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Senate Economics Legislation Committee
PO Box 6100
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Via email: Economics.Sen@aph.gov.au

Dear Committee Secretary

Senate Inquiry into the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024* – Response to Questions on Notice

We thank you for the opportunity to appear at the Senate's Inquiry into the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024* (**Senate Inquiry**). We provide our response to the Questions on Notice from Senator Andrew Bragg, provided via email on 24 April 2024, below.

The AICD's mission is to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. The AICD's membership of 51,000 reflects the diversity of Australia's director community, comprised of directors and leaders of not-for-profits, large and small businesses and the government sector.

1. **Can you describe how you imagine mandatory disclosures will affect business productivity across Groups 1 to 3?**

The AICD has not conducted any independent analysis of the impact on business productivity from the adoption of the proposed mandatory climate reporting in Australia.

As a general comment, mandatory climate reporting seeks to provide more consistent and comparable information to the market on organisations' climate risks and opportunities, while encouraging organisations to focus on how they will remain profitable in a decarbonising economy. At a macro-level, increased transparency is expected to drive the reallocation of capital towards entities with robust climate strategies, thereby encouraging greater national productivity.

The link between high-quality and decision-useful climate information and productivity was noted by the Productivity Commission in Volume 6 of its Five-year Productivity Inquiry's February 2023 Report (**PC Report**), stating *"efficient adaptation to the effects of climate change will require giving individuals, households and businesses the information they need to make decisions in their own interests to adapt to a changing climate and avoiding policy settings that inadvertently constrain those decisions."*

Of course, climate reporting must work in tandem with a broader plan to meet the nation's legislated emissions targets. We are pleased to see the Government consulting on a proposed Sustainable Finance Strategy and also move towards finalising its sectoral pathways for emissions reductions.

2. What about profitability for those businesses?

As above, the AICD has not conducted an independent analysis of the impact on profitability from the adoption of the proposed mandatory climate reporting regime in Australia. However, it is acknowledged that the move to a net zero economy presents significant opportunities, not just challenges, for the Australian economy.[1] Mandatory climate reporting will assist organisations to better understand their climate exposure and manage their business to remain profitable and internationally competitive in the global economy. An August 2023 Deloitte Access Economics and National Australia Bank (NAB) report found that productivity and innovation arising from decarbonisation could grow Australian export opportunities by $420 billion by 2050.[2]

Directors are also seeing the opportunities of decarbonisation, with the AICD's Climate Governance Study 2024 of around 1,000 Australian directors finding that 70% of those directors most concerned about climate change also see it as an opportunity.[3]

A failure to implement critical climate policies, including climate reporting, will have an economic cost, particularly where this leaves Australia out of step with its major international trading partners. Without internationally-aligned climate reporting, Australian businesses risk losing appeal to global investors, especially when compared to markets that have implemented, or are in the process of implementing, mandatory climate reporting, such as the EU, UK, NZ, and the US.

The introduction of the EU's Carbon Border Adjustment Mechanism (CBAM) in late 2023 provides further impetus for Australia to prioritise decarbonisation and a Sustainable Finance agenda (with mandatory climate reporting being a core element).

3. Are your members concerned about having to pass the cost of compliance with this regime onto consumers?

Given many Group 1 organisations are already undertaking some degree of climate reporting (notwithstanding the uplift in quality and granularity that will be required under the new regime), compliance costs for these entities has not been the primary concern raised in feedback to the AICD.

Rather, the legal risks associated with local adoption of the global standards coupled with a lack of widely available skills to support the required shift in reporting, have been the main concerns raised by directors.

The AICD has not conducted its own compliance costings, but we note that the Treasury has done so in its Policy Impact Analysis (September 2023). It is widely recognised by industry bodies,[4] investors[5] and ASIC[6] that this generational change in corporate reporting will require significant upskilling, capability development and investment.

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[1] National Australia Bank and Deloitte (August 2023) All systems go: Powering ahead – Australia's economic opportunity from trading in global decarbonisation; Chapter 5, Intergenerational Report 2023.
[2] Ibid, at page 7.
[3] At pages 11 and 21.
[4] See Peak Body Statement of 15 industry bodies and investors supporting the Climate Reporting Bill (**Peak Body Statement**).
[5] See Peak Body statement and the IGCC submission to the Senate Inquiry at page 2.
[6] See ASIC Submission to the Senate Inquiry on page 2: *"ASIC recognises the significant scale of this proposed change to Australia's financial reporting laws and the need for industry to build the capability required to meet these new obligations."*

As a broad observation, compliance costs will vary depending on the climate and reporting maturity of the relevant organisation.

Given the limited number of assurance engagements over climate disclosures currently,[7] mandatory assurance will likely initially increase compliance costs across the board. However, this should subside over time as the market matures, and skills are more widely available.

That said, directors of Group 3 entities *are* significantly concerned as to the compliance burden and consider that, in most cases, it will be disproportionate to the climate impact of their entity and the information needs of their users. This is particularly the case where:

a. Treasury estimates only 5% of Group 3 entities will have material climate risks or opportunities;[8]

b. the International Sustainability Standard Board (ISSB) standards, on which the Australian Sustainability Reporting Standards are based, were drafted for the information needs of investor-facing for-profit entities, rather than privately-owned or Not-for-Profit (NFP) entities which would likely comprise a significant portion of Group 3; and

c. even where an entity determines that it has no material climate risks or opportunities, directors are required to sign a Directors Declaration to this effect, and this statement is also required to be audited. This will significantly increase costs (see Chartered Accountants Australia NZ and Nexia's estimates of the audit cost is set out in their submissions, which range from $20K to $70K).

For the above reasons, we have recommended that Group 3 thresholds be increased to $100 million (consolidated revenue) and $50 million (consolidated gross assets) and/or that Group 3 entities are subject to simplified disclosure requirements (such is the case for Tier 2 Financial reporting entities).[9] A differentiated approach to reporting depending on organisational size is being adopted by the European Union (EU) and Malaysia.

4. **Are there any particular concerns your members have about how the ministerial discretion could be exercised? Are your members concerned, for instance, that the minister could use his or her discretion to roll this measure out to a wider group of businesses?**

As stated in our submission to this Inquiry, we oppose the broad, unfettered nature of the Minister's powers under sections 296A(4) and (5) to require disclosure of financial matters beyond climate.[10] The extension of mandatory reporting beyond climate is a substantive policy issue which requires significant public consultation and the usual parliamentary scrutiny of legislation.

We note the views of the Australian Law Reform Commission (ALRC)on the legitimate parameters of delegated legislation in its January 2024 Final Report on the Inquiry into

[7] An AUASB December 2023 Research Report found that only 40 ASX listed entities mentioned the provision of external assurance of climate-related information in their 2022 Annual Report; and that only 22 attached these assurance reports to their 2022 Annual Report

[8] Treasury Impact Analysis on page 26.

[9] See AASB 1060 General Purpose Financial Statements - Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 entities.

[10] These sections give the Minister powers to issue delegated legislation that requires that the mandatory Sustainability Report include *"statements relating to financial matters concerning environmental sustainability."*

simplifications of the legislation framework for Corporations and financial services regulation, particularly the Draft Guidance on Delegated Legislation (Annexure D).

Subject to annual indexation, we also consider that lowering any of the monetary thresholds for reporting is a substantive policy matter and should only be considered via primary legislation.

Next steps

If you would like to discuss any aspects further, please contact Christian Gergis, Head of Policy at [redacted] or Anna Gudkov, Senior Policy Adviser at [redacted].

Yours sincerely,

[redacted]

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