



Law Council  
OF AUSTRALIA

Office of the President

26 February 2025

Director  
Financial Reporting System Reform Unit  
Market Conduct Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

By email: [FRSReform@treasury.gov.au](mailto:FRSReform@treasury.gov.au)

Dear Treasury

### **Public Consultation—Positioning Australia’s financial reporting system for the future**

The Law Council appreciates the opportunity to comment on the Treasury’s January 2025 Discussion Paper *Positioning Australia’s financial reporting system for the future: Designing a single, flexible standard setting body*.<sup>1</sup>

As set out in our December 2023 submission on the Sustainable Finance Strategy Consultation Paper,<sup>2</sup> the Law Council supports the adoption of a ‘climate first’ approach to the financial reporting strategy, under which there would be a climate-related focus in the short-to-medium term, before eventual expansion to incorporate broader sustainability considerations.<sup>3</sup>

In November 2023, the Government announced its intention to streamline the financial reporting architecture by combining the Financial Reporting Council (**FRC**), the Australian Accounting Standards Board (**AASB**), and the Auditing and Assurance Standards Board (**AUASB**) into a single body. We understand that, as foreshadowed in Treasury’s relevant December 2022 Consultation Paper,<sup>4</sup> the present consultation seeks feedback from stakeholders to assist in refining and settling the proposed design of the new single, flexible standard-setting body ahead of draft legislation being finalised.

This submission has been informed by the Law Council’s Business and Human Rights Committee, which considers how the *UN Guiding Principles on Business and Human Rights*<sup>5</sup> can best be implemented in Australia. As noted in the terms of reference, ‘[f]inancial markets are recognising that a wider range of factors, including environmental, social and governance [**ESG**] concerns, are important sources of material financial risks and opportunities for businesses and financial institutions. This, in turn, is driving demand from investors, regulators and other interested parties for greater transparency in the form of high-quality, standardised disclosures’.<sup>6</sup> Further, ‘[i]t is critical that Australia’s financial reporting system keeps pace with

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<sup>1</sup> Treasury, *Positioning Australia’s financial reporting system for the future*, 2025 (**Discussion Paper**): <https://treasury.gov.au/consultation/c2025-536708>.

<sup>2</sup> Law Council, *Sustainable Finance Strategy Consultation Paper* (Submission to Treasury, 15 December 2023): <https://lawcouncil.au/resources/submissions/finance-strategy-consultation-paper>.

<sup>3</sup> *Ibid.*, 1.

<sup>4</sup> Treasury, *Climate-related financial disclosure*, Consultation paper, December 2022: [https://treasury.gov.au/sites/default/files/2022-12/c2022-314397\\_0.pdf](https://treasury.gov.au/sites/default/files/2022-12/c2022-314397_0.pdf) 19-20.

<sup>5</sup> Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights* (2011): [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf).

<sup>6</sup> Discussion Paper, 4.

these and other developments to support Australia's reputation as an attractive destination for international capital'.<sup>7</sup>

In reforming Australia's financial reporting system, it is vital from the Law Council's perspective that the 'social' pillar of ESG not be neglected, and the use of the term 'sustainability' encompasses human rights. Although the focus may currently (and understandably) be on climate-related financial disclosure, the Law Council would like to take this opportunity to remind the Government that it expects a shift to broader-based disclosure at the appropriate time (noting that more than two years have already passed since the first Climate-related financial disclosure Consultation Paper,<sup>8</sup> and that other jurisdictions already impose broader reporting requirements).

The inclusion of human rights reporting requirements would accord with recommendations from human rights subject matter experts such as the UN Working Group on Business and Human Rights<sup>9</sup> and the technical accounting and reporting profession.<sup>10</sup> Each of the three pillars of ESG are equally important and none must be overlooked.

In facilitating the process of setting sustainability reporting standards, we therefore recommend that an appropriate timeframe be set with a view to expanding financial reporting requirements to encompass human rights. Although our previously expressed view remains that expansions of this nature are best made through primary legislation,<sup>11</sup> Parliament made provision for the Minister to expand the framework in this manner.<sup>12</sup> Nevertheless, we acknowledge that this would involve a significant expansion of the financial reporting regime, and that prior public consultation and reasonable transition periods would be necessary to achieve it.

In the context of the above expansion, attention should also be given to:

- (a) the introduction of a requirement to appoint member(s) with human rights subject matter expertise in the composition of the sustainability reporting standards committee of the proposed future structure of the new regulatory oversight body (**Consultation Question 4**);
- (b) articulation of the scope of topics included in the umbrella term 'sustainability' used in all operating contexts of the new body to provide certainty for reporting entities, and
- (c) the new board, in performing its high-level governance and oversight role, recognising the need for, and benefits of, standardised disclosures for human rights particularly given the increasing regulatory complexity in many parts of the world.<sup>13</sup>

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<sup>7</sup> Ibid, 5.

<sup>8</sup> Treasury, *Climate-related financial disclosure*, Consultation paper, December 2022.

<sup>9</sup> See UN Human Rights Council, Working Group on Business and Human Rights, *Investors, ESG approaches and human rights* (Report, May 2024): <<https://documents.un.org/doc/undoc/gen/g24/070/76/pdf/g2407076.pdf>>.

<sup>10</sup> See eg PWC, *Spotlight on the 'S' in ESG*, January 2023: <<https://www.pwc.com.au/assurance/esg/spotlight-on-the-s-in-esg.pdf>>.

<sup>11</sup> Law Council, *Sustainable Finance Strategy Consultation Paper* (Submission to Treasury, 15 December 2023), 2.

<sup>12</sup> *Corporations Act 2001* (Cth), s 285(1), as amended by the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* (Cth).

<sup>13</sup> Relevant requirements are increasing in several regions, but particularly notably under the recently adopted European Commission *Corporate sustainability due diligence directive*: <<https://eur-lex.europa.eu/eli/dir/2024/1760/oj>>.

Contact

If the Law Council can be of any further assistance to the Committee in the course of its inquiry, please contact Dr Adam Fletcher, Senior Policy Lawyer, [REDACTED]  
[REDACTED]

Yours sincerely

A handwritten signature in black ink, appearing to read 'JW', followed by a horizontal line extending to the right.

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**Juliana Warner**  
**President**