Insurance Council of Australia

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Submission to ASIC's Consultation Paper 380 Sustainability reporting (CP 380)

The Insurance Council of Australia (Insurance Council) 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 46,000 people and provides 88 million general insurance policies across Australia.

The Insurance Council thanks the Australian Securities and Investments Commission (ASIC) for the opportunity to provide feedback on ASIC's draft regulatory guidance on Australia's sustainability reporting regime. The Insurance Council and its members have actively consulted with the Australian Government on developing Australia's sustainability reporting regime and appreciate ASIC's collaborative approach in seeking stakeholder feedback on the supporting regulatory guidance.

Our submission reflects consolidated feedback from Insurance Council members, focusing on key items in the draft regulatory guidance relevant to the insurance industry.

Some overall reflections are outlined below:

- Clear regulatory guidance is essential for reporting entities to meet sustainability disclosure requirements consistently and transparently. It will help reduce ambiguity, support compliance, and build trust with users of sustainability reports by ensuring they have access to accurate, reliable information needed to make informed decisions. In this context, we'd welcome ASIC's views on whether it considers the users of sustainability reports will be the same as the users of financial reports – noting that given the distinct nature of the information contained within sustainability reports, it is likely to attract interest beyond direct investors.
- While reporting entities need flexibility to tailor their climate statements to their unique circumstances, it's equally important to establish clear, detailed guidance to support the disclosure of information that meets sustainability disclosure requirements. Additional practical guidance would be welcome, particularly on the content of climate statements, including particulars on transition plans, climate scenarios, and Scope 3 emissions.
- We welcome Australia's sustainability reporting requirements being largely aligned with international sustainability reporting. Regulatory guidance should support this alignment wherever possible. Where full alignment isn't feasible, we urge ASIC to adopt a flexible approach for entities that report under multiple sustainability frameworks, easing the compliance burden and supporting effective reporting.

A summary of members' views on key items in the draft regulatory guidance is as follows.

Consolidated entities or group members of stapled groups (RG 000.41)

The Insurance Council and its members support consolidated group reporting for sustainability reports, as it promotes alignment, reduces duplication, and lightens the reporting load on subsidiaries. Entities with a global parent in another reporting jurisdiction, like Europe or New Zealand, may use their

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parent's sustainability reports if they meet Australian standards. Additional guidance on how these entities can rely on their parent reports to fulfill Australian requirements would be welcome.

Cross-referencing (RG 000.79-RG 000.81)

We support allowing reporting entities to cross-reference information from other documents prepared by the entity in their sustainability reports. This flexibility enables reporting entities to tailor their sustainability reports to their specific circumstances. For instance, entities with existing transition plans for their global parent companies may find it more administratively efficient to cross-reference these plans, rather than repurpose them for inclusion directly in the sustainability report. This approach streamlines reporting and enhances clarity for both reporting entities and users of the report.

Obligation to keep sustainability records (RG 000.44–RG 000.48)

Given that records must be available upon request from ASIC, clarification on whether records can be kept at the parent company location (e.g., Europe) is needed to ensure entities can maintain appropriate and compliant documentation over time.

Directors' duties (RG 000.49–RG 000.58)

The guidance states that directors should consider the extent to which material climate-related risks pose a 'foreseeable risk of harm' (RG 000.50) to the entity's interests and may rely on available information 'in good faith' (RG 000.53). Given the complex and evolving nature of climate risks, accurately identifying future climate risks and opportunities requires a new assessment approach from directors. As such, the Insurance Council and its members would welcome practical guidance to help directors interpret concepts like 'foreseeable risk of harm' and 'good faith' to meet reporting obligations effectively.

We note that the guidance states that 'it is important that these assessments [CRR&O] are not confined to the annual reporting season but are considered on an ongoing basis' (RG 000.52). This wording could imply that ASIC expects reviews to occur more frequently than once a year. However, a comprehensive climate-related R&O assessment is a complex process that evaluates factors which may not change rapidly. An annual review can provide sufficient information for directors to make well-informed, good-faith judgments. We recommend ASIC rephrase this guidance to avoid implying a specific minimum review frequency.

Additionally, sustainability reporting legislation and standards pertain to disclosures and reporting processes, not operational practices. Therefore, it may not be appropriate for ASIC to provide guidance on how business processes should be conducted.

Statements of no financial risks or opportunities relating to climate (RG 000.68-RG 000.71)

Given the complex and evolving nature of climate risks, accurately identifying future threats can be challenging, which is why it's important for reporting entities to take a comprehensive view when assessing their exposure. An assessment of no climate risks may reflect a narrow, short-term assessment, overlooking climate-related financial risks and opportunities that may manifest over the medium or long-term. Requiring reporting entities to provide a climate statement explaining how they determined there are no material financial climate risks or opportunities can help both the reporting entity and ASIC identify potential assessment gaps.

We agree with the requirement for reporting entities to maintain sustainability records and robust processes when lodging a climate statement claiming no material financial climate risks or opportunities for a financial year encourages them to critically assess their operations for potential risks, even if they believe they are not exposed. This approach strengthens transparency and accountability and helps ensure entities have made reasonable efforts to identify any potential climate-related risks. However, clarification would be welcome on whether this statement must be at a local entity level or in the form of a Parent Statement in the local entity's offshore Group Sustainability Report.

Statements with forward-looking climate information (RG 000.72–RG 000.78)

Forward-looking climate statements must meet key standards of relevance, faithful representation, comparability, verifiability, timeliness, and understandability (AASB S2, Appendix D). While reporting entities need flexibility to tailor these statements, clear guidance is essential to support disclosures that meet these standards. We would welcome practical guidance from ASIC on effective disclosure of forward-looking statements. For example:

- **Targets**

  While we note ASIC's guidance provides a summary of s296D(1) of the Corporations Act, we consider the summary as provided by ASIC ambiguous, in that it suggests 'climate-related metrics and targets' are required (RG 000.73). However, targets are not directly required in the relevant legislation or AASB S2 standard. While they are clearly required to be disclosed if they have been set by the entity, or if other legislation requires them to be set, but there is no specific target requirement in the legislation or AASB S2 standard. We recommend the guidance be amended to make this clear.

- **Climate Scenario Analysis**

  The Insurance Council and its members would appreciate further guidance from ASIC on climate scenario analysis, including whether flexibility will be provided for reporting entities with existing climate scenarios that differ slightly from 1.5 degrees (e.g., will entities currently using RCP2.6, which has a mean degree of 1.6, be able to continue to use this scenario – or will they be required to use RCP1.9 which has a mean degree of 1.5 degrees).

Labelling (RG 000.82–RG 000.89)

We consider ASIC's guidance on labelling to be practical, as the term 'sustainability report' will now have a specific and defined meaning in Australia, similar to 'financial report.' ASIC's recommendation to discontinue the historical use of this term in other contexts—such as reporting entity's previous 'sustainability reports' - is a reasonable and sensible approach.

While clear labelling can help users of sustainability reports to make informed decisions, it is important to balance this with the need to avoid placing excessive administrative burden on reporting entities. For example, the guidance specifies that 'entities preparing sustainability-related information under other reporting standards or frameworks should clearly differentiate this from sustainability-related financial information prepared under AASB 1 or AASB S2' (RG 000.89). Companies with a global parent in another reporting jurisdiction (such as Europe or New Zealand) may rely on their parent company's sustainability reports, provided these meet Australian requirements. Flexibility should be allowed to minimise the administrative burden of requiring extensive labelling within these reports.

Notes to climate statements (RG 000.90)

We note that ASIC does not intend for notes to the climate statement to be included in the sustainability report. However, it would be helpful if ASIC provide further clarity on this recommendation and indicate any future circumstances where it might consider the inclusion of climate notes necessary.

Overview of sustainability-related financial information (RG 000.96–RG 000.106)

We note that ASIC will closely scrutinise selective references to sustainability reports. The Insurance Council and its members would welcome further practical guidance from ASIC to help ensure that climate-related financial information disclosed outside the sustainability report meets the required standards. There are a whole range of ways climate-related financial information could be disclosed outside the sustainability report, whereas the guidance only briefly references two examples. For example:

- would it be acceptable to reference a climate-related target in a document disclosed outside the sustainability report, providing there is a footnote or link to the sustainability report that outlines the target's inputs, assumptions, and contingencies - or must this information be included directly in the document? (RG 000.105 (a))

- what qualifies as a 'corporate document', as this term can encompass a wide range of materials, including minutes, briefings, and presentations (RG 000.105 (b)).

Sustainability-related financial information in PDSs (RG 000.130–RG 000.142)

The guidance states that a Product Disclosure Statement (PDS) must include sustainability-related financial information if it is necessary for a retail client's decision-making or would significantly influence a reasonable person's choice to acquire the product (RG 000.135). Although PDS requirements are specified for investment products and continuously quoted securities, there is no mention of insurance.

Additionally, we note that issuers of superannuation products must, upon written request, provide a copy of their sustainability report and its auditor's report to interested parties (RG 000.134).

The Insurance Council and its members would welcome clarification from ASIC on whether this expectation will extend to general insurance PDSs or if a more limited requirement, similar to that for superannuation, will apply to insurers.

We believe sustainability-related financial information should not be required in a general insurance PDS, as it is neither necessary for policyholder decision-making nor in the best interests of PDS users. Requiring such information would impose an unreasonable administrative and compliance burden on insurers, given the 88 million general insurance policies in Australia, and further contribute to the overloading of information in PDS documents, impairing their primary purpose and making them less accessible and useful for policyholders.

ASIC's general approach to sustainability reporting and audit relief (RG 000.147–RG 000.185)

Australia's sustainability reporting regime is new, and many entities subject to its requirements will be producing these reports for the first time. As practices and policies for climate-related financial disclosures continue to evolve both locally and globally, it is crucial that ASIC allow flexibility in the early years of implementation when reviewing sustainability reports and audit files as part of its oversight. Additionally, we would welcome clarification on whether entities can rely on numbers assured at an offshore Group level, such as metrics per employee numbers assured by external auditors at the Group level. This guidance would provide much-needed certainty and support as entities navigate this emerging framework.

We note that ASIC's ability to grant relief from sustainability reporting and audit requirements is restricted to cases where compliance would make the report misleading, be inappropriate in the specific circumstances, or impose unreasonable burdens on the entity (RG 000.161). To better understand these provisions, we would welcome practical guidance and examples from ASIC that clarify what might be deemed 'inappropriate in the circumstances' or what types of situations would qualify as imposing 'unreasonable burdens.' Such guidance would help entities navigate the requirements to seek relief more effectively.

We note in the guidance that an extension of time is unlikely to be granted 'if an auditor states it cannot complete the audit work within the timeframe set down in the Corporations Act' (RG 000.174). The rapid increase in demand for sustainability reporting may highlight a significant shortage of qualified auditors able to conduct sustainability audits, which may create delays beyond the control of reporting entities. This shortage may lead to potential delays in report issuance, posing challenges for entities trying to meet compliance deadlines. While the auditor workforce continues to evolve in the early years of the regime, flexibility should be provided to reporting entities seeking an extension of time due to auditor delays.

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

Yours sincerely

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