ESG View

February 2024

22 February 2024

Happy Lunar New Year of the Dragon to all those celebrating and welcome to the February Edition of ESG View!

Just when you thought that the Corporate Sustainability Due Diligence Directive (CSDDD) could be the fire-breathing dragon that lights up the focus on supply chains, the long-awaited regulation hit yet another unexpected roadblock this month. Whilst there had been some consensus on the final text, as covered in our December newsletter, Germany announced this month that it would abstain from voting on the regulation, resulting in the postponement of the final vote. With further meetings scheduled in March and April, we will be watching with bated breath to see whether this long-awaited regulation finally passes into law.

February was a significant month for nature and biodiversity as the UN published the first-ever State of the World's Migratory Species report, highlighting why the recent focus on nature and biodiversity is long overdue. With more than one-in-five migratory species and 97% of migratory fish species at risk of extinction, the report reminds us of the critical role of fauna in the planet's vast and varied ecosystems. In this edition, we capture some of the other key updates on nature this month, including the Global Reporting Initiative's (GRI) new biodiversity disclosure standard, the UK's biodiversity net gain (BNG) regulation and the live consultations from the Taskforce on Nature-related Financial Disclosures (TNFD).

Looking ahead to March, in celebration of International Women's Day on 8 March, Simmons & Simmons is partnering with the Microloan Foundation to host an Inspired Innovation fundraising event in London. If you are in town, join us for an evening reception that explores the dynamic fusion of gender, innovation, and technology while supporting female entrepreneurs living in extreme poverty in Malawi, Zambia and Zimbabwe. Further info on the event and how you can purchase tickets can be found here. For those not based in London, you are welcome to join one of the various events that the Simmons' local offices in your region are organising to celebrate International Women's Day. Feel free to get in touch with your local Simmons' contacts to find out more about the events being held near you.

In this edition of ESG View, we have a fulsome selection of global and regional developments. A special shout-out to the rich content from the APAC region this month including a second-generation ASEAN Taxonomy, the world's first transition bond in Japan, China's policy interventions on carbon and biodiversity, and Singapore's industry efforts. Of course, we've not forgotten to include the usual round-up of ESG disputes and live consultations.

Best wishes,

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GLOBAL DEVELOPMENTS

1. GRI publishes updated biodiversity standard (multi-sector)

What: On 25 January, the Global Reporting Initiative (GRI) published an updated version of its biodiversity standard: *GRI 101: Biodiversity 2024* (the Standard). The Standard will help organisations to better understand which business decisions and practices lead to biodiversity loss, where in their value chain impacts occur, and how they can be managed.

Key details: The Standard is a revision of GRI 304: Biodiversity 2016 standard, and introduces new disclosures on:

- Biodiversity impacts within the supply chain;
- How organisations determine which sites and products and services in their supply chain have the most significant impact on biodiversity;
- Direct drivers of biodiversity loss;
- Changes to the state of biodiversity, including reporting on the type, size and condition of ecosystem;
- Impacts on people resulting from impacts on biodiversity ecosystems; and
- Biodiversity-management, including disclosure on commitments to the Kunming-Montreal Global Biodiversity Framework.

The Standard has been informed by other key international frameworks, including the TNFD and the European Sustainability Reporting Standards (ESRS E4 Biodiversity and ecosystems). GRI will be publishing a *GRI and TNFD mapping document* and an *ESRS-GRI Standards data point mapping* during the first half of 2024.

Timing: The Standard will come into effect on 1 January 2026 but early adoption is encouraged.

2. ISDA Launches Sustainability-linked Derivatives Clause Library (financial institutions)

What: On 17 January, the International Swaps and Derivatives Association (ISDA) released the ISDA Sustainability-Linked Derivatives (SLD) Clause Library. This library provides a set of standardised definitions and provisions to help market participants document SLDs flexibly within the ISDA Master Agreement framework.

Key details: SLDs are derivative contracts with a sustainability-based key performance indicator (KPI) affecting related cashflow. Compliance with the KPI target triggers economic consequences, such as additional payments or contributions to environmental causes. ISDA categorises SLDs into two types: Category 1, where KPIs directly influence transaction cashflows, and Category 2, where KPIs are documented separately and affect payments indirectly. The Clause Library primarily supports Category 1 SLDs but can be adapted for Category 2.

The ISDA SLD Clause Library is not an ISDA definitional set but it contains different drafting options that can be used in over-the-counter (OTC) derivatives confirmations depending on the transaction type. However, considering that in terms of market practice, SLDs are normally interest rate and Foreign exchange (FX) derivatives, the Library includes specific guidelines on how to amend payment terms in particular under the 2021 ISDA Interest Rate Derivatives Definitions and the 1998 FX and Currency Options Definitions.

The ISDA SLD Clause Library aims to foster market growth by simplifying SLD documentation. However, legal, regulatory, and structuring questions (such as regulatory characterisation, disclosure, margining, valuation during close-out, and netting opinions applicability) still remain.

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EUROPEAN DEVELOPMENTS

1. EU adopts the Net Zero Industry Act (multi-sector)

What: On 6 February, the EU reached provisional agreement on the Net-Zero Industry Act (NZIA), establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem. This agreement comes on the same day that the European Commission announced ambitions to cut net greenhouse-gas emissions by 90% compared with 1990 levels by 2040.

Key details: While the NZIA is touted as Europe's response to the US Inflation Reduction Act, the regulation does not boast the same levels of direct investment. Instead, some of the key elements of the NZIA include:

- Speeding up permit-granting processes: time limits for delivering a permit for constructing or expanding large net-zero technology manufacturing projects will be set at 18 months. For smaller projects, a 12-month limit applies, which will be less in the case of shorter strategic projects.
- Promotion of development of net-zero industrial valleys: creating clusters of net-zero industrial activity to increase the attractiveness of the EU as a location for manufacturing activities and to further streamline the administrative procedures for net-zero manufacturing capacity.
- Auctions to deploy renewable energy sources: member states will need to apply non-price-related pre-qualification and award criteria for renewable projects, such as environmental sustainability, to at least 30% of the volume auctioned every year per member state.
- Public procurement: requiring environmental sustainability contributions as a mandatory minimum requirement for procurement and applying a resilience contribution, in case of third-country dependence on specific net-zero technology.

2. Adoption deadline pushed for sector specific standards and third-country reporting under CSRD (multi-sector)

What: On 7 February, the European Council and Parliament agreed to push out the deadline for the adoption, by the EU Commission, of sector-specific sustainability reporting standards and reporting for certain third-country undertakings, from 30 June 2024 to 30 June 2026, amending the Corporate Sustainability Reporting Directive (CSRD).

Key details: It is a part of the European Financial Reporting Advisory Group's (EFRAG) mandate under the CSRD to develop European Sustainability Reporting Standards (ESRS), the first of which are sector agnostic and were adopted last year and published in the Official Journal on 22 December 2023. EFRAG is also mandated to produce a number of sector-specific ESRS standards, covering for example, oil and gas, coal and mining, textiles, agriculture, and food and beverages. CSRD also requires specific standards apply to large non-EU companies operating in the EU. Agreement to push out the deadline by 2 years was made to give time for EFRAG to develop quality standards and for companies to focus on the first set of ESRS and prepare for future standards.

The announcement comes two days after the EFRAG published the first set of technical explanations on ESRS. The technical explanations have been added to the EFRAG's Q&A platform comprising of 12 items, which are grouped in chapters according to their nature (cross-cutting, environment, social and governance).

Next steps: The provisional agreement now needs to be endorsed and formally adopted by the European Council and European Parliament before it is published in the Official Journal and it enters into force. Once finalised, the standards will now be adopted by 30 June 2026. Notably, the date of application for third country companies will remain the financial year 2028 (with only the adoption date changing by two years).

3. EU adopts green transition directive (multi-sector)

What: On 20 February, the European Council adopted a directive to empower consumers for the green transition (the Green Transition Directive).

Key details: The newly adopted directive works to improve the way in which green claims about products and businesses are substantiated and make more and better information about these claims available to consumers by amending the Unfair Commercial Practices Directive (UCPD) and the Consumer Rights Directive (CRD). It complements the Green Claims Directive which imposes specific requirements on businesses wishing to make environmental claims about products or services. The Green Transition Directive's focus is to ensure that consumers and companies are protected against false environmental claims.

It aims to:

- protect consumers against misleading 'green' claims, including unfair claims about carbon offsetting.
- clarify traders' liability in cases of information (or lack of information) on early obsolescence, unnecessary software updates or the unjustified obligation to buy spare parts from the original producer.
- improve the information available to consumers to help them make circular and ecological choices.

Next steps: Once the Directive has been signed by European Council and Parliament, it will be published in the Official Journal of the European Union and will enter into force on the twentieth day following its publication.

4. Regulation adopted to rapidly phase down harmful F-gases and ozone-depleting substances (multi-sector)

What: The end of January saw the adoption of two new EU regulations to phase down fluorinated gases (F-gases) and other substances that cause global warming and deplete the ozone layer.

Key details:

- The regulation bans ozone depleting substances (ODSs) for almost all uses, with strictly limited exemptions.
- The rules will phase out consumption of hydrofluorocarbons (HFCs) by 2050 and phase down the production rights of HFC to 15% as of 2036.
- The rules place a ban on products and equipment containing HFCs on the market when it is technologically and economically feasible to switch to alternatives. This will capture products like refrigerators, chillers, foams and aerosols.
- It also sets specific dates for the complete phase-out of the use of F-gases in air conditioning, heat pumps and switchgears.
- The impacts and effects of the F-gases regulation, including an assessment of the alternatives to replace F-gases, will be reviewed by the Commission no later than 1 January 2030.

Next steps: The two regulations will be signed by the EU Council and the European Parliament and then be published in the EU's Official Journal before they enter into force 20 days later.

5. ECB announces new climate and nature plan 2024-2025 (financial institutions)

What: On 30 January, the European Central Bank (ECB) announced it would be expanding its work on climate change and shared its priorities over the coming two years. These include:

- Navigating the transition to a green economy;
- Addressing the increasing physical impact of climate change; and
- Advancing work on nature loss and degradation.

The ECB will be addressing these priorities through its monetary policy, banking supervision and through its own corporate sustainability. Within this work, the ECB will also improve its climate-related data and work on establishing international statistical standards on the topic.

6. Provisional agreement reached on new ESG Rating Activities rules (ESG ratings users and providers)

What: On 5 February, the EU Council published a press release announcing that it has reached provisional political agreement (the Agreement) with the European Parliament on the proposed ESG Rating Activities Regulation (the Regulation).

Key details: The Agreement provides clarity on the following matters:

- The possibility of providing separate E, S and G ratings;
- Rules applicable to EU and non-EU ESG rating providers including the need for EU ratings providers to be authorised;
- Lighter, optional registration regime for small rating providers for 3 years;
- New conflicts of interest provisions; and
- Extending the transparency and integrity rules to financial market participants and financial advisers.

More detail on the amended agreement can be read in our briefing note here.

Next steps: The Agreement is subject to approval by the EU Council and the European Parliament before going through the formal adoption procedure, with the Regulation applying 18 months after its entry into force.

UK DEVELOPMENTS

1. Biodiversity Net Gain Regulation now in force in England (multi-sector)

What: Regulations relating to biodiversity net gain (BNG) came into force on 12 February 2024. A BNG planning condition will apply to developments in England involving planning applications submitted from 12 February 2024 (with certain 'small' sites following from 2 April 2024). Complex metrics will be applied to calculate how much habitat needs to be provided to achieve the 10% net gain required by the regulation. There are only very limited minor exemptions. There are also commencement and transitional arrangements in place. To read more about the background of this regulation, you can read our client note here.

The UK government has published new guidance and updated existing guidance on the regime which can be accessed here. This includes the final version of the planning practice guidance on BNG which was published on 14 February 2024 .

2. FMLC provides clarity on fiduciary duty in the context of sustainability and climate change (financial institutions)

What: The Financial Markets Law Committee (FMLC) is a non-profit that works on legal research and reporting to identify legal uncertainty/misunderstanding in the framework of financial markets, as well as solutions. On 6 February, FMLC published a paper titled: *Pension Fund Trustees and Fiduciary Duties – Decision-making in the context of Sustainability and the subject of Climate Change* (the Paper). The Paper offers a concise exploration of fiduciary duty for pension funds and existing uncertainties in the context of sustainability.

Key details: Underpinning a detailed examination of fiduciary duty, the Paper takes the view that climate change and sustainability can be considered a “financial factor” rather than “non-financial factors” within fiduciary duty because ultimately they “*may reduce risk or improve return*”. The explicit acknowledgement of this link may help empower trustees, for example, to consider whether portfolio strategies should reject short term returns to avoid longer term risks.

Our view: The Paper is a useful tool for financial market participants beyond just pension funds because it offers a helpful articulation for fiduciaries as to the importance of climate change and sustainability as “financial” factors for consideration.

APAC DEVELOPMENTS

1. Version 2 of the ASEAN Taxonomy for Sustainable Finance comes into effect (multi-sector)

What: On 19 February, the Association of Southeast Asian Nations (ASEAN) Taxonomy Board published a finalised ASEAN Taxonomy for Sustainable Finance (ASEAN Taxonomy) Version 2 following feedback it received during its November 2023 consultation.

Key details: Some of the key revisions made in the updated ASEAN Taxonomy include:

- Clarification of the definitions and criteria for environmental objectives (EO) and essential criteria (EC) under the Foundation Framework.
- Inclusion of the list of "Red" activities from Appendix J in the ASEAN Taxonomy Version 1 (now as Appendix G in the ASEAN Taxonomy Version 2).
- The Grandfathering Rules covering green bonds and other green financial instruments.
- In Annex 1: finalised criteria for coal phase out and inclusion of future technical screening criteria for electricity, gas, steam and air conditioning supply (energy) activities as indicative thresholds.
- In Annex 2: finalised Do No Significant Harm (DNSH) guiding principles and streamlined DNSH criteria for three EOs namely climate change mitigation, protection of healthy ecosystems and biodiversity and resource resilience and the transition to a circular economy.

Timing: The ASEAN Taxonomy came into effect on 19 February 2024.

2. Japan launches the first ever climate transition bonds (financial institutions)

What: In a global first, Japan has issued its JPY1.6 trillion (US$11 billion) climate transition bond this month. The bond is certified under the Climate Bonds Standard, which assures environmental objectives of use of proceeds and signifies alignment with global best practice standards. See further details on the bond here.

Key details: The use of proceeds bond has earmarked 55.5% of proceeds to research and development initiatives, including 18% to be focused on use of hydrogen in the steel making process and decarbonisation of the thermal process. The remaining 44.5% is earmarked for subsidies, for established green activities, like clean transport, electricity storage batteries, and strengthening supply chains for critical materials in the manufacturing of storage batteries. Notably, gas-fired and ammonia coal-fired power generation has been excluded from the bond. It is still unclear whether the bond will be considered suitable for green bond portfolios.

Notably, this month the International Capital Market Association (ICMA) also published the *Transition Finance in the Debt Capital Market* report, adding to the discussion around transition finance in the bond markets. The 40-page report identifies at least three different overlapping definitions for transition finance, including economy-wide transition, climate transition and hard-to-abate transition, the latter capturing Japan's transition efforts.

3. China updates its National Biodiversity Strategy and Action Plan (multi-sector)

What: In January, China released its National Biodiversity Conservation Strategy and Action Plan (2023-2030) (the Plan) (an English news summary is available here).

The Plan outlines 27 priority actions and 75 priority projects in four areas, including biodiversity mainstreaming, addressing the thready of biodiversity loss, sustainable use and benefit-sharing, and modernisation of biodiversity governance capabilities to strengthen biodiversity conservation. One of the 27 priority actions will focus on business and biodiversity and suggests the establishing of a "framework for corporate biodiversity information disclosure".

4. China passes new regulation for its carbon emissions trading system (multi-sector)

What: On 25 January, the Chinese Premier signed into law a new regulation on carbon emissions trading system (ETS) in China, which was released on 4 February. The regulation follows the launch of China's ETS in 2021.

Key details: The new regulation aims to provide a legal framework for China's ETS and ensure the effectiveness of ETS-related policies. Some of the notable provisions in the regulation include:

- The State Council's ecological and environmental departments and its local equivalents are responsible for the supervision and management of carbon emissions trading.
- Specific details including the products eligible for trading, trading methods and the distribution of carbon emissions quotas.
- Carbon emission quotas are allocated free of charge, and a combination of free and paid allocation will be gradually implemented.

Increased penalties for violation of the regulation, including the introduction of a minimum penalty of 500,000 yuan. For companies found to be committing fraud, any illegal income will be confiscated and a fine up to ten times the illegal income shall be imposed. The provisions are particularly focused on toughening up on emissions data fabrication.

Timing: The regulation will be effective on 1 May 2024.

5. Singapore launches a new Sustainable Finance Association (multi-sector)

What: On 24 January, the Singapore Sustainable Finance Association (SSFA), a cross-sectoral industry body, was launched. The SSFA is intended to further strengthen Singapore's efforts as a centre for sustainable finance in Asia. Specifically, the SSFA will:

- Galvanise the development of a sustainable finance ecosystem and lead in developing industry best practice, in areas such as carbon credit trading and transition finance;
- Drive innovation, in particular through facilitating collaboration between finance and industry; and
- Lead on thought leadership on sustainable finance and support capacity building for the industry.

During the SSFA's first Executive Committee meeting, it laid out its workplan for the year, which includes the establishment of workstreams to focus on five key areas – carbon markets, transition finance, blended finance, natural capital and biodiversity, and taxonomy.

For firms interested in getting involved, the SSFA is inviting organisations to apply for membership through its website.

MIDDLE EAST DEVELOPMENTS

1. DFSA waives regulatory fees on ESG listing (financial institutions)

What: On 5 February, the Dubai Financial Services Authority (DFSA) issued its first fee waiver for an ESG listing to Emirates NBD Bank PJSC. Established by the DFSA during COP28, the fee waiver enables issuers intending to list debt securities in the Dubai International Financial Centre (DIFC) to benefit from a waiver of all regulatory fees.

The fee waiver underlines the DFSA's commitment to supporting the growth of the DIFC's sustainable finance markets since its publication of its first set of guidelines for listing green bonds and sukuk in 2018.

The DFSA has reported a rise in the number of ESG listing applications from financial institutions due to the fee waiver demonstrating a growing appetite for sustainable finance in the UAE.

ESG DISPUTES ROUND-UP

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. Enea Management bring a lawsuit against former directors and insurers over coal investment (energy sector)

What: On 30 January, an overwhelming majority (87%) of shareholders of Polish energy company Enea voted in favour of bringing a lawsuit against the company's former management and supervisory board members and insurers.

Key details: Enea's current management is looking to bring a claim for losses incurred due to an alleged failure of due diligence by the former management. The claim states that there was a failure of the performance of management and/or supervision duties by the former management over the decision to invest into a coal power plant. The claim alleges that the company suffered losses of more than PLN 650 million ($160 million) after ClientEarth, the environmental law charity, successfully took the company to Court to challenge the decision due to a lack of environmental due diligence. The claim for damages will be against both the former management and its insurers under its directors' and officers' (D&O) liability insurance.

Our view: Following the ClientEarth v Directors of Shell case (see our summary here) and this unprecedented case from Enea, we will most probably see a continued focus on directors' duties when it comes to climate change risk. We will be watching closely as this case and trend evolves.

2. Investors co-file a resolution requesting Shell amend their medium-term emissions reduction targets (energy sector)

What: On 16 January, a group of 27 investors in Shell, led by Dutch activist Follow This published a resolution requesting Shell amend their medium-term emissions reduction targets so that they align with the Paris Climate Agreement. Investors who co-filed include the Pension Protection Fund (PPF), Amundi and Scottish Widows among others.

Key details: The support for the resolution exemplifies the increasing ESG-related expectations placed on businesses by investors, regulators and markets and the number of similar resolutions is likely to rise this year. However, despite growing numbers of climate resolutions being filed, support for these resolutions has fallen since 2021. In October 2023, PRNewswire found that in the 2023 proxy season, the number of shareholder proposals rose to a record high, with shareholders filing 836 proposals in the Russell 3000 compared to 801 in 2021. However, average support for shareholder proposals dropped from 31% in 2022 to 23% in 2023. The reasons for this fall in support vary, including institutional investors taking a more case-by-case approach to shareholder proposals. There is therefore a significant degree of uncertainty whether resolutions such as that filed by Follow This will succeed.

3. BHHRC publishes garment workers' human rights abuses tracker (multi-sector)

What: On 30 January, the Business & Human Rights Resource Centre (BHHRC) published a report, revealing that top fashion brands including Inditex, Bestseller, LPP, Lidl and H&M contributed to human rights abuses under the Myanmar military regime. By the end of November 2023, BHHRC documented 401 cases of alleged labour and human rights abuses, revealing potentially widespread and systemic abuse in international brands' supply chains.

Key details: BHHRC has expressed concerns that the biggest names in fashion continue to rely on 'paper promises' to eradicate forced labour, putting supply chain workers at heightened risk. The prevalence of allegations of human rights abuses against garment workers at the suppliers of a number of global fashion retailers reveals there is still a long way to go in the supply chain diligence of the fashion sector and serves as a timely reminder for other sectors to consider the risks in their supply chain diligence processes. With the EU's Corporate Sustainability Due Diligence Directive applying to a broad range of firms, coupled with legislative requirements to be transparent about supply chain statements, (for example under the UK's Modern Slavery Act), this publication should serve as a timely call to action for companies and their investors to scrutinise their supply chains carefully and create fair and humane conditions for its workers.

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. TNFD publishes consultations for draft sector guidance and a scenario analysis discussion paper (multi-sector)

What: The Taskforce on Nature-related Financial Disclosures (TNFD) has published draft sector guidance for both the food and agriculture sector and the aquaculture sector. Key outcomes for the consultations on the sector guidance include:

- Understand how to apply the LEAP approach for an organisation in the sectors;
- Understand and provide feedback on the draft guidance and metrics proposed by the TNFD; and
- Gain insights on the nature-related dependencies, impacts, risks and opportunities commonly facing organisations in the sector.

The TNFD also published a discussion paper on conducting advanced scenario analysis, which is primarily intended for experienced users of scenarios in financial institutions and large multinational companies interested in advanced nature scenario methods.

Timing: Feedback for all three consultations must be provided by 29 March.

2. IESBA launches public consultation on new ethical benchmark for sustainability reporting and assurance (multi-sector)

What: On 29 January, the International Code of Ethics for Professional Accountants (IESBA) published two Exposure Drafts (ED) for consultation. The proposed standards aim to foster greater trust in all publicly communicated sustainability information through the application of a consistent ethical approach. They include:

- International Ethics Standards for Sustainability Assurance ED, which includes revisions to the existing Code related to sustainability reporting; and
- Using the Work of an External Expert ED.

The IESBA invites comments from the entire sustainability community – professional accountants, all other sustainability practitioners, regulators, and investors.

Timing: Comments on the Using the Work of an External Expert are requested by 30 April and on the Sustainability ED by 10 May.

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3. China's stock exchanges announce mandatory sustainability reporting guidelines (multi-sector)

What: In February, three of China's major stock markets, including the Shanghai Stock Exchange (SSE), Shenzhen Stock Exchange (SZSE), and Beijing Stock Exchange (BSE) published proposals for mandatory sustainability disclosure rules for listed companies.

The reporting requirements will include broad themes including governance, strategy, risk and opportunity management and indicators and goals. It is notable the that the rules do not explicitly reference the International Sustainability Standards Board (ISSB) standards and they adopt a "double materiality" approach.

Companies in scope will be those listed in the Shanghai Stock Exchange (SSE) 180 Index, SSE STAR 50 Index, Shenzhen Stock Exchange (SZSE) 100 Index, SZSE ChiNext Index and companies dual listed domestically and abroad. Other listed companies are encouraged but not mandatorily required to report.

Timing: The proposals are open to feedback before 29 February. The rules are expected to be in force in 2025, with first disclosures expected in early 2026.

4. Nigerian Financial Reporting Council consults on framework for ISSB adoption (multi-sector)

What: On 1 January, the Nigerian Financial Reporting Council (FRC) published a report concerning the adoption of IFRS sustainability disclosure standards in Nigeria.

Key details: The report, prepared by the FRC's adoption for readiness working group (ARWG), compares and contrasts the key provisions among several frameworks and standards, including the TCFD framework, the draft European Sustainability Reporting Standards (ESRS), and standards issued by ISSB. In alignment with Nigeria's commitment to early adoption of IFRS Sustainability Disclosure Standards, the FRC has developed a roadmap document to guide the implementation process.

Timing: The FRC is inviting all stakeholders, including individuals, groups, associations, organizations, and entities, to provide feedback on draft report by 14 March 2024.

5. Swiss Financial Market Supervisory Authority consultation on nature-related financial risks (banks and insurance)

What: On 1 February, the Swiss Financial Market Supervisory Authority (FINMA) launched a consultation on its new circular on "*nature-related financial risks*" that will apply to banks and insurers. The aim of the circular is to improve the risk management of nature-related financial risks by supervised institutions and to strengthen their resilience to these risk drivers. The circular is based on recommendations by international standard setters including the Basel Committee on Banking Supervision (BCBS) and the International Association of Insurance Supervisors (IAIS).

Timing: The public consultation on this will run until 31 March 2024.

6. UK Consultation on policies to inform updated guidance for Marine Protected Area assessments (multi-sector)

What: On 9 February, the UK Department for Environment, Food and Rural Affairs (Defra) published a consultation seeking feedback on policies to update guidance on Marine Protected Area (MPA) assessments and next steps in reforming legislation that underpins MPA assessments to help streamline decision-making for offshore wind applications. The consultation is intended to feed into an update on guidance published in 2021.

The guidance will be applicable to all industries proposing a development that may impact MPAs or their features. The guidance will provide a framework to consider how to avoid, reduce, mitigate, and when necessary, compensate for the impacts of projects on MPAs. The consultation aims to understand how new definitions and principles will be used by stakeholders, especially in relation to developing compensatory measures.

Timing: Consultation closes on 22 March and responses can be submitted here.

LATEST SIMMONS ESG INSIGHTS

Upcoming webinars

- The Regulatory View – what to expect in 2024- Webinar Series (February - March 2024)
- The EU AI Act Breakfast Briefing (28 February 2024)
- Navigating the European Whistleblowing Directive (5 March 2024)

Podcast series

- Seas of opportunity: navigating the Blue Economy – Ep1: Exploring the concept of the Blue Economy (16 January 2024)
- Seas of opportunity: navigating the Blue Economy – Ep2: Building a sustainable economy around blue natural capital (6 February 2024)
- Greenwashing: The year ahead (30 January 2024)

Recent Publications

- UK CBAM by 2027 (20 December 2023)
- Updated Green Lease Toolkit launched (30 January 2024)
- EP and Council reach agreement on new Rating Activities rules (8 February 2024)
- The EU AI Act (9 February 2024)
- UK Corporate Governance Update Spring 2024 (14 February 2024)

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Our ESG approach is not to have an ESG practice but to adopt an integrated, holistic, cross-discipline approach so that we can combine ESG experts and deep technical knowledge with product/business line expertise.

If you need help understanding the current and upcoming ESG legislative and regulatory landscape or your supply chain obligations or supply chain best practice, or you would like assistance in mitigating your supply chain risk, we can help.

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