



3 April 2023

Climate and the Financial Sector

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

General

22 March 2023 [EU] – **European Commission proposes Green Claims Directive**

The European Commission publishes a proposal for a Directive on the substantiation and communication of explicit environmental claims (Green Claims Directive) setting out measures designed to help consumers make better informed choices about the products they purchase. The proposal aims to protect consumers from “*the practice of making unclear or not well-substantiated environmental claims (greenwashing)*”. It requires any trader making an environmental claim in the context of a business-to-consumer commercial practice to (i) substantiate that claim in accordance with a set of requirements (in particular as regards the scope of the product covered by the claim and the scientific evidence supporting the claim) and (ii) communicate that claim together with an additional set of requirements to ensure that the consumer properly understands the scope of the claim. An accredited third party verifier must carry out an ex-ante verification and will issue a certificate of conformity valid in all Member States if the above requirements are met. Claims made under other regulations (notably on sustainable investments) are not covered by the Green Claims Directive. [\[link\]](#)

28 March 2023 [International] – Taskforce on Nature-related Financial Disclosures publishes final draft of framework for nature-related risk management and disclosure

The Taskforce on Nature-related Financial Disclosures (TNFD) releases for consultation a new version of its framework for nature-related risk management and disclosure, which provides guidance to help organizations report on nature-related risks and support shifting global financial flows towards positive outcomes for nature. The consultation is open until 1 June 2023, and the final framework is expected to be published in September 2023. The proposed disclosure framework consists of (i) two sets of core global disclosure metrics and (ii) additional disclosure metrics to allow reporting organizations to include metrics specific to their business model and nature-related issues. These metrics are designed to enable organizations to report on their alignment with global goals. The recommendations of the TNFD are closely aligned with those of the TCFD and the concepts of the Greenhouse Gas Protocol, which have been adapted for the purposes of the disclosure framework. [\[link\]](#)

28 March 2023 [International] – IOSCO sets out key considerations to promote an effective global assurance framework for sustainability-related corporate reporting

The International Organization of Securities Commissions (IOSCO) releases a report on International Work to Develop a Global Assurance Framework for Sustainability-Related Corporate Reporting. The report outlines IOSCO's support for the ongoing work of the International Auditing and Assurance Standards Board and the International Ethics Standards Board for Accountants to develop a professional standard on assurance and ethics for sustainability information. IOSCO further encourages (i) continued strong system-wide engagement throughout the development of the standards and (ii) issuers and assurance providers to build and maintain appropriate knowledge of sustainability reporting and related skills, capabilities, processes and controls to support reporting and assurance. [\[link\]](#)

29 March 2023 [EU] – ESMA issues its 2022 Corporate Reporting Enforcement and Regulatory Activities Report

ESMA issues its 2022 Corporate Reporting Enforcement and Regulatory Activities Report, which provides an overview of the activities carried out by ESMA and enforcement authorities in relation to financial and non-financial information and European Single Electronic Format (ESEF) reporting. Section 4 of the report focuses on enforcement in the area of non-financial reporting. ESMA notes that (i) significant improvements are still needed in climate-related disclosures, (ii) undertakings still need to take steps to ensure a good level of preparedness for alignment reporting in relation to Article 8 of the Taxonomy Regulation, and (iii) aspects of the consequences of COVID-19 on non-financial matters are discussed, but disclosures on the impact of the pandemic on sustainability objectives are incomplete. [\[link\]](#)

29 March 2023 [International] – Net-Zero Asset Owner Alliance issues a Position on the Oil and Gas Sector to provide guidance to members

The Net-Zero Asset Owner Alliance (NZAOA) publishes a Position on the Oil and Gas Sector. This position outlines new guidance for NZAOA members in their approach to the oil and gas sector. Specifically, the NZAOA calls for (i) consumers and suppliers of oil and gas to set Scope 1, 2 and 3 GHG emission reduction targets while aligning their operations with established 1.5°C pathways, and (ii) increased policy ambition to rapidly reduce demand for oil and gas and increase the supply and availability of renewable alternatives. The NZAOA position sets out expectations for producers, consumers, policy makers and investors. [[link](#)]

30 March 2023 [France] – Banque de France strengthens its climate commitments

In line with its climate change commitments, the Banque de France confirms, in its Annual Responsible Investment Report 2022, its objective to align all equity components with a 1.5°C global warming trajectory by the end of 2025. The deadlines for this new target are end-2023 for equities in the own funds portfolio and European equities in the pension liabilities portfolio, and end-2025 for all other equities. The Banque de France is also strengthening its fossil fuel exclusion policy to exclude from its portfolio any company working on new fossil fuel extraction projects by end-2024, in addition to hydrocarbon exclusions and a complete exit from coal by that date. It further notes that it will work with the ACPR to further develop climate stress testing. [[link](#)]

30 March 2023 [UK] – UK government publishes 2023 Green Finance Strategy

The Department for Energy Security and Net Zero (DESNZ), HM Treasury and the Department for Environment, Food and Rural Affairs (Defra) publish a 2023 update to the 2019 Green Finance Strategy. The update aims to set out measures that will enable the government to achieve its goal of becoming the world's first net zero financial centre. Key measures include (i) providing a green taxonomy for the UK, (ii) consulting on requirements for disclosure of net zero transition plans for the largest companies, (iii) assessing the suitability of global sustainability disclosure standards developed by the International Sustainability Standards Board (ISSB), (iv) issuing a consultation on scope 3 GHG emissions reporting, (v) consulting on ESG rating provider regulation, (vi) providing clarity on fiduciary duty, and (vii) publishing a roadmap to guide nature positive investment in key sectors. [[link](#) - [link](#)]

30 March 2023 [UK] – UK regulators welcome the Government's updated Green Finance Strategy

The Financial Conduct Authority (FCA), the Financial Reporting Council (FRC), the Bank of England (BoE) and The Pensions Regulator (TPR) have issued a joint statement welcoming the 2023 Green Finance Strategy. The institutions emphasize the steps they have taken since the UK Government's 2019 Green Finance Strategy to

embed climate change considerations in their respective areas, and said that, in line with their objectives, they stand ready to support the government in implementing relevant policy initiatives, such as the Sustainability Disclosure Requirements (SRDs), and in endorsing the International Sustainability Standard Board's (ISSB) forthcoming disclosure standards. The FCA, FRC, BoE and TPR cross-regulatory working group will continue to ensure coordinated delivery of green finance objectives across regulators. [\[link\]](#)

30 March 2023 [UK] – UK Treasury consults on proposed regulatory regime for ESG rating providers

The UK Treasury has published a consultation paper on a proposed future regulatory regime for ESG rating providers under the Financial Services and Markets Act 2000 (FSMA), open for comments until 30 June 2023. It is considering regulating ESG ratings used in financial markets, including the direct provision of an ESG rating to a UK user where the rating is used in relation to a specified investment in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO), unless an appropriate exclusion applies. An assessment of one or more ESG factors would be considered an ESG rating, whether or not it is called a rating. Such regulation would involve amending the RAO to add one or more new regulated activities. In-scope ESG rating providers would be required to become FCA authorized firms. The reform could also include legislation under the Designated Activities Regime (DAR) or other legislation for a subset of ESG rating providers. [\[link\]](#)

30 March 2023 [EU] – FSB to address financial risks from climate change in 2023

Among other things, the Financial Stability Board (FSB), in its work program for 2023, undertakes to (i) support global cooperation on financial stability by further integrating the monitoring of vulnerabilities related to non-bank financial intermediation, technological innovation and climate change, and (ii) address financial risks from climate change. With respect to the latter, the FSB commits to (i) report on progress in achieving consistent climate-related financial disclosures, (ii) integrate climate-related vulnerabilities into its ongoing vulnerability assessments, enhance the data infrastructure to support related analysis, and work to assess climate vulnerabilities in a forward-looking manner, and (iii) analyze the relevance of transition plans for managing transition risks and financial stability and for monitoring financial stability risks arising from the transition. The FSB's progress report is expected to be published in October 2023. [\[link\]](#)

30 March 2023 [International] – ISSB to consider prioritisation of climate-related disclosures to support initial application of the Standards

Respondents to the International Sustainability Standards Board's (ISSB) Consultation Paper on Sustainability Reporting agreed that the ISSB should prioritize climate change in its standard setting, while also working to meet investors' information needs on other sustainability and ESG issues. The ISSB has scheduled an additional meeting on 4 April 4 2023 to discuss further enhancement of the planned transitional relief to assist companies in applying its first two Standards (IFRS S1 General Sustainability-

related Disclosures and IFRS S2 Climate-related Disclosures). The staff paper for the meeting recommends introducing a transitional relief in IFRS S1 that would allow entities to report only on climate-related risks and opportunities in the first year of application and to start reporting on their other sustainability-related risks and opportunities in the second year. Such an approach would be consistent with the ISSB's decision in February 2023 to require climate-related disclosures for annual periods beginning on or after 1 January 2024. [[link](#)- [link](#)]

Insurance

29 March 2023 [EU] – **EIOPA explores nature-related risks and their impact on insurers in staff paper**

The European Insurance and Occupational Pensions Authority (EIOPA) publishes a Staff paper on nature-related risks and impacts for insurance. The paper describes the transmission channels of nature-related risks to society and the economy and the relationship between climate and nature-related risks. It also identifies how nature-related risks can translate into risks to (re)insurers' assets and liabilities, how (re)insurers can influence them, and the types of approaches to assessing risks and impacts. In particular, EIOPA highlights that, from a financial risk perspective, the loss of natural capital and the resulting loss of value to society and economic activity translates into risk on the balance sheet of the financial market participant. In addition, the risk of environmental collapse resulting from the loss of biodiversity and the depletion of natural capital can also create a “systemic risk to the financial sector and, more broadly, to financial stability”. The EIOPA also sets out basic objectives for supervisors and regulators, emphasizing that the first step should be to integrate the consideration of nature-related risks into prudential and conduct-based supervisory frameworks and to contribute to the establishment of methodologies and provide guidance on macro/micro-prudential risk assessment of nature-related risks. [[link](#)]

March 2023 [France] – **ACPR publishes guidance on French Article 29 Report**

Article 29 of the French Energy and Climate Law requires certain regulated entities to publish a document describing their policy on the integration of environmental, social and governance criteria into their investment strategy and the means used to contribute to the energy and environmental transition, as well as a strategy for implementing this policy (Article 29 Report). The *Autorité de Contrôle Prudentiel et de Résolution* (ACPR) publishes Instruction No. 2022-I-24 of 14 December 2022 to provide guidance to insurance companies and supplementary occupational pension schemes on the publication of the Article 29 Report. Together with the Instruction, the ACPR publishes seven annexes to be used by in-scope entities as required by the Instruction to comply with the requirements of Article 29. [[link](#)]

Asset management

27 March 2023 [France] – ESMA’s updated guidance on product governance provides clarification on new sustainability requirements

The main changes to the current MiFID II product governance guidelines relate to (i) the specification of any sustainability-related objectives with which a product is compatible, (ii) the practice of identifying a target market per product group rather than per individual product, (iii) the determination of a compatible distribution strategy where a distributor considers that a more complex product can be distributed on a non-advised basis, and (iv) the periodic review of products. In particular, to ensure a sufficient level of granularity of the target market, firms may, when setting sustainability-related targets, (i) specify the minimum proportion of the product to be invested in environmentally investments as defined in the Taxonomy Regulation or in sustainable investments as defined in the SFDR, (ii) which material adverse impacts (PAIs) on sustainability factors are considered by the product, and (iii) whether the product focuses on either environmental, social or governance criteria or a combination of these. [[link](#)]

29 March 2023 [UK] – Updates from the FCA on the consultation on SDRs and investment labels

The Financial Conduct Authority (FCA) provides an update on its consultation on sustainability disclosure requirements (SDRs) and investment labels, open from October 2022 to January 2023. It intends to publish a policy statement in Q3 2023, which will set out the FCA’s responses to the answers received to the original consultation questions and establish the FCA’s rules. The FCA emphasises that it is carefully considering the feedback to ensure that the regime protects consumers but also addresses practical challenges for firms, including (i) considering its approach to marketing restrictions, (ii) refining some of the specific criteria for labels, and (iii) clarifying how different products, asset classes and strategies can qualify for a label. The policy statement should clarify that primary and secondary channels for achieving sustainability outcomes are not prescribed and that the FCA does not require independent verification of product categorization to qualify for a label. [[link](#)]



Amélie Champsaur
Partner, Paris
achampsaur@cgsh.com



Clara Cibrario Assereto
Associate, Rome
ccibrarioassereto@cgsh.com



Andreas Wildner
Trainee Solicitor, London
awildner@cgsh.com



Pierre Mathé
Associate, Paris
pmathe@cgh.com



Camille Kernevès
Associate, Paris
ckerneves@cgh.com



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