

CLEARY GOTTLIB



23 April 2024

Climate and the Financial Sector

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

General

3 April 2024 [EU] – ESRB publishes report on how climate-related risks are reflected in IFRS financial statements

The ESRB published a report examining how International Financial Reporting Standards (IFRS) accounting standards can reflect climate-related risks from a financial stability perspective.

The report identified four relevant issues for financial stability, i.e., (i) the incomplete incorporation of climate-related risks in market prices, (ii) the effect of climate-related risks on the initial and subsequent valuation of non-financial assets and liabilities, (iii) the incorporation of climate factors into the models used to estimate expected credit losses and (iv) disclosure requirements about how climate-related risks are reflected in the financial statements.

The ESRB proposed corresponding amendments to existing IFRS accounting standards, including the addition of climate factors to the list of indicators of impairment of non-financial assets under IAS 36, and the enhancement of the materiality principle's application in IAS 1 Presentation of Financial Statements. The report also envisaged accompanying guidance, in particular on how climate-related risks should be incorporated into the estimation of expected credit loss and the fair valuation of financial instruments. [[link](#)]

9 April 2024 [Global] – The TPT launches its final set of transition plan resources

On 9 April 2024, the Transition Plan Taskforce (TPT), following the consultation launched on its sector-specific guidance for preparers and users of climate transition plans in November 2023, published the final set of transition plan resources to help businesses unlock finance for net zero.

The materials published include (i) sector-specific transition plan guidance for Asset Owners, Asset Managers, Banks, Electric Utilities & Power Generators, Food & Beverage, Metals & Mining and Oil & Gas, (ii) sector summary guidance, with high level guidance for 30 sectors of the global economy, (iii) guidance on how to undertake a transition planning cycle, (iv) a paper on the opportunities and challenges of transition plans in emerging markets and developing economies as well as (v) independent advisory pieces from TPT Working Groups exploring how transition planning can extend beyond realising net zero. [[link](#)]

9 April 2024 [Global] – SBTi’s announcement of plans to extend the use of environmental attribute certificates met with calls for CEO’s resignation

The Science Based Targets Initiatives (SBTi), which certifies and validates net zero plans for companies and provides guidance to align corporate action with to goals of limiting climate change, has announced plans to extend the use of environmental attribute certificates, such as emissions reduction credits, to tackle Scope 3 value chain emissions, in its standard for corporate net zero target setting.

While the draft new rules are to be published in July 2024, this would entail allowing companies to meet their climate targets with carbon offsets, as concerns “scope 3” emissions (i.e., stemming from their supply chains and the use of their products), thus constituting a change in doctrine for the SBTi. [[link](#)]

In a letter to management, SBTi employees called for the announcement to be withdrawn, and for the resignation of CEO Luiz Fernando do Amaral, stating “*We stand ready to support any efforts aimed at ensuring that the SBTi does not become a greenwashing platform where decisions are unduly influenced by lobbyists, driven by potential conflicts of interest and poor adherence to existing governance procedures.*”

10 April 2024 [EU] – European Parliament formally adopts Directive to postpone the adoption of the new European sustainability reporting standards:

On 10 April 2024, the European Parliament plenary session formally adopted at first reading a Directive of the European Parliament and of the Council amending Directive 2013/34/EU (the Accounting Directive), postponing by two years the deadline that the Commission has to adopt ESRS for certain sectors and certain third-country undertakings.

The Accounting Directive, as amended by CSRD, requires all large companies and listed SMEs to report information on certain sustainability matters using common mandatory standards (the ESRS). While the Commission adopted the first set of general ESRS in July 2023, this Directive will postpone the deadline for the Commission to adopt specific standards (sector-specific and relating to certain third-country undertakings) until 30 June 2026.

As the Council Representative undertook to approve the European Parliament's position without further amendments, it is expected that it will also formally adopt the Directive at first reading soon, after which it may be published in the Official Journal and enter into force. [\[link\]](#)

Asset Management

2 April 2024 [EU] – ESMA publishes consultation paper on amending CRA regulatory framework

ESMA published a consultation paper on proposed revisions to Annex I of the CRA Regulation and Commission Delegated Regulation on the demonstration of compliance of credit rating methodologies, following a formal request for technical advice from the Commission on how the framework could be updated to ensure that relevant ESG risks are systematically captured in credit ratings and improve transparency on the inclusion of ESG risks by CRAs in credit ratings and rating outlooks.

Proposed advice includes integrating the provisions stemming from Section 5.2 of ESMA's guidelines applicable to the disclosure of ESG considerations into Annex I and adding explicit reference to the identification of ESG factors within credit rating methodologies in the Delegated Regulation.

The deadline for the submission of responses to this Consultation Paper is 21 June 2024. ESMA will consider all feedback received and submit its technical advice to the European Commission by end December 2024. [\[link\]](#)

4 April 2024 [EU] – The EU Platform on Sustainable Finance publishes an intermediate report on monitoring capital flows to sustainable investment

The Platform on Sustainable Finance published an intermediate report on “monitoring capital flows to sustainable investment”, aimed at proposing an architecture to measure the effective contribution of finance towards the objectives of the European Green Deal.

The report lays out the conceptual framework underpinning the methodology, but also the conceptual framework proposed to characterise and measure capital flows into investments in activities, products, technologies and sectors that contribute to the environmental and strategic autonomy objectives of the EU Green Deal (i.e., capital expenditures by real economy entities). The report then focuses on capital flows into and from financial markets, as this represents an important source of capital in support of real economy investments.

The report is accompanied by annexes containing an analysis of the green deal investment gap, which will serve as a reference for the implementation of the proposed framework. [[link](#)]

18 April 2024 [Global] — NZAOA releases new edition of the Target-Setting Protocol

The UN-Convened Net-Zero Asset Owner Alliance (NZAOA) released the fourth edition of the Target-Setting Protocol, which now covers the majority of major asset classes in investment portfolios and governs the next five years leading up to the critical milestone of reducing emissions by half by 2030. The new Protocol expands coverage to include additional private assets, covering all private assets to ensure that high emitting companies develop transition plans regardless of their ownership structure. It also provides that the NZAOA will complement carbon accounting through a pilot in 2024 by assessing sovereign portfolios through a scorecard and confirms positions on carbon removals, emissions attribution and transition plans. [[link](#)]

Banking

4 April 2024 [Global] – UNEP FI launches new resources to support CSRD implementation

The United Nations Environment Programme Finance Initiative (UNEP FI) has released a UNEP FI – PRB / ESRS Interoperability Package to help banks leverage the close alignment between the Corporate Sustainability Reporting Directive (CSRD) and the Principles for Responsible Banking (PRB) using the UNEP FI Holistic Impact Methodology. Over 175 European signatories to the PRB are already subject to the CSRD. The package includes a user guide, topic and data point mappings, and a conversion tool to extract relevant datapoints from the UNEP FI Portfolio Impact Analysis Tool for Banks for CSRD reporting. [[link](#) - [link](#)]

18 April 2024 [EU] – ECB updates climate-related indicators

The ECB has updated its climate-related indicators, which were launched in January 2023, with the aim of providing systemic information on the green transition of financial markets and the impact of climate change on financial institutions. First, on green bonds, in order to provide more information to investors by confirming the green nature of the bonds assessed, the sustainable finance indicator distinguishes between self-declared sustainable bonds and those that have undergone a second external assessment. Secondly, with regard to banks' loan portfolios, the updated version of the carbon emission indicators now allows the data to be analyzed as a consistent time series. Finally, in terms of physical risk indicators, the ECB introduces the Collateral Adjusted Exposure at Risk (CEAR) indicator, which aims to quantify potential losses in financial terms and to allow comparison across different hazards. [[link](#)]

18 April 2024 [EU] – ECB publishes paper on statistical indicators related to climate change

The Statistics Committee Expert Group on Climate Change and Statistics and the Working Group on Securities Statistics published a paper discussing the methodology, underlying data, and findings for the sustainable finance, carbon emissions, and physical risk, respectively, while also highlighting possible constraints and opportunities for future development. It concludes that, while there are several data gaps that need to be addressed, the proposed statistical methodology provides a valuable framework for assessing climate risks in the European context, ensuring comparability across countries, time periods and under different climate scenarios. In particular, for the carbon emissions indicators, the paper details several methodological improvements aimed at facilitating the interpretation of the indicators over time and the understanding of trends, including imputation strategies for emissions and financial data, a novel balancing algorithm that takes into account changes in the composition of the underlying non-financial corporations over time, adjustments for inflation and exchange rates, and a time series decomposition. [\[link\]](#)

Insurance

3 April 2024 [France] – Insurability of Climate risk report provided to the French Ministry for the Economy

The Langreny report on the insurability of climate risks was submitted to the French Ministry for the Economy on 2 April. It sets out recommendations for adapting France’s insurance system in the face of rising climate risks throughout the country.

The report sets out 11 objectives and 37 recommendations aimed at restoring financial balance to the natural disaster compensation system, stepping up individual and collective prevention efforts in the face of climatic hazards, and maintaining an insurance system that is “protective, accessible and shared by all policyholders”. It also calls on the insurance industry to “step up efforts to decarbonise property and casualty insurance portfolios”.

One of the report’s recommendations was already introduced in late 2023, with the “Cat Nat” premium (which finances the natural disasters scheme) set to increase from 12% to 20%, starting 2025.

Following this work, the government intends to draw up an action plan. A consultation is scheduled to take place in April 2024. [\[link, French only\]](#)

3 April 2024 [EU] – EIOPA consults on natural catastrophe risk reassessments in the standard formula under Solvency II

EIOPA launched a public consultation on reassessing natural catastrophe risks in the standard formula, as to better capture the risks stemming from certain perils. As such, new risk factors were proposed for 25 perils/regions across five perils (flood, hail, earthquake, windstorm, subsidence).

Also, EIOPA suggested including more countries in the standard formula for which certain natural catastrophe risks were previously not covered (e.g., flood risk for the Netherlands).

Beyond the five perils already included in the standard formula (earthquake, flood, hail, windstorm and subsidence), EIOPA is also monitoring emerging perils across Europe that could have a material impact on the region's insurance sector, such as wildfire, coastal flood and drought.

The deadline for the submission of comments is 20 June 2024. [[link](#)]

11 April 2024 [UK] – The Pensions Regulator publishes a review of climate-related disclosures by occupational pension schemes

The Pensions Regulator (TPR) presented its findings of a review of 30 climate change governance reports published by pension trustees between October 2022 and September 2023.

The review found many examples of good strategic decision-making, including updating the defined contribution default lifestyle strategies to include sustainable funds and that more than 60% of reports in TPR's sample had some form of net zero goal with a target date of 2050 or earlier.

TPR clarified that when preparing reports, trustees should consider (i) providing context and information on the materiality of investment mandates in relation to total scheme assets, (ii) including specifics on policies and steps to manage risks and (iii) reusing part of previous reports as long as legal requirements are met and the elements are supplemented with a summary of developments during the reporting year.



Amélie Champsaur
Partner, Paris
achampsaur@cgsh.com



Andreas Wildner
Associate, London
awildner@cgsh.com



Camille Kernevès
Associate, Paris
ckerneves@cgsh.com



Eléonore Azais
Associate, Paris
eazais@cgsh.com



This memorandum was intended for **Global-Client Alert**.

[Privacy Statement](#)

© 2024 Cleary Gottlieb Steen & Hamilton LLP. All rights reserved.

This message was prepared as a service to clients and other friends of Cleary Gottlieb to report on recent developments that may be of interest to them. The information in it is therefore general, and should not be considered or relied on as legal advice.