

ESG UPDATE

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Global ESG Disclosure Regimes

Rick Goss

GREEN COGNITION LLC

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EXECUTIVE SUMMARY

GENERAL

- Persefoni and ERM released a comprehensive analysis of proposed disclosure regimes entitled, The Evolution of Sustainability Disclosure: Comparing the 2022 SEC, ESRS, and ISSB Proposals. The evaluation noted the prominence of the TCFD approach and added that each approach also incorporates elements of the Greenhouse Gas Protocol. That said, each proposal is unique in terms of jurisdiction, underlying legal framework, conceptual approach and scope.

EUROPEAN UNION

- The European Council and the European Parliament reached a provisional political agreement on the Corporate Sustainability Reporting Directive (CSRD). The provisional agreement must be approved formally by the Council and the Parliament, the twin legislative bodies of the EU political system. For companies that are not presently subject to the EU's Non-Financial Reporting Directive, obligations under the CSRD are scheduled to take effect as of 1 January 2025.
- Members of the European Parliament (MEPs) on two key committees voted 76-62 to reject the European Commission's proposal to include natural gas and nuclear on the EU Taxonomy. The full Parliament will take up the issue during its Plenary meeting scheduled for July 4-7.
- The European Parliament reached agreement on reforming the European Emissions Trading Scheme (EU-ETS) and on advancing the EU's forthcoming Carbon Border Adjustment Mechanism (CBAM). The objective of the ETS is to "incentivize key EU industry players to further reduce emissions and at a faster pace, and invest in low-carbon emitting technologies." The proposed CBAM focuses on economic activities outside of the European Union and seeks to level the playing field for European companies engaged in carbon-intensive sectors. If approved, the CBAM will become the world's first price imposed on carbon imbedded in traded goods

UNITED STATES

- The extended comment deadline for the SEC's Climate Disclosure Rule closed on June 17. The Commission logged several thousand sets of comments. A coalition of State Attorneys General issued a joint letter supporting the proposal and suggested specific amendments. Business trade associations raised significant concerns and highlighted anticipated costs and legal risks. BlackRock applauded the Commission's initiative while expressing concerns over (a) points

of departure from the TCFD framework, and (b) mandatory Scope 3 reporting. The SEC will now review the comments received and is expected to adopt a final rule in late 2022 or early 2023.

- The SEC is investigating Goldman Sachs' asset management division over certain environmental, social and governance claims made by its funds. The investigation focuses on funds with the words "clean energy" or "ESG" in their names. In May, Bank of New York Mellon paid approximately \$1 million to settle an investigation by the SEC into allegations it had omitted or misled investors about its ESG criteria for assessing investments

UNITED KINGDOM

- The UK is considering its own Carbon Border Adjustment Mechanism. Following a report issued by the Environmental Audit Committee of the UK Parliament, the UK government stated that it will "consult on implementing a CBAM and product standards to address carbon leakage." The UK plans to engage actively with the related initiative advancing in Brussels.
- The UK Department for Work and Pensions published its response to its consultation on Climate and investment reporting: setting expectations and empowering savers. Noting the UK's TCFD regulations, the Department noted: "From October this year more than 80% of UK members will be invested in pension schemes which are helping to limit the climate risk to their members' retirement incomes."

IFRS-ISSB

- The Trustees of the IFRS Foundation and the Board of Directors of the Value Reporting Foundation (VRF) announced they had voted to approve the consolidation of the VRF into the IFRS Foundation. The move will take effect on July 1, 2022. The vote follows the consolidation announcement made at COP26 in Glasgow last November involving ISSB, VRF and the Climate Disclosure Standards Board.

CALIFORNIA

- On June 14, the Natural Resources Committee of the California Assembly reported out the Climate Corporate Accountability Act (SB260) by a vote of 7-2. The proposal was referred to the Assembly Judiciary Committee, which subsequently reported it by a vote of 6-3 on June 21. The measure has now been referred to the Assembly Appropriations Committee. The bill passed the California Senate this January but has since been amended in the Assembly.