

Treasury

Climate-related financial disclosure

Consultation paper

submission

July 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 (**Second Consultation Paper**), which opened for consultation on 27 June 2023.

CMI is an independent member-based institute. CMI's 2025 Strategy, 'Accelerating Climate Action', sets forth our vision towards a prosperous negative emissions, nature positive world and organisational mission to accelerate the best practice use of market-based solutions to support decarbonisation and limit global warming to 1.5°C. Well-designed carbon markets complemented by ambitious targets and adequate regulation will play a crucial role in directing and leveraging investment to better align with the Paris Agreement goals and international cooperation.

CMI's 150-strong membership includes organisations from across the entire carbon value chain, including Indigenous organisations, primary producers, carbon service providers, legal and financial institutions, technology firms and emissions intensive companies. CMI consults with our members to support consultation responses, with policy positions informed by our vision and mission, and approved by our Board.

Strategic outlook

CMI commends the Government in progressing its development of a standardised climate disclosure regulatory framework for Australian businesses that aligns with international practice, including the introduction of mandatory reporting obligations for certain entities.¹

As we have previously 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.² 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.

In designing a fit-for-purpose standardised climate disclosure regulatory framework that can improve the private sector's management of the risks associated with climate change, CMI recommends the Government:

- Clarify how the framework applies to certain entities to maximise the utility of reporting for investors, policymakers, and other stakeholders;

¹ 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>.

² See further CMI, 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.



- Require climate resilience assessments to report on entities' risk profile under both 1.5C and 2C scenarios;
- Align transition planning requirements with the UK Transition Plan Taskforce's guidance,³ and consulting further on ways to facilitate best practice approaches to credibility and integrity in company transition plans, including alignment with a 1.5°C pathway;
- Develop industry-based metrics as a reporting input by the end state, by reference to sectoral transition pathways, and the Australian Sustainable Finance Taxonomy and Sustainable Finance Strategy;
- Incorporate sectoral transition pathways into transition planning guidance, drawing upon the Government's proposed sector specific plans;⁴
- Facilitate open access to reporting entities' reports, given that transparency sits at the heart of this proposed framework and its potential to improve the private sector's management of the risks associated with climate change;
- Provide a degree of flexibility and proportionality in the assurance requirements, having regard to the substantial capability uplift the framework will present for auditors and preparers of reports; and
- Extend the application of the modified liability settings to smaller entities, comprising groups 2 and 3 under the proposed phased implementation approach, to support a more equitable approach.

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.

Design approach

1. Application

CMI reiterates our support for 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.

While we are broadly supportive of the proposed sequencing thresholds for covered entities, we recommend the Government clarify that the framework applies to all of the following entities to maximise the utility of reporting for investors, policymakers, and other stakeholders:

- Entities meeting the threshold requirements, even where that entity is part of an overseas incorporated company that reports on a consolidated basis. This approach would mirror general financial reporting requirements and is consistent with the approach taken in the UK and NZ.
- Entities reporting under the *National Greenhouse and Energy Reporting Act 2007 (Cth)* (**NGER Act**) that do not meet the Chapter 2M thresholds provided under the *Corporations Act 2001 (Cth)* (**Corporations Act**). To maximise coverage with respect to large emitting entities, further consideration should be given to how the framework's application might be sequenced for this cohort.
- Entities subject to the Australian Securities and Investment Commission (**ASIC**) legislative instruments/class orders, where appropriate.

³ See further UK Transition Plan Taskforce, Available at <https://transitiontaskforce.net/>.

⁴ See CMI Media Release, Government shares update on Australia's 2050 Net Zero plan & sectoral approach (18 July 2023), Available at <https://carbonmarketinstitute.org/2023/07/18/government-shares-update-on-australias-2050-net-zero-plan-sectoral-approach/>.



2. Reporting content

CMI supports the proposed phased approach to reporting content, that would entail less onerous disclosure requirements, supported by modified liability settings, for the transitional period from 2024–25 to 2026–27 and full application for all groups of reporting entities from 2027–28 (end state).

As we previously highlighted, a phased approach to the type of disclosure reporting required would be prudent in supporting capacity building. It will be particularly important when extending mandatory disclosure to smaller companies with fewer resources for quantitative reporting. CMI is supportive of qualitative reporting as a starting point, with a view to ultimately introduce requirements for more intensive quantitative disclosures, where this aligns with International Sustainability Standards Board (**ISSB**) standards.

CMI supports the proposed approach to scenario analysis, initially requiring qualitative scenario analysis inform disclosures and moving to quantitative scenario analysis by the end state. We also support the proposed approach to reporting requirements on materiality, governance and strategy. As we previously highlighted, the reporting requirements should be aligned to international best practice guidance, notably the ISSB standards, to ensure consistency.

CMI recommends that Treasury consider, in consultation with industry, the merits of requiring climate resilience assessments to report on entities' risk profile under both 1.5C and 2C scenarios. This would facilitate visibility on the resilience of a reporting entity's strategy and business model throughout the Paris temp goal range, consistent with the ISSB standards. We note that the current proposal seeks to align disclosure with assessments against at least two possible future states, one of which must be consistent with the global temperature goal set out in the *Climate Change Act 2022 (Cth)*. We agree with the commentary that alignment with the TCFD recommendations, which specifies use of at least one scenario with a 2°C future warming objective would support greater comparability between reporting entities. In addition, requiring a scenario with a 1.5°C future warming objective could provide a useful 'book end' approach that enables valuable analysis by reference to the Paris Agreement temperature goal range.

CMI welcomes the additional requirement that transition plans would need to be disclosed, including information about offsets, target setting and mitigation strategies. As more detailed arrangements for company transition plans are elaborated through the Government's Sustainable Finance Strategy, CMI recommends the Government:

- Align its approach with the UK Transition Plan Taskforce's guidance.⁵ As we previously observed, the approach adopted by the UK Financial Conduct Agency (FCA) and Transition Plan Taskforce (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.⁶
- Consult further on ways to facilitate best practice approaches to credibility and integrity in company transition plans, including alignment with a 1.5°C pathway. As we previously highlighted,⁷ consideration could be given to a range of international best practice guidance, including the International Organization

⁵ See further UK Transition Plan Taskforce, Available at <https://transitiontaskforce.net/>.

⁶ CMI, 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, p. 5.

⁷ Ibid.



for Standardization's (ISO) Net Zero Guidelines⁸ and the Voluntary Carbon Market Integrity (VCMI) Initiative Claims Code of Practice.⁹

CMI supports the proposed approach to requiring disclosure of information about material climate-related risks and opportunities to their business, as well as how the entity identifies, assesses and manages risk and opportunities. As elaborated in the Second Consultation Paper, we appreciate that the forthcoming Australian Standards will play a critical role in defining with greater specificity the kind of information that will be required. We reiterate that the regulatory framework should be designed in a way that supports businesses in managing physical climate risk.

CMI also supports the intended approach to emissions metrics and targets, with some flexibility proposed with respect to the disclosure of material Scope 3 emissions. We consider that the proposed approach aligns with international best practice whilst providing a pathway towards reporting on Scope 3 emissions in future. As we previously highlighted, the complexity of reporting on Scope 3 and the current lack of definitive guidance necessitates a phased approach that aligns with the introduction of the ISSB standards.¹⁰

CMI encourages further consideration of industry-based metrics as an important reporting input by the end state. We consider that sectoral transition pathways will be a critical element of Australia's structural economic adjustment¹¹ and recently welcomed the Government's announcement to develop sector specific plans.¹² As we recently highlighted to the Climate Change Authority, sectoral transition pathways could also be figured within transition planning guidance to support compliance with Australia's mandated climate-related financial disclosure framework, thereby guiding high integrity outcomes.¹³ We anticipate that the development of sector specific plans, the Australian Sustainable Finance Taxonomy and Sustainable Finance Strategy will provide a useful foundation upon which to develop industry-based metrics and we support the Government's intent to consult with individual sectors to develop fit-for-purpose metrics.

More broadly, CMI welcomes the Government's intent to consider transition pathways in more detail as part of its Sustainable Finance Strategy options and priorities for addressing key data challenges and providing clearer guidance, particularly with respect to Scope 3 reporting, scenario selection and transition planning.

3. Reporting framework and assurance

CMI is broadly supportive of the proposed reporting framework and assurance roadmap. We agree that embedding climate disclosure in annual reporting processes and practices, will help to integrate climate-related risk and opportunity into entities' decision-making. We also support the proposed requirement that all covered entities would be required to make climate disclosures in the annual report available to the public.

⁸ See further ISO Net Zero Guidelines, Available at <https://www.iso.org/netzero..>

⁹ See further VCMI Claims Code of Practice, Available at <https://vcmintegrity.org/vcml-claims-code-of-practice/>.

¹⁰ CMI, 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, p. 4.

¹¹ See further CMI, Submission to Climate Change Authority, Available at https://carbonmarketinstitute.org/app/uploads/2023/07/FINAL_CMI-submission_CCA-2023-consultation.pdf.

¹² See CMI Media Release, Government shares update on Australia's 2050 Net Zero plan & sectoral approach (18 July 2023), Available at <https://carbonmarketinstitute.org/2023/07/18/government-shares-update-on-australias-2050-net-zero-plan-sectoral-approach/>.

¹³ See further CMI, Submission to Climate Change Authority, Available at https://carbonmarketinstitute.org/app/uploads/2023/07/FINAL_CMI-submission_CCA-2023-consultation.pdf.



Given that transparency sits at the heart of this proposed framework and its potential to improve the private sector's management of the risks associated with climate change, we would recommend the Government consider further how best to facilitate access to reporting entity reports, including whether ASIC register access arrangements and fees should be revised to better facilitate transparency and accessibility of private entity reports.

CMI supports the assurance roadmap's contemplation of a phased implementation approach. As we previously observed, while assurance is an important integrity check within the regulatory framework, mandatory assurance must be phased in with advance notice, allowing business to build the required compliance capabilities ahead of introduction.

We would also recommend further consideration be given to the timing and level of assurance that is required over parts of entity's reports. CMI member organisations have highlighted that in some instances, certain assured reports may not be finalised in time to allow directors to sign off on climate disclosures in reporting entities' financial reports. This may occur if company reporting relies upon assured NGERs reporting, for example. Noting that the mandatory climate disclosure framework will entail a substantial capability uplift for auditors and preparers of reports, we would encourage consideration of greater flexibility in these arrangements, requiring a proportionate level of assurance commensurate with the asset owner.

4. Liability and enforcement

CMI is supportive of the proposed approach to liability and enforcement, whereby climate-related financial disclosure requirements would be drafted as civil penalty provisions in the Corporations Act and the application of misleading and deceptive conduct provisions to Scope 3 emissions and forward-looking statements would be limited to regulator-only actions for a fixed period of three years (modified liability settings).

As CMI previously highlighted, the framework needs to balance incentivising disclosure and penalising misconduct, particularly around climate disclosure variables that are inherently uncertain and/or complex, such as Scope 3 emissions. Alongside the proposed phased implementation approach to Scope 3 reporting, CMI considers that the modified liability settings will assist in facilitating capability uplift as the framework is introduced.

CMI recommends further consideration be given to the application of the modified liability settings to smaller entities, comprising groups 2 and 3 under the proposed phased implementation approach, to ensure an equitable approach. Treasury should consider applying the three-year modified liability rule from the year an entity commences reporting. Under the currently proposed approach, where a blanket three years commences from 2024-25, CMI members have highlighted that while these smaller entities will have the benefit of a longer lead time to commence reporting, at the time their reporting obligation commences, they would not enjoy the same legal relief that applies to larger entities. A three-year modified liability rule applying from the year an entity commences reporting may provide a more equitable outcome for smaller companies.

Should you have any questions about CMI's submission, please contact me at

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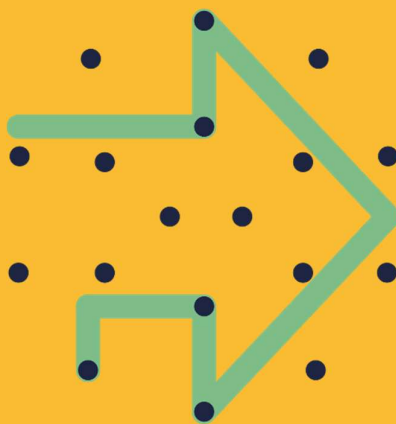


Yours sincerely,

[Redacted signature]

[Redacted name]

Director, Corporate Transition



for more information please contact



Director, Corporate Transition



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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