

ESG View

April 2024

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Welcome to the April Edition of ESG View!

Firstly, to all our readers who celebrated this month, we hope you had a wonderful Eid and a happy Easter!

As we look to mark Earth Day (22 April) this month, the “two years to save the world” address by Simon Stiell, executive secretary of UNFCCC, rang with particular potency. As we navigate the world’s busiest election year on record, Stiell rightly reminds us that we all have the power of influence to champion climate in the policy agenda highlighting that “Every voice matters. Yours have never been more important. If you want bolder climate action, now is the time to make yours count.”

We started the month of April with an inspiring update from the Pacific, where a group of indigenous leaders from New Zealand, Tahiti and the Cook Islands announced a historic [declaration](#) granting legal personhood to whales. The declaration seeks to protect the rights of whales, including the rights to freedom of movement, healthy environments, and population restoration. This will see the establishment of a whale protection fund which will raise a \$100 million blue bond for the [Hinemoana Halo ocean initiative](#). Watch this space for more updates of the exciting work being done by Hinemoana Halo, and if you’d like to learn more about sustainable blue finance, we have recently published a new client briefing called “[We need to start talking about the Blue Economy](#)”.

This edition of ESG View is packed with updates from around the globe with developments on nature and biodiversity, voluntary carbon markets and news for the healthcare and life sciences sector. We also have your regular regional round-up from MENA, APAC, Americas and Europe, as well as key consultations open for your views not least in Kenya, Japan and New Zealand. As always, the disputes round-up packs a punch, including the historic *KlimaSeniorinnen v Switzerland* climate case!

Best wishes,



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GLOBAL DEVELOPMENTS

1. Latest developments on nature and biodiversity (multi-sector)

 **What:** This past month has seen several developments on the nature front with Nature Action 100 (NA100) publishing an [engagement guide](#) for eight systemically important sectors. The UN PRI has also published a useful [Guide](#) to developing a biodiversity policy for asset owners and investment managers.

 **Key details:** The NA100 guide focuses on the impacts and dependencies for NA100's eight priority sectors, including biotechnology and pharmaceuticals, chemicals, food, and metals and mining. It proposes a list of key questions for investor engagement including whether the company has assessed material impacts and/or dependencies, including upstream and downstream in the value chain, which is of increasing relevance in diligence and ESG reporting.

The UN PRI guide includes recommended steps to develop a biodiversity investment policy with practical and non-prescriptive suggestions to help investors build an organisational approach to the issue; the different types of policies investors can develop; and the specific elements that a comprehensive policy commitment can include.

 **Our view:** Since the release of the [TNFD](#) recommendations last year, there has been accelerated investor engagement with nature and biodiversity risks and we predict there to be an increased focus on these issues in 2024. While the guides published by NA100 and UN PRI are largely targeted at the finance sector and investors, these resources provide a good overview for all businesses to better understand sector-specific nature-related impacts and dependencies. For a more detailed solution to unpacking the TNFD, speak to us about our recently launched [TNFD & TCFD: Checklist & Delta Review](#) product which helps firms map existing TCFD requirements against other frameworks such as TNFD and IFRS.

2. SBTi statement on use of carbon markets to abate Scope 3 emissions (multi-sector)

 **What:** On 9 April, the Science Based Targets initiative (SBTi) released a [statement](#) by its board of trustees signalling a change in policy to allow companies to abate certain Scope 3 emissions using environmental attribute certificates. These instruments are used to quantify, verify and track the environmental benefits that come from climate mitigation activities or projects, including but not limited to voluntary carbon markets. This development is part of broader work by SBTi to update its [Corporate Net Zero Standard](#).

The statement outlines that SBTi will be defining “*specific guardrails and thresholds as well as the rules to be applied*” to make energy attribute certificates valid for Scope 3 abatement. It is important to note that SBTi will not be validating carbon credits' quality in its work and the market will continue to rely on existing operators in the space. This decision is expected to have huge implications for increasing financial flows into the voluntary carbon market.

Following the statement, there were reports of internal backlash to the decision and calls for removals of the SBTi leadership. Reports mentioned that employees and advisory groups within SBTi were not informed of the decision and have since raised concerns that usage of offsets against Scope 3 emissions will disincentivise emission reductions for companies.

 **Next steps:** The board has confirmed that no changes have been made yet and a draft proposal for Scope 3 emissions is anticipated by July 2024. It remains to be seen what impact the concerns of employees of SBTi will have on how the entity will operate in future, so watch this space.

3. Integrity Council for the Voluntary Carbon Market announced the first CCP eligible carbon crediting programmes (carbon markets)

 **What:** On 4 April, the Integrity Council for the Voluntary Carbon Market (ICVCM) **announced** the first carbon crediting programs eligible for the organisation's [Core Carbon Principles](#) (CCP) label, a global benchmark for high-integrity carbon credits.

ACR, Climate Action Reserve and Gold Standard have been approved as CCP-Eligible programs by the Integrity Council's Governing Board. To achieve eligibility means the programs meet the CCP criteria for effective governance, transparency, tracking and robust independent third-party validation and verification. Assessments of other carbon crediting programs, including Verra and ART are expected soon.

It is hoped that CCPs can help bring greater trust into the voluntary carbon markets and help mobilise greater flows of private finance into projects supporting decarbonisation. To learn more about carbon markets check out our co-authored guide with Climate Solutions: [Carbon Markets: An introductory guide](#).

4. WHO negotiating pandemic prevention, preparedness and response treaty (healthcare & life sciences)

 **What:** Between 18–28 March, the World Health Organisation's (WHO) Intergovernmental Negotiating Body (INB) convened the [ninth meeting](#) of parties to negotiate the text of an international instrument on pandemic prevention, preparedness and response. The INB was formed following the Covid-19 pandemic with the aim of reaching agreement to make all countries better prepared for, and able to effectively and equitably respond to, future pandemics.

 **Key details:** During the meeting, negotiators discussed the [draft agreement](#), including provisions regarding adequate financing for pandemic preparedness, equitable access to medical countermeasures needed during pandemics and health workforce strengthening. The agreement is set to have implications for the pharmaceutical industry, particularly with the creation of a Pathogen Access and Benefit-Sharing System (PABS System), and proposals to consider time-bound waivers of intellectual property rights.

 **Next steps:** The session will start again at the end of the month, looking to reach final agreement at the [77th World Health Assembly](#) (27 May – 1 June).

EUROPEAN DEVELOPMENTS

1. French Fast Fashion Bill (Fashion and Textiles)

 **What:** [A bill to reduce the environmental impact of the textile industry](#) which was introduced earlier this year was fast-tracked and adopted at first reading by the French National Assembly over the past month.

 **Key details:** This Bill provides for a series of measures to reduce the pollution caused by disposable fashion, often referred to as "fast fashion":

- the introduction of a definition of the commercial practice of fast fashion;
- the display of messages by online retailers to make consumers aware of the environmental impact of their products and to encourage sobriety, reuse, repair or recycling;
- the strengthening of an ecological penalty by adjusting the financial contributions according to a new eco-score system; and
- a ban on the advertising of fast fashion from 1 January 2025.

 **Next steps:** The French Senate will have to adopt the Bill before it can progress in the legislative process. We will report on developments as the year progresses.

2. Deadlock on EU Nature Restoration Law (multi-sector)

 **What:** The European Union's ambitious Nature Restoration Law, designed to safeguard and restore the continent's ecosystems, hit a stumbling block when the European Council removed it from the voting schedule due to insufficient support from Member States.

 **Key details:** The legislation aimed for the restoration of 20% of the EU's terrestrial and marine ecosystems by 2030, with a long-term goal of restoring all necessary ecosystems by 2050. The Council's endorsement was expected to be a procedural step following agreement between the Council and EU Parliament, and Parliament's approval last month. However, [resistance from several Member States](#) led to the vote's derailment.

 **Our view:** The setback casts doubt on the proposal's future, especially with the EU general elections approaching. The 2024 UN Biodiversity Conference of the Parties (COP16) to the UN Convention on Biological Diversity (CBD) scheduled to be held in late October 2024 in Cali (Colombia), where the EU risks showing up without significant progress, undermining its international credibility in protecting nature. Further background on the proposed regulation can be found in the [November edition](#) of ESG View.

3. The European Council formally adopts Directive introducing new environmental crime offences (multi-sector)

 **What:** On 26 March, the European Council [formally adopted](#) a Directive to update EU environmental crimes and sanctions rules to strengthen ecosystem protection. Agreement of the new rules was previously covered in our [November 2023 ESG View](#).

 **Key details:** The Directive establishes EU-wide minimum rules on the definition of criminal offences and penalties and the number of criminal conducts captured under the rules has been increased from nine to 20. New offences will include: timber trafficking, the illegal recycling of polluting components of ships and serious breaches of legislation on chemicals.

The rules introduce penalties and sanctions, including fines for companies of at least 5% of total worldwide turnover for the most serious offences or alternatively €40 million. For all other offences, the maximum fine will be at least 3% of turnover or alternatively €24 million.

 **Next steps:** Member States have two years from the entry into force of the Directive to adapt their national rules to the Directive.

UK DEVELOPMENTS

1. UK TPT publishes final sector guidance and additional advisory resources (multi-sector)

 **What:** On 9 April, the UK Transition Plan Taskforce (TPT) published its [final sectorial guidelines](#) to support companies and financial institutions in their efforts to accelerate the net zero transition and improve access to green finance.

 **Key details:** The latest documents are intended to support the TPT's best practice climate transition plan disclosure framework, (as covered [here](#)). The materials published by the TPT include:

- sector-specific transition plan [guidance](#) for Asset Owners, Asset Managers, Banks, Electric Utilities & Power Generators, Food & Beverage, Metals & Mining and Oil & Gas;
- sector summary guidance, with high level guidance for 30 sectors of the global economy;
- guidance on how to undertake a transition planning cycle;
- a paper on the opportunities and challenges of transition plans in emerging markets and developing economies; and
- independent advisory pieces from TPT Working Groups on Adaptation, Nature, Just Transition and SMEs, exploring how transition planning can extend beyond realising net zero.

 **Our view:** The TPT's publication has attracted significant interest from other jurisdictions and is likely to influence the approach taken from a global perspective on transition planning methodologies. The guidelines provide valuable practical insights into sector specific considerations relevant for transition plans and should help streamline the reporting process by reducing complexity and enabling firms to make more straightforward disclosures.

2. The Parker Review (multi-sector)

 **What:** An update report from the Parker Review, [Improving Ethnic Diversity of UK Business](#), was published in March 2024.

 **Key details:** 96% of FTSE 100 and 70% of FTSE 250 companies currently meet the target of at least one ethnic minority director on their board. As a proportion of Board Directorships, ethnic minority Directors currently represent 19% of FTSE 100 directors, and 13.5% of FTSE 250 directors.

 **Next steps:** The focus is now on all FTSE 250 companies meeting the target of at least one ethnic minority director on their board by 2025. The report also emphasises the importance of focusing on the development of senior executives from ethnic minority backgrounds. It notes that much of the progress has come from non-executive appointments and there is still significant under-representation of ethnic minorities in executive roles.

MENA DEVELOPMENTS

1. Kingdom of Saudi Arabia publishes a new Green Financing Framework (financial institutions)

 **What:** On 28 March, the Kingdom of Saudi Arabia's Ministry of Finance published a new [Green Financing Framework](#) aiming to encourage greater public and private initiatives supporting climate and environmental finance. The Framework aligns with international frameworks including the International Capital Market Association (ICMA) Green Bond Principles and the Sustainable Development Goals.

 **Key details:** The Framework covers the use of proceeds for green financing, speaks to the process for project evaluation, the management of proceeds and reporting and verification by external reviewers. It identifies eight eligible green project categories including:

- sustainable management of natural resources and land use;
- energy efficiency;
- renewable energy;
- clean transport;
- pollution prevention and control;
- sustainable water and waste management projects;
- climate change adaptation; and
- biodiversity.

The Framework also suggests 23 potential environmental impact indicators that can be used under each category.

 **Our view:** The Framework has been published following the first green bond that was issued by the Public Investment Fund (PIF) in 2022. There are notable differences from the PIF framework, including for example the inclusion of adaptation and biodiversity projects and explicit exclusion of projects involving "child labour and forced labour" within its eligible use of proceeds.

APAC DEVELOPMENTS

1. Japan publishes a framework for impact investing (asset management)

 **What:** Following a consultation process last year, the Japanese Financial Services Agency (FSA) has published its “*Basic Guidelines on Impact Investing*” to help create a common understanding on impact investing concepts, processes and practices for market participants.

 **Key details:** The Guidelines have four key elements:

- intention: clarifying the intended “social or environmental impact”;
- contribution: investment contributes to realising impact;
- identification, measurement and management; and
- innovation / transformation / acceleration: support transforming or accelerating transformations in markets and customers.

The Guidelines, in principle, are compatible with global impact frameworks, including the Global Impact Investing Network (GIIN) [standards](#), although there are some variations.

Separately, the FSA has also launched a new [website](#) for Japan’s Impact Consortium as a platform to communicate about impact investing.

 **Our view:** The Guidelines recognise the significance of impact investing and the need to build consistent and coherent market practices in the sector. However, the Guidelines do not go so far as to indicate thresholds or key performance indicators to qualify as an “impact investment”.

2. Australia introduces the Treasury Laws Amendment (Financial Market Infrastructure and other measures) Bill (multi-sector)

 **What:** On 27 March, the Australian Government introduced the Treasury Laws Amendment (Financial Market Infrastructure and Other Measures) Bill 2024 (Cth) (the [Bill](#)) to the House of Representatives. The Bill, if introduced, will require certain in-scope entities to submit a sustainability report disclosing climate-related risks and opportunities in accordance with sustainability standards.

 **Key details:** As set out in the [Exposure Draft](#), entities that are required to prepare annual financial reports under Chapter 2M of the Corporations Act, and meet certain thresholds, will be required to prepare sustainability reports.

The largest entities (Group 1- i.e., >500m consolidated annual revenue and >500 employees) will be required to submit sustainability reports for their financial years commencing from 1 January 2025, while other in-scope entities (Groups 2 and 3) will be phased into reporting obligations over three ‘transitional periods.

A sustainability report will need to contain the following:

- the climate statement for the year, including any notes made in relation to the statement. The climate statement will need to be prepared in accordance with the relevant (and not-yet-final) [AASB standard](#);

- any statements prescribed by the regulations for the year, including any notes made in relation to the statement; and
- a directors' declaration that the statements comply with the Bill.

 **Next steps:** Firms should familiarise themselves with the proposals for the AASB standards as well as the Bill to prepare for when the proposals will start to apply. The new mandatory disclosure requirements are planned to be phased in from 1 January 2025.

3. Hong Kong issues vision statement for its sustainability disclosure ecosystem (financial institutions)

 **What:** On 25 March, the Hong Kong government issued a [vision statement](#) outlining its plans to develop the local sustainability disclosure ecosystem.

 **Key details:** Hong Kong aims to be among the first jurisdictions to align its local sustainability disclosure requirements with the IFRS Sustainability Disclosure Standards. The Hong Kong sustainability reporting standards are intended to cover all sub-sectors of financial services. Implementation by publicly accountable entities (such as listed companies and banks) will be prioritised.

Capacity building will be enhanced to support the industry and the use of technological solutions will be promoted. Existing technological solutions include the greenhouse gas emissions calculation and estimation tools launched in February 2024 by the Green and Sustainable Finance Cross-Agency Steering Group. The Hong Kong Monetary Authority, in a Circular dated 26 March 2024, has encouraged banks and their clients (especially small and medium enterprises) to use these tools to improve the availability of emissions data and assist with making good quality disclosures.

 **Next steps:** The Hong Kong government aims to launch a roadmap within 2024, defining the pathway for sustainability reporting for businesses in Hong Kong.

AMERICAS DEVELOPMENTS

1. U.S. Government publishes National Action Plan on Responsible Business Conduct (multi-sector)

 **What:** On 25 March, the Biden-Harris Administration published the United States' (U.S.) second [National Action Plan \(NAP\) on Responsible Business Conduct](#). The NAP has a broad scope, covering the breadth of responsible business conduct for businesses operating in the U.S. and abroad. The NAP puts great emphasis on the expectation for businesses to respect human rights and to conduct human rights due diligence (HRDD) throughout their value chains in alignment with international standards, including the [UN Guiding Principles](#), [OECD Guidelines](#) and the [International Labour Organisations MNE Declaration](#).

 **Key details:** The NAP sets out four priority areas for the government to promote responsible business conduct and accelerate implementation of HRDD practices, these include:

- establishing a Federal Advisory Committee on responsible business conduct that will help strengthen policies, programmes and initiatives with the input of a wide pool of stakeholders, as well as monitor progress and implementation of the NAP;
- strengthening respect for human rights in federal procurement policies and processes;
- strengthening access to remedy. For example, the Department of the Treasury will advocate for effective remedy systems at multilateral development banks for project-affected communities; and
- providing resources to businesses, including, for example, developing new guidance to encourage investors to conduct HRDD when considering investments in technologies that could enable or exacerbate human rights abuses.

2. Bank of Montreal (BMO) updates its Sustainable Finance Framework (financial institutions)

 **What:** On 4 April, BMO announced an update to its [Sustainable Finance Framework](#) in the first revision since its publication in 2019. Notably, the updated Framework includes new categories of financing activities related to nuclear energy, low-carbon fuels, the electrification of key industrial activities and climate change adaptation.

 **Key details:** BMO has added three eligible 'transition' categories which it expects to be financed through specifically 'transition'-labelled instruments rather than green-labelled instruments. The categories include carbon capture, utilisation and storage (CCUS), low-carbon fuel, and production efficiency for hard-to-abate sectors such as steel and cement manufacture and transition fuels such as natural gas.

The Framework has been informed by guidance from ICMA's Climate Transition Finance Handbook (2023) as it relates to practices, actions and disclosures for issuances of transition use of proceeds bonds. This means that BMO could be the second bank to issue a transition bond following Japan's lead earlier this year. Summary of the first climate transition bond in Japan can be found in [February ESG View](#).

ESG DISPUTES ROUND-UP

Before we dive into our disputes round-up this month, some notable mentions include:

The United Nations General Assembly has adopted a [resolution](#) requesting an advisory opinion from the International Court of Justice (ICJ) on the obligations of States with respect to climate change.

The Supreme Court of India has [recognised](#) a right to be free from the adverse effects of climate change as a distinct right under the Indian Constitution.

South Korea's Constitutional Court is expected to hear [legal challenges](#) to the country's climate progress on 23 April, being brought on behalf of small children and babies.

Remember, you can keep up to date with contentious ESG news as and when it happens by signing up to our [ESG Disputes Radar](#).

1. Swiss government's climate change actions deemed inadequate by the European Court of Human Rights (multi-sector)

 **What:** The Senior Women for Climate Protection Switzerland (Verein KlimaSeniorinnen Schweiz) took the Swiss government to the European Court of Human Rights (ECHR) claiming their health is threatened by heat waves caused by the climate crisis. On 9 April, the [Court found](#) Switzerland's measures inadequate to comply with its positive obligations under Article 8 of the European Convention of Human Rights to ensure effective protection from the serious adverse effects of climate change. The country was also found in violation of Article 6 as the claimant's legal action in the Swiss Courts had been rejected on "*inadequate and insufficient considerations*".

This case was decided among a series of others within the context of European human rights law and climate change such as [Duarte Agostinho and Others v Portugal and 32 Others](#) and [Carême v. France](#). However, these were both found in favour of the defendant states. In the case [Carême v. France](#), the ECHR declared the application inadmissible as the applicant did not have victim status under Article 34 of the Convention, while in the case [Duarte Agostinho and Others v. Portugal and 32 Others](#), the ECHR found no grounds for extending extraterritorial jurisdiction of the respondent States and declared the applications inadmissible due to non-exhaustion of domestic remedies in Portugal.

 **Our view:** This case signals a greater willingness of Courts to assign responsibility for climate change effects to a single entity. We are expecting more cases which also seek to hold private persons and companies responsible for their contributions to climate change related damage.

2. UK Competition and Markets Authority (CMA) action against ASOS, Boohoo and Asda

 **What:** The UK CMA has [settled its investigation](#) into three retailers regarding concerns about the eco-friendly marketing of its products to consumers.

 **Key details:** Having concluded its investigation, the CMA has obtained signed undertakings from each retailer using its powers under the Enterprise Act and relating to infringement of the Consumer Protection from Unfair Trading Regulations 2008. The undertakings comprise an agreement to take long list of steps (ASOS gives 40 steps, Boohoo and Asda 38 steps), but notable ones include ensuring claims are accurate and not misleading, avoiding unexplained ambiguous terms ('eco', 'responsible', 'sustainable'), clearly setting out the criteria for a product's inclusion in environmental collections and in

relation to environmental targets, making available to customers, a clear and verifiable strategy underlying such targets.

The CMA also published an [open letter](#) to the fashion retail sector emphasising the 2021 Green Claims Code. It also suggested that further sector specific guidance on the Code will soon be available.

 **Our view:** Even before the publication of the CMA guidance, businesses in consumer sectors should study the undertakings provided by ASOS, Boohoo and Asda, as these will form green claim benchmark standards so far as the CMA is concerned.

Moreover, harsher penalties are on the horizon. Should the Digital Markets, Competition and Consumers Bill become law, the CMA will assume powers to impose fines for breach of certain consumer protection legislation up to a maximum of 10% of worldwide turnover. Find out more in our full article [here](#).

3. Iberdrola takes Repsol to court for unfair competition and accuses it of 'greenwashing' (multi-sector)

 **What:** On 21 February, Iberdrola, a Spanish electric utility company, [filed a lawsuit](#) against Repsol alleging it was misleading consumers with advertising that positions the company as a sustainable energy leader, despite relying on profits from high fuel margins rather than actual sustainable practices.

 **Key details:** Iberdrola's lawsuit centres on approximately 15 statements made by Repsol on its website and through its advertising campaigns, where it claims to be leading the energy transition and at the forefront of fighting climate change. Iberdrola points to Repsol's status as Spain's top greenhouse gas emitter to argue that Repsol's self-portrayal as a sustainability leader is misleading. Repsol defends its approach, promoting a multi-energy strategy for decarbonisation.

 **Our view:** This case is one of the first greenwashing cases brought by a competitor against a market participant. Typical greenwashing cases are brought by customers, who allege harm by being misled to purchasing goods or services that do not match their sustainable description. However, this case highlights a further risk of litigation from market peers on the basis that making misleading sustainable statements provides an unfair advantage in the market and is therefore anti-competitive. Such claims may present greater financial risk, as they will be initiated by market participants who may likely face greater losses (e.g. loss of market share) compared to individual customers.

4. Claim against Greenpeace France and Factor X over Critical Report on TotalEnergies dismissed (energy sector)

 **What:** On 28 March, a French Court [dismissed TotalEnergies' case against Greenpeace France](#) and Factor X for allegedly disseminating false and misleading information in a report criticising energy giant its climate claims.

 **Key details:** TotalEnergies had sought to compel Greenpeace and Factor X to withdraw their report into the company's climate credentials on the basis that it was knowingly 'false and misleading'. The publication, which was shared with the French Financial Markets Authority, claimed that TotalEnergies had significantly underreported its 2019 greenhouse gas emissions and recommended that the company must cease investment into new oil and gas projects to adhere to its own climate strategy. The French Court dismissed TotalEnergies' claim, deeming Greenpeace's findings too broad for them to be examined by the court.

 **Our view:** This is a significant milestone in the judicial treatment of environmental strategic lawsuits against public participation (SLAPPs), which have been increasingly used to stifle criticism of sustainability claims made by the fossil fuel industry. The decision has been considered a victory for activists' freedom of speech and is likely to encourage further rigorous challenges to acts of greenwashing by major contributors to the climate crisis. The broader legal implication of the dismissal will likely be indicated in the outcome of two similar strategic lawsuits that Greenpeace is still defending in Italy (from ENI) and the UK (from Shell, see our [November 2023 ESG View](#)).

ESG CONSULTATION ROUND-UP

Some notable ESG policy consultations in flight across the globe that are currently open for comment. Engagement is a great opportunity to influence the direction of travel for ESG matters.

1. The Sustainability Standards Board of Japan issues Exposure Drafts of Sustainability Disclosure Standards (multi-sector)

 **What:** On 29 March, the Sustainability Standards Board of Japan (SSBJ) issued for consultation, [Exposure Drafts of Sustainability Disclosure Standards](#). The Exposure Drafts were created to align with the global disclosure standards published by the International Sustainability Standards Board (ISSB) last year.

The Exposure Drafts are published in Japanese only, however, for English speakers, the Secretariat of the SSBJ has also published a [summary of differences](#) between the Exposure Drafts and the ISSB's International Financial Reporting Standards (IFRS) Sustainability Disclosure Standards in English language.

 **Key details:** The three Exposure Standards include:

- Universal Sustainability Disclosure Standard Exposure Draft “Application of the Sustainability Disclosure Standards”;
- Theme-based Sustainability Disclosure Standard Exposure Draft No. 1 “General Disclosures”; and
- Theme-based Sustainability Disclosure Standard Exposure Draft No. 2 “Climate-related Disclosures”.

 **Timing:** The deadline for comments is 31 July 2024.

2. UK government consults on CBAM (multi-sector)

 **What:** The UK government is consulting on proposals to introduce a UK carbon border adjustment mechanism (CBAM) which is expected to apply from 1 January 2027. The proposed UK CBAM will place a carbon levy on some of the most emissions-intensive industrial goods imported into the UK that are at risk of carbon leakage, ensuring that a carbon price is paid regardless of where the goods are produced. The announcement of a UK CBAM was covered in our December client note [here](#).

 **Key details:** On 21 March, the government published its [consultation](#) setting out proposals for the design, implementation and administration of the mechanism. The consultation confirms that the CBAM will apply to imports of CBAM goods covered by a specified list of commodity codes in the sectors that have previously been identified (aluminium, cement, ceramics, fertiliser, glass, hydrogen, and iron and steel).

On 30 March, the UK Government also published its [consultation](#) addressing carbon leakage risks to support decarbonisation. The consultation seeks views on six broad questions to shape the design and implementation of a potential UK CBAM. These are:

- To which sectors and products should a UK CBAM apply?
- How should emissions be measured as part of a UK CBAM?
- Which emissions should be in scope of a UK CBAM?

- How should a UK CBAM price be calculated?
- How and when should businesses be required to comply with a UK CBAM?
- When should a UK CBAM be introduced?

 **Timing:** Stakeholders have until 12 June and 22 June 2024 respectively to submit responses. More detail on the consultation and proposed UK CBAM can be found [here](#).

3. ESMA consults on Credit Rating Agencies Regulatory Framework amendments (credit rating agencies)

 **What:** On 2 April, the European Securities and Markets Authority (ESMA) [published](#) its consultation paper on [possible amendments to the Credit Rating Agencies Regulatory Framework](#) which aim to:

- ensure that the relevance of ESG factors within credit rating methodologies is subject to systematic documentation;
- enhance disclosures on the relevance of ESG factors in credit ratings and rating outlooks; and
- deliver a more robust and transparent credit rating process through the consistent application of credit rating methodologies.

 **Timing:** The deadline to respond is 21 June 2024 and ESMA's technical advice will be submitted to the European Commission by December 2024.

4. ESMA consultation on the rules for EU Green Bond External Reviewers (financial institutions)

 **What:** On 26 March, the European Securities and Markets Authority (ESMA) launched a [consultation](#) on Draft Regulatory Technical Standards (RTS) inherent to the registration and supervision of External Reviewers under the EU Green Bond Regulation (EUGB).

With the consultation's proposals, ESMA aims to standardise registration requirements with lower entry costs for applicants related to the entities interested in becoming External Reviewers of EU Green Bonds clarifying its assessing application criteria for the registration.

 **Key details:** In particular, the consultation refers to:

- senior management, analytical resources, sound and prudent management, avoiding conflicts of interest; and
- knowledge, experience of analysts, activities assessment outsourcing, forms, templates and procedures for the registration information's provision.

 **Timing:** The consultation feedback must be received before 14 June 2024. The [EUGB entered into force](#) on 21 December 2023 and will apply from 21 December 2024. Following the outcomes of the consultation process, the draft RTS and implementation technical standards (ITs) will be submitted to the European Commission by 21 December 2024.

5. NZ FMA consults on exemption for certain green and sustainability-linked bonds (financial institutions)

-  **What:** On 2 April, the Financial Markets Authority (FMA) of New Zealand [announced](#) it was [consulting](#) on a potential class exemption for certain green, social, sustainable, and sustainability-linked (GSSS) bonds.
-  **Key details:** This class exemption would operate on a similar basis to a class exclusion available in the Financial Markets Conduct Act 2013 (FMCA), allowing listed companies to bring GSSS bonds to market more quickly, without incurring most of the regulatory costs of a full retail investment offer. If the class exemption for these bonds are granted, it would allow listed issuers to offer bonds that have identical rights, privileges, limitations and conditions to existing quoted bonds, except for a different interest rate, redemption rate and GSSS status without the usual disclosure requirements under the FMCA, such as producing a product disclosure statement. The exemption would be subject to certain conditions, including that the issuer must make available to investors information about the GSSS features of the bond.
-  **Next steps:** The consultation is a welcome step where the market for green and sustainability linked products is growing at a rapid pace with investors globally prioritising sustainability-linked objectives when considering which products to invest in. The consultation period is open until 30 April 2024.

6. Central Bank of Kenya release draft Green Finance Taxonomy (financial institutions)

-  **What:** On 28 March, the Central Bank of Kenya (CBK) has released its first-ever draft Kenya Green Finance Taxonomy ([KGFT](#)), which is intended to assist firms in classifying activities based on its environmental degradation or sustainability.
-  **Key details:** The KGFT is intended to serve as a guide for both banking sector participants and other market participants in making informed investment or financing decisions. The CBK worked with the European Investment Bank to develop the KGFT and benchmarked it to experiences in other jurisdictions which have made process in this respect (such as the EU and South Africa). This draft focuses on climate change mitigation and adaptation, while subsequent versions are expected to address other environmental objectives such as biodiversity. The KGFT is intended to deliver a range of benefits to the Kenyan economy including:
- increasing the consistency of green finance flows and aligning green products and financial allocations with internationally recognised standards;
 - enhancing confidence of users that taxonomically aligned economic activities meet a high threshold of commitment to climate change and support Kenya's trajectory towards a sustainable economy;
 - guiding the financial sector with clarity and certainty in selecting green investments in line with international best practice;
 - establishing a shared language to enable transparent performance tracking and reporting; and
 - reducing the costs associated with identifying which green investment is green and which is not.

-  **Next steps:** The consultation is open for comment until 11 June 2024.

LATEST SIMMONS ESG INSIGHTS

Podcast series

- [Seas Of Opportunity: Navigating the Blue Economy / EP5: The ocean engine that powers our planet](#) with Dr. Helen Czerski, a distinguished physicist and oceanographer (9 April 2024)

Recent Publications

- [CMA Takes action against ASOS, Boohoo and Asda](#) (12 April 2024)
- [Top 10 issues for Data Centres](#) (11 April 2024)
- [Why we need to start talking about the Blue Economy – a client note](#) (9 April 2024)
- [EU Deforestation Regulation](#) (8 April 2024)
- [CSSF's supervisory priorities in the area of sustainable finance](#) (29 March 2024)
- [ESG Disputes Radar](#) (26 March 2024)
- [UK CBAM Consultation](#) (25 March 2024)

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