

SUBMISSION

Submission to Treasury – Sustainable Investment Product Labelling regime

20 March 2026

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via email: climatereportingconsultation@treasury.gov.au

20 March 2026

Dear Sir/Madam

Sustainable Investment Product Labelling regime

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this response to Treasury's consultation on the proposed Sustainable Investment Product Labelling regime.

About ASFA

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians. ASFA's remit involves constructive engagement with regulators on reforms and improvements to the regulatory landscape to ensure that the superannuation sector is in a position to deliver on its core purpose and achieve the legislated objective of superannuation.

If you have any queries or comments in relation to our submission, please contact Andrew Craston, Economic Specialist, on 0401 016 587 or via email acraston@superannuation.asn.au.

Yours sincerely

James Koval
Chief Policy and Advocacy Officer

Sustainable Investment Product Labelling regime

ASFA supports development of a regime for sustainable investment product labelling that would help consumers make confident, informed decisions about financial products marketed as sustainable, or similar, and would uphold the integrity of products marketed as sustainable or similar.

In broad terms, ASFA considers that the regime for sustainable investment product labelling should be principles-based where possible, rather the prescriptive: one that provides transparency for consumers, while not unduly limiting innovation by product issuers.

From the perspective of consumers, the key objective of the regime is to support engaged retail investors to identify financial products marketed as sustainable (or similar), to understand product features, to compare like financial products – and to have confidence that financial products marketed as sustainable are ‘true to label’. The effectiveness on the regime in this regard will depend on the whether retail investors can readily recognise and comprehend the relevant information presented in consumer-facing disclosure, and that financial products marketed as sustainable in accordance with the regime would general consumer expectations.

Development of particular aspects of the regime would benefit from consumer testing and from follow-up consultation with industry. As highlighted in ASFA’s responses to the consultation questions, this includes Question 7 (standardised, prescribed components of consumer-facing disclosure).

Further to this, as Treasury considers the specific parameters for the regime, further engagement with industry will be necessary to ensure the disclosure requirements are workable, fit-for-purpose and in alignment with existing regulatory obligations. This should be accompanied by clarity regarding the proposed implementation timeline, including defining an appropriate transition period.

Development of the regime also should take account of the broader and evolving policy landscape in relation to financial products. For superannuation, this includes APRA’s current annual superannuation performance test and its constraining impacts on asset allocation decisions to create balanced and diversified investment options. ASFA notes that the Government is currently considering changes to the performance test, and as such, development of the sustainable investment product labelling regime should take account of reform in this regard.

ELEMENT 1

1) Is the definition of financial product in the Corporations Act appropriate as the basis for the kinds of investment products captured by this regime?

- a. Should the scope be narrowed to certain types of financial products (such as products with an investment component e.g. superannuation or managed investment schemes), and if so, on what basis?
- b. Should there be any exclusions of types of financial products?
- c. Does this approach miss any financial products that should be captured by the regime?

ASFA considers that a sustainable investment product labelling regime should apply to products marketed as sustainable, or similar, to retail investors – that is, products that promote a specific sustainability, or similar, objective.

The regime should encompass the broad range of financial products that are marketed to retail investors. This would provide retail investors with a consistent framework for identifying and comparing like products

that make sustainability claims. It also would help to ensure that new types of financial products – when made available to retail investors – would be covered by the regime, and so reduce the risk of regulatory arbitrage.

- With respect to superannuation, the regime should not apply to whole-of-fund sustainability claims. While a superannuation fund may broadly adopt ESG integration and asset stewardship, this does imply that every product issued by that fund has a specific sustainability, or similar, objective.

An approach that excluded particular types of products – that are marketed as sustainable, or similar, to retail investors – would risk undermining confidence among retail investors in the labelling regime where it is applied. For example, while the incidence of ‘greenwashing’ activity would be expected to fall within that portion of the market covered by the regime, a concomitant impact may not occur elsewhere. This could feed back into concerns among retail investors whether products that *are* subject to the labelling regime are indeed ‘true to label’.

ASFA considers that the regime should not apply to financial products that do not promote specific a sustainability, or similar, objective. In this regard, the regime should not apply to products that do adopt ESG integration and asset stewardship within an overall investment approach, but do not specifically promote a specific sustainability, or similar, objective. This relates to superannuation products, but also to the broad range of financial products as defined in the Corporations Act.

In relation to superannuation, the regime would need to accommodate a narrower focus than ‘financial product’ as defined in section 763A of the Corporations Act.

Members of superannuation funds typically choose between *investment options* – some of which are marketed as sustainable, or similar. Often, investment options are not stand-alone financial products under the Corporations Act definition, but instead one of multiple investment options that comprise a financial product. Thus, a product-level labelling regime would not reflect how sustainability claims are generally presented to, and assessed by, consumers. For superannuation, the regime should be applied at the level of investment option – noting that this concept is recognised in section 1017BB of the Corporations Act.

The regime should not apply to whole-of-fund sustainability objectives – such as net-zero commitments – where ESG integration and/or asset stewardship can be broadly adopted as part of a fund’s investment approach, and which is distinct from an explicit sustainability objective at the investment-option level that would be the basis for disclosure under the regime.

2) Is the approach of using a non-exhaustive list of ‘sustainability’ terms appropriate for this regime?

Across industry, terminology varies according to product-specific objectives, and which terms product-issuers consider to be the most effective to communicate those objectives to retail investors. That said, the universe of terminology that relates to sustainable investments is limited – albeit evolving.

ASFA considers that it would be appropriate for specific terms – that would trigger adherence to the regime – to be specified in a list similar to the example list on Page 8 of the consultation paper.

ASFA considers that sustainability-related terminology should be specified in guidance rather than in legislation. While having terms prescribed in regulation would provide product issuers with greater regulatory certainty, using guidance would provide greater flexibility for regulators to alter the set of specific terms. This is important given that the sustainability-related terminology used to market financial products to retail investors will continue to evolve.

Importantly, this would only relate to terms used by product issuers in relation to financial products marketed as sustainable, or similar, to retail investors. In this regard, the regime will require a clear definition of what constitutes the ‘use’ of sustainability-related terms in describing and marketing such products.

3) Should terms relating to the governance and social elements of ESG be in the scope of this regime?

Why?

ASFA considers that the regime should only apply to products that promote a specific sustainability, or similar, objective. In this regard, the regime should be neutral regarding which of the elements of ‘ESG’ are reflected in a product’s promoted sustainability objective.

As such, the regime should distinguish between those products that promote a specific sustainability, or similar, objective, and those products that adopt ESG integration and asset stewardship within an overall investment approach, but do not promote a specific sustainability objective. Products that fall into the latter category should be excluded from the regime.

4) Are there any terms in the non-exhaustive list that create unintentional consequences and should not be included?

Are there any terms missing?

This question highlights the risks associated with specifying a ‘non-exhaustive list of sustainability terms’ in legislation, rather than in guidance – specifically, the risk that this approach would restrict the terminology that could be used in relation to products that are *not* intended to be marketed as sustainable, or similar, to retail investors.

- In this regard, with respect to the example list on Page 8 of the consultation paper, terms that should be excluded include ‘future’.

A wide range of terms are relevant to product issuers to describe the sustainability features of products marketed as sustainable, or similar, to retail investors. Using guidance, rather than legislation, would provide product issuers with flexibility in describing and marketing products that promote a specific sustainability objective – which would be subject to the existing prohibition against misleading and deceptive conduct.

ELEMENT 2

5) Do you support the introduction of mandatory consumer-facing disclosure obligations?

For products that promote a specific sustainability, or similar, objective, consumer-facing disclosure obligations should apply. Material produced by product issuers in respect of these products – including specific consumer-facing disclosure documentation, as well as advertising, informational, marketing, and promotional material – would be subject to the existing prohibition against misleading and deceptive conduct.

6) How could voluntary templates achieve the policy objectives?

The key policy objective of the regime is to help retail investors identify, compare, and make informed decisions about financial products that are marketed as sustainable, or similar. In this regard, as noted in the consultation paper, the regime would need to “help improve investor understanding of the sustainability credentials of their investments and provide more certainty for product issuers marketing a product as sustainable.”

ASFA considers that disclosure would be most effective in achieving policy objectives where there is a limited degree of standardisation of consumer-facing disclosure – to the extent that this would aid retail investors to compare like products (issues related to the degree of prescription are addressed in the response to Question 7).

It is unlikely that voluntary templates would achieve the key policy objective.

7) Which of the above design options do you support, and why?

- a. If you support a prescriptive approach, what specific elements of the CFD should be mandated?
- b. If a principles-based approach is preferred, what should be included in the principle-based template for CFD requirements?

ASFA supports a hybrid approach – with a limited degree of prescription. In general, ASFA supports a principles-based approach to regime design.

In respect of superannuation investment options, there is vast array of investment approaches to achieve a particular sustainability objective – such as, **exclusions**, negative screens, positive screens, investment tilts – where specific investment approaches can be used in combination. For superannuation, a principles-based approach to consumer-facing disclosure would best accommodate the communication of the relevant investment approach(es) to retail investors, and how the relevant investment approach(es) would work to achieve a particular sustainability objective.

More broadly, compared with a prescriptive approach, a principles-based approach would provide greater flexibility for product issuers in disclosing relevant information to retail investors. It would allow product issuers to disclose product-specific factors that might deviate from other, similar products on the market.

In general, a principles-based approach would reduce the risk that the regime would limit innovation by product issuers – particularly in respect of investment approaches.

That said, ASFA also recognises the value to retail investors of a small set of standardised, prescribed disclosures – where these would aid retail investors to readily compare similar products on the basis of product features that are fundamental to promoted sustainability objectives. In this regard, ASFA advocates the following criteria for standardised, prescribed disclosures:

- fundamental to the sustainability objective(s)
- retail investors can understand the information
- comprise a limit number of elements – to avoid confounding decision making
- can accommodate the variety of relevant investment approaches.

ASFA agrees that a hybrid model would be most effective where the small set of standardised, prescribed disclosures would be presented in fixed format – which would aid retail investors to compare like products. Beyond this, product issuers would have discretion – in accordance with principles-based guidance.

8) Would you support mandating that product issuers disclose their direct and indirect investment exemptions in the CFD requirement?

- a. Does the exclusions list featured in Box 2 (p.13) capture an appropriate range of companies, industries, or activities?

ASFA considers that it would not be necessary for the regime to prescribe that product issuers disclose their investment exemptions – with the exception of exclusions under any ‘non-conflicting assets’ mechanism or similar (see response to Question 16).

Regulatory guidance would provide product issuers with the parameters for the information to be included in consumer-facing disclosure – including investment exemptions. Disclosure would be subject to the existing prohibition against misleading and deceptive conduct.

- For superannuation, where investment exemptions are applied to a superannuation investment option, disclosed information would include the specific asset classes to which the exemptions apply, but also which asset classes are out-of-scope and the reasons for this treatment.
- Guidance should accommodate disclosure of investment exemptions by alternative disaggregations – if relevant – such as by direct and indirect investments.

9) What are other considerations should the Government consider if it progresses with the introduction of mandatory consumer-facing disclosure obligations?

The key policy objective of the regime is to help retail investors identify, compare, and make informed decisions about financial products that are marketed as sustainable, or similar. The effectiveness of the regime in this regard will depend greatly on the whether retail investors can understand the information presented in consumer-facing disclosure, and are able to use that information to compare like financial products.

The necessitates rigorous consumer testing of consumer-facing disclosure.

10) Should separate CFD requirements be developed for different types of financial products (i.e. non-fund products)?

ASFA considers that separate requirements for consumer-facing disclosure would need to be developed for different types of financial products.

If the regime is to be applied, as proposed, broadly to financial products marketed as sustainable, or similar, to retail investors, it will need to be sufficiently flexible to accommodate the broad range of financial products – as suggested in the consultation paper (on pages 7 and 8).

The types of information that would be disclosed can be different. For example, while an ‘investment strategy’ is a meaningful disclosure with respect to a superannuation investment option and to other financial products such as exchange-traded funds and interests in managed investment schemes, this is not the case with respect to products such as term-deposits.

11) When and how should the CFD be provided to the client/potential client?

As noted in consultation paper, Product Disclosure Statements (PDSs) remain the primary retail disclosure document. For superannuation products, and financial products more generally, consumer-facing disclosure should be incorporated within the existing, familiar frameworks for product disclosure, and included as part of the existing PDS.

For product issuers, this approach also would limit the regulatory burden and costs related to the introduction of, and ongoing compliance with, the regime. The higher the regulatory burden/costs associated with the regime, the greater the risk that product-issuers would be dissuaded from offering financial products that are marketed as sustainable.

ASFA acknowledges that, generally, the sustainability-related information that is currently presented in PDSs is unlikely to be fit-for-purpose for the proposed regime. Regulatory guidance would aim to ensure that consumer-facing disclosure is clear, comparable and easy to understand for retail investors.

ELEMENT 3

12) Should a threshold be prescribed (option 1) or only require there to be disclosure (option 2)?

- a. Which option best ensures the credibility of the labelling regime?
- b. If option 1 is adopted what is the appropriate threshold in the Australian context?

ASFA supports Option 2. For a superannuation investment option, this approach would necessitate clear, standardised disclosure of the proportion of assets under management that align with the related sustainability claims – where this could comprise an element of the small set of standardised, prescribed disclosures (as per the response to Question 7). Relevant information would need to be presented in a manner that would best enable retail investors to compare the sustainability credentials of like products.

- Guidance would be needed on how disclosure requirements – specifically relating to the proportion of assets under management that align with the sustainability claims – would apply to different investment approaches. Funds can utilise an array of investment approaches to achieve a particular sustainability objective – such as, exclusions, negative screens, positive screens, investment tilts – where specific investment approaches can be used in combination.

This approach would accommodate the broad range of financial products that are marketed to retail investors. It is unlikely that a single prescribed minimum threshold or threshold range (as per Option 1), would be appropriate for the universe of different financial products – which includes superannuation investment options and term-deposits.

13) How should a threshold be calculated under option 1 and 2? What assets should contribute to threshold, and how should the different impacts that investments could have on sustainability be considered?

Broadly speaking, for a superannuation investment option, disclosure would account for the proportion of investments that is aligned with the sustainability objective – but only with respect to the *assessable* portion of the option's total asset base.

This recognises that, across the major the asset classes, differences in data availability, data quality, timing of data – in particular – mean that there can be marked variation in the degree to which asset classes can be assessed against sustainability criteria. For example, listed equities and fixed income securities are more readily screened compared with private capital assets. For private capital/hedge fund investments, non-disclosure agreements mean that disclosure regarding specific affected holdings cannot typically occur without a specific lag. Overall, this means that in practical terms, for each major asset class, the *assessable* proportion of the asset-class asset base may differ.

- Disclosure also would need to acknowledge the lags that arise from the process of periodic screening to reporting.

For an investment option, this implies disclosure of the proportion of investments that are assessed – as whether aligning with the sustainability objective – and the proportion of that asset base that does align with the sustainability objective.

A related issue regards whether certain asset classes should be excluded from the asset base – effectively out-of-scope of disclosure. This would include ‘neutral assets’ such as cash and derivatives.

14) If either option 1 or 2 are adopted, what are the practical administrative considerations that need to be resolved during implementation?

For investment options marketed as sustainable, or similar, a regime based on prescribed thresholds (Option 1 in Question 12), would present additional challenges for funds in managing relevant investment options to pass APRA’s annual superannuation performance test.

In order to manage an investment option against the performance test, a fund will invest with regard to the budget for tracking-error vis-à-vis the option’s benchmark portfolio. While options with a relatively large performance buffer can tolerate a larger tracking-error budget in the short-term, all products are subject to a sustainable long-term tracking-error budget. For funds, needing to manage tracking error can act as a constraint on asset-allocation decisions.

With respect to investment options, tracking-error – in relation to the option’s benchmark portfolio – is a function of asset diversification. Under the proposed regime, a prescribed threshold would risk reducing the capacity for diversification for relevant investments options (given a restricted universe of potential investments), and so increase the potential volatility of portfolio returns – which implies a higher probability of failing the performance test in a given year. Ultimately, for superannuation funds, this could dissuade product issuers from developing and offering investment options marketed as sustainable, or similar.

ASFA notes that the Government is currently considering changes to the performance test, and as such, development of the sustainable investment product labelling regime should take account of reform in this regard.

15) Should direct and indirect investments be treated differently for the purposes of the thresholds?

- a. How would compliance with thresholds be evidenced in regard to indirect investments?

ASFA considers that the regime should not prescribe a difference between the treatment of direct and indirect investments. For superannuation investment options, disclosure of the proportion of assets under management that align with the related sustainability objective is addressed in the answer to Question 13.

16) Is there a role to adopt a mechanism which governs the assets not contributing to the threshold (sub option a)?

- a. What are the advantages and disadvantages of adopting the UK's criteria?
- b. What are the advantages and disadvantages of specifying classes of investment as being ineligible for products covered by the labelling framework similar to the EU's proposed framework?
- c. Which option should be preferred?

In principle, ASFA supports a framework where, for a financial product that is marketed as sustainable, or similar, to retail investors, assets that are in conflict with the sustainability objective would be excluded.

In this regard, there are advantages and disadvantages of adopting a mechanism similar to that in operation in the UK – which requires that those assets that are 'not contributing to the threshold', to not conflict with the product's sustainability objective.

With regard to superannuation, such a mechanism could increase the creditability of a regime based on Option 2 above – which for superannuation, entails disclosure of the proportion of investments aligned with the related sustainability objective.

- Such a mechanism could exclude economic activities that consumers would generally, and reasonably expect to be absent from a financial product that is marketed as sustainable, or similar. A 'baseline' of prescribed economic activities could include, for example, thermal coal mining; munitions manufacturing; and tobacco. Such an approach would need to be subject to consumer testing, coupled with follow-up industry consultation on current standards.
- With respect to individual asset holdings (e.g. listed equities), exclusions would apply where prescribed economic activities account for a share of revenue (or similar) that exceeds a particular threshold. A low, non-zero threshold – at, for example, 5% – would balance regime credibility with practicality. This would need to be informed by industry consultation on current standards.

On the other hand, adopting a mechanism similar to that in operation in the UK risks greater complexity and restrictions on investment approaches.

Among Australian retail investors, there is likely to be a broad range of views as to what types of economic activities should be reasonably excluded from products that are marketed as sustainable, or similar. This would present challenges for regulators to define an objective 'baseline' of prescribed economic activities. Prescribing such economic activities also would risk reducing flexibility for product issuers when designing products.

An alternative approach to the UK model would rely on the existing prohibition on misleading and deceptive conduct, together with ASIC's greenwashing guidance, in relation to how sustainability claims must be supported and to address economic activities that may conflict with those claims.

ELEMENT 4

17) Do you support a principles-based approach to evidentiary assessment requirements for financial products marketed as 'sustainable' or similar? Why or why not?

- a. If not, what alternative approach would you prefer and why?

ASFA supports a principles-based approach to evidentiary assessment.

ASFA agrees that a principles-based approach would need to mandate that product issuers demonstrate that their sustainability claims are supported by robust and credible evidence – at the point in time at which the claim is made – but that the types of evidence required to comply with the regime should not be prescribed.

The existing prohibition on misleading and deceptive conduct provides a basis for the evidential requirements on product issuers. An advantage of this approach is that it is familiar to both industry and regulators.

As stated in the consultation paper, an advantage of a non-prescriptive approach is that it will provide greater capacity for innovation with respect to offerings and with respect to evidentiary assessment. For the former, a non-prescriptive approach would better accommodate innovation in investment approaches utilised by product issuers, inclusion of emerging asset classes within investment-option portfolios, and inclusion of assets in portfolios that embed emerging technologies. For the latter, a non-prescriptive approach would better accommodate improvements in quantity and quality of information that can be used to support sustainability claims.

There would be a role for third-party certification of claims made by the product issuers (see Question 7), on a voluntary basis.

18) If applicable, what types of evidence do you currently rely on to substantiate sustainability-related claims for financial products (if possible, please include information on internal methodologies, third-party data, standards or certifications).

- a. What is the relationship between the labelling regime and industry standards? Should a labelling regime prescribe specific standards? If yes, which?

No comments.

19) How can a principles-based regime ensure sufficient consistency across products and issuers, while still allowing flexibility in evidentiary methods?

No comments.

20) Are there particular challenges in evidencing certain sustainable investment approaches?

- a. If so, how should a principles-based regime accommodate these differences?

No comments.