Climate-related financial disclosures Bill

Reporting update
3 April 2024, 24RU-04

KPMG

Bill introduced to Parliament to usher in mandatory climate-related financial disclosures for certain entities reporting under the Corporations Act

First reporting expected financial years ending 31 December 2025

The climate-related financial disclosures Treasury Bill was introduced into Parliament last week: [Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024] (Bill) – see Schedule 4. Given the Parliamentary timetable, debate will be in May 2024 at the earliest.

The Bill is largely consistent with Treasury's exposure draft legislation released in January 2024. **The main change is that the commencement date for reporting is now** proposed **to be financial years beginning on or after 1 January 2025** (or later). Subject to Parliamentary processes, this means:

- **31 December 2025 year ends will report first**, and
- First mandatory reporting date for 30 June year ends will **now be 30 June 2026** not 30 June 2025.

The Bill is the culmination of a series of consultations and proposes amendments to the *Corporations Act 2001* and the *Australian Securities and Investment Commission Act 2001* covering the following:

- Reporting entities: those with Corporations Act Chapter 2M reporting obligations meeting prescribed thresholds
- Phasing: timing of first reporting based on size or level of emissions. The Bill has clarified that asset owners (registered schemes, registrable superannuation entities and retail CCIVs) are not Group 1 entities (even if they meet two of the three thresholds for a Group 1 entity). These entities will be Group 2 entities where the value of assets are $5 billion or more
- Reporting content: as required by Australian Sustainability Reporting Standards (ASRS), which includes Scope 3 emissions (with a first-year transition exemption proposed in the [draft] ASRS)
- Reporting framework: within a sustainability report in the annual report and lodged in accordance with current annual reporting requirements
- Assurance requirements: phased approach ending with reasonable assurance of all climate disclosures made from 1 July 2030 onwards.
- Liability framework: modified liability approach for both directors and auditors to disclosures of Scope 3 emissions, scenario analysis, transition plans and climate-related forward-looking statements

The [AASB [draft] Australian Sustainability Reporting Standards] continue to be the best point of reference on what will be required to be disclosed by entities captured by the reporting requirements of this Bill.

Further details are set out in this Reporting Update.

Updated Treasury policy and feedback statements to be issued

The updated Treasury policy statement and feedback statement on the January 2024 consultation documents are expected to be published on the [Treasury website], alongside the public submissions.

"We support the Bill's proposal of phased adoption of mandatory climate-related financial disclosures and are pleased to see the clarifications made result of comments raised on the draft legislation in January."
Adrian King
Partner in Charge, ESG Advisory & Assurance Services
KPMG Australia

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3 April 2024

Snapshot – Treasury sustainability reporting legislation

What has been issued?

- **Climate-related financial disclosures reporting Bill** was introduced into Parliament on 27 March 2024: [Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024] (Bill). The following documents were released with the Bill:
  - Bill – legislation, refer to Schedule 4
  - Explanatory memorandum – refer to Chapter 4
  - The updated final policy statement and feedback statement of the January 2024 Exposure Draft legislation consultation documents will be published on the Treasury website at a later date
- The Bill will be subject to the usual Parliamentary process, with the May 2024 Parliamentary sitting being the earliest this bill could be debated.
- The proposed legislation will require **relevant entities to disclose their climate-related** plans, financial risks and opportunities, in accordance with **Australian Sustainability Reporting Standards** made by the Australian Accounting Standards Board (AASB)[1]

What is the impact?

- **Reporting entities**: those with Corporations Act Chapter 2M reporting obligations meeting prescribed thresholds
- **Phasing**: The first sustainability report will be issued for **annual reporting periods starting 1 January 2025** (or 31 December 2025 year-end). First mandatory reporting date for 30 June year ends will now be **30 June 2026** not 30 June 2025. The timing of first reporting by in-scope entities is **based on size or level of emissions**
- **Reporting content**: as required by the Australian Sustainability Reporting Standards (ASRS)
- **Reporting framework**: within a sustainability report in the annual report and lodged in accordance with current annual financial reporting requirements
- **Assurance requirements**: phased approach ending with reasonable assurance of all climate-related financial disclosures made from years beginning 1 July 2030 onwards
- **Liability framework**: modified liability approach to disclosures of Scope 3 emissions, scenario analysis, transition plans and climate-related forward-looking statements for initial transition periods

Next steps

- **Get familiar** with the proposed legislation content
- **Understand** when the proposals apply to you
- **Follow the progress of the Bill** through the Parliamentary process
- **Follow the progress of discussions** by the AASB on *Exposure Draft ED SR1 Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information*[1]
- **Start planning** – perform a gap analysis and create a roadmap to identify capacity constraints
- **Reach out** to your KPMG contact during your planning process

[1] See 23RU-13 AASB releases exposure draft on climate reporting for further detail on the AASB's first draft Australian Sustainability Reporting Standards on Disclosure of Climate-related Financial Information.

Reporting entities and phasing

A three-phased implementation approach will require reporting of climate-related financial disclosures.

	Required to lodge financial reports under Chapter 2M of the *Corporations Act 2001* and falls within one (or more) of the following three categories (sustainability reporting thresholds)				
	Meet two of three reporting thresholds:			**National Greenhouse and Energy Reporting (NGER) Reporters**	**Asset Owners (Registered schemes, Registrable superannuation entities and retail CCIVs)**
	Consolidated gross revenue (For the financial year)	**Consolidated assets** (At the end of the financial year)	**Employees**		
Group 1 First annual reporting periods beginning on or after **1 January 2025**	$500 million or more	$1 billion or more	> 500	Above NGER publication threshold	**Scoped out of Group 1**
Group 2 First annual reporting periods beginning on or after **1 July 2026**	$200 million or more	$500 million or more	> 250	All other NGER reporters	$5 billion or more assets under management
Group 3* First annual reporting periods beginning on or after **1 July 2027**	$50 million or more	$25 million or more	> 100	N/A	Refer to other reporting thresholds (see left)

* Group 3 entities if they have no material financial risks or opportunities relating to climate – see next page

i. **How are employees counted?**

Part-time employees are considered as an appropriate fraction of a full-time equivalent.

ii. **How are consolidated revenue, the value of gross assets and the value of assets calculated?**

Calculations must be done in accordance with the accounting standards in force at the relevant time.

iii. **How are assets under management (AUM) defined?**

There is currently no consistent definition of AUM. We are anticipating further clarification of AUM in the policy position statement or other form.

iv. **Are all entities within a consolidated group required to provide climate-related financial disclosures?**

If an entity is required to prepare consolidated financial statements, it may choose to provide the climate-related financial disclosures ("sustainability report" – as defined on next page) on a consolidated basis (as the parent). Where this occurs, each individual entity within the group that is otherwise required to prepare a sustainability report **would not need to**, if the group consolidated sustainability report covers those individual entities.

v. **Does an Australian subsidiary of a foreign parent need to prepare a sustainability report, if the foreign parent prepares one in its jurisdiction?**

An Australian subsidiary lodging a financial report under Chapter 2M of the Corporations Act that meets the sustainability reporting thresholds **must prepare** a sustainability report.

vi. **Is an entity required to prepare a sustainability report if it is exempt from lodging a financial report under Chapter 2M?**

If exempt, e.g. is registered with the ACNC or exempt by ASIC class order relief, it is **not** required to prepare a sustainability report.

vii. **Are companies limited by guarantee in scope of the disclosures?**

A company limited by guarantee with annual (consolidated) revenue of $1 million or more, meeting any of the other sustainability reporting thresholds, is required to prepare a sustainability report.

Reporting content, location & timing

Reporting content

Group 3 entities if they have no material climate-related financial risks or opportunities

Where Group 3 entities (entities that are in-scope for reporting but that do not meet the thresholds for Group 2) assess that they **do not have material climate-related risks or opportunities**, the entity's climate statement will only include a statement to that effect, as well as an explanation of how it reached this conclusion. A directors' declaration and auditor report relating to the sustainability report will still be required.

Materiality is assessed in accordance with the sustainability standards.

Scope 3 emissions

Scope 3 emissions **will be required to be disclosed** as proposed in the [draft] ASRS (with a first-year transition exemption proposed in the [draft] ASRS).

An entity required to prepare a sustainability report is also required to keep records that correctly explain and record its preparation of the statements in the report for 7 years.

Reporting location

Climate-related disclosures would be required within a *sustainability report* forming part of the annual report

The **sustainability report** will be required by the *Corporations Act 2001* and consist of:

- The climate statements as required by the ASRS, incorporating the Group 3 materiality assessment (see 'Reporting content) where applicable
- Notes to the climate statement (if any)
- Any statements prescribed by legislative instrument
- The directors' declaration about the compliance of the statements with the relevant sustainability standards

This sustainability report will form the fourth report[1] required as part of an entity's annual report.

[1] the other three being the directors' report, financial report and auditor's report

Timing of reporting

The timing of lodgement of the sustainability report with ASIC and reporting to members will follow the current annual financial reporting timing requirements

ASIC

Timing of lodgement of financial report under section 319 of the *Corporations Act 2001:*

- Disclosing entities and registered managed investment schemes: within **three months** after the end of the financial year.
- All other companies: within **four months** after the end of the financial year.

Members and AGM

The sustainability report must be sent to members and, where relevant, considered at an entity's AGM, in accordance with the relevant timing requirements for the annual financial report.

The prospectus for continuously quoted securities or a product disclosure statement relating to a managed investment scheme that is an enhanced disclosure security must inform of their right to obtain a copy of the most recently lodged sustainability report, where relevant. The contents of an offer information statement for the issue of a body's securities must include a copy of the most recent sustainability report prepared.

Reporting timing, assurance & liability framework

Assurance requirements

Assurance plays a crucial role in enhancing the credibility of climate-related disclosures. The sustainability report will be subject to assurance requirements similar to those currently in the Corporations Act for financial reports, including the same independence and other obligations of the auditor. The Corporations Act will require entities to obtain an assurance report from their financial auditors who will use technical climate and sustainability experts where required.

The Australian Auditing and Assurance Standards Board (AUASB) will develop the **extent** and **level of assurance** required for climate-related financial disclosures.

The AUASB will also **set the pathway for the phasing** of requirements over time with reasonable assurance of all climate disclosures made from years commencing **1 July 2030 onwards**.

Liability framework

Modified liability for climate-related financial disclosures

Climate-related financial disclosures will be subject to the current legal framework in various areas including directors' duties, misleading representation provisions and reporting requirements. These requirements are embedded in the *Corporations Act 2001*, *Australian Securities and Investment Commission Act 2001* and *the Competition and Consumer Act 2010*.

The application of misleading and deceptive conduct provisions to Scope 3 emissions, scenario analysis and transition plans disclosures would be **limited to regulator-only actions for a fixed period of three years**.

In addition, in this Bill, the modified liability is also extended to cover **all forward-looking statements for the first financial year for Group 1 entities**.

This modified liability extends to statements made in an auditors' report of an audit or review of a sustainability report for the same periods.

Beyond this period, the existing liability arrangements will apply.