

15 July 2022

International Sustainability Standards Board
Columbus Building
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London, E14 4 HD
United Kingdom

Via email: commentletters@ifrs.org

Dear International Sustainability Standards Board (ISSB)

Draft IFRS S1 General Requirements for Disclosure of Sustainability Related Financial Information; Draft IFRS S2 Climate-related disclosures

Thank you for the opportunity to comment on the two draft standards released by the ISSB related to general sustainability related financial information (**Sustainability Standard**) and climate related disclosures (**Climate Standard**). The Australian Institute of Company Directors (**AICD**) welcomes the opportunity to provide an Australian governance perspective to this critical global consultation.

The AICD is the largest director institute in the world, with a mission to be the independent and trusted voice of governance, building the capability of a community of leaders for the benefit of society. The AICD's membership of more than 49,000 reflects the diversity of Australia's director community, comprised of directors and leaders of not-for-profits, large and small businesses and the government sector.

The AICD strongly supports the principle of harmonised international sustainability standards under the ISSB umbrella and urges a consistent approach across jurisdictions. We have consistently heard from members that there is a need to consolidate competing existing non-financial reporting frameworks, and to address growing investor demand for high quality, comparable disclosure. Such reporting will also allow companies to better benchmark their sustainability practices and see where there may be room for improvement. A fragmented regulatory approach across jurisdictions would undermine these outcomes.

In our view, the two draft Standards are a strong starting point from which a global baseline can be developed. In the Australian context, we recognise that comprehensive adoption of these new standards, at least in their current form, would represent a significant enhancement on current reporting practices, with corresponding challenges.

The AICD looks forward to playing a constructive role in the adoption of these standards globally and in the Australian market. In our view, an appropriately phased in approach that recognises the varying levels of maturities within markets and sectors will be critical to the Standards' successful adoption. We consider that the initial focus should be on for-profit entities, especially those listed on market exchanges or with a large carbon footprint.

Enclosed with this cover letter are our detailed responses to the Sustainability Standard (**Attachment A**) and Climate Standard (**Attachment B**).

Executive Summary

The AICD welcomes the current consultation and provides the following key comments:

1. We strongly support the goal of high quality, consistent and comparable sustainability reporting. All stakeholders recognise that a consolidation of existing frameworks is crucial to the success of the ISSB project and meeting the evolving needs and expectations of investors. It would be counter-productive for individual jurisdictions to adopt their own bespoke regulatory approaches.
2. We support climate change being identified as the first area to be the subject of a specific ISSB standard. We acknowledge the varying regulatory and disclosure initiatives taking place globally, and the value in a harmonised approach across jurisdictions. The TCFD framework is a solid foundation for any such standard.
3. We strongly recommend that further work be done to clarify and refine the Standards so that they are capable of reasonable, independent assurance. In our view, in their current form, it will be very difficult to achieve this. Without such assurance, the value of the Standards will be considerably diminished. As a matter of priority, work on how assurance will take place should be pursued in parallel with consultation on the substantive elements of the Standards. Further, while we agree that a degree of specificity is important, a more principles-based approach to the proposed requirements would allow flexibility to evolve with market practice and expectations.
4. We urge a carefully designed phased-in approach that recognises the considerable uplift in practice and capability that will be required in markets such as Australia. Appropriate transitional arrangements will need to be developed that recognise the extent of preparatory work required.
5. We note there are unique aspects of the Australian legal environment that, if not addressed, will hinder comprehensive adoption. Liability settings for the kinds of forward-looking statements contemplated by the Standards will need to be appropriately calibrated, or else risk unhelpful, generalised disclosures.
6. We highlight current data and workforce skills gaps that, in the short term, will make comprehensive and consistent adoption of the Standards very difficult to achieve. The lack of clear, well accepted methodologies for measuring key metrics such as scope 3 greenhouse gas emissions, is one such area. The ISSB, as well as domestic policy-makers and standard-setters, will need to bear this in mind when developing implementation plans and devising appropriate transitional arrangements.

Next steps

We hope our submission will be of assistance to the ISSB in its important and timely work. If you would like to discuss any aspects further, please contact Christian Gergis, Head of Policy at cgergis@aicd.com.au.

Yours sincerely,



Angus Armour FAICD
Managing Director & CEO

Response to Questions for Respondents

Exposure Draft IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information

Question 1—Overall approach

(a) Does the Exposure Draft state clearly that an entity would be required to identify and disclose material information about all of the sustainability-related risks and opportunities to which the entity is exposed, even if such risks and opportunities are not addressed by a specific IFRS Sustainability Disclosure Standard? Why or why not? If not, how could such a requirement be made clearer?

The AICD recommends the Exposure Draft IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information (**Exposure Draft**) could be revised to create a separate Conceptual Framework and General Standard. We are concerned that the Exposure Draft currently lacks clarity because it is attempting to fulfil both these functions.

Sustainability reporting would benefit from a Conceptual Framework for Sustainability Reporting as has been [developed for financial reporting](#) by the IASB. In the same manner as the Conceptual Framework for Financial Reporting, it would set out the fundamental concepts for sustainability reporting that will guide the ISSB in developing Standards and will help to ensure that subsequent Standards are conceptually consistent. Much of the content of the Exposure Draft would then form part of the Conceptual Framework.

We note that the ISSB is intending to issue future Standards in sustainability areas with S2 being the first example. In our view, the ISSB therefore needs an overarching Standard that sets out general requirements for disclosure, particularly in the transition period when new Standards are being released. However, a Standard must have a clear scope. In our view, the Exposure Draft does not meet that requirement. This is most clearly seen in the processes set out in paragraphs 51 and 54 of the Exposure Draft, and the lack of an articulated definition of sustainability or sustainability related financial information (see response to Question 2 below).

A clearly defined general Standard that sets out the process which an entity needs to undertake when considering materiality and sustainability-related disclosures should be contained within a separate Standard. This will have most of its work to do as a transitional Standard while the ISSB issues future Standards, however it will still have application even when this initial process is completed.

(b) Do you agree that the proposed requirements set out in the Exposure Draft meet its proposed objective (paragraph 1)? Why or why not?

For the reasons set out above we believe the Exposure Draft lacks the precision necessary to meet its proposed objective.

(c) Is it clear how the proposed requirements in the Exposure Draft would be applied together with other IFRS Sustainability Disclosure Standards, including the [draft] IFRS S2 Climate-related Disclosures? Why or why not? If not, what aspects of the proposals are unclear?

For the reasons set out above, because the proposed requirements lack precision and a clearly defined approach there is a lack of clarity. This could be resolved by separating the components of the Exposure Draft into a Conceptual Framework and a narrower General Standard.

(d) Do you agree that the requirements proposed in the Exposure Draft would provide a suitable basis for auditors and regulators to determine whether an entity has complied with the proposals? If not, what approach do you suggest and why?

Based on the drafting of the Exposure Draft, it appears it will be very difficult to determine whether an entity has complied with the Standard and to obtain relevant reasonable assurance. A particular concern lies with paragraphs 51 and 54 which mandate an open-ended and unsettled process for the identification of sustainability-related risks and opportunities. See our response to Question 7(b) for more detail.

We are concerned that the utility of reporting under the Standards would be substantially diminished if it is very difficult to obtain reasonable assurance. We urge the international standard setters to undertake a parallel process around assurance as quickly as possible as this will inform stakeholder views on what is legitimately within the scope of the disclosure obligations contained within ISSB standards. We note that, over time, assurance may be assisted by developments in technology and that novel solutions may be needed to meet these evolving needs.

Question 2—Objective (paragraphs 1–7)

(a) Is the proposed objective of disclosing sustainability-related financial information clear? Why or why not?

Yes, we believe the proposed objective of disclosing sustainability-related financial information is clear.

(b) Is the definition of 'sustainability-related financial information' clear (see Appendix A)? Why or why not? If not, do you have any suggestions for improving the definition to make it clearer?

No, the definition of 'sustainability-related financial information' is unclear because the Standards do not provide a definition of 'sustainability'. We note that the ISSB goes close to adopting the UN's definition of sustainability in paragraph BC30 of the Basis for Conclusions on [Draft] IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information.

We believe that for the Standards to provide sufficient clarity, they require the ISSB to propose a definition of 'sustainability' in the recommended Conceptual Framework document. The ISSB should consult on a definition which takes the UN definition of 'sustainability', set out in paragraph BC 30, as its starting point. An appropriately contained definition will be necessary to make the Standards workable in practice.

We also believe the use of the term 'significant' before 'sustainability-related risks and opportunities' which appears throughout the Exposure Draft is unclear. The term 'significant' is not defined. The interaction between the judgment by an entity as to whether a sustainability-related risk or opportunity is 'significant' or 'material' is also unclear. There is ambiguity over whether the entity is being requested to make two separate judgments or the same judgment in relation to the sustainability-related risk or opportunity.

We suggest that this could be resolved in two potential ways. Firstly, by replacing 'significant' with 'material'. Alternatively, by inserting a definition of significant sustainability-related risk and opportunity which states: "a sustainability-related risk or opportunity will be significant when it is material sustainability-related financial information."

Question 3—Scope (paragraphs 8–10)

Do you agree that the proposals in the Exposure Draft could be used by entities that prepare their general purpose financial statements in accordance with any jurisdiction's GAAP (rather than only those prepared in accordance with IFRS Accounting Standards)? If not, why not?

No comment. Australia applies the IFRS Accounting Standards.

Question 4—Core content (paragraphs 11–35)

(a) Are the disclosure objectives for governance, strategy, risk management and metrics and targets clear and appropriately defined? Why or why not?

We support the TCFD-based structure of the Exposure Draft and the four headings of disclosure of Governance, Strategy, Risk Management and Metrics and Targets. We believe that, broadly speaking and where disclosure normally takes place - such as for entities listed on market exchanges - it is appropriate for entities to make disclosures in these areas. We also agree that boards should explain to investors how their governance structures reflect their oversight of sustainability-related risks and opportunities.

We express the same concerns already stated with the use of the word 'significant' in relation to the disclosure objectives around Governance and Strategy and our concerns around the lack of a definition of 'sustainability'. In other respects, the disclosure objectives are clear and appropriately defined.

(b) Are the disclosure requirements for governance, strategy, risk management and metrics and targets appropriate to their stated disclosure objective? Why or why not?

We consider the disclosure requirements are broadly suitable to their stated disclosure objective. However, in our view, there should be a provision in the Standards allowing an entity not to make a disclosure where that disclosure might result in an unreasonable prejudice.

In Australia, management commentary is regulated by national legislation. The statutory scheme, which sets out the requirements for management commentary, allows an entity to omit material if it is likely to result in 'unreasonable prejudice' to an entity or part of a consolidated entity.¹

The Australian securities regulator, the Australian Securities and Investment Commission (**ASIC**), which regulates management commentary, in its regulatory guidance states:

We think a useful approach to considering whether the publication of information would result in unreasonable prejudice is to identify the adverse consequences that are likely to occur (i.e. the prejudice), and then consider whether these consequences are unreasonable. We suggest that the consequences would be unreasonable if, for example, disclosing the information is likely to

¹ Corporations Act 2001 (Cth) s.299A(3).

give third parties (such as competitors, suppliers and buyers) a commercial advantage, resulting in a material disadvantage to the entity.²

ASIC's regulatory guidance notes that such material may include confidential and commercially sensitive information, where disclosure would unreasonably damage the entity's business. Examples could include a planned hostile takeover of a competitor or negotiations with potential new suppliers to address sustainability risks. Disclosures of this nature would result in a commercial advantage to other stakeholders, and a material disadvantage to the entity. As drafted, we are concerned that the Exposure Draft requires entities to disclose that strategy as part of their risk management.

We recommend the Exposure Draft be amended to allow an entity to omit the disclosure of information if it is likely to result in 'unreasonable prejudice'. As in the Australian market, an entity should be required to state that it has omitted information by relying on this exemption. Entities should be required to disclose the information once the disclosure will no longer result in unreasonable prejudice.

Question 5—Reporting entity (paragraphs 37–41)

(a) Do you agree that the sustainability-related financial information should be required to be provided for the same reporting entity as the related financial statements? If not, why?

Yes.

(b) Is the requirement to disclose information about sustainability-related risks and opportunities related to activities, interactions and relationships, and to the use of resources along its value chain, clear and capable of consistent application? Why or why not? If not, what further requirements or guidance would be necessary and why?

We believe that the requirement to disclose information about sustainability-related risks and opportunities related to activities, interactions and relationships, and to the use of resources along its value chain, is clear and capable of consistent application. We note the intention of the ISSB to release further Standards that will contain similar provisions to the industry-based disclosure requirements set out in Appendix B of the Exposure Draft of IFRS S2 Climate-related Disclosures. We expect that this will progressively narrow the discretion to be applied by preparers considering their disclosure obligations under this S1 general requirement. However, while we agree that a degree of specificity is important, a more principles-based approach would allow flexibility to evolve with market practice and expectations.

We note that, in the Australian context, these are not disclosures that entities would typically make and, accordingly, this is likely to result in more extensive disclosure with associated legal risks to manage. Preparers and entities will require time to adjust to this arrangement, were it to be introduced. Accordingly, appropriate transitional arrangements will likely be necessary in the Australian market to support comprehensive adoption and disclosure.

We believe it would be useful if the ISSB were to develop illustrative guidance to assist entities comply with these obligations, especially if clear practice emerges following their introduction.

² ASIC, Regulatory Guide 247, Effective disclosure in an operating and financial review, paragraph RG247.69.

(c) Do you agree with the proposed requirement for identifying the related financial statements? Why or why not?

Yes.

Question 6—Connected information (paragraphs 42–44)

(a) Is the requirement clear on the need for connectivity between various sustainability-related risks and opportunities? Why or why not?

(b) Do you agree with the proposed requirements to identify and explain the connections between sustainability-related risks and opportunities and information in general purpose financial reporting, including the financial statements? Why or why not? If not, what do you propose and why?

Yes, we agree with the proposed requirement to disclose connected information to enable users to have a clear understanding of the various information being disclosed.

We believe this would benefit from further illustrative guidance from the ISSB, particular as practice evolves and develops. Preparers may find it difficult to strike a balance of providing sufficient connecting information to users in reports, without overburdening the preparers and the users with excessive disclosure.

Question 7—Fair presentation (paragraphs 45–55)

(a) Is the proposal to present fairly the sustainability-related risks and opportunities to which the entity is exposed, including the aggregation of information, clear? Why or why not?

Yes.

(b) Do you agree with the sources of guidance to identify sustainability-related risks and opportunities and related disclosures? If not, what sources should the entity be required to consider and why? Please explain how any alternative sources are consistent with the proposed objective of disclosing sustainability-related financial information in the Exposure Draft.

No, we do not agree with the provisions set out in paragraphs 51 and 54 of the Exposure Draft.

Our concern is the requirement that the entity 'shall consider' the sources of guidance set out in paragraphs 51 (a) through (d) and repeated in paragraph 54. The use of the word 'shall' makes this a mandatory process where the entity must consider all these forms of guidance. While paragraphs (a) and (b) refer to named Standards, paragraphs (c) and (d) are imprecise and contain open-ended requirements.

Were the paragraph to apply as currently drafted, an entity would be required to conduct an indefinite search of other Standards and practices in order to comply with the provision. In practice, it seems hard to understand how an entity would be able to comply with such a requirement. Similarly, such an approach may run counter to the widely endorsed goal of the ISSB project, being to create greater consistency and comparability of sustainability reporting.

As set out previously, to be capable of application, in our view a Standard must be precise and clearly demarcated. In our view, the mandatory consideration process set out in paragraphs 51 and 54 does not meet that requirement.

In Australia, directors must make a declaration that forms part of the financial statements, that the financial statements comply with the accounting standards and provide a true and fair view.³ A director making a false declaration exposes themselves and the entity to civil and criminal liability.

As drafted, we believe that Australian directors would either be unable, or at the least very reluctant, to comply with a similar obligation in relation to the Exposure Draft. It would be very difficult for a director to assure themselves that the entity had complied with the imprecise and open-ended obligation as set out in paragraphs 51 and 54 and therefore that the report complied with the sustainability standards and provides a true and fair view.

Likewise, in our discussion with external auditors and their professional representatives, we understand, for the same reasons, that they believe this process will be very difficult to assure.

The difficulty for directors to make a declaration that would form part of a sustainability report and to obtain external assurance over a report would, in our view, prevent adoption of the Standards as drafted in Australia and/or expose entities and directors to unreasonable legal liability risk.

We understand the reason for the inclusion of paragraphs 51 and 54. We note that the ISSB is seeking coordination with other standard-setting bodies, particularly the GRI, a process we strongly support. Indeed we would urge as much consolidation of frameworks as possible to avoid the current fragmentation of sustainability reporting.

We also note from discussions post the release of the consultation drafts, that the release of further Standards on other subject-matters will mean the progressive narrowing of the application of this paragraph.

We suggest an alternate approach to paragraphs 51 and 54 where it is a non-mandatory process that assists entities identify sustainability-related risks and opportunities. This could be most easily achieved by deleting the word 'shall' and inserting the word 'may'. The use of the word 'may' would indicate that the function may be exercised or not exercised at the person's discretion.⁴

Question 8—Materiality (paragraphs 56–62)

(a) Is the definition and application of materiality clear in the context of sustainability-related financial information? Why or why not?

Yes, Australian preparers are familiar with the IFRS definition of materiality. Please note this is subject to our earlier concern expressed about the need to define 'sustainability'.

(b) Do you consider that the proposed definition and application of materiality will capture the breadth of sustainability-related risks and opportunities relevant to the enterprise value of a specific entity, including over time? Why or why not?

Yes. The AICD does not support the inclusion of a 'double materiality' test. See our response to Question 14.

³ Corporations Act 2001 (Cth) s. 295(4)(d).

⁴ See Legislation Act 2001 (Cth), s.146.

(c) Is the Exposure Draft and related Illustrative Guidance useful for identifying material sustainability-related financial information? Why or why not? If not, what additional guidance is needed and why?

The Exposure Draft proposes a significant increase in the amount of sustainability-related financial information that entities would be expected to disclose along a range of measures that would not fit the commonly accepted definition of 'sustainability' e.g. geo-political risk.

As per our comment to Question 2 (b) above, a definition of sustainability needs to be made clear and must be appropriately contained to make implementation of the Standard workable in practice.

Given the extent of the disclosure that the ISSB is suggesting is necessary, there should be extensive illustrative guidance with examples outlining how various types of risk might be disclosed.

(d) Do you agree with the proposal to relieve an entity from disclosing information otherwise required by the Exposure Draft if local laws or regulations prohibit the entity from disclosing that information? Why or why not? If not, why?

Yes, doing otherwise would prevent adoption in some jurisdictions.

Question 9—Frequency of reporting (paragraphs 66–71)

Do you agree with the proposal that the sustainability-related financial disclosures would be required to be provided at the same time as the financial statements to which they relate? Why or why not?

Yes. Considerations may need to arise around periodic reports for less than a financial year. For example, in Australia, companies listed on the main market exchange (the Australian Stock Exchange (ASX)) are also required to prepare and file a half-year financial report and directors report.⁵

It would seem appropriate that sustainability-related financial disclosures would occur no more than annually and be released in conjunction with the annual financial report. The burden of more frequent data collection and reporting would not be cost effective nor necessarily yield more useful information, given six months is a relatively short period. There should be no corresponding requirement to release sustainability-related financial disclosures alongside any periodic report outside the annual reporting year.

In addition, we note that individual jurisdictions such as Australia will have separate continuous disclosure obligations (regarding the timely public release of market sensitive information) that entities will need to manage. Detailed comments on how these issues would apply in Australia are contained in our national jurisdictional submission.

Question 10—Location of information (paragraphs 72–78)

(a) Do you agree with the proposals about the location of sustainability-related financial disclosures? Why or why not?

Yes. We support the concept of some flexibility in the manner in which an entity locates its sustainability-related financial disclosures, noting that different jurisdictions will employ different practices.

⁵ Corporations Act 2001 (cth), s.302.

(b) Are you aware of any jurisdiction-specific requirements that would make it difficult for an entity to provide the information required by the Exposure Draft despite the proposals on location?

Yes. The Exposure Draft seeks to regulate disclosures that traditionally have formed part of management commentary. In Australia, management commentary is regulated by the Corporations Act and contains different requirements to that set out within the Exposure Draft, with additional requirements for companies listed on the Australian Stock Exchange (ASX). For example, there is a different materiality test applicable to that disclosure.

Were Australia to adopt the ISSB Standards there would need to be consideration of the conflict between the legislative requirements and any requirements set out in the Standards.

(c) Do you agree with the proposal that information required by IFRS Sustainability Disclosure Standards can be included by cross-reference provided that the information is available to users of general purpose financial reporting on the same terms and at the same time as the information to which it is cross referenced? Why or why not?

Yes, this is a sensible and cost-effective way to provide for disclosure.

(d) Is it clear that entities are not required to make separate disclosures on each aspect of governance, strategy and risk management for individual sustainability-related risks and opportunities, but are encouraged to make integrated disclosures, especially where the relevant sustainability issues are managed through the same approach and/or in an integrated way? Why or why not?

No comment.

Question 11—Comparative information, sources of estimation and outcome uncertainty, and errors (paragraphs 63–65, 79–83 and 84–90)

(a) Have these general features been adapted appropriately into the proposals? If not, what should be changed?

The proposals around estimation and outcome uncertainty raise some issues around forward-looking statements within the Australian jurisdiction which need to be made on a reasonable basis to avoid legal liability. See our response to question 16 for more details.

(b) Do you agree that if an entity has a better measure of a metric reported in the prior year that it should disclose the revised metric in its comparatives?

No comment.

(c) Do you agree with the proposal that financial data and assumptions within sustainability-related financial disclosures be consistent with corresponding financial data and assumptions used in the entity's financial statements to the extent possible? Are you aware of any circumstances for which this requirement will not be able to be applied?

Yes, we agree with the proposal.

Question 12—Statement of compliance (paragraphs 91-92)

Do you agree with this proposal? Why or why not? If not, what would you suggest and why?

Without regulatory adjustments, we have some concern about the application of the standards in Australia given the need for forward looking statements. Please see our answer to Question 16 for more details.

Question 13—Effective date (Appendix B)

(a) When the ISSB sets the effective date, how long does this need to be after a final Standard is issued? Please explain the reason for your answer, including specific information about the preparation that will be required by entities applying the proposals, those using the sustainability-related financial disclosures and others.

In the AICD's view there will need to be transitional arrangements that will allow entities to roll out Standards over time and adjust systems and models. However, these are best resolved at a jurisdictional level, taking into account varying maturity levels.

(b) Do you agree with the ISSB providing the proposed relief from disclosing comparatives in the first year of application? If not, why not?

No comment.

Question 14—Global baseline

IFRS Sustainability Disclosure Standards are intended to meet the needs of the users of general purpose financial reporting to enable them to make assessments of enterprise value, providing a comprehensive global baseline for the assessment of enterprise value.

Other stakeholders are also interested in the effects of sustainability-related risks and opportunities. Those needs may be met by requirements set by others, including regulators and jurisdictions. The ISSB intends that such requirements by others could build on the comprehensive global baseline established by the IFRS Sustainability Disclosure Standards.

Are there any particular aspects of the proposals in the Exposure Draft that you believe would limit the ability of IFRS Sustainability Disclosure Standards to be used in this manner? If so, what aspects and why? What would you suggest instead and why?

Lack of Consolidation

When we wrote to the IFRS Foundation supporting the establishment of the International Sustainability Standards Board, the AICD did so on the basis that we were looking for consolidation of existing reporting standards. The prospect of consolidating sustainability standards so as to remove the 'alphabet-soup' of Standards remains a key reason cited by Australian directors in support of the ISSB project.

We do not believe the Exposure Draft fully achieves that consolidation. Paragraphs 51 and 54 have the opposite effect as they mandate disclosure under all existing standards requiring entities to actually proactively search for other standards, even when they might not be seen as particularly relevant to their stakeholders. The main effect within Australia would be the rollout of SASB standards, a framework not widely applied in this jurisdiction. A recent survey of 250 entities listed on the ASX that reported against a

framework or standard, found that a majority used TCFD (63 percent) or GRI Standards (55 percent). Reporting against the <IR> Framework (5 percent) and SASB Standards (26 percent) was less prevalent.⁶

This further supports the proposed amendments to paragraphs 51 and 54 of the Exposure Draft that we have suggested in response to question 7(b).

Indeed, we recommend the SASB standards not be incorporated by reference into the ISSB standards, without a more specific and detailed consultation being conducted.

More broadly, we believe it would be counter-productive for individual jurisdictions to adopt their own bespoke regulatory approaches (noting recent EU [developments](#) for example). In an inter-connected global economy, it is unreasonable for entities to be expected to comply with differing regulatory regimes, which would not only create compliance challenges but also reduce the consistency and comparability of sustainability reporting.

Investor focus

We note that the Exposure Draft is investor-focused with a financial materiality test based on enterprise value. This aligns the Exposure Draft with the SASB standards on which it is based. This means that the ISSB Standards differ from, for example, the GRI Standards and the CDP which cater to a broader range of stakeholders (including investors) seeking to understand an organisation's significant impacts on the economy, environment, or people.

By retaining its investor, financial-materiality and enterprise-value focus the Exposure Draft and any resultant standards are less likely to meet the needs of those broader range of stakeholders. This reduces the likelihood of consolidation of the ISSB Standards with other standards such as the GRI (although we welcome those two bodies' stated commitment to coordinate work programs and standard-setting activities). This investor and enterprise value focus may mean that preparers may be required or expected to continue to issue sustainability reports under frameworks such as the GRI to meet the needs of a broader group of stakeholders.

Notwithstanding this concern, we support the focus of the Exposure Draft. As noted, we do not support a double materiality test, a concept not generally applied in Australia. We believe that were the focus to be expanded to other stakeholders the scope of any resultant standards would be prohibitive and its complexity and the cost of implementation would likely mitigate against global adoption. The slightly narrower focus on enterprise value, investors and financial materiality will be easier for jurisdictions such as Australia to adopt, albeit still a very challenging prospect.

Question 15—Digital reporting

Do you have any comments or suggestions relating to the drafting of the Exposure Draft that would facilitate the development of a Taxonomy and digital reporting (for example, any particular disclosure requirements that could be difficult to tag digitally)?

No comment.

⁶ KPMG and ASX. Adoption of Recommendation 7.4: Reporting on Environmental and Social Exposures. Analysis of disclosures made by listed entities between 1 January 2021 and 31 December 2021 at p.44. Available at: <<https://assets.kpmg/content/dam/kpmg/au/pdf/2022/asx-corporate-governance-environmental-social-exposures.pdf>>

Question 16—Costs, benefits and likely effects

(a) Do you have any comments on the likely benefits of implementing the proposals and the likely costs of implementing them that the ISSB should consider in analysing the likely effects of these proposals?

On balance, the AICD considers the benefits will outweigh the costs.

Subject to refinements, and if implemented appropriately, the ISSB standards can help achieve a global baseline for sustainability related reporting which would allow for greater quality, consistency, and comparability. This improved disclosure will not only allow investors to make better informed investment decisions, and support more efficient global capital flows, but also support broader stakeholders to assess the sustainability performance of companies.

However, it must be acknowledged, that the proposed introduction of the ISSB standards will have a significant cost implication for many entities, including in the Australian market, which would be expected to report extensively on a range of matters that they do not currently. This will likely require a significant lift in resourcing from within entities along with the broader adviser community to allow robust, accurate, assurable disclosures to be made. In this regard, we note the particular challenges around forward-looking statement risk that will need be addressed (see Herbert Smith Freehills legal analysis below).

As noted previously, an appropriate transition phase must be built into implementation to recognise the significant undertaking involved, including uplift in skills and capability across global and domestic economies. For example, it appears that there is currently a shortage of ESG focused professionals capable of carrying out the work required by the Standards, both in terms of preparation of reports as well as assurance of them.

Costs will be more pronounced if the scope of the Standards is not appropriately demarcated, and/or implementation is rushed without working through the complex issues posed. This notwithstanding, there is a clear need for all parts of the global economy to work quickly and collaboratively to seek to achieve the targets of the Paris Agreement.

Some specific implementation issues in the Australian market are addressed in our response to the following question.

(b) Do you have any comments on the costs of ongoing application of the proposals that the ISSB should consider?

We wish to bring the ISSB's attention to certain regulatory and legislative arrangements that may affect the adoption of the ISSB Standards within Australia. While we do not suggest that these are matters that the ISSB necessarily need reflect within the Standards, we believe the ISSB should be cognisant of the arrangements and pressures that will affect local implementation, and which point towards a phased-in approach. We will engage on these matters in more detail within our jurisdiction.

The following is based on commissioned advice from global law firm, Herbert Smith Freehills, regarding domestic implementation of the proposed Standards.

Forward looking statement risk

Under s.769C of the *Australian Corporations Act*, where a person makes a representation with respect to any future matter (including the doing of, or refusing to do, any act), the representation will automatically be taken to be misleading if the person does not have reasonable grounds for making the

representation. The subjective belief of the person at the time that the representation was made is immaterial, even if it was honestly held. Similar provisions are included in s.12BB of the *ASIC Act 2001* and s.4 of the *Australian Consumer Law (ACL)* and, in the case of the ACL in particular, the person making the representation is also deemed **not** to have reasonable grounds unless they adduce evidence to the contrary.

Accordingly, forward-looking statements place an evidential burden on the person who makes the representation, to adduce evidence that there were reasonable grounds for making it. Any representation in a periodic report that is not supported by reasonable grounds will automatically be deemed to be misleading, with associated penalties.

Many aspects of the proposed ISSB Standards require estimation or prediction of the impacts of risks and opportunities for the reporting entity, notwithstanding that those impacts are inherently unknowable, and the relevant disclosure would be speculative – and for that reason, likely to be questioned as not being based on reasonable grounds (and therefore misleading). For example, it is likely to be challenging (and potentially impossible) for a reporting entity to establish reasonable grounds with respect to its the required disclosure of the 'anticipated effects [of sustainability-related risks] over the short, medium and long term' as is required by paragraph 15(d) of the Exposure Draft.

Further, the Exposure Draft explicitly requires disclosure when there are not reasonable grounds for making it. For example, paragraph 79 of the Exposure Draft requires disclosure even when metrics can only be estimated and are subject to uncertainty. In practice, this would require a company to acknowledge that the forward-looking statement does not have a reasonable basis.

Herbert Smith Freehills has advised Australia's current periodic reporting requirements are principally backward-looking in nature, which affords reporting entities a considerable degree of certainty over their disclosure and carries comparatively lower levels of disclosure risk. Indeed, Australian securities laws and ASIC policy guidance (such as ASIC [Regulatory Guide 170](#)) discourage statements involving speculation and supposition, as opposed to information that can be positively demonstrated to have a reasonable basis and that is based on reasonable assumptions, rather than hypothetical projections.

Higher liability risks in Australia than other jurisdictions

Compared to their counterparts in certain other jurisdictions, reporting entities and officers in Australia are particularly exposed to this risk, because in Australia, there is no 'safe harbour' exemption which allows for the exclusion of liability by identifying a statement as a forward-looking statement and including a proximate cautionary statement.⁷

There is heightened regulator risk for directors because, in Australia, the securities regulator ASIC often pursues directors for alleged breaches of their directors' duties including fiduciary obligations such as the duty of care and diligence. This contrasts to similar jurisdictions such as the UK and US, where enforcement of such duties is largely left to private litigants.

Finally, Australia has a uniquely facilitative class actions regime. This means that boards of Australian companies listed on the ASX are faced with higher reputational and liability risks from disclosure-based shareholder class actions than boards in many of the world's other major capital markets, including the UK and US.

⁷ For example there is no equivalent to the protection in the US available in 15 USC § 77z-2(i)(1).

In summary, Australian directors and entities are likely to be exposed to higher liability risk than other jurisdictions were the Standards to be adopted in their current form and under existing domestic laws and arrangements.

Need for tailored regulatory settings to support implementation

As already noted, we believe that these matters are capable of resolution at a domestic level via transitional arrangements and targeted legislative amendments.

For example, the forward-looking statements required by the standards could be subject to a specific safe harbour from liability to encourage good faith disclosure.

Another option would be to ensure that any Australian standard implementing the ISSB standard, makes clear the uncertainties inherent in such disclosures while providing some guidance on the types of disclosures that would be expected and the caveats around them.

Response to Questions for Respondents

Exposure Draft IFRS S2 Climate-related Disclosures

General Comments

As set out in our response to IFRS S1, we have concerns about the requirement for the disclosure of 'significant' climate-related risks and opportunities due to the lack of clarity around the meaning of 'significant' and its interaction with the materiality test within the Exposure Draft(s).

As we also set out in that response, we believe that where entities are making disclosures around strategy, risks or opportunities that entity should be able to omit disclosure where disclosure is likely to result in 'unreasonable prejudice'.

These same concerns arise regarding terminology used throughout Exposure Draft IFRS S2 Climate-related Disclosures (**Exposure Draft**) – for example, use of the phrase significant climate-related risks and opportunities occurs frequently. Rather than specifying those concerns for each question we make the same general comment in relation to all occurrences within the Exposure Draft noting we proposed solutions in our response to the S1 Exposure Draft.

Question 1—Objective of the Exposure Draft

(a) Do you agree with the objective that has been established for the Exposure Draft? Why or why not?

Yes, we agree with the TCFD alignment and the alignment with the S1 Exposure Draft.

(b) Does the objective focus on the information that would enable users of general purpose financial reporting to assess the effects of climate-related risks and opportunities on enterprise value?

Yes, we believe it appropriately focuses on that information.

(c) Do the disclosure requirements set out in the Exposure Draft meet the objectives described in paragraph 1? Why or why not? If not, what do you propose instead and why?

Yes, we consider it meets those objectives.

Question 2—Governance

Do you agree with the proposed disclosure requirements for governance processes, controls and procedures used to monitor and manage climate-related risks and opportunities? Why or why not?

Yes, we support the alignment with TCFD.

Question 3—Identification of climate-related risks and opportunities

(a) Are the proposed requirements to identify and to disclose a description of significant climate-related risks and opportunities sufficiently clear? Why or why not?

Yes, we support a broad principles-based approach to disclosure as set out in the Exposure Draft.

(b) Do you agree with the proposed requirement to consider the applicability of disclosure topics (defined in the industry requirements) in the identification and description of climate-related risks and opportunities? Why or why not? Do you believe that this will lead to improved relevance and comparability of disclosures? Why or why not? Are there any additional requirements that may improve the relevance and comparability of such disclosures? If so, what would you suggest and why?

It is difficult for the AICD to comment on the disclosure topics defined in the industry disclosure requirements (Appendix B). Australia is not a jurisdiction where SASB Standards are commonly applied and there is limited understanding of them. A recent review of 250 entities listed on the ASX that reported against a framework or standard, found that a majority used TCFD (63 percent) or GRI Standards (55 percent). Reporting against the <IR> Framework (5 percent) and SASB Standards (26 percent) was less prevalent.¹

Appendix B is voluminous with extensive and detailed disclosure requirements and there has not been the opportunity for Australian preparers to properly understand the implications of these disclosure requirements. The large number of metrics set out in the Appendix does raise concerns about how cost effective the process will be, especially as there are more metrics to come in future Standards.

It will be important for the ISSB to set out how reviews of the matters contained within Appendix B will occur in the future, as they form “an integral part” of the Standard.

Given the complexity of the SASB standards, we suggest that a dedicated consultation take place on this proposed aspect of the ISSB framework.

Question 4—Concentrations of climate-related risks and opportunities in an entity's value chain

(a) Do you agree with the proposed disclosure requirements about the effects of significant climate-related risks and opportunities on an entity's business model and value chain? Why or why not?

Yes, they align with the TCFD framework.

(b) Do you agree that the disclosure required about an entity's concentration of climate-related risks and opportunities should be qualitative rather than quantitative? Why or why not? If not, what do you recommend and why?

Yes, it is appropriate that entities provide qualitative, narrative reporting on climate-related risks and opportunities. For the reasons detailed elsewhere, in many areas, there are significant challenges around quantitative disclosure.

¹ KPMG and ASX. Adoption of Recommendation 7.4: Reporting on Environmental and Social Exposures. Analysis of disclosures made by listed entities between 1 January 2021 and 31 December 2021 at p.44. Available at: <<https://assets.kpmg/content/dam/kpmg/au/pdf/2022/asx-corporate-governance-environmental-social-exposures.pdf>>

Question 5—Transition plans and carbon offsets

(a) Do you agree with the proposed disclosure requirements for transition plans? Why or why not?

Yes, we believe it is reasonable for entities to disclose their transition plans, noting, as already stated, that an entity should be able to not disclose where disclosure is likely to result in 'unreasonable prejudice'.

(b) Are there any additional disclosures related to transition plans that are necessary (or some proposed that are not)? If so, please describe those disclosures and explain why they would (or would not) be necessary.

No.

(c) Do you think the proposed carbon offset disclosures will enable users of general purpose financial reporting to understand an entity's approach to reducing emissions, the role played by carbon offsets and the credibility of those carbon offsets? Why or why not? If not, what do you recommend and why?

No comment.

(d) Do you think the proposed carbon offset requirements appropriately balance costs for preparers with disclosure of information that will enable users of general purpose financial reporting to understand an entity's approach to reducing emissions, the role played by carbon offsets and the soundness or credibility of those carbon offsets? Why or why not? If not, what do you propose instead and why?

Yes.

Question 6—Current and anticipated effects

(a) Do you agree with the proposal that entities shall disclose quantitative information on the current and anticipated effects of climate-related risks and opportunities unless they are unable to do so, in which case qualitative information shall be provided (see paragraph 14)? Why or why not?

Yes. We have particular concerns around the need to make forward-looking statements in this respect, noting that Australian directors and corporations are exposed to particular liability risks. Please see our response to Question 12 for more detail.

(b) Do you agree with the proposed disclosure requirements for the financial effects of climate-related risks and opportunities on an entity's financial performance, financial position and cash flows for the reporting period? If not, what would you suggest and why?

Yes, arguably this is already required under the IASB's accounting standards. We note that in Australia, the Australian Accounting Standards Board and Auditing and Assurance Standards Board have already issued guidance on [Climate-related and other emerging risks disclosures: assessing financial statement materiality using AASB/IASB Practice Statement 2](#).

(c) Do you agree with the proposed disclosure requirements for the anticipated effects of climate-related risks and opportunities on an entity's financial position and financial performance over the short, medium and long term? If not, what would you suggest and why?

Yes, although we believe this would benefit from some more illustrative guidance about how it is proposed that this requirement would interact with the accounting standards and how disclosure of

financial impacts might occur when it does not meet, for example, recognition requirements under the accounting standards.

Question 7—Climate resilience

(a) Do you agree that the items listed in paragraph 15(a) reflect what users need to understand about the climate resilience of an entity's strategy? Why or why not? If not, what do you suggest instead and why?

Yes.

(b) The Exposure Draft proposes that if an entity is unable to perform climate-related scenario analysis, that it can use alternative methods or techniques (for example, qualitative analysis, single-point forecasts, sensitivity analysis and stress tests) instead of scenario analysis to assess the climate resilience of its strategy.

(i) Do you agree with this proposal? Why or why not?

Yes. Notwithstanding an increasing take up of TCFD reporting by larger entities, there are many entities which are yet to implement it, especially those not listed on market exchanges. Implementation of TCFD often takes several years to embed effectively and is not cost-effective for smaller entities, that could be subject to this Standard (depending on the final scope of application).

Some flexibility as proposed here is appropriate. A similar approach was taken by the Australian Prudential Regulation Authority which supervises institutions across banking, insurance and superannuation.² There should be recognition in the Standards that full adoption of the TCFD is likely to be an iterative process for entities – disclosure in year one of adoption is likely to be materially different in terms of quality and scale than disclosure in say year three.

(ii) Do you agree with the proposal that an entity that is unable to use climate-related scenario analysis to assess the climate resilience of its strategy be required to disclose the reason why? Why or why not?

Yes, climate-related scenario analysis should be the default position, effectively included on an 'if not why not' basis.

(iii) Alternatively, should all entities be required to undertake climate-related scenario analysis to assess climate resilience? If mandatory application were required, would this affect your response to Question 14(c) and if so, why?

No, see response to question (b)(i) above.

(c) Do you agree with the proposed disclosures about an entity's climate-related scenario analysis? Why or why not?

Yes, these align broadly with TCFD requirements.

(d) Do you agree with the proposed disclosure about alternative techniques (for example, qualitative analysis, single-point forecasts, sensitivity analysis and stress tests) used for the assessment of the climate resilience of an entity's strategy? Why or why not?

² Prudential Practice Guide CPG 229 Climate Change Financial Risks. Available at: <
<https://www.apra.gov.au/sites/default/files/2021-11/Final%20Prudential%20Practice%20Guide%20CPG%20229%20Climate%20Change%20Financial%20Risks.pdf>>

Yes.

(e) Do the proposed disclosure requirements appropriately balance the costs of applying the requirements with the benefits of information on an entity's strategic resilience to climate change? Why or why not? If not, what do you recommend and why?

Yes. While there will be significant costs for entities applying the disclosure requirements there is a broad expectation among stakeholders that larger and more sophisticated entities, such as financial institutions or those listed on stock exchanges, comply with the TCFD.

As noted in our response to Question 3(b), take up of the TCFD is relatively high amongst listed entities, but significantly less so in other sectors. In the AICD's ongoing consultation with directors, there is general acceptance of the need for entities to adopt the TCFD framework. The Exposure Draft sets out an appropriate Standard to allow for TCFD reporting.

Question 8—Risk management

Do you agree with the proposed disclosure requirements for the risk management processes that an entity uses to identify, assess and manage climate-related risks and opportunities? Why or why not? If not, what changes do you recommend and why?

No, we do not agree with the proposed disclosure requirements for the risk management processes that an entity uses to identify, assess and manage climate-related risks and opportunities. We do not believe the level of prescription in the Exposure Draft is necessary and that a more principles-based approach would allow entities to best communicate their risk management approach.

We note that paragraphs 4 to 6 of the Exposure Draft, which provide for disclosures around governance already includes disclosure on, *inter alia*, how the (board) and its committees consider climate-related risks and opportunities when overseeing the entity's strategy, its decisions on major transactions, and its risk management policies, including any assessment of trade-offs and analysis of sensitivity to uncertainty that may be required.

With respect to specific risk management proposals, in our opinion the Standard should align more closely to the wording in the TCFD and require disclosure of:

- the risk management processes for identifying and assessing climate-related risks;
- a description of how the entity determines the relative significance of climate-related risks in relation to other risks;
- how the entity makes decisions to mitigate, transfer, accept, or control those risks;
- how the entity prioritises climate-related risks;
- a description of whether they consider existing and emerging regulatory requirements related to climate change (e.g., limits on emissions) as well as other relevant factors considered;
- processes for assessing the potential size and scope of identified climate-related risks; and
- definitions of risk terminology used or references to existing risk classification frameworks used.

Question 9—Cross-industry metric categories and greenhouse gas emissions

(a) The cross-industry requirements are intended to provide a common set of core, climate-related disclosures applicable across sectors and industries. Do you agree with the seven proposed cross-industry metric categories including their applicability across industries and business models and their usefulness in the assessment of enterprise value? Why or why not? If not, what do you suggest and why?

We have some concerns about how entities might be expected to report the amount and percentage of assets or business activities vulnerable to transition or physical risks or aligned with climate-related opportunities as well as capital deployment. Given the difficult judgments involved, the reliability and accuracy of any figure would be questionable. These appear to be matters more suited to qualitative disclosures, as set out elsewhere within the Exposure Draft.

(b) Are there any additional cross-industry metric categories related to climate-related risks and opportunities that would be useful to facilitate cross-industry comparisons and assessments of enterprise value (or some proposed that are not)? If so, please describe those disclosures and explain why they would or would not be useful to users of general purpose financial reporting.

(c) Do you agree that entities should be required to use the GHG Protocol to define and measure Scope 1, Scope 2 and Scope 3 emissions? Why or why not? Should other methodologies be allowed? Why or why not?

(d) Do you agree with the proposals that an entity be required to provide an aggregation of all seven greenhouse gases for Scope 1, Scope 2, and Scope 3— expressed in CO₂ equivalent; or should the disclosures on Scope 1, Scope 2 and Scope 3 emissions be disaggregated by constituent greenhouse gas (for example, disclosing methane (CH₄) separately from nitrous oxide (NO₂))?

(e) Do you agree that entities should be required to separately disclose Scope 1 and Scope 2 emissions for: (i) the consolidated entity; and (ii) for any associates, joint ventures, unconsolidated subsidiaries and affiliates? Why or why not?

No comment on matters (b) through (e).

(f) Do you agree with the proposed inclusion of absolute gross Scope 3 emissions as a cross-industry metric category for disclosure by all entities, subject to materiality? If not, what would you suggest and why?

Yes, we believe it is necessary to disclose Scope 3 emissions subject to materiality. In our discussions with directors, they acknowledge that stakeholders are increasingly demanding this information from entities. However, we note that in jurisdictions such as Australia there is currently limited reporting of Scope 3 and potentially limited gathering of Scope 2 information by many entities.

In our view, there will need to be an appropriate transition period to enable the creation of systems that will allow entities to capture reliable information to support accurate Scope 3 disclosure. It should also be acknowledged that timing constraints may be difficult to navigate, particularly where disclosures are made at the same time as the annual report. For example, an entity is unlikely to have all of its Scope 3 related data available in time, given it will be reliant on external inputs that may not yet be available.

Question 10—Targets

(a) Do you agree with the proposed disclosure about climate-related targets? Why or why not?

Yes, as this aligns with the TCFD.

(b) Do you think the proposed definition of 'latest international agreement on climate change' is sufficiently clear? If not, what would you suggest and why?

Yes.

Question 11—Industry-based requirements

(a) Do you agree with the approach taken to revising the SASB Standards to improve the international applicability, including that it will enable entities to apply the requirements regardless of jurisdiction without reducing the clarity of the guidance or substantively altering its meaning? If not, what alternative approach would you suggest and why?

Yes, although we note that there are still occasions when US-based measurements are used within the Standards e.g. square feet, pounds etc. In our opinion, the standards should be converted so that they solely use the metric system to allow international application.

(b) Do you agree with the proposed amendments that are intended to improve the international applicability of a subset of industry disclosure requirements? If not, why not?

(c) Do you agree that the proposed amendments will enable an entity that has used the relevant SASB Standards in prior periods to continue to provide information consistent with the equivalent disclosures in prior periods? If not, why not?

SASB standards are not widely used within Australia – see answer to question 3 (b) above.

(d) Do you agree with the proposed industry-based disclosure requirements for financed and facilitated emissions, or would the cross-industry requirement to disclose Scope 3 emissions (which includes Category 15: Investments) facilitate adequate disclosure? Why or why not?

(e) Do you agree with the industries classified as 'carbon-related' in the proposals for commercial banks and insurance entities? Why or why not? Are there other industries you would include in this classification? If so, why?

(f) Do you agree with the proposed requirement to disclose both absolute- and intensity-based financed emissions? Why or why not?

(g) Do you agree with the proposals to require disclosure of the methodology used to calculate financed emissions? If not, what would you suggest and why?

(h) Do you agree that an entity be required to use the GHG Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard to provide the proposed disclosures on financed emissions without the ISSB prescribing a more specific methodology (such as that of the Partnership for Carbon Accounting Financials (PCAF) Global GHG Accounting & Reporting Standard for the Financial Industry)? If you don't agree, what methodology would you suggest and why?

(i) In the proposal for entities in the asset management and custody activities industry, does the disclosure of financed emissions associated with total assets under management provide useful information for the assessment of the entity's indirect transition risk exposure? Why or why not?

We understand that both Australian and global financial services entities are limited in their ability to accurately measure, and therefore disclose, financed and facilitated emissions due to a lack of data availability and methodology gaps. However, we are aware that there are global and domestic processes underway to try to achieve standardisation. This lack of an industry benchmark makes it impossible for comparable data to be produced currently. Accordingly, we would support an appropriately phased in approach.

Further questions on the specifics of the proposed disclosure requirements should be directed to financial services entities and their respective industry bodies.

Question 12—Costs, benefits and likely effects

(a) Do you have any comments on the likely benefits of implementing the proposals and the likely costs of implementing them that the ISSB should consider in analysing the likely effects of these proposals?

(b) Do you have any comments on the costs of ongoing application of the proposals that the ISSB should consider?

As already noted, the costs of introducing these arrangements in Australia will be significant. Australia currently lags jurisdictions such as the EU in the collection and reporting of non-financial information. There will need to be an appropriate transition period to allow for the establishment of systems, the testing of methodologies and the resolution of skills and workforce shortages to effectively report under the new ISSB standards.

Further, according to legal advice obtained from Herbert Smith Freehills, the operation of Australian laws and regulations, mean that Australian directors would be placed at higher liability risk than global counterparts were the Standards to be adopted under current arrangements. This is because of the requirement that forward-looking statements be made on reasonable grounds, as well as the operation of Australia's public enforcement of directors' duties and a facilitative class actions environment.

The Exposure Draft contains numerous examples where an entity would be required to make a forward-looking statement that would be very difficult to satisfy the reasonable grounds standards of Australian law. We believe that these matters are capable of being resolved at a jurisdictional level and do not require amendment of the Exposure Draft, however we consider they are important to bring to the ISSB's attention as they may hinder Australian market adoption.³

(c) Are there any disclosure requirements included in the Exposure Draft for which the benefits would not outweigh the costs associated with preparing that information? Why or why not?

Liability risks will need to be appropriately addressed in the implementation of the proposed Standard. In particular, we note that some investors have acknowledged the serious risk that legal liability considerations may undermine effective climate related reporting. In particular, the world's largest institutional investor, BlackRock, in the context of its recent submission to the SEC's climate disclosure consultation stated:

³ This issue is covered in more detail in the AICD's response to Question 16 of the S1 Exposure Draft.

Protections from liability: *the liability attached to climate-related disclosure should be commensurate with the evolving nature of that disclosure to encourage rather than discourage higher quality disclosure. We urge regulators to adopt a liability framework that provides meaningful protection from legal liability for disclosures provided in good faith while standards continue to evolve, and that gives companies the flexibility they need to develop their disclosures without imposing a chilling effect [emphasis added].*⁴

It is important to highlight that Blackrock's comments were made in an US environment with significantly less disclosure risk than the Australian market (see below).

As already noted, the challenges of introducing these arrangements in Australia will be significant. Australia currently lags jurisdictions such as the EU in the collection and reporting of non-financial information. There will need to be an appropriate transition period to allow for the establishment of systems, the testing of methodologies and the resolution of skills and workforce shortages to effectively report under the new ISSB standards.

Further, according to legal advice obtained from Herbert Smith Freehills, the operation of Australian laws and regulations, mean that Australian directors would be placed at higher liability risk than global counterparts were the Standards to be adopted under current arrangements. This is because of the requirement that forward-looking statements be made on reasonable grounds, as well as the operation of Australia's public enforcement of directors' duties and a facilitative class actions environment.

The Exposure Draft contains numerous examples where an entity would be required to make a forward-looking statement that would be very difficult to satisfy the reasonable grounds standards of Australian law. We believe that these matters are capable of being resolved at a jurisdictional level and do not require amendment of the Exposure Draft, however we consider they are important to bring to the ISSB's attention as they may hinder Australian market adoption.⁵

Question 13—Verifiability and enforceability

Are there any disclosure requirements proposed in the Exposure Draft that would present particular challenges to verify or to enforce (or that cannot be verified or enforced) by auditors and regulators? If you have identified any disclosure requirements that present challenges, please provide your reasoning.

There are no particular challenges around verification in the body of the Standard although we note that there will be assurance challenges around the provision of information from third-parties that, for example, may be used to calculate an entities Scope 3 emissions.

We are unable to comment on the verifiability of the matters contained in Appendix B, for the reasons set out in response to Question 3(b).

Question 14—Effective date

(a) Do you think that the effective date of the Exposure Draft should be earlier, later or the same as that of [draft] IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information? Why?

As noted, the S1 Exposure Draft presents some greater complexities than S2. Accordingly, the effective date should either be the same or earlier than S1.

⁴ BlackRock submission to the SEC: Enhancement and Standardization of Climate-Related Disclosures for Investors (File Number S7-10-22), 17 June 2022, available [here](#).

⁵ This issue is covered in more detail in the AICD's response to Question 16 of the S1 Exposure Draft.

(b) When the ISSB sets the effective date, how long does this need to be after a final Standard is issued? Please explain the reason for your answer including specific information about the preparation that will be required by entities applying the proposals in the Exposure Draft.

There will need to be a transitional period but in our view this issue is best resolved at a jurisdictional level taking into account relative maturity levels. In the Australian context, a minimum two to three year phase-in period may be appropriate.

(c) Do you think that entities could apply any of the disclosure requirements included in the Exposure Draft earlier than others? (For example, could disclosure requirements related to governance be applied earlier than those related to the resilience of an entity's strategy?) If so, which requirements could be applied earlier and do you believe that some requirements in the Exposure Draft should be required to be applied earlier than others?

Some of the qualitative disclosures around governance, risk and opportunity are capable of earlier disclosure than some of the quantitative measures, especially around Scope 3 emissions, or those involving scenario planning where practice is still relatively immature.

Question 15—Digital reporting

Do you have any comments or suggestions relating to the drafting of the Exposure Draft that would facilitate the development of a Taxonomy and digital reporting (for example, any particular disclosure requirements that could be difficult to tag digitally)?

No comment.

Question 16—Global baseline

Are there any particular aspects of the proposals in the Exposure Draft that you believe would limit the ability of IFRS Sustainability Disclosure Standards to be used in this manner? If so, what aspects and why? What would you suggest instead and why?

See our answer to Question 14 of the S1 Exposure Draft.

Question 17—Other comments

Do you have any other comments on the proposals set out in the Exposure Draft?

No.