# ESG UPDATE
# EXECUTIVE SUMMARY
# SEPTEMBER 2022

## Global ESG Disclosure Regimes

Rick Goss
GREEN COGNITION LLC
October 7, 2022

# EXECUTIVE SUMMARY

## General

- Stakeholders are continuing to express reservations over meaningful disparities in substance and timing between ESG and climate disclosure regimes emerging in Europe, the United States and internationally (IFRS/ISSB). The EU approach encompasses double materiality, the IFRS/ISSB approach focuses on single materiality, and the U.S. SEC must operate within a bespoke framework of "materiality" defined via U.S. laws, regulations and Supreme Court rulings. One expert observer noted that, "the broader focus in the nascent European reporting framework has emerged as a major faultline with the ISSB's standards."
- EY released its fourth *Global Climate Risk Barometer*, an evaluation of disclosures made by more than 1,500 companies in 47 countries. EY's primary conclusion: "The research highlights that companies are not sufficiently referencing the financial impact of climate change in their financial statements." Fewer than one-third of companies reference climate-related matters in their financial statements, with most of those references qualitative in nature. EY stressed the need to tackle a lack of integration among finance, sustainability and risk management functions within companies.

## European Union

- The comment period on the European Sustainability Reporting Standards Exposure Drafts closed on August 8. The European Financial Reporting Advisory Group is continuing to assess consultation feedback before it submits revised ESRS to the European Commission in November. The Commission intends to hold its own consultation before adopting the first set of ESRS into legislation by June 2023. It aims to adopt a second set of ESRS – to include sector-specific and SME-specific standards – by June 2024.
- Four environmental groups have commenced legal action in an effort to prevent natural gas from remaining part of the EU Taxonomy. The groups have initiated the process via a request for internal review – a mechanism now available to the NGOs and the public following reforms enacted last year to the EU access to justice laws.

## United States

- On September 15, U.S. Securities and Exchange Commission Chair Gary Gensler testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs. Comments and questions from the Senators on the Commission's climate proposal fell largely along party lines, with Democratic Senators expressing support and GOP Senators previewing their expected legal challenge to the pending final rule. Beyond citing the recent U.S. Supreme Court ruled in *West Virginia v. EPA*, GOP committee members characterized the SEC proposal as "beyond unreasonable," and voiced opposition to repeating the "climate insanity" that presents an "existential threat" to European economies.

- The SEC's Investor Advisory Committee endorsed the Commission's proposed climate disclosure rule, to include supporting Scope 3 emissions reporting. The Committee, which includes representatives from EY, AARP, CalPERS and others, makes non-binding recommendations. Republican SEC Commissioner Hester Peirce had urged the Committee to consider the reporting costs and compliance burdens of the proposed rule. The Committee noted that, "registrants have rapidly increasing access to a growing community of both experts and tools that will allow this to be done very cost effectively."
- In anticipation of controlling one or both chambers of Congress following November's mid-term elections, GOP lawmakers are publicly discussing actions they might take to hamstring the SEC's proposed Climate Rule. One option includes attaching a rider to a budget bill to defund the SEC's climate efforts, while a second involves forcing a government shutdown.

## United Kingdom

- The UK Department for Work & Pensions released guidance on *Aligning your pension scheme with the Taskforce on Climate-Related Financial Disclosures recommendations*. The Department issued the guidance in support of proposed amendments to the Pensions Schemes Bill that would allow the government to require pension scheme trustees to fully consider and disclose their climate-related financial risks and opportunities in line with TCFD recommendations.

## IFRS-ISSB

- The IFRS/ISSB released a pair of Staff Papers analyzing comments received on the two Exposure Drafts (*S1: General Sustainability-related Disclosures* and *S2: Climate-related Disclosures*). The S1 Staff Paper noted that "most respondents" supported the use of the Task Force on Climate-related Financial Disclosures "as the basis for the structure of the core content in both S1 and S2." Many respondents also requested greater support, guidance, and examples to enable effective application of the proposals.

## California

- A *postmortem* of the failure last month of California's Climate Corporate Accountability Act (SB260) reveals the extent of industry opposition to the measure. State Senator Scott Wiener, chief sponsor of the measure, accused the business community of hypocrisy, and vowed to reintroduce the measure.