



12 December 2022

Climate and the Financial Sector

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

EU Updates

General

7 December 2022 [EU]: COP15 biodiversity summit gathered this week in Montreal could herald a Paris-style agreement on nature, and push related impact investments

Country representatives are working to iron out the details of a new global framework for the protection of the world's natural ecosystems. If an agreement is reached, it will create a common language and framework that will likely spur litigation, regulation and investments related to companies' environmental sustainability, similarly to what has happened in the past decade with respect to GHG emissions and climate impacts. The Taskforce on Nature-Related Financial Disclosures (TFND) is also set to release a global baseline regulatory framework on biodiversity impacts and corporate disclosures in 2023. ([link](#))

8 December 2022 [France]: First trial on the enforcement of duty of care (devoir de vigilance) under French law

Since 2017, under PACTE law, larger entities are required to publish a due-diligence plan (*plan de vigilance*) to address human-rights and environmental risks across their entire value chain. On 7 December 2022, an application for interim relief brought by several NGOs against Total Energies was heard by the *tribunal judiciaire* in Paris. The court will need to decide whether to require Total to amend its due-diligence plan and/or require specific measures of compliance. This would be the first decision of its kind since the entry into force of the PACTE law. The order was reserved for consideration (*mise en délibéré*) until 28 February 2023. ([link](#))

Banking

8 December 2022 [EU]: Basel Committee publishes responses to FAQs to clarify how climate-related financial risks may be captured in existing Pillar 1 standards

On 8 December 2022, the Basel Committee on Banking Supervision (the Committee) published a new set of responses to frequently asked questions (FAQs). After analytical reports in 2021 concluded that climate risk drivers can be captured in traditional financial risk categories, the FAQ responses now clarify how this should be done, within the existing Pillar 1 standards. As such, the FAQ responses do not represent any change to existing standards, but are merely intended to facilitate consistent interpretation of them. The FAQ responses cover topics such as calculation of RWA for credit risk, operational risk and market risk, as well as liquidity coverage ratio. Acknowledging certain data limitations and recognising that practices will evolve iteratively over time, the Committee emphasises that the FAQ responses are not an exhaustive list of standards and allow for flexibility in certain areas. The Committee emphasised further that it will publish additional FAQs in future, as needed. ([link](#))

Insurance

5 December 2022 [EU]: EIOPA publishes Discussion Paper on the prudential treatment of sustainability risks

On 5 December 2022, the European Insurance and Occupational Pensions Authority (EIOPA) published a Discussion Paper on the Prudential Treatment of Sustainability Risks (dated 29 November 2022). Recognising the importance of appropriately addressing the sustainability risks underlying insurers' investment and underwriting activities, EIOPA is assessing whether a dedicated prudential treatment of assets and activities associated with environmental or social objectives under Solvency II would be warranted. The discussion paper outlines the intended scope, methodologies and data sources for this assessment exercise and focuses on three distinct areas of analysis: (i) assets and transition risk exposures, (ii) underwriting risk and climate change adaptation, and (iii) social risks and objectives. The deadline to submit comments on the discussion paper is 5 March 2023. Subsequent to the discussion paper, EIOPA intends to consult publicly on empirical findings and potential policy implications. ([link](#))



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