ESG UPDATE
EXECUTIVE SUMMARY
OCTOBER 2022

Global ESG Disclosure Regimes

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EXECUTIVE SUMMARY

GENERAL

- The Financial Stability Board, parent organization of the TCFD, released its 2022 *Progress Report on Climate-Related Disclosures*. The FSB highlighted several priorities, including:
  - The work of the International Auditing and Assurance Standards Board to develop a new sustainability-related assurance framework.
  - The work of the International Ethics Standards Board for Accountants to develop sustainability-related ethics and independence standards.
  - The "additional actions" taken in most of the 25 FSB jurisdictions to advance climate-related disclosures among financial institutions and non-financial corporates.
- Institutional Shareholder Services (ISS) released the results of its *2022 ISS Global Benchmark Policy Survey* conducted amongst investors and companies. Both categories of participants considered that there would be "a material governance failure if a company that is considered to be a significant contributor to climate change is not providing adequate disclosure with regards to climate-related oversight, strategy, risks and targets according to a framework such the TCFD Recommendations."
- CDP announced that over 18,700 companies disclosed their environmental data through the organization in 2022. Participating companies included listed firms worth $60.8 trillion, which CDP noted constitutes "half of global market capitalization." This represents the highest number of corporate disclosures ever recorded by CDP and constitutes a 38% year-on-year rise from 2021. Nonetheless, over 29,500 companies, worth collectively $24.5 trillion, "failed to respond to requests from financial institutions and customers to disclose through CDP in 2022." CDP warned these non-responders of "mandatory disclosure on the horizon" and called on them to prepare.
- KPMG's *2022 CEO Outlook* revealed that economic pressures are slowing ESG ambitions. Citing economic uncertainty, half of CEOs are "pausing or reconsidering their existing or planned ESG efforts in the next 6 months, and 34 percent have already done so." Nonetheless, the KPMG survey "confirms that ESG has become an intrinsic business imperative" and found that 69% of senior executives (up from 58% in 2021) noted greater demand from stakeholders for increased reporting and transparency on ESG.

EUROPEAN UNION

- Per published reports, the EFRAG Sustainability Reporting Technical Expert Group approved the 12 draft European Sustainability Reporting Standards. The draft ESRS will now be sent to the European Commission for consideration and approval, paving the way for their mandatory adoption from 2024.

UNITED STATES

- The Securities and Exchange Commission announced that, owing to a technical glitch, it is temporarily reopening the public comment period for the proposed Climate Disclosure Rule and several other proposals. Comments are now being accepted until November 1.
- In parallel, the SEC will not meet its October 2022 goal of issuing the final Climate Disclosure Rule. The Commission is still wading through thousands of public comments received previously and is now poised to collect further input. The U.S. Supreme Court's June 30 decision in *West Virginia v. Environmental Protection Agency* may force the Commission to reconsider its proposed approach, including its treatment of Scope 3 emissions. Per statements from SEC Chair Gensler and others, it now seems likely that the final rule will be issued months from now, perhaps even slipping into 2023.
- *Politico* reported that one dozen Democratic U.S. Senators sent a letter to SEC Chair Gensler urging the Commission "to provide a sufficient period for notice and comment as you consider rules that will impact our constituents." While the Senators' letter did not mention the Climate Rule explicitly, it did reference "a significant number of separate proposed rulemakings" on the SEC's agenda.
- In a forum hosted by Harvard University, SEC Chair Gensler noted that it might be in the best interest of American corporations to have the Commission finalize a climate disclosure rule, lest other jurisdictions with separate political systems set the rules of the road. He also stressed the central role of the TCFD Recommendations as regulators worldwide build consensus behind a common standard for reporting climate risk.
- Officials in additional GOP-led states announced they are divesting state monies from BlackRock, citing the asset manager's support for ESG investment practices. Accusing BlackRock and others of "forcing a left wing social and political agenda," Louisiana, Missouri and South Carolina joined states that have acted to restrict or ban the investment of public funds with asset managers deemed hostile to fossil fuels. BlackRock cited inaccuracies in these allegations from state officials and noted it has invested hundreds of billions of dollars in public energy companies. BlackRock also stated its belief that "the longer-term shift towards a less carbon-intensive economy is likely to continue." BlackRock launched a webpage to "set the record straight" on its energy investing.
- The U.S. Department of Labor submitted a final rule on ESG investing in pension and retirement plans to the White House Office of Management and Budget. The proposed rule would allow workplace retirement plan managers to consider environmental, social, and corporate governance factors when selecting plan investments. It reverses a Trump-era rule (never enforced) written to prevent fiduciaries from factoring in "non-pecuniary considerations" in investment

decisions. The Biden Administration rule is slated to be finalized in 2022, and the Department has indicated that it may have further ESG work in the pipeline.

- GOP members of Congress reacted to the advancement of the rule by introducing legislation that, if enacted, would codify the rejected Trump-era rule into law. The measure's sponsors decried the Biden Administration's proposal, which they allege would "abandon fiduciary responsibility by allowing 'woke' ESG factors to dictate investment returns."

United Kingdom

- In late September, the UK government announced it will review its Net Zero Strategy to "ensure it is pursuing the most economically efficient path to meeting its climate change commitments." The current Net Zero Strategy was established only in October 2021. The government noted that "the Russian invasion of Ukraine and other global factors have fundamentally changed the economic landscape in the UK." Since the announcement, UK Prime Minister Liz Truss has resigned and it is yet unclear whether her successor, Rishi Sunak, will move forward with the reassessment.
- The UK Financial Conduct Authority has proposed a package of new measures to clamp down on greenwashing. The proposals include investment product sustainability labels and restrictions on how terms like 'ESG', 'green' or 'sustainable' can be used. The FCA published a Consultation Paper and is accepting comments until January. The FCA intends to publish final rules by the end of the first half of 2023.
- In a landmark ruling, the UK's Advertising Standards Authority banned multinational bank HSBC from running two sustainability advertisements. The ASA concluded the ads had "omitted material information [regarding HSBC's contribution to carbon dioxide and greenhouse gas emissions] and were therefore misleading." HSBC posted the advertisements in the UK in October 2021 leading up to COP-26 in Glasgow. The ASA cited HSBC's high level of current financed emissions for oil and gas, and the bank's continued funding of thermal coal mining and power production. The ASA told HSBC that "future marketing communications featuring environmental claims had to be adequately qualified and could not omit material information about its contribution to carbon dioxide and greenhouse gas emissions."
- Lloyds Banking Group became the first major UK bank to announce it will cease financing the development of new oil and gas projects. The bank pledged: "We will not provide financing to new clients in the oil and gas sector unless it is for viable projects into renewable energies and transition technologies and clients have credible transition plans at the point of onboarding." Civil society applauded the LBG announcement, but also noted that, between 2016 and 2021, European banks have provided more than $400 billion to the top 50 companies expanding

oil and gas production. HSBC, Barclays, and BNP Paribas were “found to be among the worst offenders.”

IFRS-ISSB

- The International Sustainability Standards Board announced it had “made significant progress refining its first two proposed sustainability-related disclosure standards.” During its October meeting in Montreal, the ISSB voted unanimously “to require company disclosures on Scope 1, Scope 2 and Scope 3 greenhouse gas (GHG) emissions, applying the current version of the GHG Protocol Corporate Standard.” The ISSB also took actions regarding the definition of “material”; prioritized interoperability with other jurisdictions; and, agreed to advance the two proposed drafts while focusing on new areas of work for 2023.
- The ISSB process continues to draw significant support from global governments. In October, the G7 and G20 Finance Ministers and Central Bank Governors provided formal endorsements, as did the Financial Stability Board. Financial officials support building on the TCFD to create globally consistent, comparable and reliable climate-related financial disclosures.
- The IFRS Foundation will launch the Sustainability Standards Advisory Forum in 2022 to drive the interoperability of disclosure standards. Moving forward, this Forum will be the ISSB’s main vehicle for engaging jurisdictional authorities into its standard-setting process. The SSAF grew out of calls from the G20 and other global bodies for the IFRS Foundation to work formally with global jurisdictions “towards a comprehensive global baseline of sustainability-related reporting.”
- In October, ISSB officials updated the IFRS Advisory Council. Key “Next steps” include (1) finalizing and issuing standards as soon as possible in 2023; and, (2) developing a capacity building strategy “to support and include stakeholders in emerging and developing economies as well as smaller companies.” The update addressed topics including “Progress since COP26,” “High-level messages,” and “Outreach and Feedback on ISSB Exposure Drafts.”