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Dear Ms LaBouchardiere,

We welcome the opportunity provide to our feedback on the Consultation Paper CP 380 *Sustainability Reporting*. We have responded only to those matters for which we have specific comments.

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B1: Entities that must prepare a sustainability report

We agree in principle with the proposed guidance. We have suggested clarifications or amendments to the proposed regulatory guidance as outlined below.

Guidance for RSEs, registered schemes and retail CCIVs to determine whether they meet the sustainability reporting thresholds

We note that the threshold applicable to RSEs, registered schemes or retail CCIVs is currently referred to in RG000.34 as the "assets under management threshold". This term is not used within the Corporations Act; specifically, s292A(6) refers to 'the value of assets at the end of the financial year of the entity and the entities it controls' as explained in Table 2: Commencement of sustainability reporting obligations. 'Assets under management' may, by application of colloquial English, include assets where the threshold for 'control' as defined by AASB 10 *Consolidated Financial Statements* is not met; for instance, due to a lack of exposure to variable returns despite the existence of power, such as where the asset manager is compensated with a fixed fee, regardless of performance.

We recommend instead that reference to 'assets under management' and the 'assets under management threshold' be replaced with 'assets controlled by an asset owner'.

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We also note that, in practice, this may result in confusion for certain entities where the entity is an investment entity as defined by AASB 10. AASB 10 requires an entity that is an investment entity to record its investments, – including investments in controlled entities which do not operate to provide investment entity services – at fair value, which will not be reflective of total assets of the controlled entity (i.e. it will depend on the capital structure of the investment, including any non-equity capital). We recommend that ASIC include a statement similar to “for the avoidance of doubt, an investment entity that presents controlled entities as investments recorded at fair value through profit or loss is required to measure the value of its assets by reference to the value of the assets of the controlled entity as if it were consolidated” or, if the alternate is true (i.e. a ‘look through’ is not desired), with appropriate changes made.

Guidance regarding accounting standards that apply for reporting entities in determining whether an entity controls another for the purposes of s292A(3) and s292A(6)

We note that RG 000.39 directs entities to consider specific paragraphs of AASB 10 *Consolidated financial statements* (AASB 10), and RG 000.40 directs entities to consider Appendix B of AASB 10. In our experience, the assessment of control applying AASB 10 is often complex, and the simplified explanation in RG 000.39 may increase the risk of inappropriate application of AASB 10.

To avoid the risk where an entity might inappropriately apply AASB 10 by following the regulatory guidance without consideration of the broader principles within Australian Accounting Standards, we recommend that both paragraphs RG 000.39 and RG 000.40 are deleted. In our view the guidance in RG 000.38 that specifies AASB 10 should be applied is sufficient.

If clarity is required, we recommend referring to the Illustrative Examples to IFRS 10 *Consolidated Financial Statements* as published by the Australian Accounting Standards Board.

Guidance regarding entities that do not need to prepare a sustainability report

Based on the Note to paragraph RG 000.43 and s292(A)(1)(a), it is our understanding that small proprietary companies that are NGER controlling corporations would also be considered non-reporting entities. This is despite the original Australian Government explanatory memo paragraph 4.20 which stated (emphasis added) “Small and medium entities, below the relevant size thresholds (*unless they are NGER controlling corporations*) are not required to make climate related financial disclosures.” Additionally, under the existing NGER legislation, the controlling corporation can also be a foreign incorporated entity without an Australian incorporated subsidiary.

It is our current understanding that both small proprietary companies and foreign incorporated entities would be non-reporting entities, without regard of their NGER registration. We suggest this point could be clarified in the regulatory guidance.

B2: Sustainability records, directors’ duties and modified liability

We agree in principle with the proposed guidance. We have suggested some additional clarifications or amendments to the guidance as outlined below.

Expectations for directors in complying with their sustainability reporting requirements

The language used in the draft regulatory guidance in relation to Directors’ duties refers to “material climate-related physical and transition risks”, “material risk or opportunity” and “material climate-related risks and opportunities” (RG 000.50 – RG 000.52).

While we understand the sentiment behind such language, based on stakeholder feedback this appears to create a common point of confusion. This is because AASB S2 is concerned with the “climate-related risks and opportunities that could reasonably be expected to affect the entity’s prospects”. The concept of materiality in AASB S2 is only applied to the determination of what information about these risks or opportunities should be disclosed, and not the climate-related risk or opportunity itself. While we acknowledge this is not the language

used in the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024*, we have observed confusion arising between the requirements of AASB S2 and the legislation.

We suggest that this could be resolved by referring to “risks or opportunities that may reasonably affect the reporting entity’s prospects”. This suggestion would also apply to other parts of the draft regulatory guidance where similar language is used (e.g. RG 000.58, RG 000.72). This suggestion is also related to our comments in relation C1 and C2 below.

Scope of directors’ duties in relation to sustainability-related risks and opportunities

The guidance in RG 000.50 is helpful clarification in relation to climate-related risks and opportunities. We suggest that the guidance is broadened to cover sustainability-related risks and opportunities, including climate-related risks and opportunities.

This would result in better alignment to the draft regulatory guidance in RG 000.111 which refers to the requirement for listed entities to disclose sustainability-related financial information, including climate-related financial information, where required by s299A.

Further guidance regarding modified liability settings

For avoidance of doubt, we suggest that the draft regulatory guidance clarify that the modified liability settings do not apply to any voluntary climate statements prepared by non-reporting entities that voluntarily early adopt AASB S2.

C1 & C2: Statements about no climate-related risks or opportunities

We agree in principle with the proposed guidance. However, we note that the RG 000.70(a) clarifies that reporting entities that lodge a climate statement under s296B(1) must assess, in accordance with AASB S2, whether there are any material financial risks or opportunities relating to climate for a financial year.

Similar to our observations above, we observe that AASB S2 is concerned with the “climate-related risks and opportunities that could reasonably be expected to affect the entity’s prospects”. As such it may be unclear as to how an entity would make this assessment, in accordance with AASB S2.

We suggest the regulatory guidance could be clarified to explain for avoidance of doubt that the assessment of “there are any material financial risks or opportunities relating to climate” under s296B(1) would be the same as the assessment of whether there are any “climate-related risks and opportunities that could reasonably be expected to affect the entity’s prospects” in accordance with AASB S2.

C3: Statements with forward-looking climate information

We agree with the specific guidance referring to Appendix D of AASB S2. In particular we note that Appendix D paragraph D24 specifically addresses how forward-looking information can be supportable.

We also note that AASB S2 requires in respect of multiple areas of forward-looking information, for the entity to use “all reasonable and supportable information that is available to the entity at the reporting date without undue cost or effort”. We suggest that paragraph RG 000.77, which reminds entities to maintain adequate sustainability records, may be supplemented by this reminder.

C4: Cross-referencing in a sustainability report

We agree with RG 000.79 that AASB S2 permits a reporting entity’s sustainability report to cross-reference to information in another document prepared by the reporting entity, subject to compliance with paragraphs 63 and B45-B47 of AASB S2.

However, we note that this creates potential complexity for the sustainability report's assurance practitioner, as the assurance opinion in relation to the sustainability report is required by ISSA 5000 *General Requirements for Sustainability Assurance Engagements* to "identify or describe the sustainability information subject to the assurance engagement", which may in some instances, include information that has been cross-referenced. The use of cross-referencing to areas external to the sustainability report may limit the ability of the assurance practitioner to clearly identify the disclosures that were subject to assurance, particularly in the initial phasing in of assurance where not all disclosures in the report are subject to the same level of assurance.

The draft regulatory guidance in RG 000.80 which strongly encourages lodgement of the other document with the sustainability report alleviates some of the risk arising from cross-referencing for the assurance practitioner.

However, we expect that, depending on the materiality of the information being cross-referenced, the assurance provider may request that such information be included within the sustainability report to which the assurance opinion is attached. In the absence of appropriate safeguards, assurance providers may not be able to issue an unmodified report.

C5: Labelling

We welcome clear guidance in relation to the labelling of disclosures of sustainability-related information. In our experience, this has been an area where there has been diversity in naming conventions. We agree with the draft regulatory guidance that the "Sustainability Report" and "Climate Statements" are defined in the legislation and refer to the sustainability reporting obligations defined in statute.

We concur with CP380 paragraph 44 that voluntary sustainability-related information (such as disclosures under other reporting frameworks) should be differentiated from the statutory information.

However, in relation to the draft regulatory guidance for voluntary disclosure of sustainability-related financial information (prepared in accordance with AASB S1) and sustainability-related information (prepared under other reporting standards or frameworks), we make the following observations:

- The restriction of "voluntary sustainability statements" to those required by AASB S1 may unintentionally delay the adoption of other voluntary investor focused sustainability frameworks (e.g. TNFD) [REDACTED]
- The guidance in RG 000.89 to "*clearly distinguish*" sustainability-related financial disclosures from sustainability-related information prepared in accordance with other reporting standards or frameworks may create difficulties for entities that use a "double materiality" approach to their broader sustainability strategy and reporting [REDACTED]
- The guidance in RG 000.89 may also create barriers to entities that are currently preparing, or considering preparing, an integrated report. While not common in the Australian market (KPMG's November 2024 Australian Sustainability Reporting Trends report stated only 18% of the ASX 100 companies adopted an integrated report), we have noticed increased stakeholder interest in integrated reporting as a result of the finalisation of the Australian Sustainability Reporting Standards.

[REDACTED] we are concerned the above matters may, contrary to the rationale for the proposals, unintentionally inhibit the provision of voluntary sustainability information or unnecessarily disrupt existing market practice. We are also concerned this may impact the ability for Australian entities to access inexpensive international capital.

We suggest as an alternative:

- "Voluntary sustainability statements" may be used to refer to voluntary disclosure of sustainability-related information which incorporates, *in whole or in part*, sustainability-related financial information prepared by applying all or parts of AASB S1. This would include voluntary disclosures where AASB S1 is one of multiple standards or frameworks utilised in the preparation of the sustainability-related information and would include voluntary disclosures prepared using a double materiality approach. Where only parts of AASB S1 have been applied, the extent of compliance should be clearly disclosed.

- Where sustainability-related information is prepared *in accordance with* other reporting standards or frameworks, the relevant reporting standards or frameworks should be clearly disclosed. Where the information is prepared with only partial compliance with other reporting standards or frameworks, the extent of compliance should be clearly disclosed.
- Where sustainability-related information is prepared *without* applying specific reporting standards or frameworks (i.e. an entity-developed framework) this should be clearly disclosed.

C6: Notes to the climate statements

We appreciate the clarifications provided by the draft regulatory guidance.

C7: Proportionality mechanisms and exceptions under AASB S2

We agree that sustainability records should substantiate the reporting entity's judgements made in the application of the requirements of AASB S2. We also agree that documentation of an entity's application of exceptions allowable under AASB S2 (impracticability, measurement uncertainty, inability to quantify anticipated financial effects etc) are examples of significant management judgements that must be documented to support disclosures made.

Consistent with the draft regulatory guidance in RG 000.45, the sustainability records should document how the entity has applied the requirements of AASB S2, and the methods, assumptions, and evidence used. This includes documenting matters of fact and matters of judgement. In documenting matters of judgement, an entity is typically documenting what the entity has done in order to make that judgement, including the information that the entity has considered.

We are concerned that current wording of the draft regulatory guidance regarding documentation of some of these proportionality mechanisms may imply a need for documentation that faces practical limitations. As an extreme example, an entity that documents how they have used "all reasonable and supportable information available to the entity at the reporting date without undue cost of effort", might lead an entity to attempt to document the information that they **did not use** and why this information **was not available** to them at reporting date without undue cost or effort. Such a document requirement would, in our view, be impracticable and create a significant documentation burden on preparers.

In our view, paragraph RG 000.94 could be clarified to explain that the documentation of application of proportionality mechanism and exceptions in AASB S2 should be focused, consistent with RG 000.45, on how the entity has applied the requirements of AASB S2 in preparing its disclosures, and the methods, assumptions, and evidence used.

Additionally, stakeholders have communicated that the meaning of 'proportionality mechanisms' was unclear in the context of AASB S2. As this is directly related to understanding AASB S2 rather than legislative interpretation, we suggest that it may be appropriate for educational material to be released by the AASB to explain the proportionality mechanisms available in AASB S2. This may be in the form of a table similar to the table included in the IFRS S1 Basis of Conclusions paragraph BC9.

D1: Sustainability-related financial disclosures outside the sustainability report

We agree with the proposed guidance.

D2: Sustainability-related financial information in the OFR

We agree with the proposed guidance.

We note that RG 000.111 refers to the requirement for listed entities to disclose sustainability-related financial information, including climate-related financial information, if required to meet the requirements of s299A.

As not all listed entities required to prepare an OFR under s299A are reporting entities for sustainability reporting, we would suggest that RG 247 *Effective disclosure in an operating and financial review* is also updated to reflect similar guidance as a consequential amendment.

In particular RG 247.66 currently states:

“Directors may also consider whether it would be worthwhile to disclose additional information that would be relevant under integrated reporting, sustainability reporting or the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD), where that information is not already required for the OFR.”

We also note existing guidance in RG 247.66 states that “climate-change-related risk disclosures in the OFR and in any voluntary disclosures (such as those recommended by the TCFD) should not be inconsistent.” This may appear to contradict the guidance in RG 000.119 – RG 000.120.

D3: Sustainability-related financial information in disclosure documents under Ch 6D

We agree in principle with the draft regulatory guidance.

We observe that RG 000.125 provides guidance that the issuer of a s710 prospectus must disclose sustainability-related financial information. However, RG 000.126 only refers to AASB S2, and climate-related financial information. We suggest this should be expanded to include the expectation to consider, and be informed by, AASB S1 when making disclosures of sustainability-related financial information in a s710 prospectus, for consistency with paragraph RG 000.125.

D4: Sustainability-related financial information in PDSs

We agree in principle with the draft regulatory guidance.

Similar to our observations above, we note that RG 000.136 refers to the requirement for a PDS to disclose sustainability-related financial information that might reasonably be expected to have a material influence on the decision of a reasonable person, as a retail client, whether to acquire the product. However, RG 000.137 only refers to AASB S2, and climate-related financial information. We suggest this should be expanded to include the expectation to consider, and be informed by, AASB S1 when making disclosures of sustainability-related financial information in a s710 prospectus, for consistency with paragraph RG 000.136.

We also note that RG 000.137(a) includes a Note that directs the user of the draft regulatory guidance specifically to the additional application guidance for disclosing financed emissions from asset management activities. We are concerned that this is a relatively unclear reference to the additional disclosure requirements for disclosing scope 3 financed emissions for asset management entities. As currently drafted, it is unclear whether ASIC’s guidance is intended to imply that financed emissions specifically should be strongly considered for disclosure in the PDS, and whether ASIC’s view is that this disclosure outweighs other potentially relevant disclosure requirements in AASB S2.

E1: Guidance on how we will approach sustainability reporting and audit relief

Comparable financial reporting relief

RG 000.149 states that ASIC will not necessarily grant sustainability reporting relief merely because an entity has been granted, or has the benefit of, comparable financial reporting relief.

s292A(1)(a) only requires an entity to prepare a sustainability report for a financial year if the entity must prepare a financial report for the financial year under Chapter 2M. We observe that the draft regulatory guidance in RG 000.149 could be clarified refer to the guidance regarding interaction with existing ASIC relief from the requirement to prepare a financial report via an instrument as discussed in RG 000.184 – RG 000.185.

The draft regulatory guidance is silent on the interaction of s292A(1)(a) with existing ASIC relief where an entity may have received individual relief from preparation of a financial report. It may be appropriate to consider expanding the guidance to explain different forms of ASIC relief commonly provided in relation to financial reporting and audit, and their intersection with s292A(1)(a).

Consolidated sustainability reporting relief

In relation to the consolidated sustainability reporting relief (RG 000.177 – RG 000.180), we observe:

- Instances where entities are not entitled to rely on s292A(2) or any ASIC relief are likely to occur where the one entity does not have control over other entities proposed to be incorporated in the relief, if relief was granted. As a result, the accompanying financial statements are unlikely to be consolidated financial statements in accordance with AASB 10 *Consolidated financial statements*.
- Presentation of a “consolidated” sustainability reporting where the corresponding financial statements are not consolidated on the same basis is likely to result in what would more commonly be described as an “aggregated sustainability report”.
- AASB S2 Appendix D paragraph Aus20.1 (and application guidance paragraph AusB38.1) requires the climate-related financial disclosures to be for the same reporting entity as the related financial statement, unless otherwise permitted by law. Consequently, that entity’s climate-related financial disclosures shall enable users of general purpose financial reports to understand the effects of the climate-related risks and opportunities on the cash flows, access to finance and cost of capital over the short, medium and long term for the parent and its subsidiaries.
- Additionally, AASB S2 Appendix D paragraphs 21-24 (and application guidance B39-B44) requires the information to be provided in a manner that enables users of general purpose financial reports to understand connections both between the items to which the information relates and between disclosures provided by the entity in its general purpose financial reports (commonly referred to as connected information).

In our view, it is very difficult to prepare an “aggregated” sustainability report that also meets the general requirements of connected information in AASB S2. An entity may need consider the principles of aggregation and disaggregation in AASB S2 Appendix D paragraphs B29 – B30.

Where AASB S2 requires disclosures incorporate connected financial information (e.g. current and anticipated financial effects of climate-related risks or opportunities, percentage or amounts of assets exposed to climate-related risks), it may be necessary to prepare comparable “aggregated financial information”, which does not comply with the Australian Accounting Standards for the purpose of facilitating useful climate-related financial disclosures. For assurance providers, the ability to assure such disclosures would also likely require assurance over the accounting policies applied for this financial basis of aggregation.

We observe that these same practical implementation issues in preparing “aggregated sustainability reporting” has been an issue identified and discussed with standard setters and regulators in the EU, as Article 48i of the Corporate Sustainability Reporting Directive (CSRD) currently permits aggregated reporting for non-EU parent entities.

While we acknowledge the CSRD is a different legal regime, and requires the use of European Sustainability Reporting Standards, rather than the Australian Sustainability Reporting Standards, the practical implementation issues are similar.

We would suggest ASIC consider these practical implementation challenges when considering granting consolidation reporting relief.

Audit relief

RG 000.182 states that ASIC “will not grant audit relief for a sustainability report merely because audit relief has been granted in relation to the entity’s financial report”.

While we understand the objective of this statement, we wish to draw attention to the practical implications of an instance where an entity has relief from the audit of the financial report, but not relief from the audit of the sustainability report (i.e. interaction with existing ASIC relief from the requirement to have the financial report audited). In this instance:

- The reporting entity may not have an appointed auditor as it historically has had relief from audit of the financial report.
- The auditor that is appointed for the purpose of providing assurance over the sustainability report would be assuring disclosures in the sustainability report. The sustainability report disclosures would, in accordance with AASB S2, be in some instances financial in nature and reflect the related financial statements.
- AASB S2 includes a requirement for there to be consistency in the data and assumptions used—to the extent possible—and linkages between the amounts disclosed in accordance with AASB S2.29 and the amounts recognised and disclosed in the related financial statements.
- The practical ability of the auditor to assess and provide an assurance conclusion in relation to these matters may therefore extend the scope of the assurance work to elements of the financial reports in order to provide assurance over the sustainability report.

Consequently, the assurance of the sustainability report without assurance over the related financial statements may result in unintended consequences for the related cost of compliance. We would suggest ASIC consider these practical implementation challenges when considering audit of the sustainability report relief separable from audit of the financial report relief.

E2: Relief for stapled entities

We agree with the draft regulatory guidance.

E3: Wholly-owned companies

ASIC Corporations (Wholly-owned Companies) Instrument 2016/785 (“CI 2016/785”) provides that a wholly owned entity which is part of a deed of cross-guarantee, and for which its parent entity prepares a consolidated report has relief from the preparation of a separate financial report.

However, as s292A(2) provides the parent entity with an election to prepare a sustainability report (i.e. it does not have to prepare a consolidated sustainability report), there may be an instance where:

- The parent entity elects to prepare a standalone sustainability report; and
- The wholly owned subsidiaries of the parent entity apply CI 2016/785 and therefore are relieved from the preparation of a financial report.
- The wholly owned subsidiaries therefore also are not required to prepare a sustainability report, by application of s292A(1)(a).

With regards to practical implications of this approach, as the parent entity of the consolidated report and reporting entity for the unconsolidated report are the same entity, we are of the view that when AASB S2 is applied, there may be fewer differences between the two reports than some preparers and users may expect.

[REDACTED] We acknowledge that this is nuanced view of unconsolidated sustainability reporting, and that many preparers may not be cognizant of some of the judgements in Appendix D that would support an outcome of an unconsolidated report which still supports utility of information for users of the consolidated general-purpose financial report.

E4: Extending the relief in other ASIC instruments

Due to the requirement of AASB S2 to provide disclosures in such a way that users are able to understand connections both between the items in the sustainability report and the related financial statements, we expect that any relief in relation to presentation of financial statements (e.g. ASIC Corporations (Rounding in Financial/Directors' Reports) Instrument 2016/191) ("CI 2016/191") would be transferable to the related disclosures in the sustainability report, subject to the principles of materiality, aggregation and disaggregation. As such we concur that relief for ASIC instrument 2016/191 is not likely to be required.

It may be helpful for the draft guidance to explain why the relief in CI 2016/191 has not been extended, as in our experience rounding considerations are a common question from preparers when presenting financial information as part of the AASB S2 disclosures.

E5: Use of ASIC's directions power

We agree with the draft regulatory guidance.

F1: Determining revenue, employees and assets for the purposes of applying the sustainability reporting thresholds

Definition of revenue

'Revenue' is defined in Appendix A of AASB 15 *Revenue from Contracts with Customers* as "Income arising in the course of an entity's ordinary activities." Income is defined in the *Conceptual Framework for Financial Reporting* ("CF") as "... increases in assets, or decreases in liabilities, that result in increases in equity, other than those relating to contributions from holders of equity claims." There is no definition of 'ordinary activities' within the Australian Accounting Standards.

As a result, the definition of revenue is a matter of judgement and may vary from entity to entity *without* a change in facts. As an example, an entity may hold an investment in associate to which the equity method of accounting, as defined in AASB 128 *Investments in Associates* is applied. In this example, the associate is a key part of the value chain of the entity from an economic perspective. This entity may view that investment as a part of its ordinary activities – and thus recognise any income arising from its investment as 'revenue' – on the rationale that the operations of the associate are a part of the ordinary activities of the entity – as the entity cannot operate without its investment in the associate. The same entity may apply the judgement that output of the investment in associate is not an ordinary activity as it cannot be controlled by the entity.

As a second example, an entity may undertake periodic and consistent sales of PP&E that is no longer required to support operations. The disposal of PP&E may therefore be a part of the business plan and a part of the entity's operations. Although not typically interpreted in this manner, a reader of the CF and the definition of Revenue may arrive at a conclusion that such disposals are Revenue, as defined.

The definition is thus somewhat subjective and prone to misapplication.

Definition of employees

The definition of 'employee' is not clearly defined in the *Corporations Act 2001* and will vary jurisdictionally when considered against other similar acts (for instance, various acts implementing payroll taxes). As a result of this lack of clarity, business models which rely on the use of contractors or other non-traditional models may or may not give rise to an employer/employee relationship, dependent on the individual act that is being applied. As an example, in Victoria certain medical practitioners are considered employees from the perspective of the *Payroll Tax Act 2008 (Vic)* but may be non-employees from the perspective of the *Income Tax Assessment Act 1997 (Cth)*. As the *Corporations Act 2001* does not define an employee, this definition is subjective and prone to misapplication.

F2: Other areas where we can support the transition to sustainability reporting

Clarification regarding seeking professional advice

RG 000.29 explains that “reporting entities should also, where required, consider seeking professional advice to ensure compliance with the sustainability reporting requirements under the Corporations Act”. The note to this paragraph explicitly states that “However, a reporting entity’s auditor should not provide this advice. The auditor must be independent from the reporting entity it audits: see Div 3, 4 and 5 of Pt 2M.4.”

We agree that the reporting entity’s auditor must be independent from the reporting entity that it audits. However, the requirements for auditor independence are determined by reference to the relevant independence standards. Dependent on the nature of the advice, there may be forms in which the auditor is permitted to provide advisory services under the relevant independence standards.

We recommend this note is rephrased to indicate that the ability of the auditor to provide this advice is subject to the requirements of the relevant independence standards.

Climate-related scenario analysis – interpretive guidance

Section s296D(2B) of the Corporations Act specifies that information derived from a scenario analysis or information about a scenario analysis is taken not to satisfy that requirement unless the scenario analysis is carried out using at least both of the following scenarios:

- (a) the increase in the global average temperature well exceeds the increase mentioned in subparagraph 3(a)(i) of the *Climate Change Act 2022*; and
- (b) the increase in the global average temperature is limited to the increase mentioned in subparagraph 3(a)(ii) of that Act.

Paragraph 2.17 of the Revised Supplementary Explanatory Memo accompanying the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* explains:

“The first scenario is a high global warming scenario. This is defined as an increase in the global average temperature that well exceeds the increase mentioned in subparagraph 3(a)(i) of the Climate Change Act. The increase mentioned in subparagraph 3(a)(i) of that Act is currently 2°C above preindustrial levels. An increase of 2.5°C or higher would be considered to well exceed the current increase mentioned in subparagraph 3(a)(i) of that Act. This is akin to higher warming scenarios that are adopted in climate-related physical risk assessments, for example, the National Climate Risk Assessment.”

Similarly, paragraph 2.19 of the Revised Supplementary Explanatory Memo accompanying the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* explains:

“The second scenario is a low global warming scenario. This is defined as an increase in the global average temperature limited to the increase mentioned in subparagraph 3(a)(ii) of the Climate Change Act. The increase mentioned in subparagraph 3(a)(ii) of that Act is 1.5°C above pre-industrial levels.”

We observe that despite these clarifications in the Revised Supplementary Explanatory Memo, there remains significant diversity of interpretation as to what scenarios would satisfy these specified legislative requirements.

Our suggested areas where regulatory guidance to provide legislative interpretation would be helpful are as follows:

- It would be helpful to provide guidance as to what time period the global average temperature goals should be considered (e.g. 2050 projected warming or 2100 projected warming).
- In respect of the high warming scenario requirement, we suggest that the draft regulatory guidance explain the concept of “well above 2°C above preindustrial levels”. In particular, it would be helpful to understand whether this requires a scenario with global warming outcomes of 2.5 degrees or higher, as per the explanatory memorandum.

- In respect of the low warming scenario requirement, we suggest that the draft regulatory guidance explain the concept of “limited to 1.5°C above preindustrial levels”. In particular, it would be helpful to understand what level of overshoot can be incorporated in these scenarios (where the 1.5 degree target is breached for a period of time, before returning below 1.5 degrees by 2100).
- Additionally for both instances, it would be helpful to understand whether in ASIC’s view these are considered brightline temperature thresholds. The scientific approach to climate modelling includes uncertainty in scenarios - so the “2.5 scenario” might encompass a range of 2.3 degrees to 2.7 degrees (with any number within that range having similar implications). This reflects natural variability in the climate system, and the complexity in measuring with confidence the global mean temperature at precise temperature thresholds.
- As part of the draft regulatory guidance, it would be helpful if ASIC would consider identifying common publicly available scenarios that would comply with the requirements of s296D(2B). As AASB S2 does not specify particular scenarios to be used, we consider that this guidance would be appropriately within the remit of ASIC or Treasury rather than the AASB. For example, it would be helpful to understand which IPCC, IEA, or NGFS scenarios would satisfy these requirements.

Presentation requirements

While AASB S2 provides the disclosure requirements in relation to climate-related financial information, it is not a presentation standard (i.e. it does not provide prescriptive requirements as to the format of how disclosures are presented). Likewise, it is our understanding that the Corporations Act does not specify the format of the disclosures required in the sustainability report.

We suggest that it would be helpful for the regulatory guidance to clarify whether in ASIC’s view, there are any expectations regarding the format of the sustainability report to meet the requirements of the Corporations Act.

While stakeholders have also communicated a desire for clear guidance regarding the interpretation and application of the sustainability standards, we consider that such guidance or educational materials would be within the remit of the AASB rather than ASIC.

Yours sincerely

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