



Sustainability reporting legislation passed by Parliament: mandatory sustainability reporting begins

September 2024



Introduction

The Australian Parliament has recently passed legislation to enact Australia's mandatory climate-related financial disclosure regime.

On 9 September 2024 the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 was passed by Parliament, with Schedule 4 dedicated to Australia's new climate-related financial disclosure regime.

The final version of the legislation is largely unchanged from the version that was originally introduced in March 2024, but there are some limited changes that entities should be aware of.


1

Who is required to report and when does it apply?

The scope of who is required to prepare a sustainability report, and when they must begin this reporting, is unchanged from the original version of the legislation.

Entities that report under Chapter 2M of the Corporations Act (including listed and unlisted companies and financial institutions, registrable superannuation entities and registered investment schemes) that meet any one of the following for a financial year are required to prepare a sustainability report in line with the timeline set out in the table below:

- Two of the three stipulated size criteria (consolidated revenue, consolidated gross assets and consolidated number of FTE employees); or
- is a registered corporation under the NGER Act (or required to make an application to register); or
- is an asset owner (defined as registrable superannuation entities, registered schemes and retail Corporate Collective Investment Vehicles (CCIVs)) where the value of assets at the end of the financial year (including the entities it controls) is equal to or greater than \$5bn.



Key points you need to know



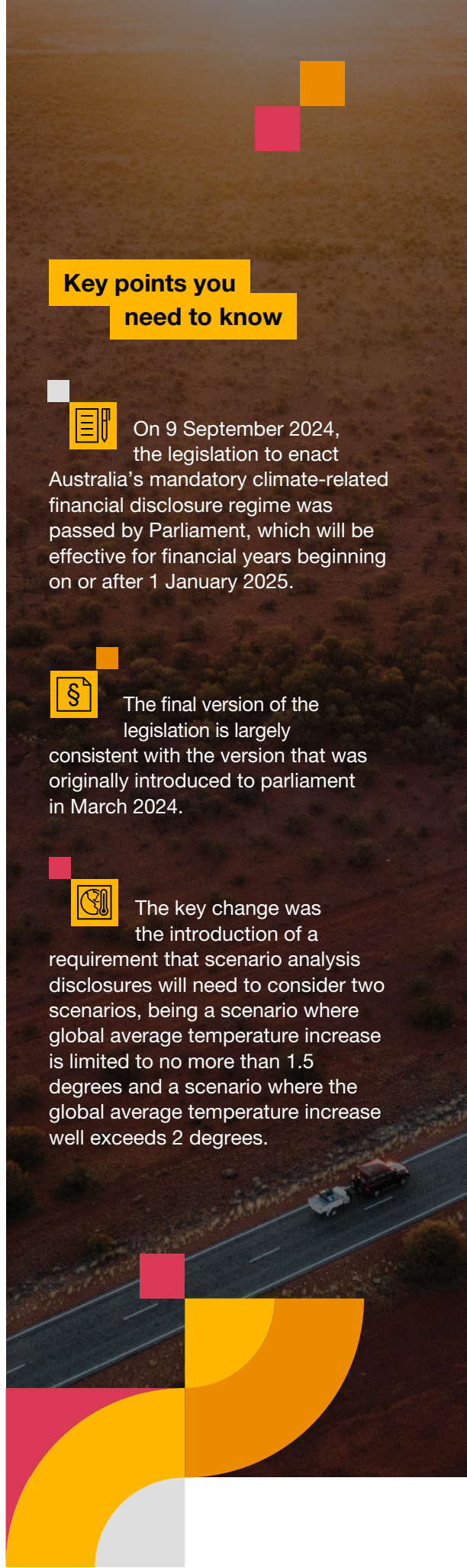
On 9 September 2024, the legislation to enact Australia's mandatory climate-related financial disclosure regime was passed by Parliament, which will be effective for financial years beginning on or after 1 January 2025.



The final version of the legislation is largely consistent with the version that was originally introduced to parliament in March 2024.



The key change was the introduction of a requirement that scenario analysis disclosures will need to consider two scenarios, being a scenario where global average temperature increase is limited to no more than 1.5 degrees and a scenario where the global average temperature increase well exceeds 2 degrees.





Exemptions are available for:

- Small businesses below the relevant size thresholds.
- Entities exempted from lodging financial reports under Chapter 2M of the Corporations Act (for example ACNC registered Australian Charities and Not-for-profits).

First annual reporting periods starting on or after	Large entities and their controlled entities meeting at least <i>two</i> of <i>three</i> criteria:			National Greenhouse and Energy Reporting (NGER) Reporters	Asset Owners (Registerable Superannuation Entities, Registered Schemes and Retail CCIVs)
	Financial year consolidated revenue	End of financial year consolidated gross assets	End of financial year full time equivalent employees		
1 January 2025 Group 1	\$500m or more	\$1bn or more	500 or more	Above NGER publication threshold <i>(50 ktCO₂-e Scope 1 and 2 emissions)</i>	N/A - entities are explicitly excluded from Group 1
1 July 2026 Group 2	\$200m or more	\$500m or more	250 or more	All other NGER reporters	\$5bn or more assets
1 July 2027 Group 3	\$50m or more	\$25m or more	100 or more	N/A	N/A

An asset owner is a registered scheme, a registrable superannuation entity or a retail corporate collective investment vehicle. An ‘asset owner’ cannot be a Group 1 entity, even if it would otherwise meet the criteria to be a Group 1 entity. An asset owner can be a Group 2 entity either by meeting the criteria applicable to all entities, or by having \$5bn or more in assets.

All entities within Group 1 and Group 2 would be required to prepare a sustainability report for the year consistent with the relevant sustainability standards issued by the AASB. All entities within Group 3 are also subject to this requirement, unless the relevant entity does not have material climate risks and opportunities, whereby they are exempt from preparing a full sustainability report. Instead, these entities need to make a disclosure of a statement that they do not have material climate risks and opportunities, and the reasons why.

Group 1 entities must report for financial years beginning on or after 1 January 2025. Group 2 and Group 3 entities must report for financial years commencing on or after 1 July 2026 and 1 July 2027, respectively.



2 What reporting is required?

Reporting would need to be consistent with the relevant sustainability standards issued by the AASB. The legislation enables the AASB to make enforceable sustainability standards. The AASB has previously shared the exposure draft for the Australian Sustainability Reporting Standards (ED SR1) and expects to issue final standards around Q4 2024.

3 What form does the reporting take and where does the reporting need to be disclosed?

The legislation requires an annual 'sustainability report' which entities will need to prepare, consisting of:

- a climate statement for the year;
- notes to the climate statement;
- any statements required by a legislative instrument relating to matters concerning environmental sustainability; and
- a directors' declaration.

The report must be provided to the members and lodged with ASIC.

4 Directors' obligations and liability framework

The legislation introduces a transitional limited immunity for directors related to some information within the sustainability report.

- No action can be brought in relation to disclosures on Scope 3 greenhouse gas emissions, scenario analysis, and transition plans for financial years commencing during a three-year period from 1 January 2025.
- No action can be brought in relation to climate disclosures made about the future, for financial years commencing during a one-year period from 1 January 2025.

The above limited immunity does not apply if the action is brought by ASIC or is criminal in nature.

As noted above, the directors will be required to make a specific directors' declaration with respect to the sustainability report. The directors' declaration issued would be required to cover the compliance of the climate statement and notes with the relevant sustainability standards issued by the AASB.



5

What has changed since the original version of the legislation?

The key change in the final version of the legislation was to introduce specific requirements related to scenario analysis disclosures. The legislation requires that for scenario analysis disclosures to be compliant they must consider at least two scenarios:

- A scenario where the global average temperature increase is limited to no more than 1.5 degrees
- A scenario where the global average temperature increase well exceeds 2 degrees. The government's explanatory memorandum to this change states that an increase of 2.5 degrees would be considered to well exceed 2 degrees.

6

How we can help?

How we can support

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