Regulation has played a significant role in shaping the financial services sector in Australia over the past few decades. Regulatory changes have included the establishment of the Australian Prudential Regulation Authority (APRA), floating the Australian dollar, allowing foreign financial institutions to operate domestically, the introduction of the superannuation guarantee charge, and the removal of interest rate controls. As the economy emerges from the worst financial crisis since the Great Depression, a new force of change that is recognised as one of the most significant sources of risk and opportunity facing the business community in the foreseeable future has come to the forefront: climate change. Climate change is expected to be a significant change agent in the financial services sector as extreme weather patterns, sea level rises and atmospheric changes impact on asset values (both investment and lending), project finance and risk products. The financial services industry will particularly be affected by these developments, both as a provider of financial products (capital, credit, investment, advice and insurance) and through its powerful influence on the economy in terms of capital allocation. In addition, industry constituents will be impacted significantly by government regulation in this area (reporting, emissions trading and environmental policies) with respect to both their own business practices and those of their clients. This study reports the results of interviews conducted with senior members of the finance sector working in the sustainability area to gauge their perceptions of the challenges facing the sector with respect to climate change. Our results confirm that that regulatory intervention will be critical to climate change response gaining traction and momentum. In particular, regulatory certainty will promote engagement, especially in relation to the Carbon Pollution Reduction Scheme (CPRS), with other developments needed in terms of information disclosure, performance and remuneration, and incentive programs. Accordingly, the significant potential risks and opportunities that climate change presents to the sector, and to the broader economy, will in part be managed/realised only if a swift and significant regulatory response is achieved.

* Department of Accounting, Finance and Economics, Griffith Business School. The authors sincerely thank participants in this study for their willingness to share their views and insights on the topic. We also thank the Financial Services Institute of Australasia (FINSIA) for its support of this research. In addition, the support of the Griffith Business School’s Strategic Research Program in Sustainability is much appreciated.
Introduction

The potential implications of climate change for our environment and economy are far reaching. Regardless of one’s personal position on the causes of climate change, there is little doubt that it is a reality.¹ For the financial services industry, responding to the economic impacts of climate change will arguably be one of the biggest challenges of the next few decades. We anticipate that climate change will influence all aspects of the industry, including internal operations and infrastructure, client engagement, product development and innovation, investment analysis and modelling, and credit policies. However, recent findings have indicated that the sector is not sufficiently prepared and does not have the capacity to respond quickly.² While there is a growing awareness of climate change issues across the industry, this awareness has not yet translated into broad-based action.

To further compound this lack of action, the global financial crisis (GFC) has led to financial institutions retreating from risk due to the cost and scarcity of capital. The regulatory response to the GFC will potentially be significant for the financial sector with calls for increased liquidity and capital requirements, limits on the breadth of products offered by universal financial institutions, changes to the regulatory authorities and increased consumer protection. Interestingly, the GFC has also contributed to a delay in regulatory action in some areas, with the Carbon Pollution Reduction Scheme (CPRS) legislation being introduced to parliament for the third time in February 2010, having twice been defeated by the Senate in 2009. Key senators, together with the federal opposition in Australia, have questioned the economics of the government’s climate change response, with one senator going so far as to suggest that he is far from convinced that climate change is real.³ These negative responses add further uncertainty to the current situation, and are likely to discourage a proactive approach by financial market participants. Notwithstanding this, the Australian financial system is in a comparatively strong position, and this strength, together with the stated desire of the government to have greater regional influence,⁴ provides an opportunity for the sector to play a leadership role in the response to climate change.

The financial sector itself is not a significant polluter compared with carbon-intensive industries such as mining and energy production, with its main emissions coming from buildings, travel and paper usage. Despite this, it is argued that the importance of the financial services sector, as discussed above, will lead to stakeholders putting pressure on financial institutions to engage in climate change response. Under stakeholder theory, management

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¹ IPCC (2007).
³ Berkovic (2009).
balances the demands of a number of stakeholders, and research has found that responses to demand are based on stakeholder power, legitimacy and urgency. There is also evidence to support stakeholder theory as a basis for engagement in corporate social responsibility (CSR), with studies finding that the commitment to social issues in all companies wanes during an economic downturn.

Under neo-classical corporate theory, the only objective of the firm is to maximise shareholder wealth. This view is largely redundant, as it fails to capture the growing trend of CSR and the recognition that the modern firm has other motives in addition to maximising returns to shareholders. This is under-scored by the acceptance that environmental, social and governance (ESG) issues impact the financial performance of the firm and suggestions that investors increasingly are influenced by a company’s environmental and social performance. The financial sector internationally is responding to these changes, as evidenced by the UN Global Compact Principles for Responsible Investment (PRI) which, by May 2009, had 538 signatories from 36 countries, representing over US$18 trillion in assets under management. The number of signatories has continued to grow and now exceeds 700.

The importance of the financial sector to climate change lies in its role as a provider of capital and the influence this gives the sector in terms of funding both commercial and consumer activities. Climate change will also impact the activities of financial institutions because of its effect on asset values (for both credit and investment applications), insurance portfolios and advisory services. Indeed, new markets – for example, carbon and water – will emerge as significant opportunities, as will new technologies in relation to energy production, agriculture and transportation. There are also significant reputational and market positioning gains (and losses) to be made. Furthermore, and as highlighted by the GFC, the financial sector has a significant influence on the performance and stability of the broader economy. Consequently, the risks and opportunities that climate change

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5 Freeman (1984). A stakeholder is considered to be any person or organisation that can affect the ability of the firm to achieve its objectives, or that is affected by the firm achieving its objectives.


9 A variety of terms have been used to describe these issues, including ‘ESG’, ‘sustainability’ and ‘corporate social responsibility’ (CSR). In this report, we use the terms ‘ESG’ and ‘sustainability’ interchangeably to refer to the broader commitment to environmental and social responsibility, but do so in the context that the business of financial services is to facilitate sustainable profit.


12 Based on information on the UN PRI website at 10 March 2010: see www.unpri.org.
presents to financial institutions may influence not only the future fortunes of the institutions within the sector, but the economy as a whole. This influence has significant political currency, with the London Summit of the G20 leaders in 2009 stating a commitment to build an inclusive, green and sustainable economic recovery and citing the importance of the financial system in this. The 2008 United Nations Climate Change Conference also recognised the importance of the financial system in both mitigation and adaptation efforts. Hence the nexus between sustainability and economic performance has been acknowledged and will no doubt lead to regulatory response in the coming years.

The financial sector has always been heavily regulated, with APRA having far-reaching powers to monitor financial institutions, and the provision of information and the issuance (and retraction) of licences to operate financial institutions, and to enforce compliance with credit-risk and liquidity-management requirements. The relative robustness of the Australian financial system throughout the GFC is in part due to the re-regulation that occurred in the late 1980s following the Wallis inquiry. Ironically, the regulatory response to the failure of HIH in 2001 is also credited with preparing the sector for the crisis. In regard to climate change regulation, the potential exists for far-reaching additions and amendments to induce the appropriate response by the sector. Indeed, in a comparatively tightly regulated sector with the backdrop of the GFC, it is arguable that regulation will be pivotal in generating a sustained and systematic response by the sector. The question of interest, therefore, is the degree to which regulatory intervention is required to obtain timely engagement by the financial services sector. On the one hand, it could be postulated that the profit-centric nature of financial services would lead to less engagement in the short term, given the longer payback period on investments associated with climate change. In contrast, the activity within financial services under the banner of ESG suggests that other motives may lead to an increase in engagement.

This article examines the role that regulation will play in generating further engagement in climate change response by the Australian financial sector in a post-GFC environment. Through semi-structured interviews with senior members of the sector working in the sustainability and/or ESG area, we examine the importance of current and future climate change regulation in Australia. Our findings confirm that regulation will be critical to obtaining sector-wide and systematic response to climate change in financial services due to the perceived lack of willingness to engage and the conservative approach that the GFC has endowed on the sector. Participants believe that a strong, clear and stable regulatory approach is essential and will be needed to deal with the reluctance to engage, inherent short-termism, and the lack of disclosure of sustainability activities, risks and opportunities. Key regulatory actions required include clarity around the details of the CPRS, expansion of the National Greenhouse and Energy Reporting System (NGERS) and other

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13 de Boer (2008).
Disclosure devices to provide the sector with the information required for informed and timely capital allocation decisions, and interventions to combat the short-term remuneration cycles in the sector. Other policy initiatives suggested include incentives and schemes to promote investment in new technology, enhanced education requirements and clarity around the terminology used. Finally, it is also argued that there needs to be greater dialogue and cooperation between the sector and the government over these regulatory devices in order to produce an effective and timely response.

The remainder of the article is structured as follows. The next section provides a review of the current regulatory and policy context within which the financial sector operates vis-à-vis climate change. This is followed by an outline of the research method and sampling techniques used in the study. We then report the interview findings relating to perceptions of the role and importance of climate change regulation, and of future regulatory initiatives that may facilitate further engagement in climate change response. The final section provides a summary of the findings and concludes the article.

**Current Policy Setting**

Perhaps the most visual regulatory instrument that relates to climate change response globally is the Kyoto Protocol. The United Nations Framework Convention on Climate Change (UNFCCC), ratified by 192 countries, is the parent treaty to the Kyoto Protocol and came into force in 1994 as a framework for tackling climate change. Since then, annual conferences of the parties (COP) to the agreement have been held across the world, starting with Berlin in 1995. Key conferences have been COP3 in Kyoto, Japan in 1997, where the Kyoto Protocol was adopted, introducing binding targets for greenhouse gas emissions from 2008 to 2012 for 37 industrialised countries. The 2007 conference in Bali was of particular note due to the Rudd government’s ratification of the Kyoto Protocol, which was an important symbol of the nation’s commitment to tackling climate change. The Bali Road Map was also adopted at this meeting, setting out the negotiation process for reaching agreement beyond 2012. This was developed further at the 2008 conference in Poznań, Poland, which focused on a program for negotiations to enable an international response to climate change to be agreed by both developed and developing countries at the 2009 Conference in Copenhagen. The 2009 conference was seen as the last opportunity to gain agreement before the Kyoto Protocol expires in 2012. However, a legally binding treaty was not achieved in Copenhagen, although an accord was reached that will allow countries to set their own greenhouse gas emission reduction goals for 2020. An in-principle agreement was reached that average global temperatures should not be allowed to rise more than 2º Celsius. The objective now is to establish targets to meet this agreement at COP16 in Mexico at the end of 2010. The implications for Australia of failing to reach a global agreement are significant and have influenced Australia’s position on emissions targets and the mechanisms for

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14 For more detail on this refer to Brimble et al (2009).
achieving them. The following sections will discuss key elements of the current regulatory position in Australia.

**Carbon Pollution Reduction Scheme**

The Carbon Pollution Reduction Scheme (CPRS) is the government’s main proposed mechanism for reducing greenhouse gas emissions in the medium and long terms. The CPRS White Paper, released in December 2008, forms the basis for Australia’s transition to a low-pollution economy and outlines the medium- and long-term targets for reducing carbon pollution, with the long-term commitment being the reduction of emissions by 60 per cent of 2000 levels by 2050. As a result of the uncertainty created by the GFC, the government both delayed the introduction of the system by one year and altered the emissions reductions targets. The Senate voted against the initial CPRS legislation in August 2009. The legislation was reintroduced to Parliament in October 2009 but was again defeated in the Senate in December 2009. The CPRS legislation was introduced for a third time in February 2010; however, in April 2010 the government announced that it would delay the introduction of the scheme until after the end of the current Kyoto Protocol commitment period. The government also wants to seek clarity on the response of key emitters such as the United States and China. Despite this, the government has reiterated that the CPRS is central to its response to climate change.

The objective of the scheme is to address the failure of the market to place a cost on carbon pollution. The scheme achieves this by a ‘cap and trade’ mechanism whereby the government places a cap on greenhouse gas emissions and sells or issues permits up to the level of that cap. The introduction of the CPRS will have a number of important implications for the financial services sector, including the role the sector will play in the development and operation of the market and the investment and lending opportunities that will arise from it.

**National Greenhouse and Energy Reporting System**

The *National Greenhouse and Energy Reporting Act 2007* was developed primarily to support the CPRS in terms of the provision of information needed for the CPRS to operate. The resultant National Greenhouse and Energy Reporting System (NGERS) introduced a single national reporting framework for the reporting and dissemination of information about greenhouse gas emissions and energy use/production for Australian corporations. This is of particular relevance, given that in Australia the

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15 On 27 January 2010, the Australian government submitted its emission reduction target range to the Copenhagen Accord. The target is an unconditional 5% reduction below 2000 level emissions by 2020, with up to 15% and 25% both conditional on the extent of action by other nations.

16 A full and detailed review of the proposed system is not possible here. Refer to the government’s White Paper for this.
Brimble, Stewart & De Zwaan: Climate Change & Financial Regulation

voluntary disclosure of ESG information is less developed compared with Europe and the United States.\(^{17}\) In addition to underpinning the CPRS, the Act is designed to inform government policy formation, assist in the meeting of international reporting obligations and avoid duplication of reporting requirements. The first reporting period ended on 30 June 2009 and organisations captured\(^ {18}\) by NGERs must report their greenhouse gas emissions, energy production, energy consumption and other specified information.

**Fiduciary Duties**

Fiduciary responsibility is a key issue in the finance sector, and particularly in the investment management area. It has been argued that neglecting to consider ESG issues could amount to a breach of fiduciary duty, with fiduciaries having a responsibility to invest in the ‘best interests’ of the beneficiaries, not specifically the best financial interests.\(^ {19}\) Theoretically, ‘interests’ could be construed as long-term returns for an investment such as superannuation. Trustees who do not consider ESG issues arguably increase the risk of a long-term portfolio, and therefore may not be acting in the best interests of the beneficiaries. Examining sustainability issues can help trustees to identify those businesses that are at higher risk of climate change impacts, environmental or social sanctions, penalties and legal action, leading to more sound long-term returns.

The problem, however, lies in the fact that some managers believe that they are breaching their fiduciary duty by considering issues other than financial returns. This concern has been exacerbated by the GFC, with financial advisers reporting that they are not prepared to recommend such investments, as they believe them to be higher risk for less return.\(^ {20}\) In Australia, the regulatory stance also supports ‘enlightened self-interest’ being pursued, rather than active regulation of ESG integration.\(^ {21}\) In essence, the regulation is permissive rather than obligatory in regard to the consideration of sustainability issues in investment processes. Furthermore, the primary source of legislation for superannuation, the *Superannuation Industry (Supervision) Act 1993*, enacts a ‘sole purpose test’ whereby the fund must be maintained for the sole purpose of providing benefits to each member upon retirement.\(^ {22}\) Finally, most of the common law rulings have been encompassed in the relevant statutory law; however, there is no statute pertaining to the pursuit of socially responsible investment (SRI) by superannuation funds. As no Australian case law has dealt with the issue, the

\(^{17}\) PriceWaterhouseCoopers (2001).

\(^{18}\) If they meet either an emissions or energy use threshold specified in the Act.

\(^{19}\) Richardson (2007).


\(^{21}\) Joint Parliamentary Committee (2006).

\(^{22}\) *Superannuation Industry (Supervision) Act 1993*, s 62.
best guidance is in English case law where the cases of *Cowan v Scargill*23 and *Harries v Church Commissioners*24 are the most relevant, and both are generally interpreted to establish the duty to maximise profits.25 Despite this, recent changes to both the disclosure requirements in the *Corporations Act 2001* and the *Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2005* could be construed as authorising SRI.26 In practice, however – and particularly in the aftermath of the GFC – this is largely operationalised in terms of maximising financial returns.

The academic literature argues that, providing they can show that the investment meets primary financial criteria, and that the SRI strategy will not negatively impact the portfolio, then trustees would not be breaching their fiduciary duty by investing in SRI strategies.27 This is supported by a report which found that, provided the trustees act prudently and for a proper purpose, then fiduciary duty is not compromised by the consideration of ESG issues in investment decisions.28 There is also evidence that regulation can drive take-up of SRI products,29 while others note that the legislation encourages consideration of ESG but not necessarily the integration of these issues.30 Overall, Australia has fewer legislated ESG requirements than other parts of the world – for instance, the United States and Europe.31

**Voluntary Codes and Industry Standards**

Voluntary codes and industry standards are also a key means of self-regulation, and they are beginning to have an influence on the sector. This is particularly the case as institutions move to engage themselves with climate change issues, as these codes and standards provide access to information and expertise, and guidance on procedures and protocols. There are also perceived benefits from being recognised as a signatory to key codes and principles. Perhaps the most widely known example of these codes is the Equator Principles; these provide guidelines in relation to environmental impacts of project finance. Three of Australia’s large banks are signatories and, in the case of ANZ Bank, the Principles played a role in the bank’s decision to withdraw from funding the Tasmania Pulp Mill in 2008.32 Another key standard is the PRI, which commits the signatories to incorporating ESG issues into mainstream investment decision-making and into their own business practices. At the time of writing, there are

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24 *Harries v Church Commissioners* [1992] 1 WLR 1241.
26 Richardson (2007).
29 Scholtens (2005).
30 Ambachtsheer (2005).
Australian signatories and, given the evidence\textsuperscript{33} that the principles are a driver for ESG integration, it is anticipated that they will play a key role in the future – particularly in the relationship between asset owners and asset managers.

In summary, the legislative environment has a significant influence on the financial sector and the level of engagement in sustainability. As noted, the GFC has negatively impacted on engagement, suggesting that legislative encouragement will be important to drive action in the economy. To build on this further, we now examine the perceptions of climate change regulation held by senior members of the Australian financial sector who are actively engaged in the sustainability agenda.

**Method and Sampling**

We use semi-structured interviews to investigate the impact of climate change on the financial services sector in Australia and to identify factors that inhibit engagement and capacity-building with respect to climate change. Twenty-five senior members of the sector who are in sustainability-related roles were interviewed to obtain their views on these issues. Participants were initially identified from the membership database of the Financial Services Institute of Australasia (FINSIA). Additional interviewees were then included based on the recommendations of some of the initial participants. The sample was drawn from across the sector and comprised four bankers, five senior analysts or researchers, eight specialist consultants, six investment managers, one lawyer and one financial planner. Due to the relatively small population of individuals with relevant seniority and expertise, together with the potential sensitivity of the information provided, the selection process was strictly confidential and hence detailed demographic data on the participants is not provided.\textsuperscript{34}

The interviews were semi-structured and typically lasted an hour (ranging from 45 to 95 minutes). The discussion guide was iteratively developed with senior policy staff from FINSIA and pilot tested on several senior academics and practitioners for flow, clarity of purpose and questions. It contained nine questions that explored a range of issues, including the background of the interviewee, perceptions of the sector’s engagement in sustainability, the impact of the government’s policy agenda, perceptions of challenges, opportunities and risks for the sector in responding to climate change and regulatory and other actions required to enhance engagement from the sector. The in-depth nature of the interviews, together with the high-level expertise of the interviewees across key sub-sectors of the industry, combine to provide valuable confirmatory evidence on the issues facing the sector as it responds to climate change.

The interviews were recorded, transcribed and then subjected to thematic analysis on a question-by-question basis to extrapolate key themes.

\textsuperscript{33}Dale (2007).

\textsuperscript{34}The research process obtained ethical clearance from the host university and this requires that anonymity be protected due to this issue.
and issues which are reported in the following sections. Quotes offered in these sections are seen as representative of the tenor of the comments from participants.

The Industry’s Perspective

Perceptions of the Importance of Regulation

It is the view of our participants that government intervention is imperative if progress on climate change in the broader Australian economy is to proceed at an acceptable rate. It is argued that, without legislative direction and accompanying incentives, the development of green products and services as well as the embedding of sustainable principles in investment, credit and advisory functions will occur too slowly. Two main reasons for this are offered: first, a lack of willingness to engage and be an early mover; and second, the fact that a market for carbon is a ‘manufactured’ market that is not likely to develop on its own. A number of issues are cited as contributing to the perceived lacklustre performance of the sector, and these include a lack of leadership at senior levels, a preoccupation with short-term performance, a lack of available expertise, a low level of base knowledge and understanding of the likely impacts that climate change will have on the sector, confusion over terminology and jargon, and the impact of the GFC, which has led to heightened conservatism and risk aversion in the sector:

Quite substantial [the impact of regulation]. It is not a matter of if, it’s a matter of when.

It’s a kick up the pants … the fund managers and asset managers are starting to get worried because they don’t know enough.

Right at the top … our leaders need a bit of help to understand what their role is as leaders.

With respect to the carbon market, interviewees recognised that, without regulatory intervention, this market would not be developed. Even with regulation, the pure market mechanism will be difficult to operationalise in this context, meaning that the design of the system, its maintenance and ongoing development are all critical. There was also concern that the development of carbon securitisation and derivative products may undermine the market, particularly if the regulatory framework is inadequate or ineffective. Interviewees emphasised the importance of the detail of the regulation in ensuring the creation of a robust and effective system. Consequently, regulation will be a critical impetus to climate change

Note that all participants acknowledge that there are a number of examples of excellent engagement and development across the sector; however, their concerns are that this is not system wide, nor integrated across the business of an institution. Rather it is typically concentrated in one area, or in one product or activity.
preparation by the financial services sector and one of the key stimuli for capacity-building:

Regulation may become the tail that wags the dog; there is a need to ensure governance and monitoring arrangements are strong.

Government needs to be there to outline the rules and regulations that underpin the funding for all these projects.

Two other areas that emerged for potential regulatory action were education and language. It was agreed by most participants that terminology and jargon were a barrier in this area and had caused confusion in the past. It was suggested that a legislative glossary of some sort would be useful to manage this issue. Education was also seen as an important issue for both current and future members of the sector, providing an opportunity to amend minimum training requirements to include sustainability issues.

There is a lot of work going to be going on in terms of basic education.

Language is a very big issue.

**Regulatory Certainty**

Participants were unanimous in their belief that the present lack of regulatory certainty had led to reluctance to engage. It was argued that, given participation would be mandatory, and the market would be defined by the legislation, little would occur until the details on the CPRS were finalised. It was noted that the ongoing uncertainty around these details and the ongoing political debate were inhibiting action by organisations, both in product development and advisory work. Interviewees stressed that the legislative role of government would be critical in terms of directing the market. However, it was noted that the government’s role was to provide the right framework and that it would be up to the industry and the market to make it work. It was also acknowledged that the sector should more actively lobby government to obtain the desired input into this process, and that greater dialogue and cooperation between the regulatory and legislative authorities were required;

But it is too early for analysts to put into their base analysis – we need to know the carbon price and how the ETS will work. Impression is that the government is too ‘wimpy’ to put the rules in place. But the rules must be government driven. It is not terribly complicated, not rocket science, no mystery – we just need to know the rules.

Anything that increases the interaction and engagement between government, private sector and academia in my view is absolutely imperative.
Interestingly, little was said about fiduciary duties directly, although several interviewees acknowledged that there was concern within their institutions about how to integrate sustainability considerations into investment decisions and portfolio formation, given the lack of data and tools to do so. It was also noted that many institutions were in the process of developing climate change investment models and processes (and several already had implemented them), without a clear legal position vis-à-vis fiduciary responsibilities (as discussed above). The opinion of the interviewees was that these issues needed to be taken into consideration in the future. This clearly requires more investigation.

**Disclosure and Reporting**

As discussed earlier, the lack of consistent, reliable and timely information is an impediment to the use of ESG information in capital allocation decisions. This was widely recognised by our interviewees, as was the lack of developed and tested models for using this information in these processes. Our interviewees from the investment and analyst communities raised this many times as a key issue that needs to be dealt with. It was argued that, while NGERS should lead to improvements in disclosures by large corporations, the scope of this system is too narrow, it will take too long to expand coverage, and there is still uncertainty about how the underlying variables in NGERS will be measured. In addition, the fact that it does not deal with the lack of established and agreed models for measuring climate risk was discussed. Lastly, the need for measurement and benchmarking standards, as well as accounting, reporting and assurance standards, was noted by many participants. Hence regulation will play a major role in the provision of information that will underpin engagement of the financial sector:

> The government can only do so much; I think they’ve got to create the right framework

> Markets can’t function without information so there’s going to be a need for better information.

**Performance Evaluation and Remuneration**

A majority of interviewees perceived that the influence of the short-term profit motive was a key impediment to further engagement in climate change response. It was argued that the sector is constrained by a short-term performance focus, with many elements in the financial services sector supply chain measuring, reporting and rewarding short-term performance. Such a focus is at odds with climate change considerations, which are inherently longer term. Participants note that this is a key factor that leads to a lack of willingness to be an early mover. In addition, the short-term focus is linked to remuneration and incentive structures, both at the individual level and at the institutional level (for example, between asset owner and
asset manager). This presents a significant challenge for the sector that will require a paradigm shift to restructure remuneration and incentive schemes across the sector to build in explicit long-term factors. Our participants doubted that this would occur by itself, at least in the immediate future, and suggested that regulatory intervention of some sort would be necessary. Essentially, there is a need to incorporate non-financial performance indicators as well as long-term financial indicators that are future focused. We argue that such development is critical, as it will underpin individual and institutional buy-in and will be a primary lever to obtaining engagement.

**Product Development and Research**

It was noted by our interviewees that climate change generates many opportunities for the financial sector, both directly through the provision of financial products and services and indirectly through investment and financing (for example, new technology, new markets and new businesses). They also pointed out that taking advantage of these opportunities would require considerable research and development across the sector. However, there does not appear to be systematic action to take advantage of the opportunities, with those products that have been developed achieving limited market penetration. Participants argued that a more specific and targeted policy from government was required that would assist in this regard. Examples suggested include tax incentives for research and development, public–private partnerships (particularly for capital-intensive areas such as clean tech, carbon capture and alternative energy), and other incentive and grants programs.

**Conclusion**

Climate change is an issue that is already affecting our planet, our nation and our economy. This article focuses on the role of the financial sector in climate change response and the way in which regulatory action will promote further engagement in the process. Overall, our findings confirm that regulation will be critical to obtaining further engagement by the financial services sector and that the current uncertainty around key legislative items (such as the CPRS) is deterring further action. In addition, regulation and government policy are seen as playing an important role in information measurement and disclosure, in altering the short-term focus of the sector, in developing incentive programs to encourage greater participation and investment, and in developing market-based mechanisms (such as the CPRS) that would otherwise not be implemented.

While regulatory certainty is a key issue that would naturally promote activity, we find that there are additional factors inhibiting engagement, such as the profit motive, short-termism, and a lack of information and disclosure. Consequently, regulatory suasion will be critical to obtaining engagement at a rate that is likely to promote both structural and behavioural change within the sector and, perhaps more importantly, within the broader economy due to the influence the financial sector has on its clients. Collectively, these
findings are taken to confirm the importance of regulatory intervention in relation to climate change and the financial services sector.

While the financial services sector has always been tightly regulated, our evidence suggests that climate change offers an opportunity to further the development of a regulatory and policy framework that will promote engagement and assist government, business and the community to combat climate change. It is noted that a collaborative approach to this is preferred by the sector, so that an efficient, effective and enabling framework can be put in place that will promote timely action by the sector.

It is acknowledged that the results of our study are based on a small number of interviews, and that the views expressed by the interviewees may not be indicative of general perceptions across the industry. Notwithstanding this, we suggest that the interviews provide a strong base for going forward to the next step of encouraging debate and necessary research that includes a broader representation of the sector and the professionals who are responsible for providing the services on a day-to-day basis. The seniority of the participants underscores this and adds to the veracity of our data. We also note opportunities for those in the legal research fraternity to examine issues such as fiduciary duties, carbon trading, disclosure and remuneration issues to further inform the debate in this area. The contribution of such research and thought leadership to Australia’s response to climate change should not be under-estimated.

References

Secondary Sources

de Boer (2008), United Nations Climate Change Conference – Poznan, Poland Lays Foundation for Copenhagen Deal’


Michael Hobbs (2008) ‘UNPRI Assets Reach $15tr’


**Cases**

*Cowan v Scargill* [1984] 3 WLR at 513–524

*Harries v Church Commissioners* [1992] 1 WLR 1241

**Legislation**

*Corporations Act 2001*

*National Greenhouse and Energy Reporting Act 2007*

*Superannuation Industry (Supervision) Act 1993*

*Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2005*