



The Carbon Market Institute (**CMI**) welcomes the opportunity to provide this submission to support the Senate Inquiry into the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 [Provisions] (**the Bill**), which was referred to the Senate Economics Legislation Committee for inquiry and report by 30 April 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 150 strong membership includes organisations from across the economy, including primary producers, carbon service providers, First Nations organisations, legal and financial institutions, technology firms and emissions-intensive companies in Australia and the Asia Pacific region. CMI also administers the Australian Carbon Industry Code of Conduct, which was established in 2018 to promote and steward consumer protection and market integrity.¹

In March 2024, CMI introduced a Member and Sponsorship Policy that requires carbon-intensive and large corporate members to have publicly available decarbonisation transition plans by mid-2025 to be eligible for full CMI membership, or to be a lead sponsor at major CMI events.²

The CMI Board updates CMI's Policy Positions annually, which draw on practical insights from—but are ultimately independent of—members.³ 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 policy commitment to establish a mandatory climate-related financial disclosures framework, through the Bill's proposed amendments to the *Corporations Act 2001* (Cth) and related legislation.

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.⁴ 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.

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.

Timely commencement and ensuring reporting entities' legal accountability under Australia's mandatory regulatory framework will be critical to the success of the regime in driving the private sector's management of the risks associated with climate change, including best practice approaches to corporate transition.

¹ More information can be found on the Code website: <https://carbonmarketinstitute.org/code/>.

² See further CMI Member and Sponsorship Policy (2024), Available at <https://carbonmarketinstitute.org/app/uploads/2024/03/CMI-Member-and-Sponsorship-Policy-FINAL.pdf>.

³ See further CMI Policy Positions (November 2023), Available at https://carbonmarketinstitute.org/app/uploads/2023/11/CMI-Policy-Advocacy-Positions_FINAL-2023.pdf.

⁴ See further CMI, Treasury Laws Amendment Bill 2024: Climate-related financial disclosure (February 2024), available at https://carbonmarketinstitute.org/app/uploads/2024/02/02_2024_Treasury_Climate_related_financial_disclosure_Exposure-Draft_FINAL.pdf; 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-financial-disclosure-framework.pdf.



To streamline implementation and reduce the regulatory burden on reporting entities, CMI also encourages further consideration of an integrated approach to climate-related financial disclosure, and 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 Bill to ensure it fulfills the Government's policy intent and supports a fit-for-purpose, internationally aligned climate-related financial disclosure framework for Australia:

1. Given the six-month delay to the commencement of mandatory disclosure indicated in the Bill, amend the modified liability provisions under section 1707D to provide full legal accountability of reporting entities as soon as possible.

CMI supports the timely introduction of a standardised climate disclosure regulatory framework for Australian businesses that aligns with international practice. While some protections for reporting entities may be reasonable while they adjust to new disclosure requirements, establishing full legal accountability as soon as possible will be critical to ensuring the framework supports best practice approaches to corporate transition and the private sector's climate-related risk management.

Section 1707D of the Bill provides limited immunity from misleading and deceptive conduct claims with respect to protected statements made within sustainability reports and auditors' reports for the first three years, unless the claim is made by the Australia Securities and Investment Commission (ASIC). This includes statements relating to transition plans, scenario analysis and Scope 3 greenhouse gas emissions. This temporary immunity extends to forward-looking statements made within the first 12 months of the regime.

CMI appreciates 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.

Moreover, we note the Bill provides that the mandatory climate-related financial disclosure framework will commence on 1 January 2025, rather than 1 July 2024 as previously foreshadowed by Government.

Given the delayed commencement of the climate disclosure regulatory framework and the need to support credibility and integrity in corporate climate risk management and disclosure, CMI recommends that the Bill's modified liability provisions are amended to reduce their scope and duration.

2. Amend the Bill so that climate statements can be disclosed as part of integrated financial reporting instead of in a standalone sustainability report.

In its current form, the Bill requires that annual sustainability reports are submitted separate to financial reports.

As CMI has previously highlighted to Government, 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.⁵ Integrated reporting would also better facilitate future expansion of the Government's sustainability reporting framework in accordance with the International Sustainability Standards Board's (ISSB) planned extension toward social and governance disclosures (such as labour standards, tax transparency, diversity, and engagement with First Nations stakeholders).⁶

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. However, we encourage further consideration of 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.

3. Consider 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 for mandatory climate-related disclosures will bring Australia into line with other jurisdictions including the EU, UK, New Zealand and Japan, CMI emphasises that the Bill should ensure key requirements under Australia's proposed framework align with those of our key trading partners.

If the Australian framework diverges from the approach taken abroad, Australian businesses operating across multiple jurisdictions will face unnecessary regulatory burden. Through careful drafting, this could be reduced, particularly where the Bill and underpinning standards draw upon the ISSB standards.

CMI is available to provide further evidence and discussion as part of a panel at a public hearing in support of this Senate Inquiry. In the meantime, should you have any questions about CMI's submission or wish to discuss, please contact me at kurt.winter@carbonmarketinstitute.org.

Yours sincerely

A handwritten signature in black ink that reads "Kurt Winter".

Kurt Winter
Director, Corporate Transition

⁵ See further: CMI, Treasury Laws Amendment Bill 2024: Climate-related financial disclosure (February 2024), available at https://carbonmarketinstitute.org/app/uploads/2024/02/02.2024_Treasury_Climate_related_financial_disclosure_Exposure-Draft_FINAL.pdf.

⁶ See further ISSB, AP2: Strategic direction and balance of the ISSB's activities (March 2024), Available at <https://www.ifrs.org/content/dam/ifrs/meetings/2024/march/issb/ap-2-issb-agenda-consultation-strategic-direction-and-balance-of-the-issbs-activities.pdf>.