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Labelling and Disclosure Unit  
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Submitted online

### **Sustainable Investment Product Labelling regime- policy design**

The Australian Financial Markets Association (AFMA) is responding to the Sustainable Investment Product Labelling regime- policy design paper. AFMA is the leading industry association representing Australia's wholesale financial markets - including the capital, credit, derivatives, foreign exchange, energy, carbon, and other specialist markets including sustainability-linked and climate related markets. AFMA represents over 140 leading financial market participants, from the major and regional Australian banks, leading international banks, global brokers, all government treasury corporations to Australian super funds, asset managers, large energy firms, carbon marketers, and critical legal and market infrastructure providers. AFMA represents wholesale market participants, accordingly, our comments focus on potential areas where the design of the regime may inadvertently affect wholesale activity or create broader market implications. In wholesale markets, product labelling provides little to no practical benefit as participants already operate within sophisticated frameworks supported by established market practices and defacto wholesale standards. Enforcement against misleading claims can be effectively achieved through existing mechanisms without the need for prescriptive product labels.

#### **Importance of Clear and Targeted Scope (Element 1)**

As AFMA expressed in its previous submission, we support Treasury's objectives but note important considerations regarding the scoping of this regime. While the policy intent, improving retail investor understanding of the sustainability credentials of their investments, is clear and well considered, AFMA recommends further refinement in the definition of product issuers and investor types, as well as the delineation of in-scope financial products. AFMA notes that without precise scope, the regime could unintentionally capture wholesale activity and participants.

Wholesale investors are the key long-term holders of infrastructure, utilities, and hard-to-abate sectors. Often, they are the only or most viable source of capital, aside from government, for transition assets that cannot yet be certified 'green'. It is therefore important that the regime does not negatively unintendedly risk these important avenues of finance that are key to supporting Australia's transition, creating compliance challenges for wholesale markets would increase the need for government to fund the transition if companies no longer have sufficient lines of capital.

It has been AFMA's experience that reforms, often aimed at consumer protection, have, at times, not sufficiently considered the broader impact of definitions or rules resulting in unintended wholesale capture. This outcome must be avoided as it can lead to years of unnecessary work and negotiation to remediate consequences.

Whilst we acknowledge Treasury has begun this work in its table of terms and definitions, as well as the intent to utilise the Corporations Act, AFMA recommends that further detailed scoping be developed to provide clarity and certainty for industry.

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As Treasury is aware, the Corporations Act is complex, and the definition of a ‘financial product’ is broad. Furthermore, the current broad and non-exhaustive list of sustainable-related terms creates significant regulatory uncertainty for financial markets.

AFMA strongly recommends that, Treasury closely engage industry and develop for consultation:

- An exhaustive list of in scope financial products;
- An exhaustive list of in-scope instrument sets (e.g. a security, product or investment process);
- A clearly defined and internationally aligned set of sustainability terms, supported by a flexible catch-all to capture emerging terminology and evidence requirements proportionate to the strength of the sustainability claim and in line with existing expectations from ASIC.

Defined sustainability related terminology should align, where appropriate, with recognised international standards/practice and existing domestic obligations (including disclosure requirements, climate-related reporting and in particular, consistency with ASIC Information Sheet 271, is of paramount importance).

AFMA notes that these recommendations directly address Treasury’s Element 1 consultation questions regarding the appropriate definition of “financial product” and the need to ensure the regime applies only to retail products marketed as sustainable. AFMA’s position is that scope requires a prescriptive approach to avoid unintended wholesale capture while maintaining flexibility in how terminology evolves over times. AFMA supports a measured approach that maximises global interoperability, avoids over-prescription, and supports continued issuance of high-quality sustainable products in Australia. Overly prescriptive labels risk alienating lines of capital for transitional assets whilst also risking a flood of activity moving offshore or into less transparent private channels.

### **Consumer Facing Disclosure Design (Element 2)**

With the regime’s aim in mind, it’s important that Treasury take a measured approach by designing a regime that provides retail investors increased confidence and transparency in the validity of claims, whilst also minimising regulatory burden, supporting flexibility and aligning with international practice. While the regime is retail focused, all financial services regulatory settings and operational environments set the tone and perception of Australia’s competitiveness, appetite for innovation, and attractiveness as a destination for capital investments. The approach should be consistent with standards and taxonomies widely used in wholesale sustainable debt markets and across product types.

AFMA recommends a hybrid model: a prescriptive core set of mandatory information to ensure comparability, supported by principles-based narrative to maintain flexibility across investment strategies.

### **Thresholds and Product Alignment (Element 3)**

In response to Element 3, in the event that Treasury proceeds with a prescribed minimum threshold or threshold range (Option 1), they should be internationally consistent and sufficiently flexible to avoid undue compliance burden. In terms of particular design, AFMA understands that market participants have found the UK’s approach to thresholds as best precedent/ practice and more user friendly rather than the EU’s, which appears well grounded given the significant wind back currently underway.

### **Evidentiary Approach (Element 4)**

For Element 4, AFMA supports a principles-based evidentiary approach that leverages, is consistent with and complementary to existing domestic standards, market practice and evidentiary

requirements (including climate-related financial disclosures) and recognised international frameworks.

AFMA would welcome the opportunity to engage further with Treasury as the scope, definitions and implementation settings are refined, and would be pleased to provide additional information or support as required. Please contact Monica Young at [myoung@afma.com.au](mailto:myoung@afma.com.au) or 02 9776 7917.

Yours sincerely,

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