



Law Society
of Scotland

Consultation response

Requiring mandatory climate-related financial disclosures by publicly quoted companies, large private companies and Limited Liability Partnerships (LLPs)

April 2021



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Banking, Company and Insolvency Law Sub-committee welcomes the opportunity to respond to the consultation *on requiring mandatory climate-related financial disclosures by publicly quoted companies, large private companies and Limited Liability Partnerships (LLPs)*.¹ We have the following comments to put forward for consideration.

Response to questions

QUESTION 1: Do you agree with our proposed scope for companies and LLPs?

Yes.

QUESTION 2: Our proposed scope includes UK registered companies with securities admitted to AIM with more than 500 employees. Do you have any views on expanding this to include other unregulated markets and Multilateral Trading Facilities (MTFs)?

We agree it would make sense to expand beyond AIM to other unregulated markets.

QUESTION 3: Do you agree with the proposal to require climate related financial disclosures for companies and LLPs at the group level?

We consider that it is sensible for disclosures to be made at the group level. Greater flexibility could negate comparability and a consolidated return will ensure that risky activities cannot be “buried” in a particular entity within a group structure.

QUESTION 4: Do you agree that the Strategic Report is the best place for the disclosure of climate-related financial information by companies?

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972422/Consultation_on_BEIS_mandatory_climate-related_disclosure_requirements.pdf

This seems sensible and it is better to avoid creating a new document. The strategic report is likely to include this kind of information already and both private and institutional investors will expect to find it there.

QUESTION 5: Do you have views on whether LLPs should be required to disclose climate-related financial information in the Strategic Report (where applicable), or the Energy and Carbon Report?

We agree that LLPs should be required to disclose information in the Strategic Report, failing which in the Energy and Carbon Report.

QUESTION 6: Do you agree that requiring disclosure in line with the four pillars of the TCFD recommendations, rather than at the 11 recommendation level is suitable?

We agree that the four pillar approach seems sensible. The most important aspect is to ensure a common framework is applied in order to facilitate comparability.

QUESTION 7: Do you agree that information provided in line with the obligations set out above would provide investors, regulators and other stakeholders with sufficient information to assess the climate-related risks and opportunities facing a company or financial institution?

We agree.

QUESTION 8: Do you agree with our proposal that scenario analysis will not be required within a company or LLP's annual report and accounts?

We agree. Indeed, we consider that scenario analysis could be manipulated and might in fact be misleading as it would be difficult to create realistic scenarios which would adequately cover all potential risks.

QUESTION 9: Would alignment of the scope for climate-related financial disclosures and SECR requirements, such that large unquoted companies and LLPs would be subject to the same reporting requirements under SECR as quoted companies, aid reporting of climate related financial disclosures and simplify reporting procedures? Do you have any views on the continuation of voluntary Scope 3 emissions reporting under SECR requirements?

It seems sensible for large unquoted companies and LLPs to be aligned under the SECR. We support the continuation of voluntary Scope 3 emissions reporting as it makes sense for businesses to keep reporting on emissions if they choose to do so.

QUESTION 10: Do you have comments on the proposed qualification to a company's duty to make climate-related financial disclosures for companies?

The proposed qualification makes sense. We do not think there is a risk of businesses being able to cover up any harm.

QUESTION 11: Do you have comments on the proposed timing for these regulations coming in to force?

This seems sensible and affords businesses a sensible timescale in which to implement the proposed changes.

QUESTION 12: Do you have any comments regarding the existing enforcement provisions and the BEIS proposal not to impose further provisions?

These seem sensible.

QUESTION 13: Do you have any comments regarding duties and enforcements for LLPs?

These seem sensible.

QUESTION 14: Do you have any comments on the responsibilities of auditors in relation to climate-related financial disclosures?

We do not consider that the responsibility of auditors in relation to climate-related financial disclosures should be different from any other audit responsibility.

QUESTION 15: Do you have any comments regarding the proposed enforcement of our disclosure requirements?

We agree that it is important for the regulators to ensure a joined-up approach. Ultimately it will be for the FCA to determine the detailed rules.

QUESTION 16: Do you have any comments regarding the impact of our proposals on protected groups and/or how any negative effects may be mitigated?

As a general rule we do not see any specific impact on particular protected groups. However, the relevant information will need to be presented in a way that is accessible to both retail investors and institutional investors and there needs to be a balance in terms of providing sufficient information to allow investors to make informed decisions and ensuring comparability.

QUESTION 17: Do you have any further comments about our proposals?

We have no further comment on specific aspects of this proposal. Generally, we note that the UK is taking a lead in this area and it will be important to ensure international regulatory cooperation and coordination going forward to minimise the compliance burden for businesses operating internationally.

For further information, please contact:

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