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**AIGN Submission to  
Climate-Related Financial Disclosure –  
Exposure Draft Legislation  
(January 2024)**

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AUSTRALIAN  
INDUSTRY  
GREENHOUSE  
NETWORK

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## 1 BACKGROUND

The Australian Industry Greenhouse Network Limited (AIGN) appreciates the opportunity to engage with the Treasury on the exposure draft legislation and related materials for creating a framework to support climate-related financial disclosures.

AIGN is a network of industry associations and corporations. AIGN provides a forum for discussion on key climate change issues, providing information and analysis in the consideration of national and international climate change policy and the role industry can play in the transition to net zero emissions by 2050.

## 2 INTRODUCTION

AIGN members represent a substantial portion of entities with obligations under current climate change policies and have a strong record of compliance and voluntary reporting. Many are multi-national corporations involved in the parallel development of international reporting obligations. As such, they are well placed to provide feedback on the proposed requirements for disclosure of climate-related financial risks and opportunities.

Australia's financial reporting bodies should align with international standard-setting priorities on climate and sustainability reporting. AIGN therefore supports the Government's intent for Australia's framework to be aligned with the current work of the International Sustainability Standards Board (ISSB). This is best achieved by aligning development timeframes so outcomes can be sequentially finalised.

### 2.1 International context

AIGN supports the Government's commitment to the Paris Agreement and to meeting its goals, recognising the need for increasing ambition to keep the 1.5°C warming goal within reach and to achieve net-zero by 2050 or sooner.

AIGN members are committed to playing their part in this transition, as attested by the climate statements, goals, and actions of our association and corporate members. These send a clear signal that Australia's private sector supports the implementation of the Paris Agreement.

It is proper for the Government to establish a suitable policy architecture to support all sectors to transition at the least cost, in line with Paris goals.

## 3 FEEDBACK ON CONSULTATION MATERIALS

AIGN members will direct their industry-specific feedback through their industry associations, while corporate members may choose to provide input highlighting their specific situations. Please consider AIGN's general input alongside submissions from our members.

### 3.1 Implementation timeframe

To meet its 2030 and 2050 targets, the Government is moving rapidly on many areas of climate change policy development and reform of existing policies to align with the Climate Change Act 2022. AIGN acknowledges the inevitability of this situation to an extent, given the need for strong action in the 'critical decade' and the effect of economic transformation.

AIGN and our members' resources are currently stretched across the large volume of climate policy development and implementation; the input required for these processes generally comes from a relatively small number of professionals with the necessary knowledge and expertise in each organisation.

#### 3.1.1 Postponement of implementation

AIGN welcomes the Treasury's willingness to consider widespread feedback from industry recommending a longer lead-time for Group 1 entities to begin reporting under the framework and ensure a quality and smooth transition.

AIGN members agree that, while amending the legislation to require a 1 January 2025 commencement date for Group 1 entities would be

an improvement on the current date of 1 July 2024, a full-year postponement, to 1 July 2025, would be significantly better.

This would provide sufficient opportunity for the finalisation of the necessary related standards by the Australian Accounting Standards Board (AASB), and for the Government to develop guidance on detailed implementation issues as entities upskill to enable them to meet their compliance obligations, while the resources required for independent assurance of reports develop.

## 3.2 Alignment of reporting

Australia's framework for climate-related financial disclosures should align closely with international standards to support harmonisation across jurisdictions to improve efficiency and transparency.

Harmonised and consistent reporting across multiple schemes also supports the Government's objective of providing Australians and investors with greater transparency and standardisation in this space.

There are some specific timing and implementation issues AIGN members seek clarification on, including how their obligations under this framework will align with their international reporting obligations. For example, many entities have data collection patterns aligned to a January-December financial year due to obligations in other jurisdictions, location of head offices, voluntary international reporting, etc.

Members are also seeking resolution of issues relating to the different reporting bases for NGERS and the Corporations Act (controlling corporation and equity share, respectively).

Under the Greenhouse Gas Protocol guidelines, adopted by the ISSB, joint venture emissions are reported as scope 3. Standardisation of group definitions will be critical in reducing duplication of effort where entities have obligations to report in multiple jurisdictions.

Issues around assessing materiality for reporting purposes and establishing reporting boundaries for multinational entities also need to be addressed. For example, Australian entities that are part of

multinational enterprises (whether subsidiaries or dual-listed companies) should be afforded the flexibility to satisfy Australian climate-related financial disclosure requirements by relying on TCFD- or ISSB-aligned disclosures of parent companies in other jurisdictions.

### 3.2.1 Alignment of assurance requirements

A related issue is the matter of independent assurance. As stated above, where liable entities can rely on another corporate (multinational) report (e.g., ISSB) or an NGER report (completed at the level and with the information required by the framework) they should be able to use them.

Likewise, it should be explicitly acknowledged that the independent assurance of these reports will also be accepted by the framework. Accepted assurance should establish the validity of any claims made and have legal standing to be used to disprove any greenwashing claims brought against liable entities in interlinked guidelines.

AIGN members are available for further engagement on these reporting matters.

## 3.3 Declarations by directors regarding unaudited sustainability reports

In relation to the requirement for directors to make declarations that unaudited sustainability reports are compliant with the Act, AIGN members note that full audits are not required for sustainability reports for financial years commencing before 1 July 2030. This is presumably to allow the assurance industry to develop the resources and expertise to audit these reports.

However, directors – the vast majority of whom are unlikely to have expertise in these matters – are required to declare that sustainability reports for years commencing before 1 July 2030 are compliant, without the support of any independent assurance.

Directors will have personal responsibility for the contents of mandatory reports for which no expert review (independent or otherwise) is required. These directors are likely to be exposed to material risk,

particularly as the matters required to be reported involve significant uncertainty.

AIGN proposes that further discussion with industry is required to resolve this discrepancy.

### 3.4 Limited immunity from suit

AIGN members have observed that the scope of immunity from legal liability in the draft legislation is narrower than the proposal in the preceding consultation process, which included all forward-looking statements.

The draft legislation provides limited immunity for statements in sustainability reports relating to scope 3 emissions and scenario analysis. It contains no immunity for any other forward-looking statements required by the framework.

Within this limited scope of immunity, there is no immunity from prosecution for criminal offences including strict liability offences, and no immunity from civil actions by ASIC for contraventions of Commonwealth law with fault-based elements including negligence. This may prove challenging as the audit community, related standards, and financial terminology in this space are still evolving/being developed.

In addition, the immunity period expires before the first report for medium-sized enterprises, and before the full assurance requirements commence. Given the inherent uncertainty of forward-looking statements, AIGN members have serious concerns with these limitations.

AIGN believes further engagement with industry stakeholders is necessary to address these issues.

Consideration should be given to expanding the scope of limited immunity back in line with previous proposals and extending the period in which the immunity applies to include all reports for which there is no full audit requirement (that is, for financial years commencing before 1 July 2030).

## 4 CONCLUSION

Thank you for the opportunity to provide input to Treasury on the climate-related financial disclosure exposure draft legislation and related materials.

AIGN's position on climate change and energy policy is underpinned by our principles, which have been the basis of AIGN's contributions to the climate change policy discussion for many years (available on our website: [www.aign.net.au](http://www.aign.net.au)).

AIGN welcomes future opportunities to engage with the Government.