



Treasury

Climate-related financial disclosure

Consultation paper

submission

February 2023





The Treasury Climate-related financial disclosure Consultation paper

submission

The Carbon Market Institute (**CMI**) welcomes this opportunity to provide feedback to **Treasury** on its Climate-related financial disclosure Consultation paper (**Consultation Paper**), which opened for consultation on 28 November 2022.

CMI is an independent member-based institute that promotes the use of market-based solutions and supports best practice in decarbonisation to limit warming to 1.5°C. CMI's 150 strong membership includes organisations from across the entire carbon value chain, including primary producers, carbon service providers, legal and financial institutions, technology firms and emissions intensive companies.

CMI's Board annually updates the CMI Advocacy Policy Positions in consultation with, but independent of, members. Our positions include supporting policies aligned with Australia's fair share of effort to achieve the high-ambition Paris Agreement goal to limit warming to 1.5°C, evolving Australia's carbon markets to guide investment and opportunities in the transition, and ensuring rigorous governance, integrity and disclosure on carbon crediting.¹ CMI also administers the Australian Carbon Industry Code of Conduct, which was established in 2018 to promote and steward consumer protection and market integrity.²

The positions put forward in this submission are CMI's view, independent of members, and do not represent any CMI individual, member company or industry sector.

Strategic outlook

CMI supports the Government's commitment to developing a standardised climate disclosure regulatory framework for Australian businesses that aligns with international practice, including the introduction of mandatory reporting obligations for certain entities.³

An effective regulatory framework to guide transparent disclosure of climate- and nature-related risks will be a critical pillar in Australia's climate policy suite. Alongside market-based mechanisms such as the reformed Safeguard Mechanism and emerging complementary sectoral policies and programs, mandatory climate-related disclosure will help guide investment decisions that support Australia's legislated climate targets and the Paris Agreement goals.

¹ CMI 2021, 'Advocacy Policy Position Statement 2021', <https://carbonmarketinstitute.org/app/uploads/2021/12/CMI-Advocacy-Policy-PositionsUpdated-Dec-2021-004.pdf>; CMI 2025 Strategy: Accelerating climate action, <https://carbonmarketinstitute.org/app/uploads/2022/12/CMI-2025-StrategIc-Plan.pdf>.

² More information can be found on the Code website: <https://carbonmarketinstitute.org/code/>.

³ The introduction of a mandatory TCFD-aligned disclosure framework is one of CMI's policy advocacy positions; see: CMI 2021, 'Advocacy Policy Position Statement 2021', <https://carbonmarketinstitute.org/app/uploads/2021/12/CMI-Advocacy-Policy-Positions-Updated-Dec-2021-004.pdf>.



If designed well, a standardised climate disclosure regulatory framework aligned to international practice has the potential to improve the private sector's management of the risks associated with climate change by:

- mainstreaming physical and transitional climate risk management across Australia's private sector to encourage business activities to align with the broader economic trajectory to net zero emissions;
- supporting investors to identify Australian businesses that are genuinely managing climate-related risks and demonstrate legitimate transition plans that demonstrate long-term value in a net zero economy;
- addressing and minimising greenwashing by providing clear and consistent metrics against which to measure climate risk disclosure, management, and progress; and
- facilitating the long-term international competitiveness of Australian businesses in a carbon-constrained global economy.

We elaborate feedback on the proposed implementation approach below with a view to establishing an effective regulatory framework whilst balancing the cost and complexity to business in complying with these new obligations.

Implementation approach

1. Phased implementation

CMI supports the proposal to adopt a phased approach to implementing the climate disclosure framework to balance the cost and complexity of compliance against the benefit that these reforms will provide to business, investors, and the public.

CMI recommends the framework apply initially to all large entities, with the first report for initially covered entities due in 2024-25. This would enable the framework to commence in a timely manner for entities that have appropriate resourcing to comply while providing lead time for smaller entities to develop those capabilities and be brought into the framework subsequently.

CMI considers it important that the framework apply to all large private companies (in addition to large ASX listed companies) operating in Australia to ensure an equal playing field. This will also reduce the risk of 'carbon arbitrage' where companies privatise high risk assets to avoid disclosure obligations attracting scrutiny.⁴ Disclosure from non-listed large companies would support the quality and comprehensiveness of reporting from other listed entities that may need to draw upon this information. It would also provide policymakers with a more complete picture on business transition when assessing whether additional policies and programs are needed. We note this approach has already been adopted in the UK and EU. Australia could pursue a similar approach utilising the large proprietary company threshold provided under the *Corporations Act 2001*.

2. Alignment with international practice

CMI supports the proposal that the framework be initially aligned to the Taskforce on Climate-related Financial Disclosure (**TCFD**). The framework should also be designed with flexibility to enable the incorporation of the International Sustainability Standards Board (**ISSB**) standards when they become available for jurisdictional adoption. As well as the initial ISSB standards, the framework should be flexible enough to adapt to other emerging guidance, including:

- the emerging recommendations of the Taskforce on Nature-related Financial Disclosures (**TNFD**);

⁴ See, for example: Carbon Pulse, Feature: Carbon Arbitrage on the rise as public firms offload dirty assets to avoid scrutiny' (10 February 2023), Available at <https://carbon-pulse.com/191133/>.



- sectoral transition plans, like those being progressed by the UK Transition Plan Taskforce (**TPT**),⁵ and
- the ISSB's planned extension towards social and governance disclosures (such as labour standards, tax transparency, diversity, relations with First Nations stakeholders, etc.).

To support capacity building, it may be prudent for the regulatory framework to adopt a phased approach to the type of disclosure reporting required. Qualitative reporting could be required as a starting point, with a view to ultimately introduce requirements for more intensive quantitative disclosures. Quantitative disclosure reporting is contemplated under the ISSB standards but mandating this type of reporting across the board will require a material uplift in capability. This phased approach will be particularly important when extending mandatory disclosure to smaller companies with fewer resources for exhaustive quantitative reporting.

3. Regulatory design

CMI recommends that the overarching obligations for climate disclosure (governance, strategy, risk management, requirements for including targets and metrics) be incorporated into legislation. This would provide legal certainty to Australian businesses, while creating accountability for managing climate risks in line with existing fiduciary duties. Sitting underneath the legislation, standards and guidance should be elaborated in more detail, including specifications around types of targets and metrics. This approach would allow flexible, adaptable standards that reflect relevant international practice, including the TCFD and ISSB, and could be updated to reflect future emerging guidance, including the TNFD recommendations.

4. Materiality

As far as possible, CMI considers that guidance on materiality should align with international practice. The Government intends to align the framework initially with the TCFD, with flexibility to accommodate ISSB standards. Given this, CMI recommends guidance on materiality initially align with the TCFD recommendation that reporting entities use financial materiality principles when making climate disclosures, but that Scope 1 and 2 emissions should be disclosed regardless of materiality. Once the ISSB standards become available for jurisdictional adoption, the regulatory framework should be aligned to that standard.

5. Assurance

CMI recommends a phased approach to mandatory assurance for climate disclosures that initially focuses on some elements, such as greenhouse gas emissions reporting. This list of elements should gradually expand as industry capability scales, as has been the approach in New Zealand. We consider assurance as an important integrity check within the regulatory framework. Nevertheless, mandatory assurance must be phased in a way that is signalled in advance, allowing business to build the required compliance capabilities ahead of introduction.

6. Emissions metrics

We consider that the requirements to report Scope 1, 2 and 3 emissions should align with international best practice. We note that international best practice includes some requirements to disclosure Scope 3 emissions and consider that Australia's regulatory framework should therefore provide a pathway towards reporting on Scope 3 emissions in future. However, given the complexity of reporting on Scope 3 and the current lack of definitive guidance, CMI recommends the framework establish a phased approach that aligns with the introduction of the ISSB standards.

⁵ The work of the UK TPT is elaborated on further under position 7 on p. 5 of CMI's submission.



Alongside the introduction of a climate-related disclosure framework, CMI recommends that adjacent reporting and certification frameworks are reviewed and updated where necessary to ensure alignment. In particular, the Government should review and align the National Greenhouse and Energy Reporting (**NGER**) framework, the Corporate Emission Reporting Transparency Initiative (**CERT**) and Climate Active's Carbon Neutral Standards.

7. Managing climate-related risks including transition plans and use of offsets

CMI recommends greater consideration be given to how the regulatory framework can best support businesses in managing physical climate risk. This is a particularly challenging area for businesses to develop independent analysis and would be greatly supported by additional regulatory guidance.

CMI also recommends that the regulatory framework draw upon international best practice guidance on corporate transition to support the integrity of business approaches to effectively managing climate risk. In particular, the Government should consider the UK Financial Conduct Authority's (**FCA**) introduction of rules for listed companies and large regulated asset owners and asset managers to disclose transition plans as part of their TCFD-aligned disclosures from 2023 and the UK TPT's associated guidance.⁶ The approach adopted by the UK FCA and TPT provides a useful blueprint on how the ISSB's baseline could be streamlined into Australia's regulatory framework to provide greater confidence that Australian businesses are effectively managing climate related risks.

The TPT Disclosure Framework provides guidance on what a good transition plan should cover. Importantly, the Disclosure Framework provides guidance on how reporting entities should disclose the GHG emissions metrics and targets that the entity is using to set their ambition and monitor progress of their transition plan (including with respect to the Scope 1, 2 and 3 emissions) as well as the entities' intended use of carbon credits. While the TPT Disclosure Framework is sector neutral, CMI understands that sector specific guidance is also being developed. This would assist in differentiating the credibility of transition pathways, by appropriately accounting for varied technological and economic trajectories.

CMI also encourages consideration of the International Organisation for Standardization's (ISO) Net Zero Guidelines,⁷ which provide a common reference for governance organisations on the meaning of net zero transition. The Net Zero guidance provides important guidance on the distinction between net zero and related terms including climate neutrality, actionable guidance on achieving net zero including the need to transition away from dependence on the use of fossil fuels, the role of carbon credits in net zero claims, and a common understanding of transparent communication, credible claims, and consistent reporting on emissions, reductions, and removals.

8. Data and data governance

CMI is aware of certain data constraints affecting some sectors, including agriculture supply chain traceability and the financial sector's need for forward looking and granular data, as identified in the Consultation Paper. We note that whilst there are authoritative data sources both domestically and internationally, there is a need to reconcile some of this guidance and to fill gaps to provide clarity to specific sectors, having regard to Australia's physical climate and economy.

⁶ See further UK Transition Plan TaskForce, Available at <https://transitiontaskforce.net/>.

⁷ See further ISO Net Zero Guidelines, Available at <https://www.iso.org/netzero>.



Given that many companies operating in Australia conduct business globally, CMI is not convinced that the benefits of the proposal to establish a standard-setter or a scientific body to provide agreed scenarios to be used in scenario analysis outweigh the costs. CMI instead recommends the Government consider establishing stakeholder reference groups to provide guidance where there are material data constraints that would otherwise impede the ability to provide robust climate disclosures. These reference groups could be sector specific and set up alongside the Government's forward workplan on the climate disclosure framework.

9. Corporate liability for disclosure

CMI does not support changes to Australia's current legal liability standard for disclosure ('reasonable grounds') for the purposes of accommodating mandatory sustainability reporting on climate risk. We appreciate the need to balance incentivising disclosure and penalising misconduct, particularly around climate disclosure variables that are inherently uncertain and/or complex, such as Scope 3 emissions. Nevertheless, we consider that establishing a 'safe harbour' regime could undermine the ability of mandatory disclosure to drive additional action by businesses to actively manage climate risks. It may also open loopholes leading to perverse outcomes, such as the deliberate misrepresentation or downplaying of reported risks to avoid scrutiny.

CMI instead recommends that the regulatory framework manages risks associated with complex reporting, particularly in the context of reporting on Scope 3. This can be achieved through a carefully phased implementation approach that reflects international standards – notably, the ISSB standards – and the capacity of industry to provide relevant data and assurance, as outlined above.

10. Governance

CMI recommends the regulatory framework confirm the role of the Australian Accounting Standards Board (AASB) to deliver sustainability standards, as we elaborated in our submission to the exposure draft of the Treasury Law Amendment (Measures for Consultation) Bill 2022: sustainability standards.⁸ CMI prefers this on the basis that the AASB has:

- an established place within the financial regulatory framework directed by the FRC;
- existing experience in consulting and engaging on climate risk disclosure; and
- the ability to support additional functions into the future (TNFD reporting, other ESG priorities, etc.).

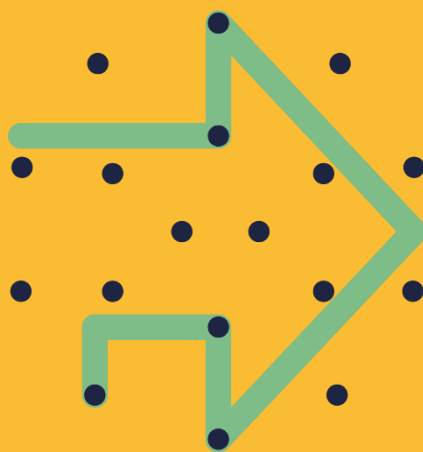
Should you have any questions about CMI's submission, please contact Gabriella Warden, Manager, Research and Government Relations, at gabriella.warden@carbonmarketinstitute.org.

Yours sincerely,

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⁸ See further CMI Submission to the Treasury Law Amendment (Measures for Consultation) Bill 2022: sustainability standards (December 2022) Available at <https://carbonmarketinstitute.org/app/uploads/2023/01/2022121.pdf>.



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The Carbon Market Institute is at the centre of climate change policy and business in Australia. Independent and non-partisan, we bring business, policy makers and thought leaders together to drive the evolution of carbon markets towards a significant and positive impact on climate change.

Engaging leaders, shaping policy and driving action, we're helping business to seize opportunities in the transition to a low carbon economy.



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