

Treasury Laws Amendment Bill
2024: Climate-related financial
disclosure

submission

February 2024





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The Carbon Market Institute (**CMI**) welcomes this opportunity to provide feedback to **Treasury** on its exposure draft of the Treasury Laws Amendment Bill 2024: Climate-related financial disclosure (**draft Bill**), which opened for consultation on 12 January 2024.

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 membership includes 150+ primary producers, carbon service providers, First Nations organisations, legal and financial institutions, technology firms and emissions-intensive companies in Australia and Asia Pacific. The CMI Board updates CMI's Policy Positions annually, which draw on practical insights from—but are ultimately independent of—members.¹ CMI also administers the Australian Carbon Industry Code of Conduct (**ACI Code**), which was established in 2018 to steward consumer protection and market integrity.²

Strategic outlook

CMI supports the Government's policy commitment to establish a mandatory climate-related financial disclosures framework, through the draft Bill's proposed amendments to the *Corporations Act 2001* (Cth) and related legislation.

We encourage the Government to progress this important reform as soon as possible whilst ensuring that the framework is fit-for-purpose and internationally aligned to improve the private sector's management of the risks associated with climate change.

As we have consistently highlighted, 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.³ Alongside market-based mechanisms such as the reformed Safeguard Mechanism and 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.

CMI also welcomes the Government's commitment to require transition planning disclosure as part of its broader mandatory climate-related financial disclosure reforms,⁴ that was foreshadowed in Treasury's Sustainable Finance Strategy Consultation paper in November 2023.

¹ CMI 2023, 'CMI Policy Positions', https://carbonmarketinstitute.org/app/uploads/2023/11/CMI-Policy-Advocacy-Positions_FINAL-2023.pdf.

² More information on the ACI Code webpage: CMI 2024, 'Australian Carbon Industry Code of Conduct', <https://carbonmarketinstitute.org/code/>.

³ See further CMI, Treasury Climate-related financial disclosure Consultation paper (June 2023), available at https://carbonmarketinstitute.org/app/uploads/2023/07/CMI-Submission_Treasury-Second-Consultation_ClimateRelatedFinancialDisclosures_July2023.pdf; Treasury Climate-related financial disclosure Consultation paper submission (February 2023), available at https://carbonmarketinstitute.org/app/uploads/2023/02/Carbon-Market-Institute_TSY-consultation_climate-related-financialdisclosure-framework.pdf.

⁴ See further CMI, Treasury Sustainable Finance Strategy Consultation Paper (November 2023), available at https://carbonmarketinstitute.org/app/uploads/2023/12/Treasury_Sustainable-Finance-Strategy_consultationpaper_FINAL.pdf.



To facilitate best practice approaches to credibility and integrity in transition planning, we consider that strategy disclosure should be established as a legal obligation through the final Bill. This should be underpinned by requirements for reporting entities to produce transition plans, established through the Australian Accounting Standards Board (AASB) sustainability standards.

To streamline implementation and reduce the regulatory burden on reporting entities, CMI would encourage Treasury to consider introducing an integrated approach to climate-related financial disclosure, clarify the way in which assurance requirements will evolve over time, and support alignment between the proposed regulatory framework and Australia's key trading partners and international best practice approaches.

Recommendations

CMI makes the following recommendations with respect to the draft Bill to support the Government's policy intent and ensure Australia's climate-related financial disclosure framework is fit-for-purpose and internationally aligned:

1. *Phasing.* Continue to progress the legislative reform with the proposed commencement date for Group 1 entities on 1 July 2024 to support the timely introduction of a standardised climate disclosure regulatory framework for Australian businesses that aligns with international practice.

Should the implementation timetable be delayed, CMI recommends that the flexibility measures provided in the Bill are revised. In particular, if the starting date of mandatory reporting is postponed, the modified liability period should be reduced so that delays do not result in a longer lead time before reporting entities become accountable. We appreciate the policy intent behind the proposed modified liability framework in balancing the importance of disclosing decision-useful information with protections for reporting entities. However, we note that such protections were not established in other jurisdictions that have introduced mandatory climate-related financial disclosure such as New Zealand and would therefore caution against their extension or expansion.

2. *Reporting content.* Amend section 296D to explicitly require disclosure of strategies, consistent with the policy intent that mandatory climate disclosures should include information relating to strategies to maximise transparency and comparability.

While we note that information relating to strategy is contemplated by the AASB draft standards, we consider it preferable that consistent legal obligations should be established through section 296D with respect to the disclosure of information relating to strategy as is proposed for information relating to risks and opportunities, metrics and targets, and governance.

To align with international best practice, we also consider that AASB standards should require transition planning to support mandatory strategy disclosure, rather than only requiring disclosure of any climate-related transition plan *the entity has*. As we previously highlighted⁵, mandating transition plan disclosures in a manner akin to the UK approach – where the UK Financial Conduct Authority introduced rules for listed companies and large regulated asset owners and asset managers and the UK Transition Plan Taskforce developed authoritative guidance – has the potential to strengthen the integrity of business approaches to effectively managing climate risk. We also note that transition planning is mandatory under the New Zealand Climate Standards.⁶

⁵ See above note 4.

⁶ See Aotearoa New Zealand Climate Standard 1 Climate-related Disclosures (NZ CS 1) (1 January 2023), Available at <https://www.xrb.govt.nz/dmsdocument/4770>.



While we appreciate Treasury will consult further on priorities and options for strengthening transition planning as part of its Sustainable Finance Strategy, given international approaches in the UK and New Zealand, CMI considers that the legal framework for climate-related financial disclosure is the most appropriate place to introduce transition plan obligations.

We also believe the Government has a critical role to play in facilitating best practice approaches to credibility and integrity in transition plans, including requiring plans to align with a 1.5°C pathway.

3. *Integrated reporting.* Amend provisions requiring standalone climate statements to require that climate statements be disclosed as part of integrated reporting.

We note that the draft Bill requires annual sustainability reports are submitted separate to annual financial reports, consisting of the climate statement, notes to the climate statement (if any), any statements required a legislative instrument by the Minister relating to matters concerning environmental sustainability, and the directors' declaration about the statements and notes.

Requiring climate-related financial disclosure as part of integrated reporting would support a more holistic approach to disclosure, enabling investors to assess entities' future value more accurately and efficiently allocate capital. This approach would also better facilitate future expansion of the Government's sustainability reporting framework in accordance with the International Sustainability Standards Board's planned extension toward social and governance disclosures (such as labour standards, tax transparency, diversity, and engagement with First Nations stakeholders).

While we appreciate that the requirement for standalone sustainability reports may better support those entities who are disclosing climate-related financial information for the first time as well as aligning with the proposed modified liability provisions, we recommend further consideration be given to how this legislative framework will support best-in-class disclosure practices in the longer-term. It may be appropriate that climate disclosure obligations are phased into an integrated reporting approach over a transitional period.

4. *Assurance requirements.* Clarify how limited assurance obligations will evolve towards reasonable assurance obligations in 2030 to provide greater certainty to business.

We note that section 301B of the draft Bill currently requires only limited assurance of sustainability reports before 1 July 2030, with the policy intent that the Australian Auditing and Assurance Board (AUASB) will set out a pathway towards phasing in requirements over time towards reasonable assurance obligations in 2030.

As we have previously highlighted, CMI is generally supportive of a phased approach to assurance, provided advance notice is provided to allow business to build the required compliance capabilities. In this regard, we would recommend that the phased approach to assurance be subject to appropriate public consultation, including the proposed review of the climate disclosure requirements in 2028.

5. *Alignment with key trading partners.* Continue to assess how Australia's regulatory framework aligns with those of our key trading partners to support harmonisation and reduce the regulatory burden of new reporting obligations.

Having regard to the policy intent that the regulatory framework will bring Australia into line with other jurisdictions including the EU, UK, New Zealand and Japan, we recommend further consideration be given to the alignment of key requirements with those of our key trading partners. Australian businesses operating across multiple jurisdictions will face unnecessary regulatory burden where the Australian



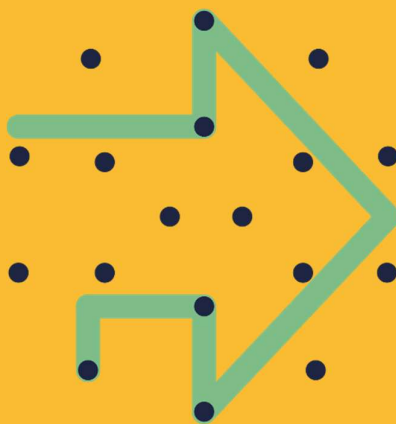
framework diverges from the approach taken in others jurisdiction. Through careful drafting, this could be reduced, particularly where the Bill and underpinning standards draw upon with the ISSB standards.

Should you have any questions about CMI's submission or wish to discuss, please contact me at kurt.winter@carbonmarketinstitute.org.

Yours sincerely,

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for more information please contact

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CMI develops independent, non-partisan, evidence-based and pragmatic policy positions through engagement with its members and broader industry. CMI works constructively with governments to encourage clear, longer-term priorities and enabling policies that support businesses to deliver climate action at scale.



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