11/04/2024

Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600

Submitted via online portal

Dear Committee Secretary

Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 [Provisions]

The Insurance Council of Australia (ICA) is the representative body of the general insurance industry in Australia and represents approximately 89% of private sector general insurers. As a foundational component of the Australian economy, the general insurance industry employs approximately 60,000 people, generates gross written premiums of $60.2 billion per annum and on average manage $159 million in claims every working day.

The Insurance Council of Australia (Insurance Council) thanks the Senate Economics Legislation Committee for the opportunity to provide a submission in response to the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill (**Bill)**. The ICA's comments are confined to schedule 4 of the Bill.

We appreciate the collaborative approach the government has taken on the development of climate-related disclosure, engaging with the business community, civil society, government bodies and other interested stakeholders. We recognise that the legislation is an important next step towards enabling more consistent climate-related financial disclosures in Australia, improving the comparability of climate-related financial information across reporting entities and better leveraging capital to meet Australia's emissions reduction targets. Whilst there are components of the legislation that can be further refined, the Bill as currently drafted, recognises existing emissions data limitations and the phased approach reflects the considerable capability uplift required across both financial and accounting services to undertake and assure mandatory climate disclosures. We support the swift passage of the Bill.

ICA's member views on the main themes are summarised below, please refer to the ICA's previous submissions for further detail.[1] Some members may provide their own separate submission:

- **The Insurance Council and its members welcome the modified approach to liability for all forward-looking statements required in an entity's sustainability report.** Under the proposed mandatory climate disclosure scheme, there are many types of forward-looking statements that require estimation of impacts of risks and opportunities which are inherently uncertain and may be deemed misleading or deceptive under the existing regulatory framework, specifically the

[1] Climate-related financial disclosure: exposure draft legislation and explanatory materials (insurancecouncil.com.au); Climate-related financial disclosure 2023 consultation paper; AASB Exposure Draft ED SR1 Australian Sustainability Reporting Standards – Disclosure of Climate-Related Financial Information (ED SR1 ASRS) (insurancecouncil.com.au); Climate-related financial disclosure: exposure draft legislation and explanatory materials (insurancecouncil.com.au)

misleading and deceptive conduct regime, for example s.769C of the Australian Corporations Act, s12BB of the ASIC Act 2001 and s.4 of the Australian Consumer Law. Unlike certain other jurisdictions, reporting entities in Australia (as well as directors and officers) are exposed to the liability relating to forward looking statements because there is no safe harbour exemption which allows for the exclusion of liability by identifying a statement as a forward-looking statement and including a proximate cautionary statement. Regulator-only actions for a fixed period is critical to mitigating this challenge.

- **The ICA and its members welcome the phased approach to Scope 3 emissions reporting to accommodate data and capability gaps. This approach can be further refined by benchmarking Scope 3 reporting to the development of appropriate methodologies and data sharing arrangements.** Across previous submissions, the Insurance Council and its members have recommended a phased approach to Scope 3 emissions disclosure. Scope 3 categories with established and matured methodologies should be disclosed first, followed by those with limited/no available methodologies to be adopted at later phases on a best endeavour basis.

  The ICA and its members note that the Bill, as currently drafted, will not require entities to disclose Scope 3 data or detailed information that their customers or suppliers cannot provide easily. Further, entities will only be required to disclose scope 3 emissions from their second reporting year. This is appropriate given the considerable methodology and data gaps which prevent the accurate measurement and reporting of some Scope 3 emissions.

  Current data gaps include emissions data across underwriting portfolios, supply chains and some investment asset classes (i.e., sovereign bonds, exchange traded funds, derivatives etc.). Where data is available, there may be other factors limiting data availability for scope 3 reporting. For example, for scope 3 insurance associated emissions, entities may experience difficulties in reporting any Motor Accident Injuries (MAI) Schemes as this data is regulated at a state level and may not be owned by the reporting entity. Equally, there may be state or territory regulatory prohibitions on sharing data.

  The Bill could be further refined to benchmark Scope 3 reporting against the development of appropriate methodologies and data-sharing arrangements, so that reporting matures in line with available data.

- **For consolidated reporting, the Insurance Council and its members seek clarity that the Bill enables flexibility for large Australian subsidiaries of overseas parent entities that are required to report,** to allow these subsidiaries to rely on their global climate financial risk report rather than requiring them to create a bespoke Australian report. Similarly, Australian entities with material operations outside Australia should be able to align their reporting with global requirements. The Bill, as currently drafted, could make the consolidated reporting arrangements clearer. This flexibility will help ease administrative burdens on these entities, help contribute to an overall improvement in the quality of reporting and support Treasury's objective of internationally aligned climate reporting.

We trust that our initial observations are of assistance. If you have any questions or comments in relation to our submission please contact Ange Nichols, Senior Advisor, Climate Change: [redacted]

Yours sincerely,

Kylie Macfarlane

Chief Operating Officer