

2022

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TREASURY LAWS AMENDMENT (MEASURES FOR CONSULTATION) BILL
2022: SUSTAINABILITY STANDARDS

EXPOSURE DRAFT EXPLANATORY MATERIALS

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Glossary

This Explanatory Memorandum uses the following abbreviations and acronyms.

<i>Abbreviation</i>	<i>Definition</i>
AASB	The Australian Accounting Standards Board
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
AUASB	The Auditing and Assurance Standards Board
FRC	The Financial Reporting Council
ISSB	The International Sustainability Standards Board
IFRS Foundation	The International Financial Reporting Standards Foundation

Chapter 1: Function to develop sustainability standards

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Outline of chapter

- 1.1 Schedule XX to the Bill provides the AASB with functions to develop and formulate sustainability standards. It clarifies the AUASB’s function to develop and maintain relevant assurance standards for sustainability purposes. It also empowers the FRC to provide strategic oversight and governance functions in relation to the AASB’s and AUASB’s sustainability standards functions.

Context of amendments

- 1.2 Growing awareness of the financial risks and opportunities of climate change and broader sustainability issues has prompted a range of international financial system responses. Many key markets for Australian companies are

introducing measures to improve transparency, manage systemic risks and align capital flows towards climate and sustainability goals.

- 1.3 To help meet the market demand for consistent international climate disclosure, the IFRS Foundation has set up the ISSB to develop a comprehensive and consistent global baseline for sustainability reporting, including climate-related disclosures. The ISSB concluded consultation on two draft standards in July 2022:
- *IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information*; and
 - *IFRS S2 Climate-related Disclosures*.
- 1.4 The AASB consulted on the ISSB exposure drafts to gather feedback to provide input into the ongoing work of the ISSB and inform the AASB as to its proposed approach to sustainability reporting in Australia. The feedback expressed a strong demand from Australian businesses, investors, financial institutions, and users and preparers of financial information, for Australian sustainability standards to align with the ISSB baseline.
- 1.5 The ASIC Act currently does not explicitly grant the AASB the function to develop and formulate sustainability standards which is necessary to support the Government's commitment to ensure entities provide Australians and investors with greater transparency and accountability in relation to their climate-related plans, financial risks, and opportunities. The proposed sustainability standards would provide general guidance, assisting relevant industry to prepare systems and processes for eventual transition to mandatory climate-related financial disclosures.

Summary of new law

- 1.6 The amendments confirm the AASB, AUASB and FRC as the entities responsible for:
- developing sustainability standards;
 - developing auditing and assurance standards for sustainability purposes; and,
 - providing strategic oversight, respectively.
- 1.7 This measure leverages the existing bodies' experience to facilitate the development of sustainability standards while longer-term governance arrangements for sustainability-related financial reporting, including climate disclosure, are developed and implemented.

Comparison of key features of new law and current law

Table 1.1 Comparison of new law and current law

New law	Current law
The AASB may make sustainability standards.	The AASB does not have a specific function to make sustainability standards.
The AUASB may make auditing and assurance standards for sustainability purposes.	The AUASB does not have a specific and express function in relation to sustainability.
The FRC has oversight of the process of developing sustainability standards, in addition to accounting standards and auditing standards.	The FRC does not have a specific function in relation to oversight of sustainability standards.

Detailed explanation of new law

- 1.8 The Australian financial reporting system will be extended to include the development and assurance of sustainability standards.
- 1.9 This allows the AASB to establish, in the first instance, non-binding reporting requirements for sustainability that will, as far as is practicable, align with significant international developments, specifically the standards under development by the ISSB. The FRC will have oversight of sustainability standard-setting processes and governance of the standard-setting bodies.

Objects of the financial reporting system

- 1.10 The amendments extend the main objects of Part 12 of the ASIC Act to facilitate the:
 - development of sustainability standards that require the provision of financial information that:
 - allows users to make and evaluate decisions about allocating scarce resources; and
 - assists directors to discharge their obligations in relation to financial reporting; and
 - is relevant to assessing performance, financial position, financing and investment; and

- is relevant and reliable; and
- facilitates comparability; and
- is readily understandable; and,
- Australian economy by having sustainability standards that are clearly stated and easy to understand.

[Schedule xx, item 2 and 3, paragraph 224(a) and subparagraph 224(b)(iii) of the ASIC Act]

- 1.11 Sustainability standards can relate to climate. For example, the ISSB is developing a standard for climate-related disclosures as well as general requirements for disclosure of sustainability-related financial information.
[Schedule xx, item 4, section 224 (Note) of the ASIC Act]

The role of the AASB

- 1.12 The AASB will have additional functions in relation to sustainability standards.
- 1.13 The AASB can develop conceptual frameworks for the purpose of evaluating proposed sustainability standards and international sustainability standards. These conceptual frameworks do not have the force of standards.
[Schedule xx, item 15, paragraph 227(1)(a) of the ASIC Act]
- 1.14 The AASB can formulate sustainability standards.
[Schedule xx, item 16, paragraph 227(1)(ca) of the ASIC Act]
- 1.15 The standards made do not have legal effect but may be applied or adopted by some other authority. This means that the standards developed and issued by the AASB are not enforceable until further legislative changes are made to apply the standards.
[Schedule xx, item 18, section 227 (Note 3) of the ASIC Act]
- 1.16 The legislative note clarifies that the framework within which the AASB is to make accounting standards and sustainability standards is set out in section 224 and Division 2 of Part 12 of the ASIC Act.
[Schedule xx, item 18, section 227 (Note 4) of the ASIC Act]
- 1.17 The AASB can participate in and contribute to the development of a single set of sustainability standards for world-wide use.
[Schedule xx, item 17, paragraph 227(1)(d) of the ASIC Act]
- 1.18 The AASB may formulate a sustainability standard by issuing the text of an international sustainability standard. International sustainability standards are made by the ISSB, or another body specified by the regulations. Standards made in Australia can therefore align with the climate-related disclosure and sustainability standards developed by the ISSB.
[Schedule xx, item 1 and 19, subsections 5(1) and 227(4) of the ASIC Act]

- 1.19 However, text of an international sustainability standard may be modified if necessary to consider the Australian legal or institutional environment and to ensure that any disclosure and transparency provisions in the international standard are appropriate to that environment.
[Schedule xx, item 19, subsections 227(5) of the ASIC Act]
- 1.20 The AASB may distribute a draft international sustainability standard for consultation, whether or not modified.
[Schedule xx, item 19, subsection 227(6) of the ASIC Act]

The framework for making sustainability standards

- 1.21 Division 2 of Part 12 of the ASIC Act has been extended to set out the framework within which AASB is to make sustainability standards. The same framework applies to accounting standards.
[Schedule xx, item 22, section 227C of the ASIC Act]
- 1.22 In formulating sustainability standards, the AASB must have regard to the suitability of a proposed standard for different types of entities. The AASB may apply different sustainability requirements to different types of entities.
[Schedule xx, item 25, subsection 229(3) of the ASIC Act]
- 1.23 A failure to comply with the framework for making or formulating standards does not affect the validity of the standard. This applies to both sustainability standards and accounting standards.
[Schedule xx, item 28, section 234 of the ASIC Act]
- 1.24 Provisions relating to the framework for making accounting standards and sustainability standards have been amended and restructured to improve readability.
[Schedule xx, item 21, 23, 24, 26 and 27, Division 2 of Part 12 (heading), subsections 228(1) and (2), subsection 229(1), subsection 231(1) and subsection 231(2) of the ASIC Act]

Administration of the AASB

- 1.25 The procedures of the AASB are amended to account for sustainability standards. A meeting of the AASB (or part of a meeting) that concerns the contents of a sustainability standard or an international sustainability standard must be held in public.
[Schedule xx, item 29, subsection 236A(2) of the ASIC Act]
- 1.26 The qualification requirements for the appointment of members of the AASB has also been amended to account for sustainability standards. A person must not be appointed unless they have knowledge of, or experience in, business, accounting, law, government, science, sustainability or climate change.
[Schedule xx, item 30, subsection 236B(3)]

The role of the AUASB

- 1.27 The AUASB functions are expanded to include formulating auditing and assurance standards for sustainability purposes.

[Schedule xx, item 20, paragraph 227B(1)(b) of the ASIC Act]

Administration of the AUASB

- 1.28 The qualification requirements for the appointment of members of the AUASB has similarly been amended to account for sustainability standards. A person must not be appointed unless they have knowledge of, or experience in, business, accounting, law, government, science, sustainability or climate change.

[Schedule xx, item 31, subsection 236F(4) of the ASIC Act]

The role of the FRC

- 1.29 The law expands FRC's oversight and governance powers to account for the development of sustainability standards.

- 1.30 The FRC has broad oversight of the processes for developing sustainability standards in Australia. These standards replicate FRC's existing standards functions in relation to accounting standards and auditing standards.

[Schedule xx, item 5 and 8, paragraph 225(1)(a) and subsection 225(1A) of the ASIC Act]

- 1.31 Provisions relating to the role of the FRC have been amended and restructured for readability.

[Schedule xx, item 6, 7, 9 to 14, paragraph 225(1)(a), (d and (e), subsection 225(2)(c), (e) to (h), subsection 225(2A) (heading), paragraph 225(2A)(c), (e) to (h) of the ASIC Act]

Confidentiality

- 1.32 The FRC, the AASB, the Office of the AASB, the AUASB and the Office of the AUASB must take all reasonable measures to protect from unauthorised use or disclosure information given to it in confidence. Disclosure of information to bodies that set international sustainability standards is taken to be authorised.

[Schedule xx, item 32, paragraph 237(2)(c) of the ASIC Act]

Commencement provisions

1.33 Schedule XX will commence the day after Royal Assent.