ESG View

September 2023

21 September 2023

Welcome to the September edition of ESG View!

We hope you had a restful summer break! The new school term got off to a flying start with the New York Climate Week kicking off this week with thousands of people marching in NYC calling for an end to fossil fuel use. The urgency of the message was felt globally, with new data from the Stockholm Resilience Centre earlier this month showing that six of the nine planetary boundaries have been crossed as a result of human activity, risking irreversible harm. In an ironic twist, the UK government chose the very same week to announce a dramatic and dismal U-turn on several of its green policies as detailed in our UK update.

Against this backdrop, there are some positive developments from the New York summit already, particularly for nature and biodiversity. Earlier this week, we saw the launch of the final recommendations from the Taskforce on Nature-related Disclosures (TNFD). This has been broadly well received, with the likes of the environmental disclosure platform, CDP announcing its intention to align its disclosure platform with the new framework, capturing nearing 20,000 companies globally. Alongside the recommendations, TNFD has also published additional guidance documents that are open to feedback, which you can read more about in our "consultation round-up" below. Simmons & Simmons will be running a webinar for financial services firms on TNFD reporting – if you'd like to attend, do register here. We will include a roundup of further developments from New York Climate Week in our next edition of ESG View.

In the meantime, relax, strap in and enjoy a deep dive into our September Edition. We have global updates on the Africa Climate Summit and the blue economy, and developments from Europe, the UK, North America and Asia. There is a wealth of disputes updates in our "litigation round-up" and as you are no doubt energised after the summer and rearing to get involved in the discussion, there is a chorus of consultations (SFDR 2.0, anyone?) in our "consultation round-up" where you can voice your views.

Best wishes,

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GLOBAL DEVELOPMENTS

1. Africa Climate Summit (multi-sector)

What: The first week of September saw the international conversation on climate restart following the brief summer hiatus, with the Africa Climate Summit and Africa Climate Week. There were more than 10,000 participants from governments, multilateral organisations, the private sector and civil society, looking both at the impacts and opportunities that climate change holds for the continent.

The Summit culminated in the signing of the Nairobi Declaration giving voice to African leaders in international climate negotiations and calling for greater action, particularly in finance. This included calls for greater investment into Africa, for example, in scaling Africa's renewable energy capacity to 300 GW by 2030 (from 56 GW in 2022), and increasing Africa's share of carbon markets. Momentum was also built on the agenda for a New Global Financial Pact (as covered in our July ESG View), with calls for agreement on a global carbon taxation regime, and action to reform the multilateral financial system, including debt relief interventions.

Looking ahead: the Africa Climate Summit has offered a helpful lead into New York Climate Week and the road to COP28. We expect to see the Nairobi Declaration used in negotiations by leaders at future international summits.

2. Blue Economy update (multi-sector)

- Guidance on Blue-Themed Bonds

What: 6 September saw the publication of the long-awaited *Bonds to Finance the Sustainable Blue Economy: A Practitioner's Guide* (the "Guide") by the International Capital Market Association (ICMA) together with the International Finance Corporation, UN Global Compact, UN Environmental Programme Finance Initiative, and Asian Development Bank. The Guide provides practical advice on how to structure and issue "blue bonds" using existing green bond and sustainability-linked bond principles supported by ICMA. The Guide helps to define blue economy typology and eligibility criteria, suggests key performance indicators, and showcases relevant case studies to illustrate how the guidance can be used. The Guide also includes exclusions for blue bonds, notably excluding deep-sea mining activities.

- Global Plastics Treaty

What: On 4 September, the UN Environmental Programme published the first draft text of the internationally binding treaty on plastics pollution. It aims to end plastic pollution in order to protect human health and the environment, in particular the marine environment. This would mean reducing the absolute level of plastics production globally. The draft focuses on targets related to the full lifecycle of plastic production, it prioritises phase out of plastics that are the most difficult to recycle and phased in bans on single-use and short-lived plastics. Parties to the treaty will be responsible for developing and implementing their national plans and reporting against them publicly. The text will now be negotiated, with the aim for the final text to be agreed in 2024.

To hear more about opportunities in the Blue Economy, you can watch our September webinar here: *Global insights - Beneath the surface* and read our article *Turning the tide on the blue economy*.

EUROPEAN DEVELOPMENTS

1. Network for Greening the Financial System climate-related litigation guidance (multi-sector)

What: This month, the Network for Greening the Financial System (NGFS) has published two complementary reports, building on their previous report on growing sources of risk (November 2021):

- *Climate-related litigation: recent trends and developments:* This report offers a useful categorisation of existing litigation and disputes data that can impact the financial sector, corporates, central banks and supervisors. It notes that litigation is likely to grow in parallel to new legislation, particularly relating to greenwashing, climate disclosures and corporate due diligence. This trend may be particularly relevant for the financial sector, which is increasingly being required to disclose under new regulation.
- *Report on micro prudential supervision of climate-related litigation risks:* This report offers insight on the current supervisory landscape on climate-related litigation risk (CLR) and notes the challenges of reliably evaluating and predicting the evolution of these risks. NGFS takes the position that CLR are a subset of physical and transition risks rather than a stand-alone risk category. The report outlines that CLR manifest within existing prudential frameworks for supervision and is oftentimes treated as a subset of operational risk by international standard-setting bodies. There is still a long way for supervisory approaches to go to appropriately capture CLR, both with regards to defining it, adopting supervision methodologies and filling data gaps, to name just a few areas. The report goes on to explore possible supervisory approaches and emerging practices, whist noting that this area will likely only grow in importance.

2. EBA occasional paper on climate stress testing (financial institutions)

What: On 6 September, the European Central Bank (ECB) published an occasional paper (no 328) setting out the results of its second economy-wide climate stress test, following its first economy-wide stress test exercise, published in September 2021.

Key details: The paper introduces three short-term transition scenarios (i.e. an accelerated transition, a late push transition and a delayed transition) and sets out the impact of these scenarios on euro area financial institutions over the next eight years. The EBA notes that by comparing different transition scenarios, the results show that acting immediately and decisively would provide significant benefits, not only by maintaining the optimal net zero emissions path (and therefore limiting the physical impact of climate change), but also by limiting financial risk.

Observations: In this latest paper, the EBA have also calculated the investment needed to successfully transition towards net zero emissions in a more granular way. Firms are encouraged to engage and to consider fast tracking to net zero, as summarised in the EBA's blog.

UK DEVELOPMENTS

1. UK Government's new net zero plan (multi-sector)

What: On 20 September, the government announced amendments to the UK's net zero policy. The announcement signals a departure from the green ambitions of the UK COP26 presidency in 2021. Some of the notable policy shifts that have received the most vocal criticism include:

- Delay of the ban on the sale of new diesel and petrol cars from 2030 to 2035.
- Delay of the ban on installing oil boilers, and new coal heating, for off-gas-grid homes to 2035, instead of phasing them out from 2026.
- Inclusion of an exemption to the phase out of fossil fuel boilers, including gas, in 2035.
- Abandoning of policies requiring landlords to upgrade the energy efficiency of their properties.

Observations: These developments show a growing divide and politicisation of net zero in the UK. It will remain to be seen whether these divides deepen at COP28 and as we move closer to the 2024 general election.

2. UK FCA upcoming ISSB consultation (listed companies)

What: On 10 August, the Financial Conduct Authority (FCA) published its Primary Market Bulletin 45, in which it reconfirmed its support for the International Sustainability Standards Board (ISSB) sustainability disclosure standards (IFRS 1 and IFRS 2) and announced its intention to consult on updating its TCFD-aligned disclosure rules for listed companies to refer to the UK-endorsed ISSB standards.

Key details: The current regime requires listed entities (other than closed-ended investment entities) to report against the TCFD framework on a 'comply or explain' basis, whereas the new regime would involve mandatory disclosures. The FCA encourages listed companies to start considering the new ISSB Standards now and consider building them into future reporting plans. Specifically, the FCA recommends listed companies:

- voluntarily engage with the ISSB Standards ahead of any endorsement decision to identify opportunities to improve their processes and prepare for the introduction of the new framework;
- continue to improve their climate reporting by considering the TCFD recommendations and accompanying guidance; and
- engage with the UK Sustainability Disclosure Technical Advisory Committee call for evidence (see further information in our "consultation round-up" below).

Next steps: The FCA is planning to consult in the first half of 2024 on this proposal and aims to finalise its policy position by the end of next year, with a view to bring new requirements into force for accounting periods beginning on or after 1 January 2025. The first reporting would begin from 2026.

3. GTAG paper on the UK Taxonomy (multi-sector)

What: On 1 September, the Green Technical Advice Group (GTAG) has issued two papers of advice to the UK government on issues relevant to developing a UK Green Taxonomy.

Key details: The first paper considers scope, coverage and reporting considerations in the short and medium term and provides advice on the value and implications of expanding coverage of the UK Taxonomy to include more UK sectors and economic activities. The second paper explores use of key performance indicators (KPIs) and provides recommendations on approach to reporting for fund managers and corporates. Further detail on content of the GTAG papers can be found in our recent insight article.

Next steps: Following a series of delays preventing its publication this year, the government is intending to consult on the UK Taxonomy this autumn.

4. Biodiversity net gain rules for new developments in the UK (real estate sector)

What: Mandatory biodiversity net gain (BNG) rules are set to apply to applications for developments submitted after November 2023 (with certain 'small' sites following in April 2024) per new requirements under the UK Environment Act (2021). There are only very limited minor exemptions to the new rules.

Key details: The government has described BNG as '*making sure the habitat for wildlife is in a better state than it was before development*'. In short, complex metrics will be applied to calculate how much habitat needs to be provided to achieve the 10% net gain required by the legislation. BNG can be delivered through a combination of on-site and off-site units and statutory credits.

Although detailed secondary legislation is still outstanding, the government has announced £9 million of funding to support BNG and to help local authorities recruit additional ecologists and specialists. It has also published the criteria for being a responsible body for those organisations wishing to enter into conservation covenants with landowners. Conservation covenants are a key tool in delivering the off-site units required as part of the new mandatory BNG regime. The government has also published indicative statutory biodiversity credit prices. Statutory credits will be purchased from the government and will be available as a 'last resort' where developers are unable to use on-site or off-site units to deliver BNG.

Follow these developments and others in our quarterly horizon-scanning ESG tracker for the built environment. Please contact Ali Crosthwaite for more details.

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NORTH AMERICA DEVELOPMENTS

1. New corporate climate disclosure rules passed in California (multi-sector)

What: On 11 September, the California Assembly passed landmark climate disclosure rules, SB-253 the "*Climate Corporate Data Accountability Act*" and SB-261, "*Greenhouse gases: climate-related financial risk*" (as covered in our ESG View May edition). Summary of requirements under the Bills:

- SB-253 will require companies with more than $1 billion in annual revenues that do business in California to publicly disclose their scope 1 and 2 emissions from 2026 and their scope 3 from 2027.
- SB-261 will require companies with more than $500 million in annual revenues that do business in California to report climate-related financial risks using the TCFD framework from 2026. Notably, the compliance date was extended from the initially proposed 2024, and reporting will be required every two years rather than annually.

Key observations: These disclosure requirements are the first of their kind in the US and are set to have a huge impact given the size of California's economy and the cross-sectoral scope of the rules. We've already seen growing critiques from financial institutions, for example, the California Bankers Association challenged the inclusion of scope 3 reporting given the methodological challenges for banks. Criticism is only set to increase given the political fragmentation of ESG in the US ahead of the 2024 presidential election.

Next steps: Governor of California, Gavin Newsom, has until 14 October to sign the Bills into law and has already committed to do so. California is a State to watch in the climate conversation, as only a few days after the Bills' passing the State sued five large oil companies for misleading the public about the dangers of fossil fuels and claiming damages for climate adaptation and disaster relief.

2. The SEC adopts amendments to the funds "Names Rule" (asset management)

What: On 20 September, the US Securities and Exchange Commission (SEC) adopted amendments to the Investment Company Act "Names Rule" in order to tackle misleading and deceptive practices in the funds industry. The updated rules include a requirement for US investment funds to have an "80 percent investment policy", aligning 80 percent of the value of their assets with their fund name and characteristics. The amendments also include governance, reporting and recordkeeping requirements, for example, they require funds to review their 80 percent investment policy quarterly and give specific compliance dates if there are any departure from the policy.

Timing: The amended rules will be in effect 60 days after their publication in the Federal Register and large fund groups (net assets of $1 billion or more) will have 24 months to comply and smaller fund groups (net assets of less than $1 billion) will have 30 months.

APAC DEVELOPMENTS

1. Hong Kong Monetary Authority (HKMA) issues principles on net zero transition (financial institutions)

Following the Hong Kong Monetary Authority's (HKMA) two-year plan to integrate climate risk into its banking supervisory processes, the HKMA has outlined six high-level principles to assist Authorised Institutions (AIs) in planning for a net zero economy transition. These principles aim to assist banks in maintaining safety and soundness during the transition planning. These six principles are:

- Setting clear objectives and targets;
- Establishing a robust governance framework and embedding transition considerations into internal processes;
- Devising appropriate initiatives and actions to achieve the objectives;
- Engaging with clients;
- Performing reviews and updates; and
- Maintaining transparency.

2. GFANZ announces Hong Kong Chapter to Support Asia-Pacific Net Zero Transition (financial institutions)

What: On 31 August, the Glasgow Financial Alliance for Net Zero (GFANZ) announced the creation of a GFANZ Chapter in Hong Kong, joining the GFANZ APAC Network. The Hong Kong Chapter will engage and collaborate with financial institutions in Greater China on net zero efforts, transition planning, and scaling transition finance. It will also facilitate knowledge sharing, provide input on local perspectives into GFANZ's global work and collaborate with domestic initiatives such as the Hong Kong Green Finance Association.

Hong Kong's role as a global financial centre and its link to regional capital and transition finance opportunities help to position it to drive net zero outcomes. The GFANZ Hong Kong Chapter marks a significant step in GFANZ's mission to drive the global net zero transition and leverage Hong Kong's unique position for sustainable future developments.

3. New Zealand new Climate Disclosure Standards (asset management)

What: On 29 August the External Reporting Board (XRB) of New Zealand published its finalised guidance for fund managers on its approach for making its mandatory climate disclosure reports under the XRB's disclosure requirements.

Key observations: The final guidance, which has some key changes from previous drafts, is relevant to all managers of registered investment schemes (MIS Managers) that are "large" (with greater than NZD1 billion in total assets under management) or for MIS Managers who intend to publish climate-related disclosures voluntarily. Having industry specific guidance emphasises the fundamental differences in what MIS managers are required to do in meeting standards, such as, the requirement to disclose climate-related risks and opportunities in relation to the fund or scheme, rather than the entity itself. In practice, MIS Managers have the challenge of producing data, and the ongoing work to be done will be substantively different to what other climate reporting entities will be doing to meet the climate disclosure standards.

Next steps: Managers in scope should consider any differences to its current approach to meeting the standards based on the guidance. Given that the standards are based on the TCFD framework, global managers may find the disclosures published by NZ firms in scope, a helpful comparison as to how disclosures are made across different financial sectors.

4. India SEBI minimum ESG equity fund requirements (asset management)

What: On 20 July, the Securities and Exchange Board of India (SEBI) introduced a sub-category for ESG investments under the "equity schemes category" reflecting the increasing demand of green financing in the region and the need for harmonised disclosure to avoid greenwashing risks.

Key observations: The new ESG schemes proposed can be launched under one of several categories, such as "best in class", "impact investing" and "sustainable objectives" and the scheme name must clearly disclose which of these strategies is being adopted. Mutual funds could previously launch only one ESG scheme under the thematic category of "equity scheme" but are now permitted to invest under multiple ESG schemes with varying ESG strategies. The ESG schemes are required to invest at least 80% of the total assets under management in equity and equity-related instruments relating to the scheme's strategy, with the remaining portion of the investment being consistent with the scheme's chosen strategy.

Next steps: The SEBI has required asset management companies to obtain independent reasonable assurance regarding the compliance of ESG schemes with their stated objectives and certify the schemes compliance with regulatory requirements based on comprehensive internal ESG audits. These items must be included in the annual report of the ESG scheme.

ESG LITIGATION ROUND-UP

Momentum on climate litigation has not slowed over the summer months, and while we can't cover all the developments globally, it is worth mentioning a few. August saw a ground-breaking decision in the US, upholding the right to a clean environment in the Montana Youths case. There are also three international cases we will be watching closely in the coming months, including the Portuguese Youth case in the European Court of Human Rights, the Small Island States Climate Change case at the International Tribunal for the Law of the Sea, and the complaint against the World Bank for providing support to coal-fired power plants in Indonesia.

To help you stay up to date on the latest global developments in contentious ESG matters, this month we are launching our ESG Disputes Radar. It comprises email briefings which aim to keep you up-to-date by delivering key updates – when they happen – to help you adapt to developments likely to impact your organisation. Our radar coverage spans the globe, keeping you updated on litigation, ground-breaking investigations, and complaints brought before international bodies. If it's on our radar, rest assured, it's on yours too. Read more and sign up today here.

1. UN warns Saudi Aramco and its financiers regarding contributions to climate change related human rights breaches (multi-sector)

What: On 25 August, following a complaint filed by ClientEarth in 2021, the UN issued a Communication to Saudi Aramco warning that the state-run oil company's alleged contributions to the climate crisis could be in violation of international human rights law. In addition, the UN issued Communications to Saudi Aramco's financiers, noting the contributions that financial institutions and asset managers can make to adverse human rights impacts through the provision of financing. The various Communications, issued on 27 June 2023, can be found here using the search term "Saudi".

The UN has no enforcement powers in this regard, nor do the Communications constitute legal judgments. However, Communications may be cited in other legal actions or used to inflict reputational damage.

Our view: This is the first time that the UN has targeted the oil industry in relation to the adverse impacts on human rights caused by contributions to climate change, adding to the ever-increasing pressure being placed on the industry in relation to the climate crisis. Further, the Communications to Saudi Aramco's financiers will add to the growing expectation being placed on financial institutions and asset managers to take responsibility for human rights issues in their value chains, particularly in relation to who they finance and which projects they facilitate.

2. Belgian Court strikes down €3bn INEOS plastics project (multi-sector)

What: The Court of the Council of Permit Disputes in Belgium has ruled that INEOS's €3 billion plastics project in the Port of Antwerp is not legal. As a result, the project is now suspended.

The Court ruled that INEOS failed to tell Flemish authorities the full extent of the project's predicted impact on the surrounding environment. These crucial omissions meant the authorities failed to fully assess the environmental impacts of the project and should not have granted its approval. The Court also held that the nitrogen pollution created by the project would breach the EU Habitats Directive, which aims to protect over a thousand species of animals and plants, and 230 habitat types.

Our view: As greater public scrutiny is placed on new environmentally detrimental infrastructure projects, companies will need to ensure that they have completed their environmental due diligence thoroughly in order to mitigate the risk of any last-minute challenges.

3. ClientEarth's Shell derivative action refused again, and ClientEarth ordered to pay Shell's costs

What: On 24 July 2023, following an oral hearing at which ClientEarth asked Mr Justice Trower to reconsider several points made in his earlier judgment, the English High Court maintained its decision to refuse to give permission for ClientEarth (as a minority shareholder) to bring its ground-breaking application for a climate-related derivative action against the directors of Shell. See our article for full analysis and key takeaways. ClientEarth subsequently sought permission to appeal from Mr Justice Trower, who refused on 31 August 2023. It remains to be seen whether ClientEarth applies for permission to appeal again – they have the option to do so to the Court of Appeal.

In the meantime, following the July 2023 refusal, Shell sought its costs of the proceedings to date, which Mr Justice Trower awarded (also on 31 August 2023) on the standard basis (i.e., Shell may recover its reasonable and proportionate costs). In English litigation, the general rule is the unsuccessful party will be ordered to pay the costs of the successful party. However, in its submissions, ClientEarth argued that Shell was not entitled to its costs, relying on the derogation from the general rule provided by CPR PD 19A para 2 in relation to derivative claims. Mr Justice Trower rejected this argument, concluding that "*it was appropriate and proportionate for Shell to*" voluntarily attend the oral hearing and make written and oral submissions.

Our view: As noted by ClientEarth in its submissions, this decision could "*stifle future attempts to pursue board members of large well-resourced companies for breach of duty*" given the costs risk posed to the litigant. Certainly, this decision will give potential litigants pause for thought before pursuing this type of actions, as well as other types to which the general costs rule could apply. The level of Shell's costs has not been publicised but will likely be substantial.

4. ASIC commences greenwashing case against Vanguard Investments Australia (financial institutions)

What: The Australian Securities and Investments Commission (ASIC) has commenced civil penalty proceedings against Vanguard Investments Australia at the Federal Court of Australia. ASIC alleges that Vanguard Investments Australia made false and misleading statements and engaged in conduct liable to mislead the public when it represented that all securities in the Vanguard Ethically Conscious Global Aggregate Bond Index Fund were screened against certain ESG exclusionary criteria. However, according to ASIC a significant proportion of the bonds were from issuers that were not researched or screened and that the index and fund included issuers that violated those criteria.

Our view: These proceedings are the latest in a string of actions brought by ASIC in respect of potential greenwashing. The regulator has committed to continue to monitor asset managers' marketing of supposed 'green' or 'sustainable funds' to ensure that investors are not misled.

5. Australian government to acknowledge risk of climate change on bonds in landmark settlement (financial institutions)

What: The Australian government has agreed to settle a class action brought against it for failing to disclose the climate change related risks of investing in its bonds. As part of the settlement, a statement will be published by the Australian government acknowledging that climate change was a systemic risk that may affect bond value. This will be the first formal acknowledgment by a country with an AAA credit rating.

The statement will outline some of the government's plans in relation to the climate crisis, including sustainable finance reforms and the addition in the federal budget of fiscal impacts of climate change. In contrast, at the time the case was filed in 2020, the budget did not even mention climate change.

Our view: This is the first time that legal action has been used by a bond investor to hold the government accountable in this way. It has been described as a world-first court case, a landmark settlement and an important step towards recognising the risks of climate change on investments. Attention has been drawn to how climate change may impact the wider bond market with the hope that action to reduce those risks will now be prioritised.

Next steps: The terms of the settlement are due to go to the Federal Court for approval on 11 October.

6. UK's First Environmental Collective Action (multi-sector)

What: The Proposed Class Representative (PCR) (Professor Carolyn Roberts, an environmental and water consultant) has issued a claim against the first of six water companies which, she alleges, each hold a monopoly position for providing water and sewerage services to household customers in their geographic area. The PCR alleges that the water companies have been misleading their regulators by underreporting the number of pollution incidents, which has resulted in higher customer bills.

The PCR seeks to represent 8 million customers who have paid a water bill to Severn Trent Water since April 2020. The claim is being brought as an opt-out class action, meaning customers will be automatically included within the class, and entitled to their share of any awarded damages, unless they explicitly opt-out of the proceedings. The combined value of all six claims is expected to be around £800 million in total.

This is the first time an environmental collective action is being brought in the UK's Competition Appeal Tribunal (CAT) – it will be interesting to see how the Tribunal responds. There is a risk that the Tribunal may see this as an attempt to shoehorn an environmental claim into the remit of the collective action regime in the CAT. The first hurdle will therefore be 'certification', meaning the claim will need to pass the gatekeeps of the Tribunal before it is allowed to proceed.

You can read more about collective proceedings issued in the CAT here.

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. EU Commission consults on SFDR implementation (multi-sector)

What: On 14 September the European Commission (Commission) launched two consultations on the implementation of the Sustainable Finance Disclosure regulation (SFDR).

Key details: The first consultation forms part of the Commission's overall review of the functioning of the SFDR and intends to address several issues identified since its application. Specifically, the Commission seeks stakeholders' views on:

- disclosure of principal adverse impacts (PAIs)
- the cost of disclosure under the SFDR
- the ability of financial market participants to fulfil their ESG transparency requirements
- the SFDR's interaction with other sustainable finance legislation (including the Taxonomy Regulation, the CSDR, MiFID, and the PRIIPs Regulation)

The second publication is a targeted consultation aimed at identifying potential shortcomings with the regulation and exploring possible options to improve the framework. The main topics covered are:

- Current requirements of the SFDR
- Interaction with other sustainable finance legislation
- Potential changes to the disclosure requirements for financial market participants
- Potential establishment of a categorisation system for financial products

Next steps: The consultations set out a series of open questions seeking views as to how far stakeholders agree with a statement (on a scale of 1 to 5) and is open until 15 December. More details on the consultation can be found in our client note.

2. TNFD Sector Guidance and Sector Disclosure Metrics open for feedback (multi-sector)

What: On 18 September, the Taskforce on Nature-related Disclosures (TNFD) published its final recommendations for nature-related disclosures. In addition, it published additional guidance that is open to response and feedback, these include:

- Additional guidance for financial institutions: guidance on the TNFD recommendations and metrics architecture for financial institutions. TNFD encourages financial institutions to pilot the metrics and share feedback, with an expectation to finalise guidance in 2024.
- Discussion paper on proposed sector disclosure metrics: a guidance document on recommended metrics for multiple sectors including: consumer goods, extractives and mineral processing, food and beverage, infrastructure and renewable and alternative energy. Feedback can be provided prior to 29 February 2024.

- Discussion paper on proposed approach to value chains: TNFD recognises the challenges of collecting data across value chains and provides guidance on where it is appropriate to seek full traceability and where secondary data can be used. Feedback on the guidance can be provided prior to 30 November 2023.

3. UK TAC call for evidence on the IFRS disclosure standards (multi-sector)

What: The UK Sustainability Disclosure Technical Advisory Committee (TAC) has published a call for evidence seeking views on the IFRS S1 *General Requirements for Disclosure of Sustainability-related Financial Information* and IFRS S2 *Climate-related Disclosures* standards in the context of the UK. The TAC is looking for insight on whether the disclosure standards in the context of the UK:

- will result in disclosures that are understandable, relevant, reliable and comparable for investors;
- are technically feasible to prepare;
- can be prepared on a timely basis and at the same time as general-purpose financial reports; and
- are expected to generate benefits that are proportionate to the costs that are likely to be incurred.

Timing: The consultation is open until the 11 October.

4. NZAOA Public Consultation Target Setting Protocol Version 4 (asset owners)

What: The Net Zero Asset Owner Alliance (NZAOA) has opened a public consultation on its fourth edition of its Target Setting Protocol. The purpose of the protocol is to guide members on how to set their science-based intermediate targets. The fourth edition expands coverage of asset classes, and the consultation invites feedback on the additions of:

- Target-setting methodologies for private debt funds;
- Target-setting methodologies for real estate debt funds and residential mortgages (including approaches on embodied carbon and energy efficiency);
- Performance assessment of sovereign debt holdings through qualitative indicators (such as those provided by ASCOR).

Timing: The consultation is open until 29 September.

5. IAASB public consultation on proposed global sustainability assurance standard (assurance practitioners)

What: On 2 August, the International Auditing and Assurance Standards Board (IAASB) published a consultation for a proposed global sustainability assurance standard called the International Standard on Sustainability Assurance (ISSA) 5000, General Requirements for Sustainability Assurance Engagements (ISSA 5000). ISSA 5000 is a principles-based assurance standard for sustainable reporting that is intended to be used globally and across multiple reporting frameworks. The IAASB encourages all stakeholders to share feedback on the suitability and potential effectiveness of the proposal either using a detailed response template or a more high-level survey.

Timing: The proposal is open for comment until the 1 December and final standards will be issued before the end of 2024.

6. Japan's FSA consults on impact investing framework (asset management)

What: On 31 July, the Japanese Financial Services Agency released a consultation on a set of guidelines for impact investing. The proposal is not unlike the Global Impact Investing Network (GIIN) standards, with principles of intentionality, additionality, identification, measurement and management and support for novelty all underpinning the guidelines for impact investment.

Timing: The consultation is open until 10 October.

7. International Impact Accounting Methodology (multi-sector)

What: The International Foundation for Valuing Impacts (IFVI) in partnership with the Value Balancing Alliance (VBA), has published a consultation on *General Methodology 1: Conceptual Framework for Impact Accounting*. This is the first of multiple statements, intended to create a globally applicable, open-source impact accounting methodology. The guidance includes the key purpose of impact accounting, defines key terms and concepts, and clarifies how impact accounting is connected to topics such as materiality assessments.

The consultation invites interested parties to respond to 5 questions, on; the delineation between preparers of impact accounts and users of impact information; the inclusion of the principle of conservatism; the proposed logic of impact pathways; the approach to impact materiality and qualitative characteristics of relevance; and any additional comments on the proposal.

Timing: The consultation is open until 16 October.

LATEST SIMMONS ESG INSIGHTS

Upcoming Webinars

- Tuesday, 26 September - 12.30-1pm BST
  Taskforce on Climate-related Financial Disclosure (TCFD) under the FCA Rules - What can "phase 2" firms learn from "phase 1" implementation?
- Tuesday, 3 October - 12.30-1pm BST
  The EU's Corporate Sustainability Due Diligence Directive (CS3D) - beyond disclosure: how could this initiative impact firms?
- Thursday 5 October 2023, 10 – 10.45am BST
  Insuring the Future: ESG risks
- Tuesday, 10 October - 12.30-1pm BST
  Taskforce on Nature-related Financial Disclosures (TNFD) - nature and biodiversity on the agenda for financial services
- Tuesday, 17 October - 12.30-1pm BST
  International Sustainability Standards Board (ISSB) - adoption in the UK and beyond
- Tuesday, 24 October - 12.30-1pm BST
  Sustainable Finance Disclosure Regulation (SFDR) – taking stock after 2.5 years and what's on the horizon
- Tuesday, 31 October - 12.30-1pm GMT
  ESG ratings – UK and EU regulation proposals

Recent Publications

- PACCAR – Supreme Court throws Litigation Funders under a truck (26 July 2023)
- SEC approves new private fund adviser rules (24 August 2023)
- GTAG publishes advice on scope and reporting under UK green taxonomy (7 September 2023)
- SFDR/ESG: CSSF update on the launch of the ESMA (11 September 2023)
- Global insights webinar recording- Blue Economy: Beneath the surface (12 September 2023)
- ESG – the EU Commission consults on how the SFDR regime is functioning (14 September 2023)
- ESG – Simmons client note on the Commission's SFDR consultation paper (18 September 2023)

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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.

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