ESG UPDATE
EXECUTIVE SUMMARY
MARCH 2023

Global ESG Disclosure Regimes

Rick Goss
GREEN COGNITION LLC
April 4, 2023
rick@greencognition.com

EXECUTIVE SUMMARY

European Union

- Mairead McGuinness, European Union Commissioner of the Financial Services, Financial Stability and Capital Markets Union, called on EFRAG to de-prioritize work on drafting sector-specific European Sustainability Reporting Standards (ESRS). The EU wants EFRAG to instead focus on advancing implementation of the proposed "horizontal" standards – the 12 "sector-agnostic" ESRS. The Commission plans to adopt ESRS Set 1 by June 30, 2023. EFRAG committed to adapting its agenda as needed, noting that draft ESRS, dedicated to SMEs and to sector-specific standards, respectively, remain on its work plan.
- EFRAG reiterated its intention to coordinate with GRI and to continue its dialogue with ISSB towards the interoperability of disclosure standards. EFRAG stated that it is "hopeful that interoperability will be achieved and, as a consequence, EU companies applying the first set of ESRS will not be confronted with multiple reporting requirements."
- EFRAG announced the launch of the EFRAG ESRS Digital Reporting Consultative Forum (ESRS DRCF). The Forum "will discuss digital reporting aspects of sustainability reporting, particularly, in regard to the ESRS XBRL taxonomy." EFRAG describes the initiative as a "pan-European forum to strengthen the European debates on the digital reporting aspects of sustainability reporting, particularly, in regard to the ESRS XBRL taxonomy.

United States

- SEC Chairman Gary Gensler shared his insights on the Commission's approach to the pending Climate Disclosure Rule. Mr. Gensler noted that "we're merit neutral … our only remit is about full, fair and truthful disclosure and try to bring some consistency to the disclosures that are already in the mix." The Commission still intends to release the final rule in April 2023.
- In a March 5 letter, over 50 Congressional Democrats wrote to Chair Gensler to "urge the SEC to fulfill its duty to investors and follow through on finalizing a strong climate disclosure rule without delay." The members of Congress expressed concerns over published reports that the Commission intended to "scale back" the final rule in response to opposition from segments of the private sector and in the face of threatened lawsuits. The letter from Congressional Democrats follows a February 22 letter to the SEC from the GOP majority of the House Financial Services Committee "demanding records and other information related to the proposed climate disclosure rule."

- President Joe Biden vetoed a GOP-led effort to erase a Department of Labor rule permitting retirement-plan managers to consider climate change in their investment decisions. This is the first veto of his Presidency, and it followed Republican attempts to use the Congressional Review Act to invalidate the rule. On March 23, House Republicans tried but failed to override the President's veto. The override effort, which requires a two-thirds majority, fell short by a vote of 219-200.

United Kingdom

- The UK's Financial Conduct Authority issued a "Dear CEO" letter to benchmark administrators in which it shared the results of its preliminary review of ESG benchmarks. The Authority's review, which assessed the quality of disclosures made by a sample of UK benchmark administrators, concluded the quality was "poor." The review identified instances where administrators failed to (1) provide sufficient detail and description of the ESG factors they considered; (2) fully implement the disclosure requirements introduced in the Low Carbon Benchmarks Regulation; and, (3) implement correctly the ESG methodologies of their own benchmarks. The FCA reaffirmed that "ESG matters are high on our regulatory agenda," and raised the specter of enforcement if performance does not improve.

IFRS-ISSB

- ISSB announced it will hold a supplementary public meeting in early April to discuss providing additional "transition relief" to companies reporting under the first two IFRS climate standards. The standards are IFRS S1 *General Sustainability-related Disclosures* and IFRS S2 *Climate-related Disclosures*. The potential relief would allow companies applying the ISSB standards to phase in their approach to sustainability-related disclosure, beginning with climate-related risks and opportunities in the first year of reporting. For companies using the proposed relief, the full reporting on sustainability-related risks and opportunities – beyond climate – would be provided from the second year.
- The International Accounting Standards Board announced it has expanded its work plan to include a project exploring "whether and how companies can provide better information about climate-related risks in their financial statements." In November 2020, the IASB released educational materials ("Effects of climate-related matters on financial statements") to support the consistent application of requirements in IFRS standards. The IASB stated that it will consider the work of the International Sustainability Standards Board as it

advances this initiative. Like the ISSB, the IASB is an initiative of the International Financial Reporting Standards Foundation.

CALIFORNIA

On March 15, the California Senate Committee on Environmental Quality held a hearing on the Climate Corporate Data Accountability Act (Senate Bill 253) and the Climate-Related Financial Risk Act (Senate Bill 261). The Committee passed both measures by identical votes of 4-2 and referred each to the Senate Judiciary Committee. SB 253 directs corporations with more than $1 billion in annual revenues to disclose all scopes of their greenhouse gas emissions. SB 261 would require “a covered entity … to prepare a climate-related financial risk report disclosing the entity’s climate-related financial risk and measures adopted to reduce and adapt to climate-related financial risk disclosed.” The Senate Judiciary Committee has set a hearing for SB 261 on April 18.