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Companies & Small Business
Australian Securities and Investment Commission
GPO Box 8927
Melbourne VIC 3001
Via email: sustainable.finance@asic.gov.au

17 December 2024

Re: ASIC Consultation CP380 - Regulatory Guide and Related Guidance for Sustainability Reporting

Dear Claire,

On behalf of the Group of 100 (G100), Australia's premier network of Chief Financial Officers (CFOs) and senior finance executives, we would like to express our gratitude to ASIC for promptly seeking feedback on Consultation CP380 – Regulatory Guide and Related Guidance for Sustainability Reporting.

In our review we have identified several areas of concern that we propose warrant further consideration by ASIC and have made recommendations to ensure those suggested changes are both practical and effective.

1. Implementation timeline
Recommendation: That ASIC consider providing lodgement extensions if needed and be prepared to announce this ahead of reporting deadlines.

The proposed timeline for implementing the new regulatory guide and related guidance is ambitious. CFOs are concerned about the significant resources required to comply with the new requirements within the stipulated period. Many organisations are already stretched thin with existing regulatory obligations, and the additional burden may impact their ability to meet other critical financial and operational objectives.

2. Clarity and consistency
Recommendation: That ASIC play a role in supporting entities to align their practices and assist in identifying issues with standards.

We believe there is a need for greater clarity and consistency in the proposed standards. While CFOs recognise the need for comprehensive sustainability reporting, they are particularly concerned about the potential for varying interpretations of the guidelines, which could lead to inconsistencies in reporting across different organisations.

Given that Australia will be one of the first adopters of the International Sustainability Standards Board (ISSB) standards, ASIC will need to accept that there may be initial differences in interpretations. We believe this can be addressed by ASIC assisting entities in identifying issues with standards that may need to be elevated through the Australian Accounting Standards Board (AASB) to the ISSB and supporting entities to align their practices.

3. Audit and assurance

Recommendation: That ASIC consider reporting extensions.

The integration of sustainability metrics into financial reporting presents challenges for CFOs, particularly in terms of audit and assurance processes. There is a need for clear guidance on how these metrics should be audited and the level of assurance required. There is also concern about the potential increase in audit costs and the availability of qualified auditors to perform these tasks.

We suggest that ASIC monitor the market closely to ensure there will be capacity, and if not, consider providing extensions or working with the Auditing and Assurance Standards Board (AUASB) to amend the reporting deadlines.

4. Data availability and quality

Recommendation: That ASIC's enforcement approach focuses on supporting entities to improve data availability and quality.

Accurate and reliable data is essential for meaningful sustainability reporting. CFOs are concerned about the availability and quality of data required to comply with the new guidelines. Organisations may need to invest in new systems and processes to collect and verify this data, which could be both time-consuming and costly.

We note ASIC's communication of their intent to adopt a pragmatic and proportionate enforcement approach. Furthermore, we request that such an approach will acknowledge the improvement of data availability and quality over time and focus on supporting entities to improve.

5. Stakeholder engagement

Recommendation: That ASIC provide best practice guidance for communication and a user guide to reading climate statements.

Effective stakeholder engagement is crucial for the success of sustainability reporting. CFOs recognise the importance of clear and transparent communication to inform and engage stakeholders. We recommend that ASIC provide guidance on best practices for stakeholder engagement and communication to support organisations in this transition. Additionally, ASIC could consider the approach of the External Reporting Board (XRB)/Financial Marketing Authority (FMA) in New Zealand, who provided a user guide to reading climate statements.

6. Legal risks

Recommendation: We urge ASIC to consider providing or extending existing legal safe harbors.

There is a risk that organisations could face legal challenges if they are unable to meet the new standards or if their sustainability reports are found to be inaccurate or misleading. CFOs are also concerned about the potential legal risks associated with the new sustainability reporting requirements noting the expectation of investors that such information will be included in publications (e.g. investor presentations) that are not protected by the modified liability regime.

We urge ASIC to consider providing legal safe harbors, like the existing modified liability regime, or other protections to mitigate these risks and to offer clear guidance on how organisations can ensure compliance.

7. Cost implications

Recommendation: That ASIC provide training and guidance to help organisations manage costs.

The proposed changes will likely result in significant cost implications for organisations.

CFOs are concerned about the financial burden associated with implementing new systems, processes, and controls to comply with the new sustainability reporting requirements. These costs could be particularly challenging for smaller organisations with limited resources. We recommend ASIC consider providing support to help organisations manage these costs effectively (e.g. via detailed guidance and training).

8. Detailed guidance and support

Recommendation: That ASIC provide further clarification on their definition of terms and guidance to comply with sustainability reporting requirements.

We request further clarification and guidance as to how ASIC will interpret the definition of specific terms. In particular, the definition of revenue within the threshold tests to determine a reporting entity's obligations under the legislation.

We note that the thresholds will be particularly important for determining whether an entity is in Group 2 or Group 3, noting only Group 3 entities are able to make a statement of no material climate-related risks and opportunities under s296B. Similarly, whether an entity is in Group 3 or not would determine whether the entity needs to comply with the sustainability reporting requirements. We therefore consider it critical that there is clarity as to how ASIC will interpret these definitions.

9. Climate Statement vs Sustainability Report

Recommendation: That ASIC provide clear delineation between the references to a climate statement and a sustainability report in the regulatory guide.

ASIC's proposals for labelling voluntary and mandatory sustainability information seem complicated and confusing. While we appreciate the current terminology is driven by legislation, the use of 'sustainability reporting' (of which a climate statement is an element) may be confusing, to reporting entities and users familiar with existing voluntary sustainability reporting.

10. Existing relief and exemptions

Recommendation: That ASIC provide clarification on exemptions from the preparation and lodgement of sustainability reports.

It is noted Section 292A(1) of the Corporations Act 2001 indicates that an entity is required to prepare a sustainability report only if it prepares a financial report under Chapter 2M (section 292A(1)(a)).

ASIC has not clarified whether the current forms of relief that apply to the preparation and lodgement of financial reports (under the Corporations Act 2001) would extend to sustainability reporting in Australia. We recommend that ASIC provides clarity as to whether existing ASIC exemptions from the preparation and lodgement of financial reports would automatically apply to the requirement to prepare and lodge a sustainability report to avoid any uncertainty and unnecessary burden.

11. Continuous disclosure

Recommendation: ASIC removes or provides clarification on the suggestion that unlisted entities would be required to undertake continuous disclosure.

It is noted that RG 000.78 suggests reporting entities that are not disclosing entities should also provide an update to the market when these relevant facts or circumstances change. This inclusion would indicate that unlisted entities would be required to undertake continuous disclosure. We do not support the inclusion of this requirement and suggest ASIC removes this or provides further clarification and basis for this.

In conclusion, while we support the objectives of ASIC Consultation CP380, we urge ASIC to consider the practical challenges and resource implications for organisations. We believe that a phased implementation approach, coupled with clear and consistent guidance, will help ensure the successful adoption of the new standards.

Thank you for the opportunity to provide feedback on this important consultation. We look forward to working with ASIC to achieve our shared goals of enhancing sustainability reporting and promoting transparency and accountability.

Yours sincerely,

[redacted]

Stephen Woodhill
CEO Group of 100 & Executive Director
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