



MINERVA BRIEFING

Australia ESG Update

November 2021

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1. INTRODUCTION

With Australian AGM season and COP 26 at the forefront of everyone's minds, the Australian Government has now committed to net-zero emissions. Demand from investors on company action and disclosure around climate change, environmental, social and governance (ESG) considerations are also taking centre-stage. Achieving this shift without falling prey to greenwashing now seems to demand stronger regulatory and governance measures.

As investors and companies focus on the Australian AGM season, this Minerva briefing looks at ESG developments in the market. ESG activism plays an important role in driving the Australian market into the future. Indeed, ESG challenges have played a major role in shaping the Australian market, including the catastrophic 2019 bushfires, climate warming concerns, considerations of indigenous rights, and particularly Australia's reliance on exports during the global COVID-19 health and economic crisis. Good ESG practice is critical in avoiding reputational damage and building business resilience to crises such as the pandemic.

Specifically, it investigates several regulatory initiatives and reviews launched in Australia over the last few years. The initiatives cover a wide range of topics, ranging from greenwashing to calls for greater consideration of financial risks of climate change, as well as the operation of the stock exchange and market more broadly, with proxy advisors and large asset managers under the spotlight.

One notable development in the market is the growth of ESG shareholder activism in Australia. The coronavirus pandemic, the loss of nearly 3 billion animals in 2019's black summer of bushfires, and the destruction of Indigenous cultural heritage sites have acted as catalysts for integration and action on ESG issues in investor engagement and proxy voting. There is also an increasing number of shareholder proposals being filed on ESG issues in the market, with a particular focus on climate change.



2. ESG IN AUSTRALIA

Over the last several years responsible Investment AUM increased by \$298 billion to \$1,281 billion in 2020, while the AUM managed by the remainder of the market decreased by \$234 billion to \$1,918 billion, with capital shifting towards funds demonstrating leading responsible investment practices. Additionally, there are almost 200 Australian signatories to the Principles for Responsible Investment demonstrating an active ESG investor base in the market.

The onset of the coronavirus pandemic has not slowed down the growth of ESG, rather it has accelerated the consideration of ESG issues for investors and company boards. The 2019 black summer of bushfires, which saw the loss of nearly 3 billion animals, and the destruction of Indigenous cultural heritage sites have also acted as recent catalysts for integration and action on ESG issues in the market.

Australian Asset Owner Stewardship Code	The Code aims to increase the transparency and accountability of stewardship activities in Australia. The Code states that asset owners can help protect and enhance their investments for the long term by considering ESG matters through their stewardship practices. To this end, the Code recommends that asset owners have an ESG policy and consider ESG practices and disclosure in engagement and voting decisions.
ASX Corporate Governance Principles	The principles recommend listed companies disclose whether they has any material exposure to environmental or social risks and, if they do, how they manage those risks, as well encouraging companies to consider making the disclosures recommended by Task Force on Climate-Related Financial Disclosures (TCFD).
Climate Guidance	The Australian Prudential Regulation Authority (APRA) is consulting on new prudential guidance for regulated entities on how to measure, monitor and manage climate-related financial risks, and demonstrate board and management responsibility ⁱ . The Australian Securities and Investment Commission (ASIC) outlined four core messages on climate-change in the 2018 ASIC Report 593 ⁱⁱ : (i) Consider Climate Risk; (ii) Develop and maintain strong and effective corporate governance, (iii) Comply with the law, and (iv) disclose useful information to investors. ASIC recommends listed companies with material exposure to climate risk consider reporting under the TCFD framework and has been monitoring the uptake of TCFD reporting since the first half of 2019-2020.
ESG Activism	There is increasing ESG shareholder activism with growing numbers of shareholder resolutions filed on ESG issues. In the 2021 voting season a number of shareholders proposals have already been filed on climate change and Aboriginal and Torres Island Strait Islander cultural heritage protection. In addition, governance and proxy voting guidelines maintained by Australian Council of Superannuation Investors (ACSI) and the Australian Shareholders' Association (ASA) include recommendations on ESG issues and Australia has seen the growth of 'innovative activist' organisations ⁱⁱⁱ . These are financially and legally sophisticated organisations that target social and climate corporate laggards and the voting practices of superannuation and asset managers.

Climate Litigation	Australia is the second-most active market for climate litigation after the US ^{iv} . Whitehaven Coal Ltd has been involved in a recent high-profile case after the Federal Court ruled Environmental Minister Sussan Ley had a duty to consider the potential harms for young people from climate change when considering fossil fuel projects an extension of a north-west NSW coal mine was approved. Ley is appealing the decision, which is set to be heard in October. The case could set a new precedent and potentially impact the ability of the government and businesses in undertaking new fossil fuel developments.
Australian Sustainable Financial Initiative	In 2017 the Australian Sustainable Finance Initiative (ASFI) was launched to help shape an Australian economy that prioritises human well-being, social equity and environmental while underpinning financial system resilience and stability. ASFI brings together leaders spanning Australia's major banks, superannuation funds, insurance companies, financial sector peak bodies and academia to develop a Sustainable Finance Roadmap.
Aboriginal and Human Rights	The Commonwealth Modern Slavery Act 2018 (Act) requires companies with operations in Australia with annual consolidated revenue of more than \$100m to report annually on modern slavery ^v . Additionally, there is a growing focus on Indigenous rights and cultural heritage protection in Australia. In 2020, the Global Compact Network Australia published a guide for businesses on implementing the UN Declaration on the Rights of Indigenous People ^{vi} and a coalition of investors representing US\$10.2 trillion in AUM sent a letter in December 2020 to the boards of mining companies in Australia and internationally to seek assurances about how the sector obtains and maintains its social licence to operate with First Nations and Indigenous communities. The letter coincides with the parliamentary inquiry into the Juukan Gorge disaster and Western Australia planning laws ^{vii} .
United Nation Sustainable Development Goals	In August 2020, in a letter co-ordinated by the Global Compact Network Australia ^{viii} , a group of Australian businesses, industry groups, universities and civil society wrote to Prime Minister Scott Morrison calling on the Government to use the United Nations Sustainable Development Goals as a framework to help steer the economy through the pandemic.

2.1 ESG DISCLOSURE

The many years of developments in sustainable finance have shaped today's sustainability reporting landscape. Sustainability reporting is defined as "an organisation's practice of reporting publicly on its most significant economic, environmental and social impacts"^{ix}, and hence its contributions – positive or negative – toward the goal of sustainable development.

The process of sustainability reporting is governed by a long list of regulatory bodies and frameworks that guide investors. As global concern around the climate crisis has increased, many of these frameworks have particularly focused on climate reporting and environmental impact.

In 2017, the Financial Stability Board's Task Force on Climate-related Financial Disclosures released climate-related financial disclosure recommendations designed to help companies provide better information to support informed capital allocation. The disclosure recommendations are structured around four thematic areas: governance, strategy, risk management, and metrics and targets. Reporting against the TCFD standards is of growing importance and the proportion of companies in the ASX100 referencing the framework in corporate disclosures has substantially increased over the last three years.

The United Nations Sustainable Development Goals is a collection of 17 goals adopted by the UN member states in 2015 to achieve the 2030 Agenda for Sustainable Development. The SDGs provide a blueprint for countries to achieve a more sustainable future, including ending poverty and hunger, improving health and education, combatting climate change, and protecting oceans and forests.

The SDGs provide a valuable framework for ESG factors to be integrated into corporate sustainability reporting and investor considerations, and more asset managers are beginning to create SDG investable products.

With the Principles for Responsible Investment aligning its work with the UN SDGs and setting out the investment case of SDGs to institutional investors, we expect greater integration of the SDGs into investment and voting decisions by investors and over the past year Minerva has developed a comprehensive SDG framework to support investors using the SDGs as their ESG framework.

Minerva's analysis of corporate disclosures of the ASX100-listed companies found that a clear majority of companies are now referring the SDGs. Australia has been ranked at 37th in the world when it comes to meeting its SDG commitments^x.

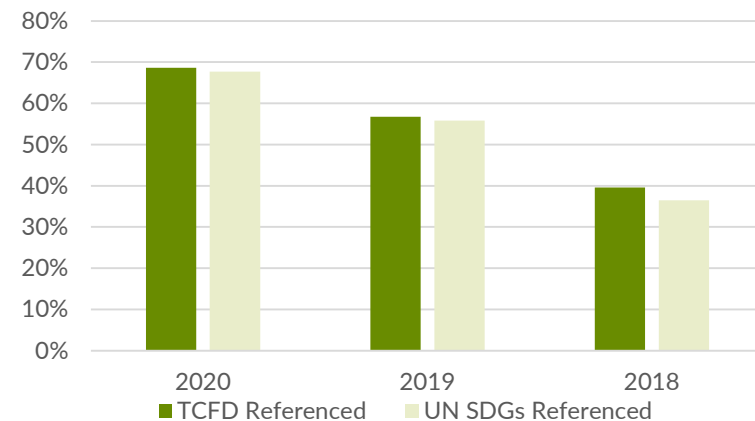


Figure 1 – TCFD and UN SDG References in ASX100 corporate disclosure
Source: Minerva Analytics

2.2 CLIMATE CHANGE

In August 2021, the Intergovernmental Panel on Climate Change (IPCC) published the first instalment of its sixth assessment report. The report found that it is **unequivocal that human influence has warmed the atmosphere, ocean and land, and human-induced climate change is already affecting many weather and climate extremes in every region across the globe**^{xi}.

Climate change is already impacting economies and markets today. Left unabated, conservative estimates suggest the global costs of climate inaction are equivalent to losing between 5 and 20% of global gross domestic product each year, now and forever.^{xii} Climate action has been internationally prioritised as Goal 13 of the United Nations Sustainable Development Goals (SDGs), a framework for overcoming global challenges such as poverty and public health, all inextricably linked to climate change. Achieving the SDGs requires a shift in investments of US\$5 to US\$7 trillion per year until 2030, with climate-related costs of inaction valued at US\$1 trillion per year.^{xiii}

Despite the material physical and transition risks and Australia being the 13th largest economy by GDP, **Australia has been ranked last place for climate action** out of 193 United Nations member countries in a report assessing progress towards the SDGs^{xiv}.

Climate inaction and policy uncertainty have been highlighted as a key issue for the public and investors alike, as demonstrated by surveys from the Australian Conservation Foundation (ACF) and the Investor Group on Climate Change (IGCC)^{xv}.

The IGCC survey found government policy has been a constant headline issue, with **70% of investors highlighting policy uncertainty as a key barrier to capitalise on climate investment opportunities in Australia**, up from around 30% the previous year. Both investors and businesses will struggle to make long-term plans when policy settings are uncertain.

Failing on Paris?

Australia ratified the Paris Agreement in November 2016. The Paris Agreement aims to strengthen the global response to the threat of climate change by: (1) holding the increase in the global average temperature to well below 2°C above pre-industrial levels, and (2) pursuing efforts to limit temperature increase to 1.5°C.

Australia first communicated Nationally Determined Contribution (NDC) committed to reducing GHG emissions by 26% to 28% below 2005 levels by 2030. Australia recommunicated its NDC in 2020, affirming the 2030 target, and will submit its next NDC, with a post-2030 target, by 2025.

Analysis from [Climate Action Tracker](#) and [Climate Targets Panel](#) found that Australia needs to adopt more ambitious targets in order to meet its 2030 target and net-zero ambition.

On 26 October 2021, Prime Minister Scott Morrison announced Australia will adopt a target of net-zero emissions by 2050. Whilst Australia has now joined much of the world in committing to net zero, critics have noted that the target will not be legislated, the 2030 targets have been left unchanged and the commitment rests heavily on carbon capture/storage technological developments.

Director Legal Duty on Climate

A landmark [legal opinion in 2016](#) by Noel Hutley SC and Sebastian Hartford Davis, commissioned by the Centre for Policy Development (CDP), found that directors that do not properly manage climate risks could be held liable for breaching their legal duty of care and diligence.

A [2019 supplementary opinion](#) commented scientific, regulatory and economic developments are contributing to “a profound and accelerating shift in the way that Australian regulators, firms and the public perceive climate risk”. The opinion considered these matters elevate the standard of care that will be expected of a reasonable director, and the exposure of “individual directors to climate change litigation is increasing, probably exponentially, with time.”

An [updated opinion in 2021](#) stated the benchmark for directors on climate change and attendant risks and opportunities continue to rise. The opinion further comments, *‘it is no longer safe to assume that directors adequately discharge their duties simply by considering and disclosing climate-related trends and risks; in relevant sectors, directors of listed companies must also take reasonable steps to see that positive action is being taken: to identify and manage risks, to design and implement strategies, to select and use appropriate standards, to make accurate assessments and disclosures, and to deliver on their company’s public commitments and targets.’*

The cost of inaction outweighs the consequences of no action. A Deloitte Access Economics report found that **climate change will cost Australia’s economy \$3.4 trillion and 880,000 jobs over the coming decades** – whereas **action could create an additional \$680bn and more than 250,000 jobs**. Australia has the potential to be a beneficiary of investment in renewable energy sources, such as batteries, electric vehicles and hydrogen, and **opportunity to become a renewable energy ‘superpower’**^{xvi}.

Despite the uncertain domestic policy environment, the Australian economy does not operate in isolation and as a trade-reliant and internationally exposed economy, the adoption of regulatory policies around climate change by global partners will inevitably flow through to Australian companies and investors. For example, **approximately 70% of Australia’s two-way trade is now with countries that have net-zero targets**^{xvii}.

In particular, the Australian economy is heavily reliant on export income, much of which is emissions intensive. The adoption of net zero commitments by trading partners and introduction of carbon price mechanisms, such as the European Union’s Carbon Border Adjustment Mechanism (CBAM), will likely have an impact on Australia’s economy. Research has also suggested that Australia must leave 95% of its coal reserves in the ground to keep global temperatures rising 1.5°C above pre-industrial levels^{xviii}, although the Australian Government has committed to a “gas-fired-recovery” from the COVID-19 recession^{xix}. Reflecting the recognition of the financial risks posed by the global transition, the Joint Standing Committee on Trade and Investment Growth recently launched an inquiry into the prudential regulation of investment in Australia’s export industries^{xx}

The systemic financial risks posed by climate change present material risks to the investment returns of asset owners and destruction of shareholder value if companies fail to adapt to changing circumstances. The Reserve Bank of Australia (RBA) has commented that banks lending to, and financial institutions investing in, carbon-intensive industries are *'exposed to the risk that climate change will diminish the value of their investments. This could occur both through direct investments in carbon-intensive industries, or indirect investments in banks that lend to these industries.'*^{xxi} Indeed, AGL Energy, Santos Ltd, Oil Search Ltd and Woodside Petroleum Ltd have all seen their share price decline with heightened awareness of the climate impact of natural gases seen as a key contributing factor.

With changing global attitudes towards the climate transition, **Australia faces a risk of global capital flight** as it is seen as having high-risk profile on climate change. The **RBA has warned that the economy is at risk from large foreign investors withdrawing capital because of perceptions among global fund managers that the Government is resisting stronger action on climate**^{xxii}. At the same time, the Australian export economy may face increasing difficulties in accessing financial services^{xxiii} - reflective of this, shareholder resolutions have been filed at Australia's four largest banks in 2021 asking for disclosure on how the banks will manage their fossil fuel exposure.

Notably, the Australian market has been a priority focus for the Say on Climate initiative, which has already obtained commitments from AGL Energy Ltd, Oil Search Ltd, Origin Energy Ltd, Rio Tinto Ltd, Santos Ltd, Woodside Petroleum Ltd on holding a shareholder vote on climate transition plans in the 2022 voting season¹.

Companies and investors have a role to play in ensuring a just climate transition. Boards need to take action to ensure they have appropriate governance structures in place to manage this issue and provide reliable disclosure on their exposure to climate-related risks and opportunities, and investors have a role to hold investee companies to account for failing to appropriately manage risks

Financial Risks of Climate Change

The Reserve Bank of Australia categorise the financial risks arising from climate change for financial institutions as:

Physical:

disruptions to economic activity or reductions in asset values resulting from the physical impacts of climate change.

Transitional:

the impact of changes in regulation or pricing introduced to facilitate a transition to a low-carbon economy.

Liability:

an inadequate response to these risks also raises the potential for reputational and legal risk.

¹ For more information, see Minerva's briefing on Climate Stewardship. <https://www.manifest.co.uk/climate-stewardship-have-your-say/>

With climate change set to be the dominant ESG issue in this year's Australian voting season, what can shareholders do?

Capital Allocation: Investors may wish to integrate climate change considerations into capital allocation decisions, investment mandates, and construct climate resilient portfolios to de-risk portfolios. Investors may consider divestment as a last resort when engagement fails to reduce financial exposure.

Advocacy: Investors may wish to advocate for action towards net-zero by engaging with policy makers and taking part in collaborative initiatives.

Engagement: With ACSI recommending companies consider disclosing meaningful and useful climate change risk related information to investors and promotion of TCFD reporting^{xxiv}, and APRA's consultation on climate guidance, TCFD-aligned disclosure in Australia is likely to improve. However, there is still no mandated TCFD-aligned reporting as seen in New Zealand, Hong Kong, the UK and elsewhere. Investors should engage with investee companies to encourage the adoption of TCFD-aligned reporting on climate risks and opportunities in order to promote reliable and comparable disclosure.

Voting: Shareholders should include climate considerations into voting policies and take action at investee companies that are failing to act on climate change risks. Investors can hold directors individually accountable for climate strategy by voting against director candidates. Investors can also consider supporting ESG-related shareholder proposals.

How can Minerva help shareholders?

For every company, Minerva publishes a comprehensive and independent analysis of the three strategic elements of governance: corporate governance, pay for performance, and sustainability governance. Each report contains comprehensive profiles and peer group comparisons to enable robust benchmarking, ensuring investors can easily see which companies stand out, in positive or negative term. Minerva's sustainability governance framework harmonises sustainability reporting with shareholder accountability and stewardship to encourage a holistic approach to the integration of ESG to give investors a "Say on Sustainability". The Minerva sustainability framework is fully aligned with the recommendations of the Financial Stability Board's TCFD recommendation and the Transition Pathway Initiative.

3. GOVERNANCE IN AUSTRALIA

Corporate governance has become a prominent focus of regulatory reform in Australia over the last two decades following a series of high-profile governance failures, corporate collapses, and the global financial crisis. Alongside this, there has been a growing focus on stewardship and the role of asset owners in promoting sustainable value creation in the companies in which they invest.

The ASX Corporate Governance Council was convened by the ASX in August 2002. The primary role of the Council is to develop and issue principles-based recommendations on the corporate governance practices to be adopted by ASX listed entities. Under Listing Rule 4.10.3, ASX listed entities are required to benchmark their corporate governance practices against the Council's recommendations and, where they do not conform, to disclose that fact and the reasons why.

The current version of the Council's Corporate Governance Principles was released on 27 February 2019. The principles apply to a listed entity's first full year commencing on or after 1 January 2020. The key changes echo the findings and recommendations of the final report published by the Royal Commission and call for companies to reinforce a culture across the organisation of acting lawfully, ethically and in a socially responsible manner.

In May 2018 the Australian Council of Superannuation Investors (ASIC) launched the Australian Asset Owner Stewardship Code. The Code aims to increase the transparency and accountability of stewardship activities in Australia and sustainable value creation. Signatories to the Code are required to disclose their approach and outcomes regarding key stewardship activities: voting, engagement, policy advocacy and the selection, appointment and monitoring of external asset managers^{xxv}.

Key Changes in the 2019 ASX Corporate Principles

Culture	Greater emphasis on the importance of monitoring and taking responsibility for culture, conduct and behaviour. This includes recommendations on an entity's values, code of conduct, whistleblowing policy, and anti-bribery and corruption policy.	Risk	Greater emphasis on non-financial risks, such as environmental and social risks and entities with material exposure to climate change are encouraged to implement the TCFD recommendations.
Diversity	S&P/ASX300 companies should have a measurable objective of at least 30% of directors of each gender. Boards should also consider other facets of diversity including having directors of different ages, ethnicities, and backgrounds.	Remuneration	Recognises remuneration as a key driver of culture with implications for reputation and standing in the community, and discretion should be used to prevent performance-based pay rewarding conduct that is contrary to the entity's values or risk appetite.

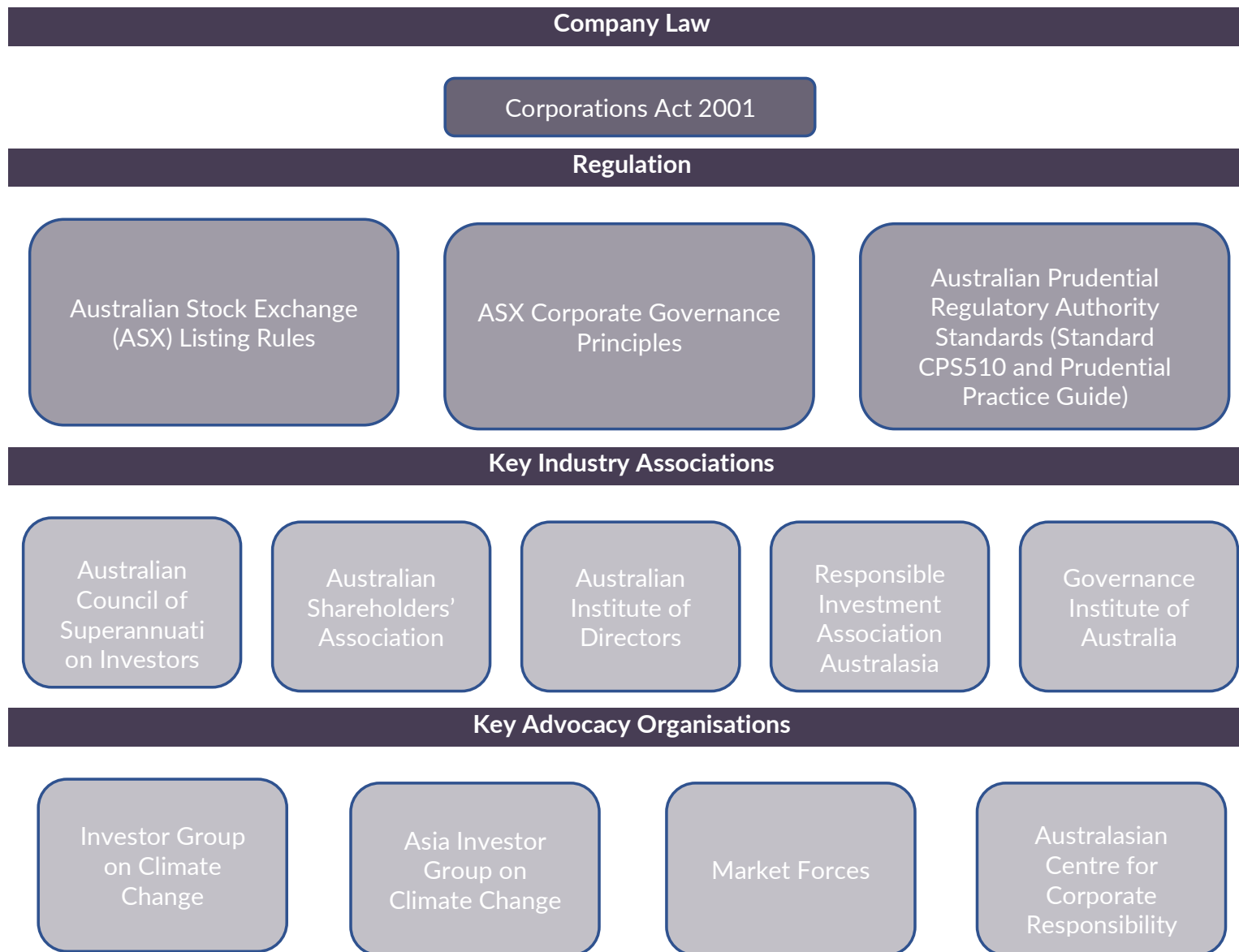


Figure 2 - Building Blocks of Australian Corporate Governance

3.1 CORPORATE CULTURE

Corporate culture can have a profound impact on an organisation's performance, governance, and reputation. Poor company culture has been at the heart of many – if not all – of the high-profile governance failures over the past decade in Australia and elevated culture into the spotlight^{xxvi}.

On 14 December 2017 the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established to examine a series of high-profile scandals in the financial industry and failures in conduct, practices, and behaviour. The Commission published its final report on 4 February 2019, highlighting significant shortcomings in the corporate governance practices of many large financial service firms listed on the ASX. The Commission made 76 recommendations and 24 referrals for potentially criminal conduct.

The recommendations focused on (i) strengthening and expanding the protections for consumers, small businesses and rural and remote communities; (ii) enhancing accountability and governance standards; (iii) enhancing the effectiveness of regulators; and (iv) providing for remediation for those harmed by misconduct. Although the Government committed to enacting all 76 recommendations^{xxvii}, analysis has found that the Government has failed to implement the recommendations in full after more than two years since the final report was published^{xxviii}.

In 2018 the final report of APRA's Prudential Inquiry into the Commonwealth Bank of Australia (CBA) was released. The inquiry examined governance, culture and accountability within CBA following a series of governance and operational shortcomings that damaged the bank's reputation and public standing. The final report highlighted a series of failings dating back to 2008, including mis-selling of margin

loans, misconduct by financial advisors, mis-selling of credit cards and anti-money laundering breaches amongst others, with cultural factors considered to lie at the heart of these shortcomings. The final report made a series of recommendations designed to strengthen governance, accountability, and culture within CBA. The recent filing of criminal charges by ASIC against CBA for mis-selling consumer credit products between 2011 and 2015 highlights the ongoing reputational and financial risks associated with past conduct failures^{xxix} - the bank may face fines of up to \$51million.

The final report on CBA was studied by boardrooms across Australia and the APRA also asked 36 financial institutions to undertake self-assessments against the findings of the report. The APRA found that the weaknesses identified in the inquiry were not unique to CBA and that there are consistent findings relating to non-financial risks management, accountabilities, and risk culture^{xxx}.

This has led to corporate culture becoming a key focus for investors, regulators, and companies alike. The focus on corporate culture is highlighted by new recommendations on culture added to the fourth edition of the ASX's corporate governance principles, guidance published jointly by ACSI and the AICD and the ASIC launching a review of corporate governance and how boards oversee non-financial risk^{xxxi}.



The Royal Commission has had a legacy on corporate governance in Australia, however, the market has seen a recent series of failures in culture and conduct that may impact investor engagement and voting decisions in the upcoming AGM season:

Recent failures in corporate culture	
AMP Ltd	Chairman David Murray resigned in August 2020 following criticism over the company's response to a sexual harassment complaint, and promotion of Boe Pahari (disciplined in 2018 for sexually harassing a female colleague) to head of AMP's capital business division.
Australian Securities and Investment Commission	Financial regulator ASIC found itself in the spotlight after an investigation was launched in 2020 following revelations that ASIC paid over \$100,000 for personal tax advice to help James Shipton relocate to Australia upon appointment as chairman of the regulator. Whilst the final report cleared Shipton of breaching the code of conduct, he resigned as chairman during 2021.
Crown Resorts Ltd	CEO Ken Barton stepped down after an inquiry found Crown was not fit to hold a gaming licence in New South Wales, meaning it cannot operate its newly built casino in Sydney. The inquiry also raised concerns over alleged money laundering at its casinos and cultural, governance and risk management failings.
Harvey Norman Holdings Ltd	The retailer has faced criticism from investors and stakeholders after Chairman Gerry Harvey initially stated that the firm would not repay \$22m in Jobkeeper payments despite more than doubling its sales and profit for the first half of the financial year.
Insurance Australia Group Ltd	On 9 August 2021 IAG announced major changes to its Board, including the departure of Chair Elizabeth Bryan and Risk Committee Chair Duncan Boyle. Two days later, IAG announced a loss of AU\$427m after it had to put aside AU\$1.15bn for business interruption claims due to poorly worded policies meaning IAG was liable for losses during COVID-19 lockdowns. IAG also had to deal with staff underpayments and customer refunds related to pricing issues. In September IAG's Chief Risk Officer David Watts resigned from the Company. The losses raised concerns regarding risk management, and internal controls and management systems at the insurance firm.
Mining Industry	The mining sector is facing an inquiry on sexual harassment against women in the fly-in fly-out (FIFO) industry by the Western Australia Community Development and Justice Standing Committee. The inquiry has found that sexual harassment is rife at mining camps, with BHP, Fortescue, and Rio Tinto reporting incidents. Sexual harassment poses material reputational and workforce risks and raises concerns regarding corporate culture.
QBE Insurance Group Ltd	CEO Pat Regan departed from QBE on 1 September 2020 following an external investigation concerning workplace communications that the Board concluded did not meet the standards set out in QBE's Group Code of Ethics and Conduct.
Rio Tinto Ltd	Rio has faced ongoing challenges following its destruction of 46,000 year-old rock shelters at Juukan Gorge in Western Australia's Pilbara region that were sacred to the area's Aboriginal traditional owners, the Puutu Kuntj Kurrama and Pinikura people. The scandal resulted in the departure of Chairman Simon Thompson and three senior executives, including CEO Jean-Sébastien Jacques.

3.2 RECENT REGULATORY INITIATIVES

Regulating the Proxy Advisor Industry

On 29 April 2021 the Treasury published a consultation paper [Greater Transparency of Proxy Advice](#). The stated intention is to assess the *'adequacy of the current regulatory regime and help develop reform options that would strengthen the transparency and accountability of proxy advice.'* Reforms being considered include (among others) the introduction of new licensing requirements for proxy advisers and requiring proxy advisers to provide their research and voting recommendations to companies for comment five days before distributing the final report to clients.

However, reviews by ASIC into proxy advice in [2017](#) and [2018](#) found no cause for concern and *'that concerns regarding the extent of influence of proxy adviser recommendations on the voting outcomes of company resolutions are overstated.'* Additionally, whilst the consultation references to practice and developments in UK and US, no other market requires proxy firms to provide companies with pre-publication access to research reports and the US abandoned its plans to require pre-publication access. The ASIC 2018 review stated, *'it is up to the individual proxy adviser as to how it wishes to strike a balance between the sometimes-competing priorities of engaging with companies (including fact-checking), maintaining independence from companies (including preventing receipt of non-public information and avoiding undue influence), and managing timing constraints in their engagement policies.'*

In addition, proxy firms in Australia hold Australian financial services (AFS) licenses for advice on votes that relate to dealings in financial products. Providing voting recommendations does not require an AFS license although proxy firms do have obligations under s912A and s1041H of the Corporations Act, including the prohibition of misleading or deceptive conduct.

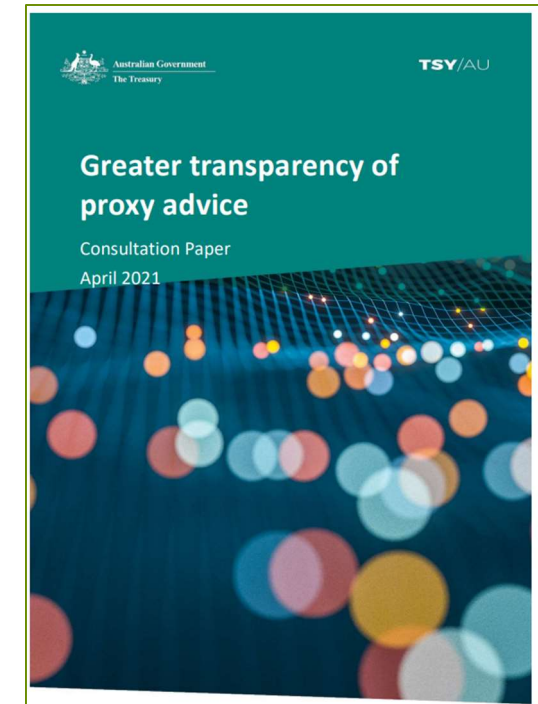


Figure 3 - Australian Treasury report on regulating the proxy advisor industry ([Australian Treasury](#))

The APRA
consults on
Climate Change
and
Remuneration

On 22 April 2021, APRA released for [consultation its draft guidance to banks, insurers and superannuation trustees on managing the financial risks of climate change](#), with final guidance is expected in late 2021.

The draft *Prudential Practice Guide CPG 229 Climate Change Financial Risks* (CPG 229) is designed to assist APRA-regulated entities in managing climate-related risks and opportunities as part of their existing risk management and governance frameworks. CPG 229 is aligned with the recommendations from the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) and covers APRA's view of sound practice in areas such as governance, risk management, scenario analysis and disclosure. Under CPG 229 'climate risks' refers to the financial risks arising from climate change, including physical risks, transition risks and liability risks.

On 30 April 2021, APRA released for [consultation a draft prudential practice guide on remuneration](#), which sets out principles and better practice examples to assist entities in meeting the requirements proposed in the new prudential standard, CPS 511 Remuneration (CPS 511). The draft prudential practice guide is intended to assist entities to comply with the new standard by: (i) outlining examples of better practice in board oversight, including robust challenge and independent scrutiny, (ii) setting out frameworks for defining non-financial measures and determining material weight for use in calculating variable remuneration, and (iii) setting out principles for downward adjustments of variable remuneration where there have been poor risk outcomes.

APRA plans to finalise both the guidance and the CPS 511 in the second half of 2021. Entities will be expected to comply with the requirements of CPS 511 from January 01, 2023, under a staged implementation approach. APRA is also conducting a data study with selected entities, to inform its approach to reporting and disclosure requirements for compliance with CPS 511.

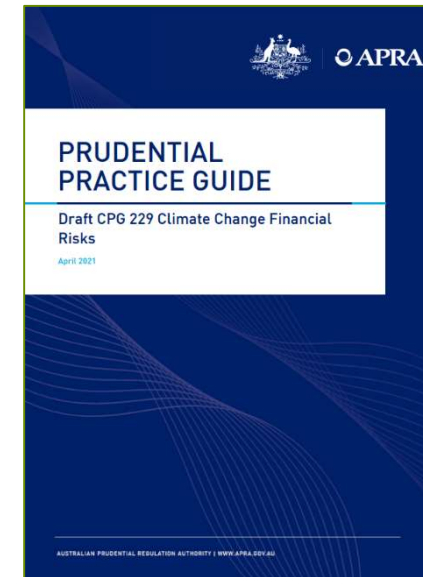


Figure 4 - APRA consultation on Climate Change and Financial Risk ([APRA](#))

Greenwashing Review

In July the Australian Securities & Investments Commission [announced it is conducting a review](#) to establish whether the practices of funds that offer investment products focused on ESG considerations align with their promotion of these products; in other words, whether the financial product or investment strategy is as “green” or ESG-focused as claimed. ASIC’s review of the extent to which greenwashing may be evident in the fund’s management space follows on from our review of climate risk disclosures by large, listed companies. That review found improved standards of climate-related disclosure compared to our review a few years ago, including significant voluntary uptake by listed companies of the TCFD recommendations. However, it also found instances where sustainability-related disclosure by many companies carried a “marketing” feel.

Common Ownership and Capital Concentration Concerns

On 2 August 2021 the Standing Committee of Economics launched an [inquiry into the implications of common ownership and capital concentration in Australia](#). The inquiry is open to submissions until 13 September 2021. The inquiry is concerned that a high concentration of ownership of ASX listed companies by an increasingly small number of ‘mega funds’ is increasing and providing these funds power to make decisions on the stock exchange. In addition, the common ownership of rival companies by the ‘mega funds’ may risk higher prices and collusion, corporates imposing public policy agendas while bypassing democracy, and disempowering ordinary investors.

The inquiry was launched after the committee’s deputy chair, Labor MP Andrew Leigh published [research on common ownership of competing firms](#) in Australia. The analysis found that in 31% of companies where a shareholding of at least 5% was identified, the shareholder also held a large stake in a rival business. The research suggests the world’s largest asset managers, such as Blackrock and Vanguard, and local super funds may be inhibiting competition by owning large stakes in rival businesses.

The inquiry was met with criticism by the super industry, with the [Association of Superannuation Funds of Australia](#) calling it an ‘act of political theatre’ and ‘appears to advocate for a bygone era in which executives were free to run the firm in their interests rather than in the wider stakeholder interests.’



Figure 5 - Minerva has published its own [briefing on greenwashing](#) for clients to better understand the risks.

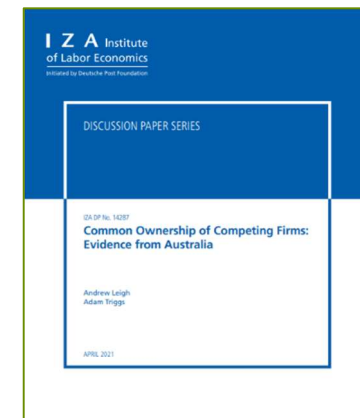


Figure 6 - Labour MP Andrew Leigh's research on common ownership, which has informed the recent inquiry in Federal Parliament ([Institute of Labor Economics](#))

About Minerva

Minerva helps investors and other stakeholders to overcome data disclosure complexity with robust, objective research and voting policy tools. Users can quickly and easily identify departures from good practice based on their own individual preferences, local market requirements or apply a universal good practice standard across all markets.

For more information, please email hello@minerva.info or call + 44 (0)1376 503500

Other Briefings Available

- Board Evaluation in Europe
- Board Gender Diversity in Europe
- Board Independence – A Global Review
- Chair Independence
- Climate Stewardship
- Cybersecurity
- Employee Board Representation in Europe
- Global Research and Voting Policy Guidelines 2021
- Investment Association Remuneration Guidelines
- Shareholder Rights Directive II
- Sustainability and Remuneration
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