



<b>Project:</b>	<b>Climate-related Financial Disclosures</b>	<b>Meeting:</b>	19 and 22 July 2024
<b>Topic:</b>	<b>Regulatory issues (GMC 31)</b>	<b>Agenda Item:</b>	4.3.2
		<b>Date:</b>	12 July 2024
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		<b>Decision-Making:</b>	High
		<b>Project Status:</b>	Consider ED Feedback

## Objective of this paper

- 1 The objectives of this paper are for the AASB to:
  - (a) consider feedback from stakeholders on whether there are any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals in ED SR1 (GMC 31); and
  - (b) decide on any further work that might be needed in respect of GMC 31 before finalising ASRS 1 and ASRS 2.

## Overview of Stakeholder Feedback

- 2 GMC 31 asked stakeholders:

“Are there any regulatory issues or other issues arising in the Australian environment that may affect the implementation of the proposals, including any issues relating to:

- (a) Not-for-profit entities; and
- (b) Public sector entities?”

- 3 Of the 117 comment letters and 289 survey responses received, 53 and 48 stakeholders, respectively, provided a specific response to GMC 31. The following table provides an overview of the responses received on GMC 31 (rounded to the nearest %).

	There are regulatory issues	There are no regulatory issues
Out of the 53 comment letters that commented on GMC 31 <sup>1</sup>	85%	15%
Out of the 48 survey responses that commented on GMC 31 <sup>2</sup>	49%	51%

1 An overview of stakeholder feedback expressed in the comment letters is presented in Agenda Paper 4.3.6 for the Board’s reference. Staff applied judgement to categorise the overall comments expressed in the letters. Regardless of how staff categorised the feedback, the reasons provided by the respondents for supporting their position were considered as a part of the staff analysis.

2 The survey responses have been provided separately for the Board’s reference.

- 4 Staff observed that stakeholders appeared to interpret the question in multiple ways, causing the feedback received to vary significantly in focus.
- 5 Overall feedback was mixed. Most comment letters identified regulatory issues or other issues arising in the Australian environment that may affect the implementation of proposals. However, in survey responses, stakeholders were more divided, with more stakeholders disagreeing that there were any regulatory issues. In general, stakeholders who did not identify any regulatory issues did not provide a rationale for their response.
- 6 Some stakeholders responded to GMC 31 only in respect to the NFP public sector. They expressed concerns primarily on proportionality of disclosure requirements and the applicability of the concepts to the public sector:
  - (a) feedback in relation to the applicability of ASRS Standards to the public sector has been addressed in Agenda Paper 4.2.4 on SMCs 28–29; and
  - (b) proportionality concerns raised by stakeholders for NFP entities in response to GMC 31 are discussed in Agenda Paper 4.2.3 relating to SMCs 26–27.
- 7 Some stakeholders interpreted the question as addressing the intersection of any existing regulation or related issue in the Australian environment. As such stakeholders referred to a broad list of existing regulations or regulations in development including:
  - (a) *Security of Critical Infrastructure Act 2018 (SOCI Act)*;
  - (b) APRA Guidance, including CPG 229 *Climate Change Financial Risks*;
  - (c) NGER Scheme Legislation;
  - (d) ASIC Regulatory Guide RG 168 *Product Disclosure Statements*;
  - (e) ASFI’s Sustainable Finance Taxonomy in development;
  - (f) Director liabilities under the Corporations Act and Australian consumer law;
  - (g) The scope of entities required to report under the proposed *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024*; and
  - (h) The registered company auditor regime.
- 8 Staff note the majority of the comments from stakeholders were related to the proposed *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024*, such as suggestions regarding reporting exemptions for foreign controlled Australian subsidiaries, the requirement for NGER reporters to prepare sustainability reports irrespective of size thresholds, and director liability regarding forward-looking statements. Staff have referred these comments to the appropriate agency.
- 9 Of the remaining stakeholder feedback received, staff identified two major areas of regulation of concern to stakeholders: the SOCI Act, and interaction with APRA guidance.

#### SOCI Act

- 10 Staff noted several responses raised concerns regarding the disclosure of information that may be considered sensitive for national security reasons, and covered by the *Security of*

*Critical Infrastructure Act 2018*.<sup>3</sup> Stakeholders noted that it is a criminal act to disclose protected information under that Act.

11 Paragraph 73 of IFRS S1 states:

“This Standard relieves an entity from disclosing information otherwise required by an IFRS Sustainability Disclosure Standard **if law or regulation prohibits the entity from disclosing that information** (see paragraph B33). This Standard also relieves an entity from disclosing information about a sustainability-related opportunity otherwise required by an IFRS Sustainability Disclosure Standard if that information **is commercially sensitive** as described in this Standard (see paragraphs B34–B37). An entity using these exemptions is not prevented from asserting compliance with IFRS Sustainability Disclosure Standards.”  
[emphasis added]

12 IFRS S1 paragraph 73 relieves an entity from disclosing information that law or regulation prohibits the entity from disclosing such information. Therefore, if that paragraph is incorporated in ASRS 2, staff are of the view that an entity would not be required to disclose protected information under the SOCI Act. As such, staff do not propose any further actions in relation to the feedback.

#### APRA Guidance

13 Several stakeholder comments highlighted the need for interoperability between ASRS Standards and existing APRA prudential practice guide CPG 229 *Climate Change Financial Risks* (November 2021).<sup>4</sup>

14 Staff note that CPG 229 considers best practice for climate-related financial disclosures to be information produced in line with the TCFD Framework, and that IFRS S2 requirements are aligned with TCFD recommendations (IFRS S2.BC18, BC24 and BC41). As such staff have not identified any contradictions between the proposed disclosures in [draft] ASRS 2 and CPG 229.

15 Accordingly, staff do not propose any further actions in relation to the feedback.

#### **Question for Board members**

Q1: Do Board members agree that no further work would be needed in respect of GMC 31 before finalising ASRS 1 and ASRS 2? If not, what other work do Board members consider necessary?

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<sup>3</sup> Comment letters 63, 70, 71,

<sup>4</sup> Comment letters 54, 81, 96 and Survey S4.