

CLEARY GOTTLIB



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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

19 October 2023 [UK] – The Department for Energy Security and Net Zero (DESNZ) Issues a Call For Evidence on Scope 3 GHG Emissions Reporting

The DESNZ has published a Call for Evidence on UK GHG emissions reporting to gather feedback on the costs, benefits and practicalities of Scope 3 GHG emissions reporting and the effectiveness of the Streamlined Energy and Carbon Reporting (SECR) framework. The SECR requires additional GHG emissions reporting, particularly from listed companies and large private companies. Under the Call for Evidence, DESNZ specifically seeks views on (i) the ISSB's rationale for including Scope 3 disclosures in IFRS S2, (ii) the overall costs and benefits of Scope 3 reporting, and whether it benefits stakeholders outside of the investment community, and (iii) how SECR reporting could be streamlined, and whether reporting through a company's annual report remains appropriate. Feedback is expected on December 14, 2023, with the UK Government publishing its responses within 12 months of that date. [\[link\]](#)

17 October 2023 [EU] – EU Commission Publishes 2024 Work Program

The EU Commission has published its work program for 2024. In the area of sustainable finance, the EU Commission plans to (i) launch a process to set a climate target for 2040, (ii) keep the EU on track to achieve climate neutrality by 2050, and (iii) launch an initiative on industrial carbon management. In addition, the EU Commission indicates that it will support the proportionate application of reporting requirements, particularly in a group context, for the proposed Directive on Corporate Sustainability Due Diligence (CSDD). [\[link\]](#) – [\[link\]](#)

17 October 2023 [EU] – EU Commission Adopts Delegated Directive on company size criteria

The EU Commission has adopted a Delegated Directive amending the existing thresholds under the Accounting Directive. Under the Delegated Directive, the size criteria (i.e. balance sheet and net turnover) for micro, small, medium and large companies will be increased by 25% to account for inflation. The adopted text is largely in line with the draft published by the EU Commission in September 2023 (see our alert [here](#)). The Delegated Directive will be published in the Official Journal and will enter into force on the third day following its publication. [\[link\]](#)

17 October 2023 [EU] – EU Commission and the Platform on Sustainable Finance Publish questionnaire on Taxonomy Regulation

The EU Commission and the Platform on Sustainable Finance (an advisory body that has been established under Article 20 of the Taxonomy Regulation) have published a questionnaire to launch the stakeholder request mechanism, which will address suggestions from stakeholders on activities in the EU Taxonomy. Stakeholders will be able to submit suggestions on the scope of activities that could be added to the EU taxonomy or on possible revisions to the technical criteria of existing activities. The stakeholder request mechanism will run until December 15, 2023. All responses received by that date will be analyzed in a working group and a summary of the responses received will be made available in the course of 2024. [\[link\]](#)

17 October 2023 [EU] – EU Commission proposes to delay some ESG reporting rules

The EU Commission has proposed to postpone the deadline for the adoption of the sector-specific and “Article 40b” (i.e., standards applicable to large third country groups) European sustainability reporting standards, which are currently due to be adopted by June 30, 2024. For example, the EU Commission proposes to delay the “Article 40b” European reporting standards until June 30, 2026. The EU Commission believes that it is crucial to reduce administrative burdens in order to maintain competitiveness without undermining the policy objectives. [\[link\]](#) - [\[link\]](#)

17 October 2023 [Global] – EU to defend fossil fuel phase-out at next COP 28

The EU Council has approved the EU’s general negotiating position for the 28th United Nations Climate Change Conference (COP 28) in Dubai. The EU Council

stressed that a global phase-out of fossil fuels is necessary to achieve the goal of a low-carbon economy. According to the EU Council, it is important that the energy sector is largely free of fossil fuels by 2050 and that efforts are made to achieve a decarbonized global energy system by the 2030s. The EU Council also reaffirms the need to integrate adaptation to climate change into policies and programs. [[link](#)]

Asset management

19 October 2023 [France] – French investment funds “less exposed to climate risks” than elsewhere in Europe

According to a study published by the Banque de France, French investment funds are “less exposed to climate risks” than elsewhere in Europe because they tend to divest from certain highly polluting sectors. The study highlights that French investment funds are committed to developing a strategy consistent with the goal of carbon neutrality by 2050, and have therefore divested from certain types of “brown assets” (including companies in the oil, gas and coal sectors) between 2011 and the end of 2022. [[link](#)]



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