

15 July 2022

Australian Accounting Standards Board
By email: standard@asb.gov.au

Dear Colleague

AASB ED 321 Request for Common on [Draft] IFRS S1 and [Draft] IFRS S2

The Australian Banking Association (ABA) welcomes the opportunity to provide feedback to the Australian Accounting Standards Board (AASB) on the International Sustainability Standards Board (ISSB) Exposure Draft on IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information ([Draft] IFRS S1) and Exposure Draft IFRS S2 Climate-related Disclosures ([Draft] IFRS S2).

The ABA is an association of 20 member banks in Australia. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

Global Baseline

We support a global approach to the development of sustainability disclosure standards through the ISSB as the global body to issue the standards. Further, the establishment of a global baseline is critical a coordinated approach be developed which will avoid fragmentation in reporting obligations. To this end we support the efforts of the ISSB in establishing a working group to enhance compatibility between global baseline and jurisdictional initiatives.

Climate first approach

We support the climate first approach adopted by the ISSB. We note the ISSB's intent to align [Draft] IFRS S2 with the Taskforce on Climate-related Financial Disclosures (TCFD). However, we also see an opportunity to clarify the reporting obligations within [Draft] IFRS S2; for example, the disclosure of strategic intent can be problematic in a competitive marketplace.

We see great value in the ISSB issuing a forward workplan (or consulting on a proposed forward workplan) to enable entities to prepare for future sustainability disclosure requirements.

Implementation pathway

Although some entities have a level of maturity in making sustainability disclosures, the requirement for such disclosures to be made within financial statements is a significant change. We do not believe it will be a matter of incorporating current disclosures to a new reporting location. We see several challenges.

There are significant limitations at the present time with sustainability related metrics. Limitations include data quality, availability, comparability, methodological approaches are nascent and evolving, financial modelling which reflects sustainability risks are at a very early stage. For example, in banking there is no accepted damage function to apply towards the assessment of physical climate risk in lending portfolios.

Presently, much of the work effort in producing extended external reporting is based on manual effort and non-systematised data feeds. We estimate that significant information systems resources will be required to develop the systems to support sustainability reporting to the same extent that financial and account systems support financial reporting.



Banks are highly dependent on customers reporting of customer Scope 1, Scope 2 and Scope 3 emissions for banks to report accurately on their Scope 3 emissions. Such reporting by bank customers and suppliers is nascent.

The banking sector in Australia is experiencing limitations in human resource availability. This, combined with the need to upskill bankers to incorporate climate risk into their daily processes, places a significant burden on all banks but especially the smaller banks.

Therefore, we strongly recommend phased or transitional approach will be required. The transitional approach will need to accommodate for delayed banks Scope 3 emissions reporting as well as transitional arrangements for smaller banks.

We do not consider that [Draft] IFRS S2 to have suitable criteria for assurance to a reasonable level. We strongly suggest an extended phasing for assurance requirements.

Forward-looking statements

The nature of the forward-looking statements envisaged by [Draft] IFRS S1 and [Draft] IFRS S2 may give rise to liability for misleading and deceptive disclosures under Australian corporations' law. We strongly suggest the ISSB standard acknowledge the complexity and limitations of current and forward-looking metrics in its preamble to the standards. Additionally, we encourage the ISSB to encourage safe harbor provisions, as per the US Securities and Exchange Commission (SEC).

Separate standards for sustainability-related reporting requirements

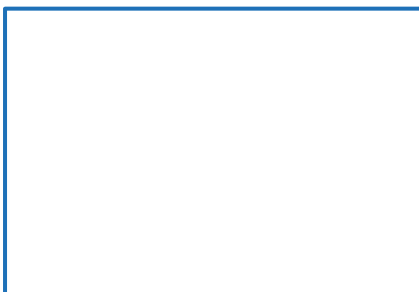
Sustainability-related financial reporting requirements are emergent and yet to be tested and will entail significant challenges to develop. Additionally, sustainability reporting standards require specialist knowledge (e.g., climate science, natural capital, modern slavery, human rights). On this basis we recommend the development of the requirements as a separate suite of standards.

Detailed responses to questions

Our detailed responses to select questions raised in AASB ED 321 are contained in the annexure to this letter. We have also attached the ABA submission to the ISSB consultation on [Draft] IFRS S1 and [Draft] IFRS S2 as our responses to the questions raised in ED 321 cross-reference to that submission.

Thank you for your considered consultation process on this key development. We look forward to engaging further with the AASB on the introduction of sustainability-related reporting standards.

Kind regards,



Appendix

Part A: Matters for comment relating to specific proposals in Exposure Draft on [Draft] IFRS S1

A1. Exposure Draft on [Draft] IFRS S1 is proposing that entities be required to disclose information that is material and gives insight into an entity's sustainability-related risks and opportunities that affect enterprise value¹. Is focusing on an entity's enterprise value the most appropriate approach when considering sustainability-related financial reporting? If not, what approach do you suggest and why?

We refer to the ABA ISSB submission Appendix 1 response to question 2(a).

Part B: Matters for comment relating to specific proposals in Exposure Draft on [Draft] IFRS S2

B1. To comply with the proposals in Exposure Draft on [Draft] IFRS S2 an entity would be required to disclose its Scope 3 greenhouse gas (GHG) emissions in addition to its Scope 1 and 2 GHG emissions². Do you agree that Australian entities should be required to disclose their Scope 3 GHG emissions in addition to their Scope 1 and Scope 2 GHG emissions? If not, what changes do you suggest and why?

We refer to the ABA ISSB submission:

- Appendix 1 Q16(a);
- Appendix 2 Q9(a)(d)(f); Q11(d)

B2. To comply with the proposals related to GHG emissions disclosures in Exposure Draft on [Draft] IFRS S2 an entity would be required to apply the Greenhouse Gas Corporate (GHGC) Standard. Do you agree that Australian entities should be required to apply the GHGC Standard given existing GHG emissions legislation and guidance in place for Australian entities (for example, the NGER Act, NGER (Measurement) Determination 2008 and related guidance)?

We support the requirement to base GHG emissions disclosures on the GHGC. We encourage Australian legislation to align with evolving global best practice.

B3. Are the proposed industry-based disclosure requirements in Appendix B to Exposure Draft on [Draft] IFRS S2 relevant for Australian industries and sectors? If not, what changes do you suggest and why?

We refer to the ABA ISSB submission in the following sections:

- Appendix 2 [Draft] IFRS S2 Q11
- Appendix 3 [Draft] ED Volume B19 Mortgage Finance
- Appendix 4 [Draft] ED Volume B16 Commercial Banks.

B4. Are there any Australian-specific climate-related matters that the AASB should consider incorporating into the requirements proposed in Exposure Draft on [Draft] IFRS S2? For example, given the Exposure Draft on [Draft] IFRS S2 is the starting point for the AASB's work on climate-

¹ Appendix A to Exposure Draft on [Draft] IFRS S1 defines enterprise value as "the total value of an entity. It is the sum of the value of the entity's equity (market capitalisation) and the value of the entity's net debt".

² Note that at the date of this publication the NGER Act and NGER (Measurement) Determination refer only to the disclosure of Scope 1 and 2 greenhouse gas (GHG) emissions.

related financial disclosure, should there be additional reporting requirements for Australian entities? If so, what additional reporting requirements should be required and why?

We refer to the cover letter to the ISSB submission and highlight the following:

- [Draft] IFRS S1 and [Draft] IFRS S2 to include support for a phasing-in period for preparers.
 - Scope 3 emissions to be explicitly called out for later phasing-in.
 - Smaller entities to be given additional time for compliance.
- Safe harbour provisions for preparers given the implications for potential civil and regulatory action for misleading and deceptive disclosures under Australian corporations' legislation for forward looking statements.
- We do not consider that [Draft] IFRS S2 to have suitable criteria for assurance to a reasonable level. We strongly suggest an extended phasing for assurance requirements.

Part C: Matters for comment relating to both Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2

C1. Which Australian entities should be expected to apply the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 and why? Specifically: (a) should the proposals be intended for all for-profit entities in Australia or only to a subset of for-profit entities? And (b) should relief from specific aspects of the proposals be permitted for some entities for which the proposals are deemed burdensome (for example, Scope 3 GHG emissions and scientific and scenario analyses)? If so, which entities and why?

For part (a) Refer to ABA ISSB Submission Appendix 1 Q14(b)

For part (b) Refer to ABA ISSB Submission Appendix 2 Q9(a)

C2. Are there any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2?

We see several issues for the Australian regulatory context:

First forward-looking statements as envisaged by S1 and S2 give may give rise to liability for misleading and deceptive disclosures. The following analysis expands upon the issue and is provided by the Corporations Committee of the Business Law Section of the Law Council of Australia:

In the specific Australian context, there is a material risk that the forward-looking statements required to comply with ISSB ED S1 and S2 will give rise to liability for misleading and deceptive conduct under Australian law (for example, s1041H of the Corporations Act and s18 of the Australian Consumer Law). If a person makes a representation as to a future matter and the person does not have reasonable grounds for making the representation, the representation is taken to be misleading (Corporations Act s769C and Australian Consumer Law s4). In the case of the Australian Consumer Law, the maker of the representation is deemed not to have reasonable grounds unless they adduce evidence to the contrary.

The risk arises because of the drafting of various provisions of S1 and S2. For example, S1, paragraph 79 requires disclosure even when metrics can only be estimated, stating that "even a high level of measurement uncertainty would not necessarily prevent such an estimate from providing useful information. An entity shall identify metrics it has disclosed that have significant estimation uncertainty, disclosing the sources and nature of the estimation uncertainties and the factors affecting the uncertainties." In practice, this would require a company to acknowledge that the forward-looking statement does not have a reasonable basis. The same issue arises under paragraph 82, which requires that "When considering possible outcomes, an entity shall consider all relevant facts and circumstances, and



consider including information about low probability and high-impact outcomes”.

S2 also contains problematic requirements. Paragraph 14 says that “an entity shall disclose information that enables users of general purpose financial reporting to understand the effects of significant climate-related risks on its financial position ... and the anticipated effects over the short, medium and long term”. These effects are inherently unknowable. Paragraph 14 goes on to require the entity to disclose “how it expects its financial position to change over time, given its strategy to address significant climate-related risks and opportunities, reflecting its current and committed investment plans and their anticipated effects on its financial position (for example, capital expenditure, major acquisitions and divestments, joint ventures, business transformation, innovation, new business areas and asset retirements)”; and “how it expects its financial performance to change over time, given its strategy to address significant climate-related risks and opportunities (for example, increased revenue from or costs of products and services aligned with a lower-carbon economy”).

No other current law or accounting standard requires a company to make these types of speculative forward looking statements about financial impacts that are supposed to inform investors but are inherently uncertain. Indeed, Australian securities laws and ASIC policy guidance (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.

The legal requirement for a reasonable basis for these statements, coupled with the low threshold for shareholder and other stakeholder class actions in Australia, would create a material risk of breach and exposure to damages. If compliance with these standards becomes mandatory in Australia, these types of forward-looking statements should be excluded from current legal requirements that statements in published reports as to future matters have a reasonable basis – in effect they should be covered by an explicit “safe harbour” to encourage appropriate good faith disclosure without fear of litigation.

The ABA accepts the need and urgency for standards climate-related financial disclosures and recognise that ‘we must start somewhere’. However, we hold serious concerns for the potential for a sizable increase on civil litigation that such disclosures may encourage. It has been noted that there are over 2200 climate change litigation cases globally and represents an exponential shift on litigation compared to ten years ago³. Forward statements that are based on measures with low probability of occurrence or for which there is low confidence will fuel civil litigation. Further, we note that Australia has been highlighted as a particular focal point for litigation presently.

The ABA recommends legislated ‘safe harbour’ arrangements that would prevent litigation against well intentioned and considered disclosures by preparers.

Second, we are concerned for the assure-ability of such statements and do not accept that at present, climate related financial disclosures can be adequately assured. We also do not accept the role of auditors in verifying the robustness, validity or appropriateness of bank models which are used for portfolio analysis and through which the result of the analysis would feed into the disclosures.

The ABA recommends consideration for an alternative category of assurance for sustainability, and more pressingly climate, related financial disclosures as an interim approach whilst the reporting of such matters matures.

³ <https://www.kwm.com/au/en/insights/latest-thinking/greenwashing-on-united-nations-radar.html>



Third, we see the potential for secondary impacts on legislation. One example is the Bank Executive Accountability Regime (BEAR) or its successor. We would envisage further guidance may be required in respect to the approach to be adopted for the responsible person for the disclosure of sustainability-related financial disclosures.

C3. Do the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 align with existing or anticipated requirements, guidance or practice in Australia? If not: (a) please explain the key differences that may arise from applying the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 and the impact of any such differences; and (b) do you suggest any changes to the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2?

Aligned with expectations of CPG229 for banks.

C4. Would the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 result in useful information for primary users of general purpose financial reports?

Refer to ABA ISSB submission Appendix 1 [Draft] IFRS Q2(a) and Appendix 2 [Draft] IFRS S2 Q11d
Notably our response to the latter states:

There is significant concern with the mandating of the metrics in their current form for several reasons:

- Data access, quality, availability will continue to be a challenge for the foreseeable future.
- Metrics have not been broadly used it will take some time to implement these measures.
- We do not believe that a case has been made for the utility of all the metrics proposed. We have experience that although some preparers do issue required metrics under existing standards, users may not be considering the data in their decision making. We consider this an unproductive use of preparers' limited resources.

We suggest:

- A careful consideration of each metric be undertaken with a focus on the utility of all the metrics listed in the industry-based requirements
- Phased in approach be applied to the implementation of industry specific metrics through sequential pilots that are incorporated into the ISSBs forward plan.

C5. Do the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 create any auditing or assurance challenges?

The ABA does not believe it will be possible for sustainability disclosures to be audited to a 'reasonable level of assurance and we recommend a phasing in of audit requirements.

For further detail, refer to ABA ISSB submission:

- Appendix 1 [Draft] IFRS S1 Q1(d), Q6(b), Q9
- Appendix 2 [Draft] IFRS S1 Q2 and Q12(a) Q13

C6. When should the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 be made effective in Australia and why?

We suggest that new standards will require a two-year process to implement in their minimum viable product format (and not to be provided to any level of assurance) and from there to build out the maturity of the systems. The rollout could be aligned to that adopted by the TCFD which commenced with the largest entities first.

Refer to ABA ISSB submission:

- Appendix 1 [Draft] IFRS S1 Q13
- Appendix 2 [Draft] IFRS S2 Q14(b)



C7. Should the effective date of the proposals in Exposure Draft on [Draft] IFRS S1 be consistent with, or set for a date after, the effective date of the proposals in Exposure Draft on [Draft] IFRS S2? If so, why?

Refer to ABA ISSB submission ABA ISSB submission Appendix 2 [Draft] IFRS S2 Q14(a)

C8. Would any wording or terminology introduced in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 be difficult to understand? If yes, what changes do you suggest and why?

Refer to ABA ISSB submission Appendix 1 [Draft] IFRS S1 Q1(a)

C9. Unless already provided in response to specific matters for comment A1 to C8 above, the costs and benefits of the proposals relative to the current requirements, whether quantitative (financial or non-financial) or qualitative. In relation to quantitative financial costs, the AASB is particularly seeking to know the nature(s) and estimated amount(s) of any expected incremental costs, or cost savings, of the Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2?

Refer to ABA ISSB submission:

- Appendix 1 [Draft] IFRS S1 Q16(a)
- Appendix 2 [Draft] IFRS S2 Q12a

Part D: Matters for comment relating to the AASB's proposed approach

D1. Do you agree with the AASB's proposed approach to developing sustainability-related financial reporting requirements as a separate suite of standards? As an alternative model, the AASB would value comments as to whether sustainability-related financial reporting requirements should be developed as part of existing Australian Accounting Standards. The alternative model would result in sustainability-related financial disclosures forming part of an entity's general purpose financial statements.

Sustainability-related financial reporting requirements are emergent and yet to be tested and will entail significant challenges to develop. Additionally, sustainability reporting standards require specialist knowledge (e.g., climate science, natural capital, modern slavery, human rights). On this basis we recommend the development of the requirements as a separate suite of standards.

D2 Are the proposals in Exposure Drafts on [Draft] IFRS S1 and [Draft] IFRS S2 in the best interests of the Australian economy?

It is in the best interests of the Australian economy to align to the disclosure expectations of the global capital markets.