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Climate and the Financial Sector

This weekly newsletter highlights climate-related regulatory, litigation and enforcement developments relevant to the financial sector.

General

16 January 2023 [EU] – ESMA and national supervisors to focus on greenwashing enforcement under MiFID II disclosure rules

European Securities and Market Authority announced the launching of a common supervisory action with National Competent Authorities (NCAs) on the application of MiFID II requirements to marketing communications across the EU over the course of 2023. As part of the common supervisory action, NCAs will focus on possible greenwashing practices observed in marketing communications to clients and advertisements issued by financial institutions. [\[link\]](#)

19 January 2023 [EU] – ISSB announces global ESG rules will be finalized by February 2023

The International Sustainability Standards Board announced that the first set of reporting standards (covering general sustainability and climate reporting) would be finalized by the end of February 2023 and published by June. Separately, the ISSB commented that companies should be exempt from some sustainability specific reporting requirements if they would cause significant commercial losses. [\[link - link\]](#)

17 January 2023 [France] – **AMF highlights main provisions of Corporate Sustainability Reporting Directive**

In order to assist companies in the application of the CSRD, the French financial market authority (AMF) issued an informational document highlighting the Directive's main provisions and listing financial institutions concerned by new reporting requirements. The AMF also noted that French “public interest entities” currently falling within the scope of the CSRD's predecessor (the NFRD) will have to begin reporting under the new rules starting on 1 January 2025 (with 2024 FY reports). [[link](#)]

18 January 2023 [EU] – **New EU draft Directive on anti-greenwashing rules**

According to information that has leaked to the press, the Commission will soon issue a new regulatory proposal dedicated to defining and combating “greenwashing” across the Union. According to the Commission, 40% of environmental claims made about products are “unsubstantiated”. Under the proposed Directive, EU countries would be in charge of setting-up a verification system for the substantiation of environmental claims, to be entrusted to independent parties. Any penalties issued under the new regulation would need to include “the economic benefits derived” from the unfounded ESG claims made. This initiative is in addition to the pending “Directive empowering consumers for the green transition” proposal issued in March 2022, which would enhance consumer rights with respect to product-level ESG information. [[link](#) - [link](#)]

18 January 2023 [International] – **International sustainability standards-setting bodies work on aligning climate disclosure and transition plan frameworks**

The Science Based Targets Initiative (a UN-affiliated body) published a reporting guide to help companies navigate regulatory fragmentation and manage a variety of data. The guide will support enhanced coordination between financial institutions' science-based targets and climate-related disclosures. [[link](#)]

12 January 2023 [EU] – **EBA quarterly risk dashboard focuses on EU Taxonomy and green bonds**

The European Banking Authority published its quarterly risk dashboard (for Q3 2022) which analyses the impact of EU Taxonomy rules as well as the use of green bonds by financial institutions. The EBA notes that EU Taxonomy is the leading standard for the origination of green loans by EU banks. However, EU banks also use their own internal definitions, as well as market standards to complement EU Taxonomy rules. The EBA highlights that green bonds are the main sustainability-related funding instrument in the EU market. [[link](#)]

Insurance

16 January 2023 [International] – **IAASB begins developing global standards on insurance sustainability reporting**

The International Auditing and Assurance Standards will develop sustainability reporting standards for insurance. The aim of IAASB's standards is to improve investor confidence and reduce the risk of sustainability reporting inaccuracies. IAASB plans to unveil the draft standards by next September and finalize them over the course of 2024. [[link](#)]

17 January 2023 [International] – **World-leading insurers launch a protocol for climate goals**

The Net-Zero Insurance Alliance (NZIA) launched its first target setting protocol at the World Economic Forum Annual Meeting in Davos. Under the protocol, each NZIA member will have to set science-based intermediate targets to be aligned with the 1.5° global warming limit set out under the Paris Agreement. NZIA members are required to disclose their initial targets by next July. [[link](#)]

Asset management

16 January 2023 [EU] – **Responses to ESMA's call for evidence on greenwashing**

The European Securities and Markets Authority seeks input from the financial industry on greenwashing. ESMA's consultation dated 15 November 2022 closed on 16 January 2023. Notable submissions made public thus far include the following:

1. the European Fund and Asset Management Association (EFAMA) points out that a definition of "greenwashing" should be based on a clearer, harmonised legal definition of key sustainability-related concepts at the EU and international level. Overall, in its submission, EFAMA laments a lack of coordination between different financial sector supervisors, as well as at the international level. EFAMA argues that an assessment of greenwashing should imply two components: a knowing misrepresentation of sustainability practices and an intention to mislead. [[link](#)]
2. the Investment Company Institute (a US-based association representing regulated investment funds) indicates that sustainability-related statements or communications could be misleading if they are made at the entity level. [[link](#)]
3. the International Swaps and Derivatives Association (ISDA) highlights that the treatment of derivatives is inconsistent in the current regulatory framework. ISDA reiterates its call for a specific ESG guidelines for derivatives. Additionally, according to ISDA, the lack of clarity in ESG regulations is a major cause of greenwashing. [[link](#)]



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