JULY 2025 ESG POLICY UPDATE—AUSTRALIA

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Australia Environmental, Social, and Governance (ESG) Alert

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AUSTRALIAN UPDATE

ACCC Grants Authorisation for ASFI and its Industry Partners to Collaborate on Sustainable Finance Initiatives

On 10 July 2025, the Australian Competition and Consumer Commission (ACCC) granted a five-year authorisation for the Australian Sustainable Finance Institute (ASFI) and its industry partners to collaborate on sustainable finance initiatives (Authorisation). This collaboration aims to integrate natural capital data into financial decision-making, co-design investment structures, and develop regulatory reform proposals tied to sustainability. The initiative also seeks to support sustainable agriculture and advance emissions reduction targets.

The ACCC has imposed five conditions to the Authorisation to mitigate competition risks:

- ASFI must maintain and regularly update a list of non-members participating in authorised conduct on its website;
- Authorised parties must comply with a competition protocol approved by the ACCC, with any proposed changes to the competition protocol requiring ACCC approval;
- The authorised conduct must be nonexclusive, allowing all authorised participants to access co-designed products;
- Agreements between authorised parties in reliance on the Authorisation must be made in ASFI meetings and terminate at the end of the co-design process or Authorisation expiry; and
- ASFI must keep records of agreements, detailing parties, scope, and duration and make them available to involved parties.

These conditions are designed to prevent reduced competition in the sustainable finance market and to mitigate any risk of anti-competitive behaviour. The ACCC considered that the authorised conduct will likely produce benefits such as lower transaction costs and improved process efficiencies and expects that it will increase the likelihood of investment in projects that deliver positive environmental and social outcomes.

Despite the environmental benefits that may arise from sustainability collaborations, the ACCC notes that such collaborations between competitors may still be at risk of breaching Australia's competition laws. Accordingly, the ACCC has released a guide to help businesses navigate the intersection of competition law and environmental

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initiatives. This decision marks a significant step in fostering private-sector cooperation on sustainability while maintaining market integrity.

Australian Government Releases Consultation Paper on Sustainable Investment Product Labels

On 18 July 2025, the Australian Government released a consultation paper to seek views on possible policy options to underpin a sustainable financial product labelling framework (Consultation Paper). The Consultation Paper focuses on enhancing transparency and accountability in sustainable investments, aimed at helping investors make informed decisions by clearly identifying and comparing sustainable investment products. This initiative is part of a broader effort to support the net zero transformation and foster a sustainable economy.

Defining an investment approach as "sustainable" is inherently challenging, as the term can mean different things to different stakeholders. The primary goal of sustainable financial product labelling is to provide clarity around the sustainability claims made by product issuers, enabling investors to make informed decisions that align with their own objectives.

The Consultation Paper outlines one option of explicitly defining certain investment approaches, as well as specific strategies such as alignment with the United Nations Sustainable Development Goals and the Principles for Responsible Investment, in legislation. These approaches include:

Screening

Applying rules based on defined criteria that determine whether an investment is permissible.

ESG Integration

Ongoing consideration of ESG factors within an investment analysis and decision-making process with the aim to improve risk-adjusted returns.

Thematic Investing

Selecting assets to access specified trends.

Stewardship

Using investor rights and influence to protect and enhance overall long-term value for clients and beneficiaries, including the common ESG assets on which their interests depend.

Impact Investing

Investing with the intention to generate positive, measurable social and environmental impact alongside a financial return.

This option would confirm and formalise existing responsible investment practices for financial products.

Alternatively, a principles-based framework could be adopted, requiring product issuers to substantiate sustainability claims with credible evidence. This is the approach taken in the United Kingdom. The benefit of such a framework is that it can accommodate the diverse range of investment practices used by product issuers and remain flexible as investment and sustainability practices evolve.

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A principle-based framework could also be supported by a requirement that claims made by the product issuer are “certified” or “confirmed” by a reputable third party or parties, such as the Responsible Investment Association Australasia.

Treasury is seeking views on sustainable investment product labels, with a response expected later in 2025. Implementation of the sustainable financial product labelling framework is targeted for 2027.

ASIC Conducts Review of Managed Fund Compliance Plans

The Australian Securities and Investments Commission (ASIC) conducted a review of compliance plans used by responsible entities of registered managed investment schemes (Funds). In assessing the adequacy of these compliance plans, ASIC considered the compliance plans of 50 responsible entities that apply to a total of 1,471 separate Funds.

A compliance plan must set out adequate measures that the responsible entity will apply when fulfilling its responsibilities in relation to a Fund to ensure compliance with the *Corporations Act 2001* (Cth) and the Fund's constitution. ASIC noted that if a compliance plan is not adequate and implemented, Fund investors are put at risk.

ASIC's review revealed that there was widespread poor practice in the preparation of the compliance plans. Most plans failed to adequately meet important requirements across the relevant obligations, with some plans failing to at all address one or more of the obligations. ASIC's review was limited to three sets of regulatory obligations across reportable situations reporting, product design and distribution obligations, and internal dispute resolution processes and reporting.

To meet ASIC's expectations, responsible entities should review their compliance plans to ensure the plans:

- Are, and remain, up to date;
- Contain sufficient detail to address the compliance obligations;
- Identify all relevant compliance obligations and the functions and officers responsible for performing and monitoring the relevant controls;
- Specify the means for monitoring the effective performance of a control measure, including the time or frequency within which a control is to be performed;
- Provide for regular reporting to a board or compliance committee; and
- Provide for the keeping of records relating to the operation of compliance controls by specifying the types of information to be kept.

ASIC has noted that it will continue to review compliance plans and will act where appropriate.

Australian Institute of Company Directors Releases Guidance for Boards Navigating the Net Zero Transition

On 16 July 2025, the Australian Institute of Company Directors (AICD) released a report which offers practical guidance for boards of directors in navigating climate transition planning (AICD Report). The AICD Report draws on insights from both directors and investors. The AICD Report can be read here.

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The AICD Report highlights the critical role of boards in climate transition planning, emphasising the integration of climate strategies into core business operations to maintain resilience and competitiveness in a decarbonising economy. Boards are encouraged to:

- Understand climate-related risks and opportunities through scenario analysis, which serves as a foundation for strategic planning;
- Maintain active oversight through ongoing monitoring and adaptive strategies as external environments and technologies evolve;
- Establish governance structures and integrate transition planning into strategy and operations, supported by clear capital allocation and executive accountability;
- Engage with key stakeholders to shape strategy, build trust, and support the execution of transition goals;
- Undertake transition planning and ensure that plans are supported by reasonable grounds to mitigate greenwashing risks; and
- Guide strategic direction and oversee the implementation and integration of transition plans into business planning and budgeting.

The AICD Report provides a list of top director questions to guide transition planning, focusing on comprehensive assessments of climate-related impacts, emissions profiles, and stakeholder engagement.

VIEW FROM ABROAD

ESMA Releases New Guiding Principles for Making Greenwashing Claims in Sustainable Investments

On 1 July 2025, the European Securities and Markets Authority (ESMA) released its first thematic note (Note) on "clear, fair & not misleading sustainability-related claims" to address greenwashing risks in sustainable investments. The Note is aimed at issuers, fund managers, benchmark administrators, and investment service providers.

The Note sets out four guiding principles for industry participants to follow, although noting they are not intended to create new disclosure requirements. The principles are as follows:

Accurate

Sustainability claims need to "fairly and accurately represent the entity's sustainability profile" and its financial products. Omitting material, cherry-picking, and vague claims should be avoided.

Accessible

Sustainability claims should be based on easily accessible information that is easy to understand. However, claims should not be oversimplistic and sometimes may require layering of information to substantiate the claims to the reader.

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Substantiated

Substantiation of sustainability claims is required, such that it is backed by "clear and credible reasoning, facts, and processes" and is based on methodologies that are "fair, proportionate, and meaningful."

Up to Date

Information that sustainability claims are based on should be up to date, with any material changes communicated in a timely manner.

ESMA also specifically focuses on good and poor practices when participants make ESG credential claims that involve references to industry initiatives, labels and awards, and comparisons to peers, as these are the most prominently used claims in retail-investor focused communications.

Industry participants are encouraged to carefully consider ESMA's Note to ensure any sustainability claims made to EU retail investors take into account these guiding principles.

European Union Delays Increased Sustainability Reporting Requirements for Large Companies by Two Years

The European Commission (EC) announced the adoption of a series of "quick fix" amendments to the European Sustainability Reporting Standards (ESRS), which delays the increased sustainability reporting requirements for large companies under the Corporate Sustainability Reporting Directive (CSRD).

The new disclosures relate to areas such as biodiversity, workers in the value chain, and Scope 3 emissions. Through its Omnibus I package, the EC aims to significantly reduce the sustainability reporting and regulatory burden imposed on companies. The Omnibus initiative removes many companies from the scope of the CSRD and substantially reduces the amount of disclosed information in the CSRD's scope.

Under the new amendments, companies that have already commenced reporting in the first year (wave one companies) will not be required to report new disclosures that were meant to be provided in the second and third years of reporting. Once the CSRD revision is complete, it is possible that these disclosures will not be required at all.

Wave one companies can delay reporting on the anticipated financial effects of certain sustainability-related tasks for another two years.

If a wave one company has less than 750 employees, they can omit reporting on:

- Information on Scope 3 greenhouse gas emissions;
- Biodiversity and ecosystems;
- Its own workforce;
- Workers in the value chain; and
- Affected communities and consumers and end users through FY 2026.

For smaller companies that are to begin reporting in 2026 and 2027, a "stop-the-clock" directive has been introduced to delay the CSRD's disclosure requirements during this Omnibus process.

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The EC is expected to complete its review of ESRS by FY 2027.

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