

SUSTAINABILITY

Sustainability Reporting and Assurance: A Focus on Ethics and Independence (IESBA)

In the context of rapid sustainability reporting standards setting, the International Ethics Standards Board for Accountants (IESBA) and its stakeholders have recognised the need for sustainability reporting and assurance to be underpinned by high standards of ethical behaviour and independence.

Australian ESG Legal Outlook: 2023

Allens has released its 2023 ESG outlook for Australia, looking at key issues across each of the environmental, social, and governance dimensions. Allens observes that climate and environmental issues are at the forefront of ESG-related litigation, although many social aspects, such as modern slavery, are also gaining momentum.

IPA Group Diversity & Inclusion Action Plan

Released in late 2022, the IPA Group's Diversity & Inclusion Action Plan represents our official commitment to a range of targets and initiatives, aiming to improve equity and belonging within our organisation and community.

TAXATION

Treasurer reiterates no changes to Stage three tax cuts

Treasurer has reiterated that the government's position on the so-called Stage three tax cuts has not changed.

Guilty verdicts in major tax fraud case

ATO has issued a release in relation to an AFP-led investigation which led to three men being found guilty by the NSW Supreme Court for alleged tax fraud.

State duty and land tax surcharges on foreign residents

Victorian State Revenue Office has advised that it will not be making any changes to the way it currently imposes surcharge purchaser duty and foreign owner surcharge land tax.

Foreign ownership register: draft data standards

Treasury has released a draft legislative instrument setting out the proposed data standards and technical requirements for submitting information to the register.

Requirement to lodge 2023 tax and other returns

ATO has issued a draft instrument which covers income tax returns and other lodgments including franking account returns.

ATO education direction: PS LA updated

Practice Statement PS LA 2005/2 has been updated for the Commissioner's new power to direct business taxpayers to undertake a record-keeping course.

GST margin scheme and state-owned corporations

ATO has issued a decision impact statement on the two Federal Court decisions involving the NSW state-owned corporation, Landcom.

IESBA proposes Tax Planning and Related Services revisions to the Code

The International Ethics Standards Board for Accountants (IESBA) has released Exposure Draft *Proposed Revisions to the Code Addressing Tax Planning and Related Services* for public comment. Members are encouraged to send comments to the IPA prior to **5 May 2023** at ipaadvocacy@publicaccountants.org.au.

Changes to how you request lodgment deferrals are coming

The ATO is changing the way tax agents request lodgment deferrals. Tax agents will no longer need to download, complete and submit different spreadsheets or figure out which form to use. The new functionality will be coming to Online services for agents and is scheduled to be launched in late **April 2023**.

FINANCIAL SERVICES

Financial sector reforms: five Bills re-introduced

Government has re-introduced five Bills into Parliament as part of its plan to implement major changes to the finance sector.

Corporations and financial services law reform: exposure drafts

Treasury has released two sets of exposure draft regulations as part of measures intended to streamline and modernise corporations and financial services laws.

SUPERANNUATION

Response to Super Data Transformation consultation

APRA has released a response to the consultation on minor amendments to reporting standards introduced under Phase one of the SDT project.

SUSTAINABILITY

Sustainability Reporting and Assurance: A Focus on Ethics and Independence (IESBA)

In the context of rapid sustainability reporting standards setting, the International Ethics Standards Board for Accountants (IESBA) and its stakeholders have recognised the need for sustainability reporting and assurance to be underpinned by high standards of ethical behaviour and independence.

Therefore, the IESBA has committed to deliver fit-for-purpose, globally applicable ethics and independence standards for trustworthy sustainability reporting and assurance.

The IESBA are holding four global roundtables to gather input from stakeholders. The IPA will be represented on March 30 at the roundtable in Sydney.

More information about the IESBA's work on sustainability is available [here](#).

Australian ESG Legal Outlook: 2023

Allens has released its 2023 ESG outlook for Australia, looking at key issues across each of the environment, social, and governance dimensions. Allens observe that climate and environmental issues are at the forefront of ESG-related litigation, although many social aspects, such as modern slavery, are also gaining momentum.

The 'E' in ESG – Environment

- The introduction of the *Climate Change Act 2022* (Cth) came into effect on 14 September 2022, operating as the umbrella legislation to implement Australia's net zero by 2050 and 2030 interim targets.
- Mandatory climate risk disclosure.
- Safeguard mechanism reform.

The 'S' in ESG – Social

- A statutory review of the *Modern Slavery Act 2018* (Cth) was announced in March 2022 and the outcomes are yet to be seen. If the review compares the

current legislation to that of our international counterparts, there is scope for more stringent reporting requirements.

- Respect at Work Act imposing a new duty on employers and persons conducting a business to take positive measures to eliminate, as far as possible, sex discrimination and sexual harassment.

The 'G' in ESG – Governance

- Data breaches and cybersecurity
- Anti-corruption / bribery / sanctions: 2022 saw increased attention from policymakers, leading to various reforms.

Read the full report [here](#).

IPA Group Diversity & Inclusion Action Plan

Released in late 2022, the IPA Group's Diversity & Inclusion Action Plan represents our official commitment to a range of targets and initiatives, aiming to improve equity and belonging within our organisation and community.

Our initiatives are divided into four categories:

- Our people
- Our commitment
- Our leaders
- Our members

To view the plan in full, please click [here](#).

TAXATION

Treasurer reiterates no changes to Stage three tax cuts

The Treasurer has [reiterated](#) that the Government's position on the so-called Stage three tax cuts has not changed.

The Stage three personal income tax cuts are set to commence from 1 July 2024. Under these legislated changes, the 32.5% marginal tax rate will be cut to 30% for one big tax bracket between \$45,000 and \$200,000.

The Treasurer was asked about the cuts in the context of the submarines that Australia is committed to buying. He stated that the Government's "position on those tax cuts hasn't changed".

Guilty verdicts in major tax fraud case

The ATO has issued a [release](#) in relation to an AFP-led investigation, Operation Elbrus, which led to three men being found guilty by the NSW Supreme Court for an alleged \$105m tax fraud. The three men were found guilty of conspiring to defraud the Commonwealth and conspiring to deal with the proceeds of crime valued at \$1 million or more.

Operation Elbrus, with assistance from the ATO, exposed large-scale and organised tax fraud and money laundering conspiracies that used payroll service entities to divert monies payable to the ATO as PAYG withholding tax and GST. A total of 16 people were charged as part of the investigation.

State duty and land tax surcharges on foreign residents

The Victorian State Revenue Office [has advised](#) that it will not be making any changes to the way that it currently imposes surcharge purchaser duty and foreign owner surcharge land tax.

Certain international tax treaties contain a non-discrimination provision along the lines that a foreign resident shall not be subject to more tax in Australia than Australian residents. Relevantly, the treaties between Australia and NZ, Finland, Germany and South Africa extend to taxes that include land tax and duty.

NSW [announced in February](#) that citizens of these countries purchasing residential-related property or who own land in their own capacity will not be required to pay NSW surcharge purchaser duty and surcharge land tax.

The Victorian announcement states that the "position in Victoria has not changed and the SRO will continue to apply the Victorian provisions to all foreign purchasers and absentee owners".

Foreign ownership register: draft data standards

Treasury has released a Draft Legislative Instrument ([LI 2023/D2](#)) setting out the proposed data standards and technical requirements for submitting information to the new Register of Foreign Ownership of Australian Assets. The new Register is expected to start on 1 July 2023 and will be administered by the Commissioner of Taxation who has been appointed as the Registrar.

The new Register (previously announced in the 2020-21 Budget) will record foreign interests in land, water, entities, businesses and other assets in Australia. It will amalgamate and expand the existing foreign investment registers administered by the ATO, including for water entitlements and agricultural land (which will be repealed upon commencement of the new Register).

Comments are due by 31 March 2023.

Requirement to lodge 2023 tax and other returns

The ATO has issued draft instrument Notice of Requirement to Lodge a Return for the Income Year Ended 30 June 2023 ([LI 2023/D7](#)) which covers income tax returns and other lodgments for:

- franking account returns, including special rules for late balancing corporate tax entities that elect to use 30 June as a basis for determining their franking deficit tax liability;
- venture capital deficit tax returns;
- ancillary fund returns;
- trustees of SMSFs;
- member information statements by superannuation providers.

The ATO also issued draft instrument Notice of Requirement for Parents with a Child Support Assessment to Lodge a Return for the Income Year Ended 30 June 2023 ([LI 2023/D8](#)). It requires liable and recipient parents under a child support assessment to lodge an income tax return for the income year, by the due date specified in the instrument. Such persons may not otherwise be required to lodge an income tax return.

Comments for both are due by 14 April 2023.

ATO education direction: PS LA updated

Practice Statement [PS LA 2005/2](#) (Penalty for failure to keep or retain records) has been updated for the Commissioner's new power to direct business taxpayers to undertake a record-keeping course (as an alternative to imposing a record-keeping penalty). This power came into effect on 13 March 2023. (A similar power exists for not complying with super guarantee record-keeping obligations.)

A taxpayer offered a tax-records education direction will need to complete an approved online course. If the taxpayer is not an individual, the course must be undertaken by a decision maker in the taxpayer's business (eg a director or partner). The taxpayer will not be liable for a record-keeping penalty if the relevant person completes the course by a set date. This date will be negotiated between the ATO and the taxpayer.

The updated Practice Statement indicates that an education direction is best suited for small business entities. It lists a range of circumstances that the ATO may take into account in deciding whether to issue a direction, or vary or revoke it.

GST margin scheme and state-owned corporations

The ATO has issued a [Decision Impact Statement](#) on the two Federal Court decisions involving the NSW State-owned corporation, Landcom.

In *Landcom v FCT* [2022] FCA 510, Thawley J held that the proposed sale by a State-owned corporation of the freehold interests in various lots would not be a single supply for the purposes of the margin scheme, after first deciding that it had jurisdiction to hear the corporation's appeal against the disallowance of its objection to a private ruling. On appeal, the Full Court also found for the taxpayer – upholding

the decision that the proposed sale of the freehold interests in four lots that were grouped together would not be a single supply for the purposes of the margin scheme: see *FCT v Landcom* [2022] FCAFC 204.

As to whether Landcom was entitled to object to the Commissioner's response to its private ruling request and to appeal against the Commissioner's decision on this objection to the Federal Court, the DIS states that government entities are entitled to obtain private rulings on matters relating to their notional GST liabilities and have the same review rights in relation to such rulings as non-government entities do for other rulings relating to GST.

In terms of the application of the margin scheme to supplies of land consisting of multiple interests, the Commissioner will administer the law in accordance with the Courts' conclusions. In many cases, this will not change the overall outcome for non-government taxpayers as the final GST outcome will be largely the same whether liabilities and entitlements are determined collectively or individually for each interest. However, this will not necessarily be the case for government entities. For supplies by such entities, each interest supplied will need to be considered separately when determining whether the supply is a supply of unimproved land to which s 38-445 or table item 4 of s 75-10(3) may apply.

IESBA proposes Tax Planning and Related Services revisions to the Code

The International Ethics Standards Board for Accountants (IESBA) has released Exposure Draft [Proposed Revisions to the Code Addressing Tax Planning and Related Services](#) for public comment.

The proposed revisions respond to public interest concerns about tax avoidance and the role played by consultants, including professional tax advisers. Among other matters, the proposed ethical framework:

- Explains the types of threats to compliance with the fundamental ethics principles of the Code that might be created when professional accountants are involved in tax planning.
- Sets a clear principle that professional accountants recommend or otherwise advise on a tax planning arrangement only if they have determined that there is a credible basis in laws and regulations for it.

- Requires consideration of the reputational, commercial and wider economic consequences that could arise from the way stakeholders might view the tax planning arrangement before determining whether to proceed with the recommendation or advice.
- Provides practical guidance to assist professional accountants in navigating situations of uncertainty when carrying out tax planning.
- Deals with other practical matters, including disagreement with the client or management or those charged with governance, and documentation.

Members are encouraged to send comments to us prior to **5 May 2023** at ipaadvocacy@publicaccountants.org.au.

Changes to how you request lodgment deferrals are coming

'The new lodgment deferral function is coming soon to Online services for agents.

We're continuing to work with registered agents and professional associations to test and refine the new function. We're on schedule to launch this new function in late April.

It will:

- provide a more intuitive and streamlined experience
- allow you to apply for up to 40 lodgment deferrals at a time
- pre-populate information on the clients you're seeking a deferral for, with on-screen prompts to help you
- allow you to view lodgment deferral requests you submitted in the previous 60 days.

When this new function is released, you'll no longer need to download, complete and submit different spreadsheets or figure out which form to use.

More information and guidance will be available to support you and your practice in using the new function. In the meantime, share this update and let your staff know improvements are on the way.'

FINANCIAL SERVICES

Financial sector reforms: five Bills re-introduced

The Government has re-introduced the following Bills into Parliament as part of its plan to implement major changes to the finance sector.

- [Financial Accountability Regime Bill 2023](#);
- [Financial Accountability Regime \(Consequential Amendments\) Bill 2023](#);
- [Treasury Laws Amendment \(Financial Services Compensation Scheme of Last Resort\) Bill 2023](#);
- [Financial Services Compensation Scheme of Last Resort Levy Bill 2023](#);
- and
- [Financial Services Compensation Scheme of Last Resort Levy \(Collection\) Bill 2023](#).

The IPA has made submissions on the Compensation Scheme of Last Resort (CSLR). Whilst we agree with the need for a CSLR, we maintain our concerns for how it will operate and be funded.

The Bills had been introduced in September 2022 (and indeed before that in the last term of the Coalition Government). They had progressed to the second reading stage in the Senate. However, the Assistant Treasurer stated in the Second Reading Speech that, due to the inability to introduce certain amendments into the Bills in the Senate (attributable to Constitutional reasons), "reintroducing the bills in the way we are doing today is the neatest, lawful path to the agreed objective". The amendments are stated to be minor.

Financial Accountability Regime

The *Financial Accountability Regime Bill 2023* will create a new accountability regime for the banking, insurance and superannuation industries. It will establish the Financial Accountability Regime, which extends the standards of conduct in the Banking Executive Accountability Regime to all APRA-regulated entities. This gives effect to recommendations 3.9, 4.12, 6.6, 6.7 and 6.8 of the Financial Services Royal Commission.

The Financial Accountability Regime will first apply to the banking industry (ADIs and their authorised non-operating holding companies). Entities in the banking industry

are currently subject to the obligations under the Banking Executive Accountability Regime, under the *Banking Act 1959*.

The Financial Accountability Regime will also apply to other APRA-regulated entities in the insurance and superannuation industries. For such entities there is a deferred application so they have sufficient to adjust their systems and processes before they are subject to the obligations under the Regime. The Consequential Bill makes certain amendments and transitional arrangements to assist this process, such as allowing for early application for registration of accountable persons, to prepare for the start date of the Regime for the relevant industry.

The Financial Accountability Regime will apply to the banking industry 6 months after assent and to the insurance and superannuation industries 18 months after assent.

The Second Reading Speech states that the Bills "are substantially the same" as those considered by the Senate Committee. However, it now incorporates a small amendment, previously circulated by Senator David Pocock, "to articulate more clearly the scope of the Minister's exemption power and to provide for Parliamentary oversight of the exercise of that power".

Compensation scheme of last resort (CSLR)

The objective of the CSLR is to provide compensation to eligible consumers where they have an AFCA determination in their favour and where the relevant financial firm has not paid the consumer in accordance with the determination.

The operator of the CSLR cannot consider the merits or facts of a dispute between a consumer and an AFCA member underlying an AFCA determination. Rather, the CSLR operator is required to make a compensation payment to the consumer if conditions prescribed in the Corporations Act are met.

Generally, the CSLR operator must make a payment of compensation to a consumer if:

- the consumer is eligible for compensation, including that a relevant AFCA determination has been made in respect of the consumer;
- the consumer makes an application under the CSLR; and
- the consumer has accepted the offer of compensation.

Part of the Government's commitment to the CSLR was that it would be funded by the financial services industry. Accordingly, an annual levy will be payable by persons who are members of a sub-sector within the meaning of the levy framework established by the *ASIC Supervisory Cost Recovery Levy Act 2017*. The annual levy is intended to provide for:

- compensation payments to consumers;
- payment of AFCA's unpaid fees;
- establishment and maintenance of a capital reserve; and
- re-imbursement of the administrative costs incurred by the CSLR operator and ASIC in administering the scheme.

The total amount of annual levy payable for a levy period and a sub-sector is required to be worked out by the CSLR operator in accordance with a method to be prescribed in the regulations. The method for calculating levy amounts is intended to draw on concepts already in place for similar calculations as part of the ASIC supervisor cost recovery levy framework

The Second Reading Speech also emphasises that the re-introduced CSLR package reflects the same intent and are substantially the same as the 2022 legislation, although "minor and targeted" amendments have been made to "reflect the passage of time and further stakeholder feedback".

The Assistant Treasurer was at pains to point out that passage of the legislation through Parliament in March was essential to facilitate the CSLR being operational from December 2023.

Corporations and financial services law reform: exposure drafts

Treasury has [released](#) two sets of exposure draft regulations as part of measures intended to streamline and modernise Australia's corporations and financial services laws. The draft regulations anticipate the passage of specific Bills, ie when they become law.

- The ***Treasury Laws Amendment (Measures for Consultation) Regulations 2022: ALRC Financial Services Interim Report Tranche 2*** proposes to simplify the *Corporations Regulations 2001* and the *Australian Securities and Investments Commission Regulations 2001* following the changes proposed in the *Treasury Laws Amendment (Measures for*

consultation) *Bill 2022: ALRC Financial Services Interim Report Tranche 2* (the "Amendment Act") released for consultation on 12 December 2022. The draft regulation will make consequential changes required due to the Amendment Act expanding s 9 of the *Corporations Act 2001* to create a single glossary and removing redundant definitions.

- The ***Treasury Laws Amendment (Modernising Business Communications) Regulations 2023*** proposes to make changes that are consequential to the passage of the *Treasury Laws Amendment (Modernising Business Communications and other Measures) Bill 2023*, when it becomes law. For example, the draft regulation ensures that certain documents can be sent in either physical or electronic form and amend prescriptive requirements to publish notices in newspapers.

Submissions are due by 3 April 2023.

SUPERANNUATION

Response to Super Data Transformation consultation

APRA has [released](#) a response to the consultation on minor amendments to reporting standards introduced under Phase one of the Superannuation Data Transformation (SDT) project.

The amendments clarify investment option reporting and expenses reporting; reduce frequency of reporting for some requirements; and increase the time for submission of data for some requirements.