Submission to ASIC Consultation Paper 380: Sustainability Reporting Regulatory Guidance

Australian Sustainable Finance Institute | December 2024

1. Overview

The Australian Sustainable Finance Institute (ASFI) welcomes the opportunity to provide feedback on ASIC's proposed regulatory guidance for sustainability reporting.

ASFI is a not-for-profit organisation committed to realigning the Australian financial system to be sustainable, resilient, and inclusive. ASFI's members are large Australian financial institutions – including major banks, superannuation funds, insurers, asset managers, and financial services firms – that support ASFI's mission. ASFI members collectively hold over AU$22 trillion in assets under management and are committed to allocating capital in a way that creates positive social and environmental outcomes.

ASFI supports the introduction of mandatory climate disclosures for the Australian market. A robust, useable and internationally aligned climate disclosures framework will help financial institutions to make better decisions, firms to understand and manage climate risk and opportunity, and regulators to combat greenwashing. A key pillar of the sustainable finance policy architecture, climate disclosures will ultimately enhance management of climate risk across the financial system. It will also support greater capital allocation consistent with Australia's national emissions reduction and adaptation goals. The following general comments on the proposed regulatory guidance are made in support of these objectives.

2. ASIC's intended approach to administering the sustainability reporting regime

ASIC's consultation paper sets out ASIC's objectives and approach to administering the regime:

> *In administering this regime, our focus is on fostering high-quality, consistent and comparable climate-related financial disclosures to enable users of that information to make informed decisions. This facilitates fair and efficient capital markets….*
>
> *Our role does not generally extend to assessing the ambition or merit of an entity's climate-related strategy or targets. These are generally strategic matters to be determined by an entity's directors and management acting in the entity's best interests.*

ASFI supports ASIC's indicated approach and conception of its role in sustainability reporting. We note and support the Government's intention to develop guidance on disclosure of transition plans in 2025, as well as the Australian Accounting Standards Board's plans on implementation support and awareness raising.[1]

3. Supporting evolving capability and capacity in sustainability reporting

ASFI supports the proposed 'proportionate and pragmatic' approach that ASIC intends to take with compliance and enforcement. It is likely that early years of the sustainability reporting regime will be a steep learning curve for many participants, and best practice in the field will evolve over time along with improvements in the availability and quality of data.

Development of capability and capacity among firms, regulators and assurance providers will take some time to mature. ASFI urges ASIC to play a key role in supporting the development of a community of practice, and to foster quality disclosures through education and regular information sharing. The role of ASIC as the administrator of the scheme places it in a good position to quickly communicate key lessons and encourage best practice among reporters and assurance providers, laying strong foundations for the scheme's success.

[1] Australian Accounting Standards Board (2024), *AASB Work Program*, November 2024.

4. Sustainability reporting should not be limited to mandatory disclosures

ASFI notes ASIC's statement that under the *Corporations Act*, the term 'sustainability report' has a precise, legislated meaning. However, ASFI is cautious of the advice provided in the regulatory guidance to refer to a 'sustainability report' as *only* those matters required under s.292A. This could have an unintended consequence of limiting companies' disclosures in sustainability to only those required by the Act. While we note ASIC's suggestion that other information be labelled as 'voluntary sustainability statements', it might be better to instead label information that explicitly discharges obligations under s.292A as such. For example, such information could be labelled as a 's.292A sustainability report'.

ASFI would be cautious of any indication or implication that sustainability reports should be limited only to those matters prescribed by law, and instead encourage firms to provide markets with as much relevant information consistent with high-quality reporting as possible. This will facilitate more holistic consideration of sustainability risks and opportunities and allow those who wish to prepare for potential expansion of mandatory disclosures beyond climate change to do so.

ASFI also notes that some reporters may be preparing sustainability reports for a global audience, whose interests may extend beyond the provisions of the *Act*. Similarly, some entities may be subject to reporting obligations in other jurisdictions, and care should be taken to ensure that ASIC's guidance does not conflict with international regimes such as the European Union's sustainability disclosure frameworks or the United Kingdom's Stewardship Code.

5. Prioritise availability, utility and accessibility in disclosures

ASFI views the forthcoming disclosures as a highly valuable resource for investors, insurers, financial institutions and other stakeholders to understand how companies are planning to manage climate risks and transition to a net zero economy. The value of this resource will be maximised if disclosures are easily comparable, widely available, high-quality and accessible.

At present, ASIC intends to allow companies to acquit their obligations by submission of their report either directly to ASIC, or through filing with a relevant stock exchange. Neither of these avenues for disclosure are likely to effectively support best-practice accessibility or ease of comparing disclosures – especially if the report falls under a category of documents for which ASIC charges a fee to access. At present, these documents are typically provided as PDF documents which are neither accessible nor machine-readable. This creates significant barriers to capturing the maximum value from disclosure. Enabling digital, accessible, widely available and easily comparable reporting would enable financial institutions and other users to aggregate and compare information and trends at scale, across a range of sectors and portfolios. We would encourage ASIC and the Government to consider how adopting a single digital reporting framework could benefit firms, markets and the broader community.

6. Map GICS to ANZSIC

The IFRS and AASB S2 standards call for sustainability reports to use the Global Industry Classification Standard (GICS) to classify counterparties. However, the Australian and New Zealand Standard Industry Classification (ANZSIC) is more widely understood and used in Australia, in particular by real economy corporates and banks. ANZSIC is also aligned with the International Standard Industry Classification, making it comparable with other industry classification systems. ASFI recommends that ASIC provide a mapping between GIC and ANZSIC to permit comparability of sustainability reporting.

7. Provide further guidance on the constitution of 'reasonable grounds'

Consistent with s.1707D of the *Corporations* Act, ASIC's draft guidance states that the modified liability settings do not extend to statements voluntarily made outside a sustainability report. To provide reporting entities with a greater level of confidence to make voluntary statements, for example in investor presentations and promotional material, that reproduce elements of their sustainability reporting, the regulatory guide could include further information about what might be considered reasonable grounds.

Such guidance could draw together and adapt previous guidance on this topic. Additionally, ASIC should consider whether additional guidance for climate-related forward-looking statements should be developed, given the difference in timeframe between general forward-looking statements and climate-related forward-looking statements. Climate-related risks are likely to be felt in the medium to long term, while ordinary forward-looking statements typically deal in the short to medium term. Further guidance from ASIC could assist reporters and users in understanding what reasonable grounds for this type of forward-looking statements might look like.