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**Submission to the Treasury:
Climate-related financial disclosure:
Exposure draft legislation**

February 2024

09 February 2024

Director
Climate Disclosure Unit
Climate & Energy Division
The Treasury
Langton Cres
Parkes ACT 2600

Submitted via email: ClimateReportingConsultation@treasury.gov.au

Dear Director

Treasury Exposure Draft: Treasury Law Amendment Bill 2024: Climate-related financial disclosure

The Institute of Public Accountants (IPA) welcomes the opportunity to provide comments on the above exposure draft legislation.

Consistent with our submissions to the two Consultation Papers issued in December 2022 and June 2023 by Treasury, IPA supports the overall proposals in the Exposure Draft.

Our support is on the basis that the proposals are pragmatic and align with current reporting frameworks domestically and internationally, thereby assisting in understanding the proposed requirements and their implementation. However, IPA has concerns with the wording of the draft legislation in the Exposure Draft, in that the wording is at times inconsistent and ambiguous. IPA is of the view that the wording needs to be tightened to enable compliance with the legislation. Accordingly, IPA offers the comments in the Attachment below.

For any questions in relation to this submission, please contact Vicki Stylianou, Group Executive Advocacy and Professional Standards, Institute of Public Accountants at vicki.stylianou@publicaccountants.org.au.

Yours sincerely



Vicki Stylianou
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Attachment

1. Exempting small entities

IPA supports exempting small entities that do not report under Chapter 2M and do not meet the “large” reporting threshold from preparing a sustainability report. This is particularly important for IPA members, who predominately operate in the small-to-medium enterprise (SME) sector. Our members in the small category, are generally limited in the necessary resources, capacity and expertise to implement and/or provide services relating to sustainability reporting. To require small entities to prepare a sustainability report would be disproportionately onerous.

2. Phased implementation approach

IPA supports the phased implementation approach of initially requiring very large entities to prepare a sustainability report (commencing 2024-25) and expanding that to progressively smaller large entities (commencing 2024-25). The staggered timeframe for application enables the profession to build up its capabilities at a workable pace.

IPA’s medium-sized members may fall within the smaller large entities threshold and would need to prepare a sustainability report. Some of the disclosures, such as scenario analysis can be complex and difficult to undertake by our members, who are unlikely to have the capabilities and resources to perform in accordance with the sustainability standards. IPA previously advocated for the simplification of sustainability reporting and additional guidance for SMEs by accounting standard-setters. Where the standard-setters are unable to do so, IPA recommends that Treasury simplify/exempt the complex climate disclosures for the smaller large entities similar to those currently proposed in section 296B(1) (refer point 3 below).

The phased-in approach and timing form limited to reasonable assurance particularly over Scope 3 emissions from 1 July 2024 to 1 July 2030 may require a longer timeframe due to the limited quality of data and immaturity of the underlying systems to support data.

3. Simplifying reporting requirements for smaller entities

IPA supports simplifying reporting requirements (in section 296B(1)) for smaller entities that are required to prepare a climate statement where the entity has no material climate-related financial risks and opportunities for the financial year to only include a statement to that effect in accordance with sustainability standards.

4. Aligning reporting entities threshold in existing legislations and requirements

IPA supports aligning the reporting entities threshold in existing legislations and requirements to determine whether an entity is required to make climate disclosures and if so, the year in which an entity initially commences climate reporting. For example, the use of the:

- financial reporting size thresholds based on the entity’s revenue, asset and employee numbers currently in the Corporations Act and Regulations.
- National Greenhouse Energy Reporting (NGER) Reporters’ obligation to report emissions.

5. Aligning the definitions and principles in existing reporting requirements

IPA supports such an alignment of:

- using the meanings of “greenhouse gas,” “Scope 1 emissions” and “Scope 2 emissions” as those in the NGER Act.

- using the Corporate Value Chain’s definition of “Scope 3 emissions” and its Scope 3 Calculation Guidance – an approach that is replicated in IFRS S2 *Climate-related Disclosures* for which Australia has committed to adopt.
- mirroring the climate reporting record-keeping rules and penalties to the existing rules in the Corporations Act for financial reporting.
- applying:
 - the principles in accounting standards for calculating consolidated revenue, consolidated gross assets and determining if an entity “controls” another and the basis of consolidation for climate reporting.
 - the requirements in sustainability standards for preparing climate statements and related notes (sections 296A(2) and 296A(4)(b)).

However, some sections of the draft legislation in the Exposure Draft are ambiguous and require tightening. For example:

- sections 296A(2) and 296A(4) refer to “sustainability standards”, whilst section 296A(6)(a) refers to “international sustainability reporting standards”. Despite the sustainability reporting standards issued by AASB (ASRS) are intended to align with those issued by the ISSB (currently IFRS S1 and S2), the Australian equivalent is likely to contain modifications for the Australian context that differ from those of the ISSB. Given this difference, it is important to distinguish between the two sets of sustainability reporting standards. This similarly applies to the Australian Accounting Standards (AAS) issued by the AASB and those issued by the IASB (IFRS Accounting Standards). For clarity, section 9 should include the meaning for:
 - “sustainability standard” to refer to “sustainability reporting standards issued by the AASB.” This would make explicit the references to “sustainability standards” in sections 296A(2) and 296A(4) etc refer to ASRS.
 - “accounting standard” to refer to “accounting standards issued by the AASB.” This would make explicit the reference to “accounting standards” in section 292(9) refers to AAS.
- section 296A(6)(a) requires directors’ declaration to make “an explicit and unreserved statement of compliance with international sustainability reporting standards”. We recommend the removal of the word “international,” as its retention may pose challenges for compliance by an entity.
- the draft legislation prescribes the requirements for “sustainability reporting” and yet restricts the content of sustainability reporting to those consisting of climate statements and related notes and other statements (section 296A(1)). Sustainability reporting is much broader than climate-related financial disclosures. IPA is unclear if this is intentional to future-proof the legislation for other sustainability reporting areas.

6. **Aligning similar directors’ declaration requirements**

IPA supports aligning the directors’ declaration requirements for financial reporting to those for a climate statement. For example, directors must state, in the directors’ declaration, of their opinion on whether the climate statements are in accordance with the Corporations Act, including compliance with sustainability standards.

7. **Modified liability**

IPA supports the modified liability approach to temporarily suspend the liability for misleading and deceptive and other conduct for scope 3 greenhouse gas emissions and scenario analysis

during the financial year climate statements commencing between 1 July 2024 to 30 June 2027. Only ASIC is able to take action for misleading and deceptive conduct during this period.

However, the timeframe for suspending the liability for the first three years would benefit the larger entities in Groups 1 and 2. This suspension would not be available for Group 3 entities, which commence reporting from 1 July 2027 – a group that would benefit most from the suspension. If the intent of the suspension is for 3 years from an entity's first climate statement, then this timeframe should be equally applied to all entities.

Additionally, consideration should be given to suspending the liability for other forward-looking disclosures (such as an entity's transition plan) beyond scope 3 greenhouse gas emissions and scenario analysis.

8. Aligning timeframes

Whilst IPA supports the Exposure Draft, we have concerns regarding the delays in finalising the requirements. That is:

- the first Treasury Consultation Paper was issued in June 2022, followed by a second Consultation Paper in December 2023 which essentially reflects the first Consultation Paper, and
- presently the issue of this Exposure Draft (January 2024) for comment by 9 February 2024 and application commencing 1 July 2024.

IPA also notes that the AASB is seeking comments on the first two sustainability standards in ED SR1 *Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information* by 1 March 2024. ED SR1 contains sustainability reporting requirements for which some entities must apply commencing 1 July 2024. IPA acknowledges the AASB's standard-setting timeline is not within the remit of Treasury. However, IPA is of the view that where possible, legislators and standard-setters should align the timeframes and requirements in a timelier manner, especially where it involves the introduction of a new reporting framework that requires significant investments by all stakeholders. This would allow the wide-ranging stakeholders, including preparers, auditors, users, regulators and the accounting profession in general, sufficient time to understand and apply the requirements. Additionally, the delays in finalising the requirements and the short time frame between the issue of the requirements and their application create unnecessary uncertainties for all stakeholders.

9. Auditing issues

The Climate Disclosures will be subject to mandatory audit and assurance requirements by the auditor of the financial report (supported by climate and sustainability experts where required). Mandating the responsibility by the financial auditor and by excluding the experts exacerbates the previously reported problems of a limited pool of qualified auditors. There are two separate Auditor's Reports to be issued and therefore, it is possible to have two separate auditors.

Given the current focus of regulators about 'greenwashing', tighter labelling of the Auditor's Report could prevent misleading users about the scope and scale of content. Consider whether the overall naming of the sustainability report should be renamed to climate-related financial disclosures and therefore the Auditor's Report would reflect this name.