards.[20] We are supportive of establishing well-

[17] Mandatory climate-related financial disclosures - Policy position statement, page 3.
[18] *ibid*.
[19] Please see the Science Based Targets webpage.
[20] Mandatory climate-related financial disclosures - Policy position statement, page 3.

understood industry-based metrics in order to achieve consistency between disclosures, avoid potential confusion and ensure disclosed information can be interpreted in a meaningful manner.

Reporting framework

We note that climate-related financial disclosures will sit within a sustainability report, forming the fourth report required as part of annual financial reporting obligations – and be contained in an entity's annual report.[21]

AFIA has previously recommended utilising existing practice in Australia for reporting, in order to minimise as far as possible any additional regulatory burden and costs, as well as avoid duplication. We recommend that Treasury consider whether an additional separate report will unnecessarily increase the administrative burden on reporting entities.

AFIA welcomes the proposal for consolidated reporting for sustainability reports, allowing the head of a group of entities to produce a sustainability report that covers those individual entities.[22] AFIA recommends that clarity is provided on how reporting burdens can be reduced for reporting by Australian subsidiaries of international organisations.

We note the proposal that entities should include an index table within their annual report. The AASB has expressed concerns that requiring an entity to include a detailed index table would be onerous to prepare.

AFIA agrees with the AASB that the benefits of having such a detailed index table would not outweigh the cost and effort required to prepare it.[23] AFIA does not believe that such a proposal reflects the principles of the disclosure reform framework relating to flexibility and proportionality.[24]

Assurance requirements

AFIA recognises the need for a consistent baseline and trust and confidence in the disclosure information provided. We have previously recommended a phased approach to assurance requirements for disclosures, and emphasised the challenges for assurance in this area as it is still maturing.[25]

AFIA notes that climate disclosures will be subject to similar assurance requirements to those currently in the *Corporations Act* 2001 for financial reports and will require entities to obtain an assurance report from their financial auditors who will use technical climate and sustainability experts where required.[26]

[21] *ibid.*
[22] Treasury Laws Amendment Bill 2024: Climate-Related Financial Disclosure - Exposure Draft Explanatory Materials, paragraph 1.36.
[23] AASB ED SR1: Australian Sustainability Reporting Standards - Disclosure of Climate-related financial information, paragraph 6, pages 8-9.
[24] Treasury (December 2022) Climate-related financial disclosure - Consultation paper, page 6.
[25] AFIA (February 2023) Submission on Climate-related financial disclosure – consultation, page 13.
[26] Mandatory climate-related financial disclosures - Policy position statement, page 4.

We consider it crucial to recognise that many reporting entities operate in other jurisdictions with assurance requirements, and consistency in requirements would assist in managing the regulatory burden and avoid creating redundant requirements where an organisation is part of an overseas corporation.

There are challenges around the capacity and maturity of the Australian assurance sector, given the limited availability of assurers required for sustainability disclosures. Additionally, reporting entities will encounter increasing costs for the preparation of detailed assurance, which will increase with the move towards reasonable assurance. The consultation paper reports that reasonable assurance costs will likely be 1.66 times higher than limited assurance costs, adding that this is likely to be an underestimate of actual costs given the novel nature of climate information.[27]

Introducing assurance requirements without scalability would risk supply shortages, further increasing associated prices for assurance services.

AFIA supports additional flexibility proposed to be added to the disclosure assurance requirements, allowing the phasing in and scaling up of assurance over time as capacity is uplifted in the audit and assurance industry.[28] ‘Reasonable assurance’ requirements will be more reliable when consistent accounting standards are in place and where the quality of data is improved.

AFIA understands that while ‘limited assurance’ will be expected for Scope 1 and 2 emissions in Year 1 of reporting, the Auditing and Assurance Standards Board (AUASB) will determine a flexible pathway for ‘reasonable assurance’ and determine the extent and level of assurance required. We are concerned that challenges with assurance remain with this proposed approach and that entities will have difficulty in the early years of mandatory disclosure in ensuring appropriate assurance is undertaken.

Liability framework

We note that climate disclosures will be subject to the existing liability framework under the *Corporations Act* and *Australian Securities and Investments Commission Act* 2001 (Cth) including director’s duties, misleading and deceptive conduct provisions, and general disclosure obligations.[29]

AFIA previously recommended proportionate and limited liability for climate disclosures, given the inherent uncertainty in the accuracy of measurements, with reference to Scope 3 estimations and forward-looking estimates contained in the mandatory reporting. Without protection, there is a risk that disclosures could result in reporting entities being overly cautious and not meet the objectives of the requirements to provide decision-useful information that is reliable and sufficient. Forward-looking statements require positions to be taken on inherently uncertain matters and leave directors open to liability for misleading or deceptive conduct.

[27] Treasury (January 2024), Climate-related financial disclosures - Policy Impact Analysis, page 23.
[28] *ibid*. page 13.
[29] Mandatory climate-related financial disclosures - Policy position statement, page 4.

AFIA notes the recognition of the above challenges within the consultation and the concerns raised by other stakeholders during the previous consultation period.[30]

The exposure draft legislation states under 'Modified liability':

> *'Under this approach, liability for misleading and deceptive, and other, conduct in relation to the most uncertain parts of a climate statement is temporarily suspended. That is, where the statement relates to scope 3 greenhouse gas emissions and scenario analysis. This limited immunity applies to statements in sustainability reports prepared for financial years commencing between 1 July 2024 and 30 June 2027. During this time, only ASIC will be able to take action for misleading and deceptive conduct in relation to these types of disclosures.'*[31]

AFIA welcomes the clarification of the addition of a modified liability regime for the first three reporting years. Modified liability is appropriate while entities are building their reporting capabilities and making disclosures in good faith.

We understand that no legal action will be able to be brought against a person or entity in relation to statements about Scope 3 or scenario analysis made within sustainability reports during this time. This protection does not apply to civil actions brought by the Australian Securities and Investments Commission (ASIC) or prevent criminal proceedings.[32] We believe a proportionate and cooperative approach should be taken by ASIC during this transitional period, to assist entities in rectifying any identified errors in reports.

Review

AFIA considers it vital that the disclosure requirements are reviewed in a timely manner in order to consider the operation and assurance aspects of the policy are working as intended.[33] A Government review should assess how regulatory intervention is impacting reporting and encourage entities to consider the Taskforce for Climate-financial Disclosures (TCFD)'s guidance to ensure that they are not making disclosures that are potentially misleading.[34]

We recommend that Treasury include an interim review before 2028-2029, after the first reporting of Group 1, allowing for a fuller review after four years of implementation.

[30] Treasury (January 2024), Climate-related financial disclosures - Policy Impact Analysis, page 29.
[31] Treasury Laws Amendment Bill 2024: Climate-Related Financial Disclosure - Exposure Draft Explanatory Materials, paragraphs 1.115 (page 27).
[32] *ibid*, paragraphs 1.115-1,122 (pages 27-28).
[33] Mandatory climate-related financial disclosures - Policy position statement, page 4.
[34] Task Force on Climate-Related Financial Disclosures - Publications.