ESG View

November 2024

21 November 2024

Welcome to the November edition of ESG View!

As we publish this edition, UN Climate Change Conference (COP29) in Baku is well underway with no shortage of ambitious announcements.

With the deadline for updated national climate action plans fast approaching (February 2025), countries including the United Arab Emirates (UAE) and the United Kingdom (UK) have been first movers in announcing targets to reduce emissions by 47% by 2035 and 81% by 2035 respectively. Timely progress, with the Global Carbon Project reporting that carbon dioxide emissions had risen in 2024 by 0.8% from last year and scientists finding that it is "virtually certain" that 2024 will be the warmest year on record, breaching the 1.5°C threshold set by the Paris Agreement. Tune in next month for a deeper dive on COP29 developments, including a look at impacts on global carbon markets.

Beyond the COPs, a key event to watch is the upcoming fifth and final round of negotiations on the international plastic pollution treaty. This event (INC-5) will take place from 25 November to 1 December in Busan, Republic of Korea. This month, the INC-5's Chair released the third iteration of the "non-paper", a document that will serve as the basis for negotiations. There has been strong engagement in the process including from the private sector where CEOs from the likes of Danone, PepsiCo, and Unilever, have called on heads of state to agree on a legally binding treaty, stating "it is clear that voluntary efforts alone are not enough to address plastic pollution at scale".

Of course, the big red elephant in the room, is the outcome of the U.S. elections this month resulting in sweeping wins for the Republican party, winning the Presidency, the Senate and the House of Representatives. This combined with a strongly conservative Supreme Court bench is likely to have an impact on the global sustainability agenda. However, we expect this will likely to be an adjustment to the sails rather than a complete change of course. Whilst the new guard may slowdown the rule-making machinery at a federal level and remove phasing down of fossil fuels from the political agenda, the overarching direction of travel on the transition is unlikely to be reversed, not least because Republican red states such as Texas have been the biggest beneficiaries of the Inflation Reduction Act and no new government, regardless of hue, will want to stifle this momentum.

In this edition of ESG View, we recap the pivotal updates from Biodiversity COP16, alongside highlights on regulatory developments across Europe and the Middle East. Our disputes section delves into the seminal Shell decision from the Netherlands. This month's bulletin is packed with live consultations, spanning nature transition planning, new updates from the UK Stewardship Code, and the final touches on sustainable finance taxonomies in Australia and Thailand.

Best wishes,

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GLOBAL DEVELOPMENTS

1. Nature takes centre stage globally with COP16 (multi-sector)

What: COP16, held in Cali, Colombia in late October, focused on the implementation of the Kunming-Montreal Global Biodiversity Framework (GBF). This framework aims to halt and reverse global biodiversity decline by 2030, with the ambitious "30 x 30" goal to conserve 30% of the world's land and oceans. Whilst this COP16 was a critical summit given just 6 years remains to achieve this goal, its outcomes were mixed, with progress on some fronts but challenges remaining.

Key details:

- Party Pledges: Only 44 out of 196 countries provided updated national biodiversity strategies and action plans (NBSAPs). Additionally, 119 parties set national targets, but these submissions are goals without details on how to achieve them.
- Finance: Negotiations on the creation of a new fund to help mobilise $200 Billion per year for biodiversity stalled, delaying momentum until the next COP. However, seven countries pledged an additional $163 million for the interim GBF fund.
- Biodiversity Credit Markets: The International Advisory Panel on Biodiversity Credits published its *Framework for high integrity biodiversity markets* which aims to define, guide and encourage the development of high integrity credits and credit markets.
- Digital Genetic Information: There was agreement on a multilateral mechanism, including a global fund, to share the benefits from uses of digital sequence information on genetic resources (DSI) more fairly and equitably.
- Indigenous Peoples and Local Communities: Parties adopted a new Programme of Work related to indigenous peoples and local communities, embedding their rights and traditional knowledge in the global agenda. They also agreed to establish a new permanent subsidiary body to enhance engagement in all convention processes.

Looking ahead: With the climate and desertification COPs following in short order in Baku and Riyadh respectively, the lack of clear alignment between these forums has been brought into sharper focus. Given the interconnectedness of nature and climate, it awaits to be seen if COP16's outcomes are referenced in the subsequent COPs.

EUROPEAN DEVELOPMENTS

1. EU Parliament's vote delays and weakens Deforestation Regulation (multi-sector)

What: On 14 November, the European Parliament voted to postpone the implementation of the EU Deforestation Regulation (EUDR) by one year, a move that extends the compliance deadlines for operators and traders. This decision pushes the obligation for medium and large companies to 30 December 2025 and for micro- and small enterprises to 30 June 2026. This adjustment comes after concerns were expressed by EU member states, non-EU countries, and various operators about their ability to meet the original deadlines set for the end of 2024.

Additionally, among the various amendments adopted, the Parliament has proposed the establishment of a new "no risk" category for countries with stable or increasing forest areas, alongside the existing "low", "standard", and "high" risk categories. A country benchmarking system is expected to be finalised by the Commission by 30 June 2025.

The delay, along with the introduction of the "no risk" category, is seen by some as a watering down of the Regulation, potentially undermining the urgency in addressing deforestation. Moreover, it raises concerns about the dilution of the Regulation's initial objectives and has attracted criticism from business circles relating to the uncertainty and confusion on implementation.

Next steps: The final text must be endorsed by both the Council and Parliament and published in the EU Official Journal to become law. This development signals a significant shift in the EU's approach to combating global deforestation, emphasizing a more gradual implementation of the Regulation.

2. EU Council adopts regulation of ESG rating activities (ESG ratings users and providers)

What: On 19 November, the European Council adopted a new regulation on the transparency and integrity of Environmental, Social and Governance (ESG) rating activities. This follows the European Parliament and Council reaching provisional political agreement on the regulation in February and the Parliament voting to adopt the regulation in April 2024.

Key details: Some of the notable elements of the regulation:

- ESG rating providers established in the EU will need to be authorised and supervised by the European Securities and Markets Authority (ESMA);
- they will have to comply with transparency requirements, in particular with regard to their methodology and sources of information;
- ESG rating providers established outside the EU that wish to operate in the EU, will need to obtain an endorsement of their ESG ratings by an EU authorised ESG rating provider, a recognition based on a quantitative criterion, or be included in the EU registry of ESG rating providers on the basis of an equivalence decision; and
- the regulation introduces as a principle a separation of business and activities in order to prevent conflicts of interest.

The text reflects the agreement made in February, further details of the content of the regulation can be found in our insights article here.

Next steps: Once the regulation is published in the Official Journal it will enter into force after twenty days. The new rules will apply 18 months after entry into force.

3. European Commission publishes new FAQs under Article 8 of the Taxonomy Regulation (multi-sector)

What: On 8 November, a new Commission Notice was published in the Official Journal, which provides the Commission's views on the interpretation and implementation of certain aspects of the Disclosures Delegated Act made under Article 8(4) of the EU's Taxonomy Regulation. The Disclosures Delegated Act deals with the reporting of Taxonomy-eligible and Taxonomy-aligned economic activities and assets.

Key details: The purpose of the Notice is to provide further guidance through the Frequently Asked Questions (FAQs) on the reporting of their key performance indicators under the Disclosures Delegated Act.

The answers given in the Notice:

- clarify the rules already contained in the applicable legislation;
- neither extend the rights and obligations deriving from such legislation, nor introduce any additional requirements for the operators and competent authorities; and
- are merely intended to help financial undertakings implement the relevant legal rules.

Read more in our insights article here and watch out for our upcoming Briefing Note.

4. ICMA updates its Guidance Handbook for the sustainable bond principles (multi-sector)

What: In November, ICMA published an updated version of the Guidance Handbook for the sustainable bond principles (SLBPs). This updated edition includes three new questions related to the Sustainability-Linked Bonds (SLBs):

- how to treat SLBs within the scope of sustainable finance disclosure and labelling systems;
- whether an SLB ought to align with updates corporate-level sustainability strategic objectives and disclosure; and
- guidance on KPIs selection to successfully assert alignment with SLBPs.

UK DEVELOPMENTS

1. Mansion House speech sets out a vision for its sustainable finance framework (multi-sector)

What: On 14 November, the Chancellor set out in a speech at Mansion House the government's vision to grow and enhance the competitiveness of the UK's financial services sector, including on delivering the foundations of a robust sustainable finance framework.

Key details: Key elements announced as part of the foundations of the sustainable finance framework include:

- Publishing a consultation to gather views on the value case for launching a UK Green Taxonomy as part of a wider sustainable finance framework (see our consultation section for more detail);
- Announcing the intention to consult on streamlined sustainability disclosures for economically significant companies;
- Consulting in the first half of 2025 on how best to take forward the manifesto commitment on transition plans;
- Publishing a consultation response and draft legislation to bring ESG ratings providers into regulation (see our consultation section for more detail);
- delivering one of the key recommendations from the recently published Transition Finance Market Review by co-launching the Transition Finance Council with the City of London Corporation; and
- launching a set of integrity principles for voluntary carbon and nature markets on 15 November at COP29 ahead of a consultation in 2025.

2. FCA publishes SDR investment label pre-contractual disclosure examples (asset management)

What: On 1 November, the FCA published an illustrative guide to its Sustainability Disclosure Requirements (SDR) and investment labels regime, which enters into force on 2 December 2024. The rules apply to UK asset managers and cover the naming and marketing rules regarding the use of certain sustainability related terms in product names and marketing materials. See our client note on the SDR regime here.

Key details: The FCA has set out a series of examples of good and poor practice across a selection of labels. The examples given (which are based on the FCA's experience of applications to date) are non-exhaustive but are intended to aid applicants as they prepare their documentation.

Among the examples of poor disclosure practices, which the FCA has determined do not meet the SDR requirements are the following:

- disclosing an asset selection process that does not link to a product's specified sustainability objective and aim;
- where the disclosed approach to asset selection fails to include an explanation and evidence as to why the scoring or threshold is appropriate for defining sustainability; and

- failing to disclose, where applicable, that a manager has an override for asset selection.

For a Sustainability Improvers label:

- failing to disclose the types of evidence which the manager relies on in order to satisfy itself that assets have the potential to meet the robust, evidence-based standard;
- where short and medium-term targets are either missing or inconsistent with the long-term horizon over which assets are expected to meet the standard of sustainability.

MIDDLE EAST AND AFRICA DEVELOPMENTS

1. Jordan introduces new electricity law (multi-sector)

What: On 9 November, the Jordanian Cabinet approved the validating reasons for a new permanent electricity law, which is set to replace the temporary General Electricity Law of 2002 with a new regulatory framework. Amongst other things, the new law intends to encourage investment in electricity storage and green hydrogen projects, forming part of the Kingdom's broader Economic Modernisation Vision.

Key details:

- Investors will be allowed to construct and operate autonomous power generation and storage stations under a public-private partnership model;
- the law encourages self-production and distribution of electricity independent of the national grid; and
- licensed entities involved in the transmission, generation and/or distribution of electricity will also be authorised to establish and operate power storage stations for the first time.

Our view: This represents a significant shift in the Jordanian energy sector, encouraging private investment and diversification focused on green energy sources. We expect the government to continue in its efforts, both internationally and domestically, to become a regional hub for renewable energy production.

2. Saudi Arabia introduces voluntary carbon market exchange to finance decarbonisation (multi-sector)

What: On 13 November, Saudi Arabia launched a voluntary carbon credit exchange whilst at the UN Climate Change Conference (COP29) in Baku. This comes as countries at the ongoing COP29 agreed on two carbon credit quality standards which will be crucial to the establishment of a UN-backed international carbon market.

Key details: The platform is managed by the Regional Voluntary Carbon Market Company (RVCMC), backed by Saudi Arabia's sovereign wealth fund and the Saudi Tadawul Group. The launch involved an auction of 2.5 million carbon credits, certified by Vera, Gold Standard and Puro.earth, covering 17 projects dating from 2020 onwards. 22 Saudi and international companies registered to buy the credits.

Trading on the platform will channel funds into critical climate projects across the Global South, helping to bridge the climate finance gap and support Saudi Arabia's goal to reach net zero by 2060.

Our view: Despite remaining the world's largest exporter of oil, this represents another milestone in Saudi Arabia's Vision 2030 plan to diversify its economy away from oil dependency and encourage sustainable development. However, the voluntary carbon market has recently faced criticisms regarding the low quality of underlying projects and potential greenwashing, which may continue to have an impact on liquidity.

AMERICAS DEVELOPMENTS

1. Brazil's Securities and Exchange Commission issues mandatory sustainability disclosure standards (multi-sector)

What: On 29 October, the Securities and Exchange Commission (CVM) published CVM Resolutions 217, 218 and 219, officially approving mandatory sustainability disclosure standards based on the global International Sustainability Standards Board (ISSB) standards. Brazil was the first country to adopt the ISSB disclosure standards with the publication of CVM Resolution No. 193 in October 2023. Since then, the Brazilian Committee for Sustainability Pronouncement (CBPS) has finalised the Technical Pronouncement CBPS No. 01 and No. 02, which effectively translated and adapted the ISSB to the Brazilian context.

Key details:

- CVM Resolution 217: Technical Pronouncement CBPS No. 01 – *General Requirements for Disclosure of Financial Information related to Sustainability*, issued by the CBPS, mandatory for publicly-held companies.
- CVM Resolution 218: makes Technical Pronouncement CBPS No. 02 – *Climate-Related Disclosures*, issued by the CBPS, mandatory for publicly-held companies.
- CVM Resolution 219: amends art. 5 of CVM Resolution 193 to define new deadlines for submitting financial information related to sustainability in fiscal years of voluntary adoption.

The regulations came into effect on 1 November 2024 and applying to fiscal years beginning on or after 1 January 2026. Early adoption of CVM Resolutions 217 and 218 is permitted, however entities will need to adhere to certain provisions and apply both disclosure standards at the same time.

APAC DEVELOPMENTS

1. Australian Government publishes AI and ESG Guidance (multi-sector)

What: On 21 October, the Government published AI and ESG guidance, which emphasises the ways in which AI can help accelerate ESG goals by increasing resource efficiency, monitoring environmental impacts and improving labour conditions by streamlining mundane tasks. However, it also warns of, and provides guidance on, the ESG risks inherent in AI, such as bias, privacy loss, fraud and job displacement. This guidance builds on a voluntary standard on safe and responsible use and innovation with AI published by the Australian Government in September 2024.

To assist businesses in complying with the voluntary standard, the Australian Government has introduced the AI Impact Navigator, which allows companies to measure the impact of their AI use. This tool sets out a framework with four main dimensions and five indicators each, allowing companies to evaluate their AI applications' ESG impact on a scale from 'poor' to 'excellent'.

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BEST OF THE REST

A round-up of key ESG regulatory and policy updates from around the globe worthy of a mention in this edition:

- Global: IOSCO published a report on transition plans, with a view to understanding how transition plans can support its aims of investor protection and market integrity.
- Global: The Impact Disclosure Taskforce released voluntary guidelines to help companies and sovereign entities measure and disclose progress on UN Sustainable Development Goals.
- Global: The FSB has issued its 2024 progress report on achieving consistent climate-related disclosures, highlighting significant progress in implementing ISSB disclosure standards.
- Global: The IPSASB has published the inaugural Sustainability Reporting Standards, Exposure Draft (SRS ED) 1, Climate-related Disclosures for public sector entities.
- Global: The CDP and EFRAG announced that they have achieved a high degree of interoperability between CDP's disclosure platform and the EU's ESRS.
- Europe: The European Commission has published its FAQs on the CSRD in the Official Journal. The FAQs were first published in August of this year, see September ESG View for further details.
- Europe: The ESMA has issued its annual European Common Enforcement Priorities (ECEP) Statement for 2024 corporate reporting.
- Europe: EFRAG has published draft guidance for transition planning.
- Europe: EIOPA announced the release of a new report, recommending to the European Commission to implement additional capital requirements for fossil fuel assets on European insurers' balance sheets, to address the asset's high exposure to transition risks.
- China: Chinese stock exchanges publish sustainability disclosure guidelines for consultation which closed on 21 November.
- Singapore: The CFA Institute, the global association of investment professionals, and CFA Society Singapore, launched the voluntary Diversity, Equity, and Inclusion Code for the Investment Profession in Singapore.

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ESG DISPUTES ROUND-UP

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

- On 30 October, Los Angeles County sued PepsiCo and Coca-Cola over plastic pollution, alleging they misrepresented the recyclability of plastic containers and failed to disclose environmental and health risks. The lawsuit seeks injunctive relief, consumer compensation, and civil penalties. Meanwhile on the East Coast, on 31 October, the New York Supreme Court dismissed a similar case against PepsiCo, finding that it could not be held liable for the littering of its plastic products.
- In the last month, the German Government has faced legal challenges on two fronts: climate and nature. On 1 November, Environmental Action Germany (Deutsche Umwelthilfe, DUH) filed a lawsuit challenging Germany's "inadequate" National Energy and Climate Plan (NECP). On 23 October, BUND (Friends of the Earth Germany) filed a constitutional complaint seeking a declaration that the lack of a coherent scheme for the protection of biodiversity infringes on fundamental rights.
- Two key oil and gas cases progressed in UK courts this month, including: Oceana UK was given permission for a judicial review challenge to the government's decision to award fossil fuel exploration licences in UK waters (case is to be heard in early 2025) and legal challenges to the Rosebank oil fields was heard in Scotland against field owners Equinor and Ithaca Energy.

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. Hague Court of Appeal Judgment – Milieudefensie vs. Shell (oil and gas)

What: On 11 November, the Hague Court of Appeal overturned the District Court's judgment which ordered Royal Dutch Shell (RDS) to reduce CO_2 emissions by 45% net by the end of 2030 through the corporate policy of the Shell group, relative to the 2019 levels.

Milieudefensie (Friends of the Earth Netherlands) had brought the case and argued that given the Paris Agreement's goals and the scientific evidence regarding the dangers of climate change, Shell has a duty of care to take action to reduce its greenhouse gas emissions. Plaintiffs base this duty of care argument on the Dutch Civil Code and the European Convention on Human Rights (ECHR).

Key details: The Court of Appeal ruled that Shell has an obligation to limit its CO_2 emissions to protect citizens from dangerous climate change. This obligation stems from the human right to protection against climate change, indirectly influencing the duty of care for companies like Shell. However, the court could not establish a specific reduction percentage that Shell must adhere to, citing insufficient consensus in climate science. The court also found that requiring Shell to reduce emissions from the consumption of its products (scope 3) would be ineffective as other companies might take over this trade.

Our view: Notwithstanding the setback, the ruling acknowledges that large corporations can be obliged to combat climate change and that protection against dangerous climate change is a human right. We are expecting an appeal for cassation by the Supreme Court of the Netherlands due to the impact and importance of this case.

2. SEC fines Invesco Advisors for misleading statements about integration of ESG factors in investment decisions (asset management)

What: On 8 November, the U.S. Securities and Exchange Commission (SEC) charged Invesco Advisers, Inc. for making misleading statements about the percentage of company-wide assets under management that integrated ESG factors in investment decisions, therefore violating the Investment Advisers Act of 1940. A settlement was agreed, with Invesco agreeing to pay a $17.5 million civil penalty.

Key details: According to the SEC's Order, between 2020-2022, Invesco told clients and stated in marketing materials that between 70% and 94% of its parent company's assets under management were "ESG integrated." The SEC found that these percentages were misleading because they counted passive ETFs as ESG integrated, where many of these ETFs could not consider ESG factors because they did not follow an ESG-related index. The SEC also found that, Invesco had no comprehensive set of written policies and defining ESG integration.

Notably, the regulator found that there was "wilful" violation of the law, which does not require intent or knowledge of the violation, but instead can rely on negligence. The order highlights factual circumstances that lead to this conclusion, including that certain employees recognised the potential issue arising from counting all ETFs as ESG integrated and raised concerns regarding the classifications, the internal framework for ESG integration evolved over the period without policies and procedures in place, and there was inconsistency around the justification for the integration of passive ETFs between internal positions and public statements made.

3. Court of Appeal rules in favour of Nigerian communities over alleged pollution by Shell

What: 11 October, the UK Court of Appeal allowed an appeal by 13,000 members of the Bille and Ogale communities in Nigeria in their claim against Shell related to an oil spill, allegedly caused by Shell plc's Nigerian subsidiary. Subject to any appeal of this ruling by Shell to the UK's Supreme Court, the claim will now proceed to trial.

Key details: The Court of Appeal's ruling overturned a previous decision of the UK High Court in March 2024 which required that each of the 13,000 claimants to prove which specific oil spill or leak caused what environmental damage at the start of the case, before any expert evidence or disclosure had been ordered. The claimants successfully argued to the Court of Appeal that this imposed an impossibly high burden on claimants at the start of proceedings, when they had not yet had access to important Shell documents.

Our view: With this latest hurdle cleared, it is now more likely that the English Court will be asked to rule on the issue of whether UK-based parent companies can be held liable for the actions of their subsidiaries. If so, this will create significant pressure on multinationals to manage risks effectively across their corporate groups and supply chains. A failure to mitigate these risks could therefore create legal liability for multinational parent companies, result in litigation, and cause significant harm to the reputation and brand of the wider corporate group.

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 consults on nature transition planning and a roadmap for decision-useful data (multi-sector)

What: In October, the Taskforce on Nature-related Financial Disclosures (TNFD) published two discussion papers that are open for feedback:

- *Discussion paper on nature transition plans*: the paper sets out guidance for corporates and financial institutions covering what a nature transition plan should include and how a plan should be presented and disclosed; and
- *A roadmap for upgrading market access to decision-useful nature-related data*: the paper outlines a set of initiatives with a medium- to long-term horizon to help address issues and enhance market access to decision-useful, nature-related data.

Timing: Feedback should be provided by 1 February 2025 on nature transition plans and 17 January 2025 for the roadmap for data.

2. Engaging with GFANZ: shaping guidance on nature in net-zero transition plans (financial services)

What: In October, the Glasgow Financial Alliance for Net Zero (GFANZ) published a consultation paper on *Nature in Net-zero Transition Plans*. The final document will be supplemental guidance to GFANZ's Financial Institution Net-zero Transition framework (NZTP) published in November 2022.

Key details: The work of GFANZ has run in parallel to that of TNFD, with the intention to purposefully draw out the relationship between nature and climate within net-zero transition planning. The voluntary recommendations and proposed nature-related guidance spans across the five themes of NZTP. These include: foundations, implementation strategy, engagement strategy, governance, and metrics and targets.

The guidance introduces the concept of "nature-related levers" to encompass "natural climate mitigation" (activities that reduce or avoid GHGs and/or increase nature sinks) and "natural climate enablers (technology that supports nature-based solutions). These levers are intended to fit within broader climate metrics, making it easier for financial institutions to integrate nature without needing a separate target structure.

Timing: The consultation closes on 27 January 2025 and final guidance is expected to be published by the end of Q1 2025.

3. UK call for evidence on the Financial Services Growth and Competitiveness Strategy (multi-sector)

What: On 14 November, in parallel to the policy speech at Mansion House (see UK Developments section above), the HM Treasury published a call for evidence to support the development of the Financial Services Growth & Competitiveness Strategy. The call for evidence outlines the government's proposed approach to the Strategy and seeks input from businesses, consumer groups, academic and other stakeholders.

Key details: The consultation document outlines several sustainability-related topics being discussed as part of the Strategy. These include:

- Mansion House sustainable finance package: The development of sustainability disclosures, a UK Green Taxonomy, and regulation of ESG ratings providers (see below consultations). Exploring the potential of voluntary carbon and nature markets (VCNMs) and establishing a new Transition Finance Council;
- Priority on global sustainable finance: Aligning the UK's sustainable finance efforts with international standards and maintaining leadership on global sustainability issues like ESG standards, transition planning, and sustainable investment frameworks; and
- Role of capital markets in sustainability: Enhancing capital markets to mobilise private and public funds for green and sustainable investments.

Timing: This call for evidence will close on 12 December 2024 and the Strategy will be published in Spring 2025.

4. UK Government consults on the Green Taxonomy (multi-sector)

What: On 14 November, HM Treasury published an open consultation on the UK Green Taxonomy. The consultation is seeking views "on whether a UK Green Taxonomy would be additional and complementary to existing sustainable finance policies, including in supporting market participants to make sustainable investment decisions, and the specific market and regulatory use cases which facilitate this. This will inform an assessment of the value of implementing a UK Taxonomy, and exactly how it could be targeted to ensure it is as effective as possible".

Key details: To inform this, the consultation seeks to gather views on any market and regulatory use cases for a UK Taxonomy which would contribute to these objectives. In addition to developing a clear understanding of the use cases, the government is also seeking feedback on how to maximise the usability of a UK Taxonomy, should respondents support taking one forward. This includes considering key design features that will impact the overall usability of a UK Taxonomy.

Timing: The consultation closes on 6 February 2025.

5. UK Government publishes draft regulation of ESG Ratings providers (ESG ratings providers)

What: On 14 November, HM Treasury published its response to the consultation on regulation of ESG Ratings (which ran between March-June 2023) and a draft statutory instrument that is open for technical comments.

Key details: The response to the consultation includes a summary of respondents and feedback received, as well as providing:

- confirmation that the government will introduce a new regulated activity of providing an ESG rating, where that rating is likely to influence a decision to make investments. In practice, this means that ESG rating providers will need to be FCA-regulated, unless an exemption applies;
- the definition of an ESG rating as "an assessment regarding one or more ESG factors, produced in the form of an ESG opinion, an ESG score or a combination of both, whether or not it is characterised as an ESG rating";
- proposals that regulated ESG rating providers will need to comply with additional FCA Rules, to be based on the IOSCO principles;
- the scope of the regulation, which captures both (a) UK firms providing ratings to both UK and non-UK users and (b) non-UK firms providing ESG ratings to UK users; and
- a set of exclusions, a topic the government particularly welcomes technical comments. Exclusions will include FCA regulated firms which provide ESG ratings as part of other regulated activities, or overseas firms which benefit from market access arrangements (the scope of which is still to be confirmed).

Timing: Comments are welcome before 14 January 2025 and the government aims to lay the legislation before Parliament in early 2025.

6. UK FRC consults on Stewardship Code updates (multi-sector)

What: On 11 November, the Financial Reporting Council (FRC) published a long-anticipated consultation on the update of the UK Stewardship Code. This follows interim changes to the Code which were announced earlier this year, as covered in our insights article here.

Key details: Some of the proposed changes include:

- Amending the definition of stewardship to support more transparent conversations between actors in the investment chain about their investment beliefs and objectives.
- Streamlining the reporting process by separating policy and context disclosures from activity and outcome disclosures which is designed to reduce the reporting burden.
- Restructuring and refining the principles to offer greater clarity for different entities in the investment chain and to offer more concise prompts on how to report.
- Tailoring the service provider principles to include some that are dedicated to proxy advisors and investment consultants respectively.
- Issuing guidance to indicate the range of information that signatories may use in reporting to demonstrate how they have applied the principles

Timing: Responses to the consultation should be submitted 19 February 2025. The FRC aim to publish the new Code in the first half of 2025, with the new Code becoming effective in 2026.

We will be publishing a more detailed briefing on the changes in due course.

7. ESMA has opened a consultation on proposed technical advice on the EU bond prospectus regulation (multi-sector)

What: On 29 October, the European Securities Markets Authority (ESMA) opened a consultation on proposed technical advice on sustainability disclosures updates to the EU bond prospectus regulation, including around post-issuance reporting requirements. The "draft technical advice" related to sustainability disclosure follows ESMA publishing a public statement on the subject in July 2023.

This consultation paper holds significant relevance for investors, issuers (including those already trading on a regulated market or on a multilateral trading facility), offerors, or individuals seeking trading admission on a regulated market, as well as all market participants impacted by the new Prospectus Regulation.

t includes suggestions designed to ease European capital markets through simplification and minimisation of regulatory obligations. Furthermore, it presents proposals for non-equity securities promoted with ESG features, along with recommendations to revise data reporting standards to reflect the alterations brought about by the Listing Act.

Timing: ESMA will consider only all comments received by 31 December 2024.

8. Government of Canada consults on draft regulations to put a cap on emissions in the oil and gas sector (oil and gas)

What: On 4 November, the Government of Canada introduced draft regulations to put a clear limit on greenhouse gas pollution from oil and gas production. Canada is the world's fourth-largest producer of oil and the fifth-largest producer of gas. The proposed regulations work by setting a cap on greenhouse gas pollution within the sector, equivalent to 35 percent below 2019 levels.

The regulations would create a cap-and-trade system designed to recognise better-performing companies and incentivise those that are higher polluting to invest in making their production processes cleaner.

Timing: Consultation closes on 8 January 2025.

9. ASIC seeks feedback on proposed guidance on sustainability reporting regime

What: On 7 November the Australian Securities & Investments Commission (ASIC) is inviting feedback on proposed guidance on the incoming sustainability reporting regime. Mandatory climate reporting requirements will be phased in over the next three years across three groups of reporting entities, with the first reporting cohort required to prepare annual sustainability reports for financial years commencing on or after 1 January 2025.

Key details: ASICs are proposing to issue guidance to help entities comply with the sustainability reporting requirements, with the draft guide expected to cover:

- when reporting entities need to prepare a sustainability report and how to comply with related requirements, such as around keeping sustainability records;
- specific issues in relation to the contents of a sustainability report, such as statements with forward-looking climate information, labelling, the use of cross-referencing, and the proportionality mechanisms and exceptions;
- how the sustainability reporting requirements interact with existing legal and regulatory requirements; and
- ASICs role in administering and enforcing the sustainability reporting requirements, including ASIC's powers to grant relief from these requirements.

Timing: Consultation closes on 19 December.

10. Second and final consultation for Australia's sustainable finance taxonomy (multi-sector)

What: On 30 October, the Australian Sustainable Finance Institute (ASFI) launched the second and final round of public consultation on the development of an Australian sustainable finance taxonomy.

Key details: The consultation is seeking feedback on:

- The climate change mitigation criteria for six priority sectors for development (electricity generation and supply, minerals, mining and metals, buildings, manufacturing and industry, transport, and agriculture and land use);
- a Do No Significant Harm framework;
- minimum social safeguards; and
- ways in which the taxonomy can be used.

Timing: Consultation closes on 1 December.

11. The Thailand Taxonomy Board Phase II of Thailand Taxonomy (multi-sector)

What: On 28 October, the Thailand Taxonomy Board, co-led by the Bank of Thailand (BOT) and the Securities and Exchange Commission (SEC), launched the draft for Phase II of the Thailand Taxonomy for public consultation.

Key details: Phase I of the Thailand Taxonomy was completed on 5 July 2023. The Taxonomy employs a so-called traffic light system, that distinguishes between green, amber (transitional), and red activities, and compliance with the Do No Significant Harm (DNSH) and Minimum Social Safeguards (MSS). It has been developed with global and regional alignment in mind, in particular it is aligned with the EU and ASEAN taxonomies.

Where Phase I was focused solely on the energy and transportation sectors, Phase II expands the Taxonomy to include additional sectors such as manufacturing, agriculture, real estate and construction, and waste management. The consultation seeks feedback across all the new proposed sectors.

Timing: Consultation closes on 10 January 2025.

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