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Australian Financial Regulator Mandated to Adopt Climate Reporting Standards

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In June 2023, the Australian government published an updated **Statement of Expectations** for the Australian Prudential Regulation Authority (APRA), requiring it to, among other things, "promote prudent practices and transparency in relation to climate-related financial risks and the adoption of climate reporting standards by regulated entities." This includes promoting transparency in relation to financial risks and the adoption of climate reporting standards. The new Statement of Expectations follows a consultation that was launched in December 2022 by the Australian government on whether to develop a disclosure framework for organizations, including financial institutions.

A **consultation paper** accompanying the Statement of Expectations proposes mandatory reporting starting in 2024 for Australia's largest companies, whether listed or unlisted, and financial institutions; overarching alignment with international climate disclosure standards; and, perhaps most significantly, a three-year transition period during which only regulators can take action against directors and reporting entities in connection with forward-looking statements and Scope 3 emissions disclosures. After this interim time period, climate-related financial disclosure requirements would transform into civil penalty provisions and be folded into Australia's Corporations Act. Climate disclosures related to Scope 3 emissions and forward-looking statements would then be subject to Australia's more general corporate prohibitions on misleading and deceptive business conduct.

Other initiatives that APRA in particular has taken recently include a 2022 stress-test of Australia's largest banks to assess climate risk on financial stability. **As we reported**, the Climate Vulnerability Assessment highlighted how banks would amend their risk appetites and lending practices with greater climate risk exposure, with an emphasis on potential responses to physical and transition risk.

Taking the Temperature: This latest development in Australia's climate-related policy and regulatory obligations does not come out of the blue. Prime Minister Albanese's government has demonstrated a commitment to reaching net zero by 2050, updating its Nationally Determined Contribution under Article 4 of the Paris Agreement to a more ambitious 43% reduction in GHG emissions by 2030.

As we previously reported, the Australian Treasury announced in December a consultation into proposed rules on climate-related financial disclosure, which will align with the International Sustainability Standards Board (ISSB) recommendations. As we observed at the time, Australia's pursuit of mandatory climate reporting follows the example of many other jurisdictions, including New Zealand, Japan, the European Union and the UK. We also have reported recently on the ISSB's inaugural sustainability standards, IFRS S1 and IFRS S2, which will come into force in January 2024. Australia's Treasury department has signaled that the mandatory climate-related disclosure framework it introduces is likely to follow the ISSB Standards. The Australian Accounting Standards Board is developing sustainability standards which will also be closely aligned with the ISSB Standards.

In parallel, as we reported recently, Australia is aggressively approaching greenwashing enforcement. The Australian Securities and Investments Commission (ASIC) explicitly made greenwashing a key enforcement priority, issuing its first greenwashing fine in October 2022 related to allegedly false or misleading sustainability-related statements made to the Australian Securities Exchange. Earlier this year, ASIC also announced civil penalty proceedings against an Australian superannuation fund for "making misleading statements about the sustainable nature and characteristics" of some of its investment options. As of mid-July 2023, ASIC has reportedly opened nearly three dozen greenwashing investigations.