

31 January 2025

Law Division
Treasury
Langton Cres
Parkes ACT 2600

By email: miscamendments@treasury.gov.au

Dear Law Division

RE: Miscellaneous Amendments to Treasury Portfolio Laws Autumn 2025

Introduction

The Financial Services Council (**FSC**) welcomes the opportunity to provide feedback on the Miscellaneous Amendments to Treasury Portfolio Laws Autumn 2025.

The FSC is a peak body which sets mandatory Standards and develops policy for more than 100 member companies in one of Australia's largest industry sectors, financial services.

Our Full Members represent Australia's retail and wholesale funds management businesses, superannuation funds, financial advice licensees and investment platforms. Our Supporting Members represent the professional services firms such as ICT, consulting, accounting, legal, recruitment, actuarial and research houses. The financial services industry is responsible for investing more than \$3 trillion on behalf of over 15.6 million Australians. The pool of funds under management is larger than Australia's GDP and the capitalisation of the Australian Securities Exchange, and is one of the largest pools of managed funds in the world.

Provisions concerning voluntary sustainability reports

The FSC proposes a small number of changes to remove residual ambiguities in the provisions of the draft Bill concerning voluntary sustainability reports.

Level of compliance required with AASB standards

The FSC notes that the Explanatory Memorandum to the *Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Act 2024* states at paragraph 4.193: (emphasis added)

*To avoid doubt, the modified liability protections described in section 1707D extend to all sustainability reports, whether or not required to be prepared, **if the statement was made in compliance with the sustainability standards, the Act, or the auditing standards.** Entities seeking to rely on this protection should ensure they make this explicit in their sustainability report.*

However, paragraph 1.25 of the Exposure Draft Explanatory Materials for the Bill states a voluntary sustainability report: (emphasis added)

*must be a document that **would be** a sustainability report within the meaning of section 9 of the Corporations Act, had it been required to be prepared under section 292A ...*

The FSC suggests that industry would benefit from clarification on whether a report must be **fully compliant** with the Australian Accounting Standards Board's (**AASB**) Australian Sustainability Reporting Standards (**ASRS**), in particular mandatory AASB S2 "*Climate-related Disclosures*" in order to enjoy modified liability protections. The FSC recommends that if a voluntary sustainability report has been prepared in good faith but is subject to a minor technical error which brings it into non-compliance with the ASRS, it should still enjoy protection under the modified liability regime.

Section 1707DA

The FSC considers industry would benefit from clarification as to the expected contents of a directors' declaration made under subsections 1707DA(2), including whether the declaration must confirm that a voluntary sustainability report meets the requirements of section 1707DA(b)(i) that it "*would be*" a sustainability report.

Mandatory audit requirements

Section 2707DA(4)(b) appears to impose auditing requirements upon voluntary sustainability reports. The FSC does not support the imposition of mandatory assurance requirements on voluntary sustainability reports, as this will deter voluntary disclosure by increasing the cost and complexity of voluntary reporting. Instead, the FSC supports a requirement for voluntary reporters to clearly disclose and, if appropriate, justify the level of assurance observed in their voluntary sustainability reports.

Conclusion and next steps

The FSC appreciates the opportunity to contribute to this consultation and looks forward to continued engagement with the Treasury. We would welcome the opportunity to meet with you or your team to discuss these issues in more detail and explore how we can work together to achieve these goals.

To arrange a meeting, please contact Jack Morgan, Policy Director – Investment and Funds Management at jmorgan@fsc.org.au.

Yours sincerely

Jack Morgan

Policy Director – Investments & Funds Management