APPENDIX A: SELECTED CONSULTATION QUESTIONS

Consultation question	ACSI response
Entities that do not need to provide a sustainability report B1Q2 What further guidance could we provide to help entities determine whether they are required to prepare a sustainability report?	We note that RG 000.43 lists examples of entities that are not required to provide annual financial reports under Chapter 2M of the *Corporations Act 2001* and are therefore not required to provide a Sustainability Report. We recommend that an additional example is included in RG 000.43 to clarify the treatment of investment entities controlled by RSEs that meet the required AASB 10 definition and are consequently not required to be consolidated into the Annual RSE Report. These investment entities are not required to provide an annual financial report under Chapter 2M and therefore will also not be required to disclose a Sustainability Report.
Sustainability records, directors duties and modified liability B2Q5 Does our proposed guidance on the modified liability settings clarify how these settings apply to statements made in sustainability reports and other documents or communications? B2Q6 What further guidance should we provide about the modified liability settings?	The proposed guidance on modified liability settings outlines the framework for protected statements. While this clarifies many aspects of ASIC's enforcement approach to modified liability, such as there being no modified liability for statements voluntarily made outside the sustainability report, case study examples would provide further context for reporters. A selection of case study examples that articulate how organisations can meet the requirement to have a reasonable basis for such statements would be helpful to encourage entities to appropriately verify their statements, rather than just rely on the modified liability settings. This is discussed in further detail in our response to C3Q1 and C3Q2 below.
Forward-looking statements C3Q1 Do you agree with our proposed guidance? C3Q2 Should we issue more guidance about the facts or circumstances that are more likely to constitute reasonable grounds for forward-looking information in climate statements? If you consider that we should issue more guidance, please explain: (a) what it should cover beyond the application guidance in Appendix D of AASB S2; (b) how you consider that guidance would impact information disclosed under the sustainability standards in Australia, compared to information	We welcome the inclusion of regulatory guidance on forward-looking statements. We note that Appendix D of AASB S2 and RG 170 *Prospective Financial Information* are cited as being helpful in outlining the characteristics required for climate-related forward-looking statements to be made on 'reasonable grounds.' In general, it would aid clarity for reporters if case study (or case law) examples were provided on what would, and would not, be considered 'reasonable grounds.' If ASIC considers that the materials referred to in RG 000.77 could form a 'reasonable basis' for a forward-looking statement to be made, it would be helpful for the guidance to specifically articulate this position. ACSI considers that additional guidance around climate-related forward-looking statements should be developed given the misunderstandings across the market on how forward-looking statements can be made with a reasonable basis. As an example, it would

disclosed under the comparable international standards; and (c) if there is any resultant inconsistency, how this can be reconciled with the context and purpose of the reforms, which cite international alignment of sustainability reporting to be a key priority	be valuable to include additional guidance that notes that as climate reporting is expected to be prepared on an annual basis, this would provide an opportunity to review and update existing statements with reasoning, subject to continuous disclosure obligations. The time frame over which climate risks and opportunities may be expected to materialise will be a relevant consideration.
Sustainability disclosures outside sustainability report D1Q1 Do you agree with our proposed guidance? If not, why not? D1Q2 Does our proposed guidance strike the right balance between facilitating other sustainability-related disclosures, especially while sustainability reporting requirements are being phased in for reporting entities?	The draft regulatory guidance states that all entities "should consider, and be informed by, the sustainability standards when preparing climate-related financial information." The guidance would benefit from making the exact intention of this wording explicit as it may incur some unintended consequences. For example, RSEs report at whole of portfolio level under the AASB standards, while if climate-related information is disclosed under the PDS, this will be at a product level. This is discussed in more detail in ACSI's response to D4Q2 below.
S1013D or S1013E D4Q1 Do you agree with our guidance? If not, why not? D4Q2 Are there any practical problems associated with our proposal? If so, please provide details. D4Q3 What reasonable expectation are retail investors likely have about the disclosure of climate-related financial information if required by s1013D and s1013E?	ACSI supports the inclusion of guidance around the reporting of sustainability-related financial information in the PDS. We consider that the guidance would benefit from clarifying the difference between sustainability-related financial disclosures required under the AASB Standards and the sustainability-related information required by legislation covering the PDS. The requirements for a PDS under s1013D concern the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment, whereas AASB S2 specifically concerns climate-related financial disclosures. While there may be overlap with climate-related financial disclosures and environmental considerations that are required to be disclosed in a PDS, we note that the proposed guidance may potentially result in lengthy climate-related financial disclosure information being included in a PDS, beyond the disclosure obligations of s1013D. Consequently, additional guidance should clarify that: • The AASB Standards are disclosures at the whole of portfolio level, while PDS disclosures are, by definition, at a product level. While PDS disclosures may "consider, and be informed" by the AASB Standards, this consideration should in effect be limited to the use of common

	terminology, rather than, for example, effectively requiring that S2 compliant disclosures be prepared at a product level. • Sustainability-related information disclosed in the PDS are typically related to investment processes, and so will have limited relevance to disclosures required under the AASB Standards.