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Director

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Climate and Energy Division

The Treasury

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Via email: ClimateReportingConsultation@treasury.gov.au

Climate-related financial disclosure: exposure draft legislation

Zenith Investment Partners (Zenith) welcomes Treasury's draft legislation regarding Australia's Climate-related financial disclosure standards. Zenith is broadly supportive of the draft as well as the proposals made in Treasury's previous climate-related financial disclosure consultations.

We believe Treasury's proposals will help provide a strong foundation for sustainable finance in Australia and align capital markets with emerging international standards. We also look forward to working with the government and the Australian Accounting Standards Board (AASB) on the draft legislation and standards being proposed in the Australian Sustainability Report Standards.

Zenith seeks to raise several issues in relation to not just this consultation, but also in relation to the AASB Sustainability Reporting Exposure Draft (ED SR1) released in October 2023 (consultation closing 1 March 2024).

Key points in our submission are as follows:

- We believe additional clarification is urgently required to address apparent differences between Treasury's draft legislation and the AASB's ED SR1, with particular references to treatment of registered Managed Investment Schemes (MIS).
- We believe the location of disclosures in annual reports for MISs may require additional considerations given the differences in use and availability of such reports, particularly between listed companies and unlisted MIS.

Use of an ISSB- based standard

As a preamble to our feedback, we would like to note the following. While generally supportive of embracing global interoperability, we believe it important to recognise a critical aspect regarding the global baseline developed by the International Sustainability Board (ISSB) on which the proposed Australian standards are based.



The ISSB disclosures are designed for companies issuing debt and/or equity, enabling them to deliver decision-useful information to investors. They are not designed as a disclosure tool for MISs. While this does not mean they cannot be used, we believe additional care should be taken in applying them as a disclosure tool for MISs, for the reasons we will highlight.

Dispersion between Treasury and AASB Proposals

Treasury's first and second consultations on climate related financial disclosures (December 2022 and June 2023 respectively), proposed a series of thresholds to determine which entities would be obliged to report under the proposed standards. This was subsequently adopted by the AASB into ED SR1.

We note however from Treasury's draft legislation released for consultation in January 2024 that the threshold tests have been altered with the introduction of "Asset Owners" as a category that will sit in Group 2. Under this category, it appears that thresholds have been reduced to a single measure, and reporting will be triggered for 'Asset Owners with \$5 billion of assets under management or more'. We believe this raises several concerns:

Asset Owners

From a legal and regulatory perspective, "Asset Owners" are not a defined entity. In the context of MISs, which Treasury and the AASB have determined to be part of the market in-scope for climate-related financial disclosures, this is not a defined term. Key entities involved in operating a MIS include the Responsible Entity (RE), the nominated Investment Manager, and the MIS in its own right as a legal entity. As such, it is not clear among these entities who is required to report as an "Asset Owner".

Unlike an investor in a company, an investor in a MIS is unlikely to find the emissions disclosure of the RE or Investment Manager to be materially relevant information, as opposed to that of the MISs investments. A RE is a company, and as such would potentially be captured as a reporting entity under Chapter 2M of the Corporations Act and the proposed thresholds. However, REs are typically responsible for multiple MISs, each with their own objective and philosophy regarding ESG or sustainability considerations in investing. Each MIS will also have its own portfolio and therefore varying levels of Scope 3 emissions in the scheme portfolio. While disclosing financed emissions for an RE represents information material to investment decision making if investing in the RE or Investment Manager, it's not likely to be material if investing in a MIS.

Which proposal?

As at the date of this submission, Treasury's draft legislation and the AASBs ED SR1 are both open to industry consultation. The divergence between the proposals being made by Treasury and the AASB creates urgent questions for entities operating in the MIS landscape. Under the original proposals by Treasury and the AASB where MIS would have been considered entities subject to the thresholds, Zenith estimates a substantial portion of MISs (>60%) would have been subject to reporting based on the phase-in approach. Under Treasury's draft legislation released In January 2024 however, potentially the number of funds in-scope (if considering the \$5 billion assets under management threshold to be correct), would be minimal (<2%). This seems inconsistent with Treasury's statement that "the Government's objective is to reducing information asymmetry



between investors and firms” and that this will “improve the comparability, quality, and timeliness of disclosures”.

If however the proposals under ASSB ED SR1 are expected to be in effect, there are other issues which should be considered in these proposals Zenith have already publicly commented on these in Treasury’s [Sustainable Finance Strategy](#) in December 2023.

Location of disclosures

The other issue arising from the ISSB design comes from its focus on financial reporting. Designed to be presented within financial statements, this works well for companies where annual reports generally figure as key documents in the investment decision making process. For MISs however, annual reports rarely feature in an investors investment decision making process. Most MIS financial reports contain little to no information relevant to investment decision making (e.g. the MISs objective, performance or other characteristics).

Secondly, is the matter of these reports’ availability. There is no requirement for issuers of MISs to make fund annual reports publicly available to those who are not a member of the scheme. Based on an examination of the websites of nearly 1,500 schemes, we estimate that over 45% of unlisted MISs do not make annual reports publicly available to non-members. Of those that do, only a fraction are available over multi-year periods. Naturally, this differs markedly from ASX listed companies. While we recognise that the Treasury draft legislation at least proposes that Product Disclosure Statements (PDSs) must inform people of the right to obtain a copy of the sustainability report, this doesn’t mean it’s made openly available.

Summary

We note that Treasury has stated that the draft legislation “provides Australian companies with a framework for reporting, improving comparability of decision-useful information”. While agreeing with this, and believing Treasury’s draft legislation does this for companies, we are less confident the same can be said for the funds management industry and their investors. This industry is a critical part of the Australian financial landscape, with over 3,600 registered MIS managing approximately \$3.5 trillion in funds under management. The ISSB’s efforts to standardise sustainability-related financial disclosures should improve data quality and support internationally comparable reporting. But it will only do so if reporting for the market, being both companies and funds, is fit for purpose. The currently ambiguity between both Treasury and the AASB as well as between companies and funds, seems unhelpful. It seems to actively create information asymmetry, not reduce it. We believe that without resolution, these issues potentially hamper the markets ability to develop the required skills, resources and capabilities to make climate disclosures.

Any queries or comments in relation to the content of our submission can be directed to the undersigned.



Sincerely,

Dugald Higgins

Head of Responsible Investment & Sustainability

Zenith Investment Partners

Zenith Investment Partners is one of Australia's most respected research and investment consultancies, with a 20-year track record of delivering premium investment research, fund ratings and investment portfolio solutions for financial advisers. Commencing as a high conviction fund research and ratings business in 2002, today we support a rapidly growing number of advisers nationally with research ratings on over 900 investment products, and the management of more than 100 investment portfolio solutions for their clients. The broader Zenith Group was acquired by global fund data and technology leader, FE fundinfo, at the end of 2021. Our international reach provides us with access to an extensive network of investment specialists and empowers us with unique data and insights from across the globe to better inform and empower our clients.