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Practical cross-border insights into ESG law

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ESG for Asset Managers

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The role of environmental, social and governance (**ESG**) matters in the operations and investment management activities of asset managers has been a subject of discussion for many years. In recent years, however, the conversation has become more urgent and focused, driven by the growing evidence of the global impact of climate change. These concerns underly the United Nations 2030 Agenda for Sustainable Development and 2015 Paris Agreement on Climate Change (**Paris Agreement**), the latter of which seeks to combat climate change and to direct finance flows towards low greenhouse gas emissions and climate-resilient development. The Paris Agreement has been the impetus for a growing body of law and regulation focused on ESG concerns and, in particular, sustainable investment.

The EU

The European Union (**EU**) has been leading the way in adopting rules and regulations focused on sustainable investment, the EU Commission taking the decision in 2016 to make sustainable development a political priority, and ESG has remained front and centre of legal and regulatory developments ever since.

For the EU, sustainable finance is about reorienting investment towards sustainable technologies and businesses, recognising that major public and private investment is needed to make the EU's financial system sustainable and ensure Europe is climate-neutral by 2050. To achieve this, in 2018 the EU launched its Action Plan on Sustainable Growth (**Action Plan**),[1] which set out 10 action points[2] with the key objectives of: (i) reorienting capital flows towards sustainable investment, in order to achieve sustainable and inclusive growth; (ii) managing financial risks stemming from climate change, environmental degradation and social issues; and (iii) fostering transparency and long-termism in financial and economic activity.

Based on the Action Plan, the EU Commission set out three building blocks as the foundation for building a sustainable financial framework in the EU: (1) a classification system, or "taxonomy", of sustainable activities; (2) a disclosure framework for non-financial and financial companies; and (3) investment tools, including benchmarks, standards and labels, which are discussed below in detail.

Since 2018, the EU Commission's position with regard to what is needed to meet the sustainability goals has evolved, and the global context has changed. In July 2021, the EU Commission launched a new phase of the EU's sustainable finance strategy,[3] which identified four main areas where additional actions are needed for the financial system to support the transition of the economy towards sustainability. These are: (1) financing the transition of the real economy towards sustainability; (2) developing a more inclusive sustainable finance framework; (3) improving the financial sector's resilience and contribution to sustainability: the double materiality perspective; and (4) fostering global ambition as global efforts are key to tackling the financial stability implications of climate and environmental risks.

Other notable developments include the EU Commission's launch in December 2020 of the Green Deal,[4] described as a "*new growth strategy. It will help us cut emissions while creating jobs*".

In April 2021, the EU Commission reached provisional agreement on the European Climate Law, which "*enshrines the EU's commitment to reaching climate neutrality by 2050 and the intermediate target of reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels*".

But What Does This Mean in Practice?

The focus of recent years has been to integrate (i) ESG considerations into the investment processes of EU-based investment managers and investors, and (ii) ESG factors into the non-financial data that is tracked and reported on by European businesses. The most significant measures adopted to date being the building blocks of:

- The Taxonomy Regulation,[5] which entered into force on 12 July 2020. It essentially created a classification system for sustainable economic activities, although the majority of its operative provisions will not take effect until 1 January 2022. This regulation establishes the concept of a "Taxonomy-aligned investment", which in essence is an investment that contributes substantially to certain specified environmental objectives, does not significantly harm those objectives and complies with certain minimum safeguards and technical criteria.
- The Sustainable Finance Disclosure Regulation (**SFDR**),[6] which came into effect on 10 March 2021. It seeks to provide for (i) a harmonised understanding of what constitutes "sustainable investment",[7] and (ii) a uniform, mandatory set of disclosure and reporting obligations relating to sustainability issues in connection with investment activity, including in the offering documentation and annual accounts for investment products. The EU views it as a tool that will trigger changes in behavioural patterns in the financial sector, discouraging greenwashing, and promoting responsible and sustainable investments. At a more granular level, it requires in-scope entities to radically change the way they act and how they assess and document their approach to sustainability.[8] It also provides for the designation of green investment products, including dark green or "Article 9" products, which pursue a sustainable investment objective, and light green or "Article 8" products, which promote, amongst others, environmental and social characteristics, provided those companies in which they invest follow good governance.

- A proposal for a new Corporate Sustainability Reporting Directive (**CSRD**), which was adopted by the EU Commission in April 2021. This aims to ensure that companies report reliable, comparable and consistent sustainability information that investors and other stakeholders need in order to, for example, comply with the SFDR and Taxonomy Regulation. The CSRD revises and strengthens rules introduced by the Non-Financial Reporting Directive,[9] significantly expanding the scope of EU listed and established entities that are in scope of the reporting obligations. The intention is that the CSRD will increase transparency and the disclosure of sustainability information, making the comparison of different financial products easier.

The Taxonomy Regulation, SFRD and CSRD complement each other and cannot be viewed in isolation. While the obligations imposed by the Taxonomy Regulation are limited, the implications of its text are broad, establishing, as it does, the vocabulary underlying the EU's sustainable development agenda and, in this context, informing the content of the disclosure obligations under the SFDR. The CSRD is an important mechanism for ensuring that the data needed to report on the degree of sustainability is available.

Some other important measures introduced to make the financial sector even more sustainable include:

- The Climate Benchmarks Regulation,[10] in force since 23 December 2020, and which introduced two new types of benchmarks:
  - an EU Climate Transition Benchmark, being a benchmark with a "decarbonisation trajectory" as evidenced by a measurable, science-based and time-bound movement towards alignment with the objectives of the Paris Agreement (e.g. the 2C limit on global warming); and
  - an EU Paris-Aligned Benchmark, being a benchmark where the resulting reference portfolio's carbon emissions are aligned with the objectives of the Paris Agreement (e.g. in essence, the carbon emissions savings of each underlying asset exceeds its carbon footprint).
- The EU Taxonomy Climate Delegated Act, which classifies which activities best contribute to mitigating and adapting to the effects of climate change. Subsequent delegated acts will cover other environmental objectives set out in the Taxonomy Regulation, namely: the sustainable use and protection of water and marine resources; the transition to a circular economy; pollution prevention and control; and the protection and restoration of biodiversity and ecosystem.
- Amendments to existing legislation (AIFMD,[11] UCITS Directive[12] and MiFID[13]) to:
  - Ensure that sustainability factors and sustainability-related objectives are considered in the product oversight and governance process for products/instruments.
  - Require the integration of sustainability factors, risks and preferences into certain organisational requirements and operating conditions for investment firms.
  - Ensure sustainability risks and sustainability factors to be taken into account by alternative investment fund managers and for UCITS.

While the entities in scope of the various Regulations and Directives are essentially financial firms active in the EU or the EU entities in which they invest, the impact is already being felt much more broadly, not only because financial firms are frequently global or operate cross-border into the EU, but because the EU has moved first to define regulatory parameters in a space that is of growing global importance and relates to issues such as global warming, which does not obey national boundaries.

The UK

The UK effectively exited the EU at 11 p.m. GMT on 31 January 2020 and although a great deal of existing EU legislation has been "on-shored" into the UK statute book, this has not been the case for legislation taking effect after this time. In the context of ESG, this includes the Taxonomy Regulation, SFDR and CSRD, as well as the amendments to existing legislation (i.e. AIFMD, UCITS Directive and MiFID). In fact, regulating sustainable finance is an area where the UK and EU are following divergent paths.

Although it is not taking the same direction of travel as the EU, the UK government has repeatedly stated its commitment to fighting climate change. The UK Chancellor stated that the UK government's economic policy objective "*remains to achieve strong, sustainable and balanced growth*"[14] and the government aims to deliver a "*financial system which supports and enables a net zero economy by mobilising private finance towards sustainable and resilient growth and is resilient to the physical and transition risks that climate change presents*".[15] To date, this has meant a focus on climate change.

More specifically, the UK government endorsed the recommendations of the Task Force on Climate-related Financial Disclosures (**TCFD**)[16] in 2017 and made implementation of the TCFD proposals a central part of its 2019 Green Finance Strategy.[17] The principal objective of the strategy being to "*align private sector financial flows with clean, environmentally sustainable and resilient growth, supported by Government action*". In promoting the TCFD's recommendations, the UK Taskforce (described below) aims not only to improve the flow of information, but also to foster a step change in how organisations think about climate-related risks and opportunities.

In November 2020, a UK government and regulator-led taskforce (including the two principal financial regulators, the Financial Conduct Authority (**FCA**) and the Prudential Regulatory Authority) (**UK Taskforce**) published an Interim Report[18] and Roadmap,[19] setting out a strategy towards mandatory TCFD-aligned disclosures across the UK by 2025 and an indicative path for the introduction of regulatory rules and legislative requirements over the next five years, with most to be implemented in the first three years. The UK Taskforce recognises the global nature of the asset management industry and its interactions with related international initiatives, including those that derive from the EU's Sustainable Finance Action Plan. Most encouragingly, the Interim Report states that the proposed TCFD-aligned requirements would, as far as possible, be consistent with and complementary to these initiatives.

New disclosure rules for companies with a UK premium listing were finalised in December 2020 and the FCA is currently consulting on proposals to (i) extend the application of the TCFD-aligned Listing Rule for premium-listed commercial companies to issuers of standard-listed equity shares (**CP 21/18**), and (ii) introduce climate-related disclosure requirements, aligned with the TCFD's recommendations, for asset managers, life insurers, and FCA-regulated pension providers (**CP 21/17**).[20]

CP 21/17 explains that the FCA plans to introduce (i) "entity-level disclosures", meaning that firms would be required to publish annually an entity-level TCFD report on how they take climate-related risks and opportunities into account in managing or administering investments on behalf of clients and consumers, with these disclosures being made in a prominent place on the main website for the firm's business, and would cover the entity-level approach to all assets managed by the UK firm, and (ii) "product or portfolio-level disclosures", meaning that firms would be required to produce annually a baseline set of consistent, comparable disclosures in respect of their products and portfolios, including a core set of metrics. Further

clarity for asset managers is expected when the FCA publishes its policy statement anticipated in Q4 2021. Whether the final proposals for asset managers will translate into broad consistency with the EU's initiatives in the longer term remains to be seen. The UK is predominately focusing on climate change, rather than the broader ESG concerns that are the focus of the EU regulators and legislators. This divergence will be a concern for asset managers with operations in both the EU and UK who may find they are subject to multiple and inconsistent disclosure and reporting regimes.

In summary, both the EU and UK legislative and regulatory bodies continue to focus on ESG. The divergent approaches do mean that it will become increasingly complex to navigate the overlapping but distinct legal and regulatory requirements as they evolve.

Hong Kong

Hong Kong's regulatory framework with regard to climate change and sustainable investment has gradually taken shape in recent years. Although the Climate Action Plan 2030+ published by the Hong Kong Environmental Bureau in January 2017 originally centred on green finance, the Hong Kong Securities and Futures Commission (**SFC**) and Hong Kong Exchanges and Clearing Limited (**HKEX**) have taken cues from international bodies and Mainland China to develop a regulatory agenda that goes beyond this initial focus.

There are three key drivers underlying Hong Kong's regulatory agenda with respect to sustainable investment: (i) Mainland China's status as a signatory to the Paris Agreement, the provisions of which apply to Hong Kong; (ii) the conviction of key regulators (including the SFC and HKEX) that climate change is a real threat and a source of financial risk to investors; and (iii) Hong Kong's position as an international financial centre, which necessitates proactive engagement with financial participants on climate risk-related issues. In light of these drivers, the SFC's and HKEX's efforts have been directed at: (1) disclosure of listed companies' environmental information and climate-related risks; (2) integration by asset managers of climate change factors into their investment and risk management process; and (3) ensuring accurate product disclosure of green investments that is consistent with international standards and to avoid greenwashing.

So far, similar to the regulations in the EU, the rules are far from being in their final form. At the time of writing, the following are the key measures that have been taken:

- the Hong Kong Stock Exchange published guidelines on mandatory reporting on ESG,[21] which came into effect on 1 July 2020 and replaced the voluntary ESG reporting regime that was first introduced in 2012. The guidelines largely emphasise climate-related disclosure, aligning with recommendations of the TCFD;
- the SFC released a circular to management companies of SFC-authorised unit trusts and mutual funds on "Green" or "ESG" funds on 11 April 2019,[22] which was subsequently amended on 29 June 2021.[23] The circular sets out the SFC's expectations on the "product-level" disclosure obligations of SFC-authorised funds that incorporate ESG factors as their key investment focus with the goal of improving their comparability, transparency and visibility. To accompany the circular, the SFC also set up a dedicated website to list all SFC-authorised funds that categorised themselves as ESG funds; and
- on 20 August 2021, the SFC published its consultation conclusions on the Management and Disclosure of Climate-related Risks by Fund Managers,[24] which proposes amendments to the existing SFC Fund Manager Code of Conduct. The document follows a month-long consultation in which the SFC proposed high-level principles setting out the governance, investment management, risk management and disclosure obligations of fund managers with respect to climate risks. The proposals largely reference the recommendations of the TCFD – and notably allow for a two-tier approach (i.e. with baseline requirements for all fund managers and enhanced standards for fund managers with assets under management exceeding a threshold of HK$8 billion). It is expected that the earliest effective date will be 20 November 2022 (although large fund managers may have a deadline of 20 August 2022 with respect to their baseline requirements).

Singapore

While initially lagging behind the EU and Hong Kong, Singapore's development of a sustainable investment regulatory framework has accelerated. Earlier in 2021, the Singapore government set out its five-pillar climate ambitions for Singapore to achieve by 2030 in its "Singapore Green Plan 2030" (**Green Plan**).[25] The Green Plan makes reference to the Monetary Authority of Singapore's (**MAS**) own initiatives, as set out in their 2019 annual report, to "green" the financial system by: (i) developing Singapore's green finance markets and solutions; (ii) building a financial system that is resilient to environmental risks; and (iii) building the requisite capabilities and encouraging green Fintech innovation.

In a short timeframe, the MAS has consulted the industry and taken measures to facilitate its green initiatives. At the time of writing, the following are the key measures that have been taken:

- the Singapore Exchange (**SGX**) published its guidelines for sustainability reporting,[26] which listed companies are required to adhere to on a "comply or explain" basis from the financial year ending on or after 31 December 2017. There are five primary components in the guidelines, which comprise: (i) selection of a sustainability reporting framework; (ii) identification of material ESG factors; (iii) policies, practices and performance of the company against material ESG factors; (iv) ESG targets; and (v) board statement on its oversight of material ESG factors; and
- on 8 December 2020, the MAS released the final Guidelines on Environmental Risk Management for asset managers (**Guidelines**).[27] The Guidelines aim to address environmental risks, which are broader than climate risks alone, and are defined as risks that arise from potential adverse impact of change in the environment on economic activities and human well-being. The Guidelines are largely aligned with the recommendations of the TCFD and cover the areas of: (i) governance and strategy; (ii) research and portfolio construction; (iii) risk management; and (iv) stewardship and disclosure.

The expectation is that both measures will be further developed. The SGX has released a consultation paper to the industry, inviting comments on enhancing sustainability disclosure requirements in line with the TCFD recommendations for listed companies, with the plan being that certain sectors will be subject to mandatory climate reporting starting from the financial year commencing in 2023 onwards. With respect to the Guidelines, once the MAS has had the opportunity to review their implementation, it is expected that it will publish a paper on best practices and areas for improvement.

It is worth noting that the MAS is itself taking climate change seriously as an institution. In the words of Ravi Menon, the managing director of the MAS, the MAS aims to lead by example, hoping that financial institutions in Singapore and

Asia will follow suit. The MAS, as the guardian of Singapore's official foreign reserves, will also integrate climate risks and opportunities into its investment framework by implementing climate risk mitigation strategies for its equity portfolios and allocating more investments to actively managed strategies that seek out climate change-related opportunities. At the level of infrastructure, the MAS is monitoring its own carbon footprint, tracking usage of electricity, water and paper.

The US

Although ESG factors are not new considerations for reporting companies, asset managers and regulators, there have been only limited regulatory developments related to ESG in the US to date. Indeed, as of the summer of 2021, neither reporting companies nor asset managers in the US are subject to ESG-specific regulatory requirements. However, as reporting company shareholders increasingly demand ESG information on company operations and asset managers increasingly incorporate the use of ESG factors and data into their investment process, the US Securities and Exchange Commission (**SEC**) under Chair Gary Gensler is evaluating potential rulemaking that would impose uniform ESG climate risk disclosure standards for reporting companies and is directing more attention towards how investment managers and investment funds disclose their ESG investment processes. As discussed in further detail below under "Other Considerations", the Department of Labor (**DOL**) has also become more receptive to the use of ESG factors and data in the management of plan assets.

The Inputs: Reporting Company Disclosures

In the absence of regulatory disclosure standards, non-governmental organisations emerged to create uniform ESG disclosure practices. For example, reporting companies in the US have been paying attention to the Global Reporting Initiative and Sustainability Accounting Standards Board (**SASB**) sustainability reporting standards. These standards are voluntary and not universally adopted; consequently, the ESG data, if it is available to investors, can be difficult to compare across industries and issuers. In December 2020, the Investment Company Institute's Board of Governors issued a statement supporting US reporting companies providing ESG disclosure in the manner recommended by SASB and the TCFD.

Recognising the patchwork nature of ESG-related disclosures available to financial market participants, Chair Gensler signalled in a July 2021 speech[28] that the SEC could mandate reporting company climate risk disclosures. Eschewing the current principles-based materiality standard for reporting company disclosures, Chair Gensler suggested that any such rulemaking could include prescriptive disclosure standards. Importantly, Chair Gensler signalled that the SEC could develop its own standards in this regard rather than rely on existing standards under SASB or the TCFD. These developments, if adopted, could significantly expand both the nature and comparability of climate risk disclosure available to financial market participants.

The Process: ESG Developments Affecting US Asset Managers and Funds

Notwithstanding the absence of a uniform definition of what constitutes ESG investing or requiring disclosure of ESG metrics, the SEC and its staff have demonstrated an interest over time in asset managers' ESG investment processes, including the nature and source of supporting data. For example, of the approximately 488 ESG-related SEC disclosure review staff comments provided to registered funds between 1 January 2017 and 6 January 2021 that were captured in a proprietary Dechert LLP survey, 42% of the comments focus on the ESG criteria used by the fund's investment adviser, 21% relate to the incorporation of ESG criteria into the investment process, and 5% relate to the proxy voting.

Similar to the reporting company context, the SEC's and its staff's focus on ESG investing has increased under the Biden Presidential Administration. Specifically:

- The SEC's website was updated to include a landing page titled *SEC Response to Climate and ESG Risks and Opportunities*,[29] which highlights the SEC's recent initiatives related to ESG.
- The SEC's Division of Examinations' (**Division**, formerly known as the Office of Compliance Inspections and Examinations) 2021 Examination Priorities underscore an enhanced focus on climate and ESG-related risks.[30]
- On 4 March 2021, the SEC announced the creation of a Climate and ESG Task Force within the Division of Enforcement. The task force will, in the context of asset managers, be monitoring to ensure that ESG investment practices are consistent with disclosures, fund advertising is not false or misleading, and proxy voting practices are consistent with professed strategies.
- On 9 April 2021, the Division released a Risk Alert that discusses the staff's findings during recent examinations related to ESG investing including, among other things, (i) potentially misleading statements about investment processes and adherence to global ESG frameworks, (ii) proxy voting practices inconsistent with proxy voting policies, and (iii) policies and procedures inadequate to ensure the accuracy of client disclosures.[31]
- On 7 July 2021, Chair Gensler indicated that he had asked the SEC staff to consider whether the Names Rule (Rule 35d-1 under the Investment Company Act of 1940)[32] should be updated given the growth of ESG-related investment funds. This follows a 3 March 2021 request for comments on the Names Rule, in which the SEC staff observed that "*funds appear to treat terms such as "ESG" as an investment strategy (to which the Names Rule does not apply) and accordingly do not impose an 80 percent investment policy, while others appear to treat "ESG" as a type of investment (which is subject to the Names Rule)*".[33]
- Also on 7 July 2021, the SEC Asset Management Advisory Committee adopted non-binding recommendations, prepared by the SEC's ESG subcommittee, regarding both issuer disclosure of material ESG matters and ESG investment product disclosure. The investment product disclosure recommendations suggest that the SEC should adopt a taxonomy consistent with the one developed by the Investment Company Institute's ESG Working Group that would harmonise the terminology used to articulate non-financial objectives (e.g. non-financial objectives and religious requirements) and establish best practices for describing shareholder engagement activities in the Statement of Additional Information.[34]
- On 28 July 2021, through the July Speech, Chair Gensler signalled the SEC's expected future rulemaking with respect to asset managers' use of ESG investment processes. With respect to asset managers, Chair Gensler reiterated his intention for the SEC to revisit the application of the Names Rule to the ESG context and mandate asset manager disclosure related to ESG investing processes, including by defining terminology and specifying ESG criteria used.

On 11 June 2021, the SEC released its annual regulatory agenda (**Agenda**) under the Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions. Of the 49 items in the Agenda, a number of proposed rule-stage items relate to ESG. The Division is considering recommending that the SEC:

- "propose requirements for investment companies and investment advisers related to environmental, social and governance (ESG) factors, including ESG claims and related disclosures" by April 2022;
- "propose rule amendments to enhance registrant disclosures regarding issuers' climate-related risks and opportunities" by October 2021; and
- "propose rule amendments to enhance registrant disclosures regarding human capital management" by October 2021.

Other Considerations

The DOL, under the Biden Presidential Administration, has signalled an increased willingness to permit, and has taken preliminary steps to facilitate, the inclusion of ESG investments on retirement plan menus. For example, the Biden DOL indicated on 10 March 2021 that it would enforce neither the "Financial Factors in Selecting Plan Investments" nor the "Fiduciary Duties Regarding Proxy Voting and Shareholder Rights" rules enacted under the prior Presidential Administration. Those decisions, however, remain subject to the prudent person standard of care that exists under the Employee Retirement Income Security Act of 1974. In addition, on 13 October 2021, the DOL issued a Notice of Proposed Rulemaking[35] (**NPR**) that, among other things, recognises that ESG factors can be "financially material" to the process of selecting investments and that a fiduciary's duty of prudence may require an evaluation of the economic effects of various ESG factors on the particular investment or investment course of action. Although the NPR does not define "ESG" for purposes of the proposed rule, it does provide examples of ESG factors that may be material to the risk-return analysis.

Endnotes

1. Action Plan: Financing Sustainable Growth is available here: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0097&from=EN.
2. In summary, the 10 action points are: (1) establishing an EU classification system for sustainable activities; (2) creating standards and labels for green financial products; (3) fostering investment in sustainable projects; (4) incorporating sustainability when providing financial advice; (5) developing sustainability benchmarks; (6) better integrating sustainability in ratings and market research; (7) clarifying institutional investors' and asset managers' duties; (8) incorporating sustainability in prudential requirements; (9) strengthening sustainability disclosure and accounting rule-making; and (10) fostering sustainable corporate governance and reducing short-termism in capital markets.
3. The Strategy for Financing the Transition to a Sustainable Economy is available here: https://eur-lex.europa.eu/resource.html?uri=cellar:9f5e7e95-df06-11eb-895a-01aa75ed71a1.0001.02/DOC_1&format=PDF.
4. "What is the Green Deal?" is available here: https://ec.europa.eu/commission/presscorner/detail/en/fs_19_6714, and a factsheet describing the architecture of the Green Deal is available here: https://ec.europa.eu/commission/presscorner/detail/en/fs_21_3671.
5. Regulation (EU) 2020/852.
6. Regulation (EU) 2019/2088.
7. "'*[S]ustainable investment*' means an investment in an economic activity that contributes to an environmental objective, as measured, for example, by key resource efficiency indicators on the use of energy, renewable energy, raw materials, water and land, on the production of waste, and greenhouse gas emissions, or on its impact on biodiversity and the circular economy, or an investment in an economic activity that contributes to a social objective, in particular an investment that contributes to tackling inequality or that fosters social cohesion, social integration and labour relations, or an investment in human capital or economically or socially disadvantaged communities, provided that such investments do not significantly harm any of those objectives and that the investee companies follow good governance practices, in particular with respect to sound management structures, employee relations, remuneration of staff and tax compliance."
8. April 2021 EU Sustainable Finance package.
9. Directive 2014/95/EU.
10. Regulation (EU) 2019/2089.
11. Directive 2011/61/EU.
12. Directive 2009/65/EC.
13. Directive 2014/65/EU.
14. Letter from the Chancellor to the FCA "Recommendations for the Financial Conduct Authority" dated 23 March 2021 is available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/972445/CX_Letter_-_FCA_Remit_230321.pdf.
15. *Ibid.*
16. The TCFD has over 1,000 supporters, which are headquartered in 55 countries, span the public and private sectors and include organisations such as corporations, national governments (Belgium, Canada, Chile, France, Japan, Sweden and the United Kingdom), government ministries, central banks, regulators, stock exchanges and credit rating agencies.
17. The Green Finance Strategy is available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/820284/190716_BEIS_Green_Finance_Strategy_Accessible_Final.pdf.
18. The Interim Report is available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933782/FINAL_TCFD_REPORT.pdf.
19. The Roadmap is available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/933783/FINAL_TCFD_ROADMAP.pdf.
20. Consultation Paper 21/17 "Enhancing climate-related disclosures by asset managers, life insurers, and FCA-regulated pension providers" is available here: https://www.fca.org.uk/publication/consultation/cp21-17.pdf.
21. The ESG Reporting Guide is available here: https://en-rules.hkex.com.hk/rulebook/environmental-social-and-governance-reporting-guide-0.
22. The SFC circular dated 11 April 2019 is available here: https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=19EC18.
23. The amended SFC circular dated 29 June 2021 is available here: https://apps.sfc.hk/edistributionWeb/gateway/EN/circular/doc?refNo=21EC27.
24. The consultation conclusions are available here: https://apps.sfc.hk/edistributionWeb/api/consultation/conclusion?lang=EN&refNo=20CP5.

25. The Green Plan is available here: https://www.greenplan.gov.sg/.
26. The SGX guidelines are available here: https://www.sgx.com/regulation/sustainability-reporting.
27. The MAS Guidelines are available here: https://www.mas.gov.sg/regulation/guidelines/guidelines-on-environmental-risk-management-for-asset-managers.
28. *Prepared Remarks Before the Principles for Responsible Investment "Climate Financial Markets" Webinar*, Chair Gary Gensler (28 July 2021) (*available at* https://www.sec.gov/news/speech/gensler-pri-2021-07-28) (the July Speech). Similarly, on 23 June 2021, Chair Gensler remarked at London City Week that he had asked the SEC staff for "recommendations on mandatory company disclosures on climate risk and human capital", "to consider potential requirements for companies that have made forward-looking climate commitments" and "to consider the ways that funds are marketing themselves to investors as sustainable, green, and 'ESG,' and what factors undergird those claims". *Prepared remarks at London City Week*, Chair Gary Gensler (23 June 2021) (*available at* https://www.sec.gov/news/speech/gensler-speech-london-city-week-062321). At least one current SEC Commissioner has publicly opposed adopting a prescriptive climate risk disclosure regime for reporting companies.
29. The landing page is available here: https://www.sec.gov/sec-response-climate-and-esg-risks-and-opportunities.
30. *2021 Examination Priorities*, SEC Division of Examinations (3 March 2021) (*available at* https://www.sec.gov/news/press-release/2021-39).
31. *SEC Division of Examinations, Risk Alert*, the Division of Examinations' Review of ESG Investing (9 April 2021) (*available at* https://www.sec.gov/files/esg-risk-alert.pdf).
32. The Names Rule generally dictates that if a fund's name suggests exposure to a particular type of investment, then the fund must invest at least 80% of its assets in that type of investment. Given the lack of uniform definitions of "sustainability-related terms", Chair Gensler "asked staff to consider recommendations about whether fund managers should disclose the criteria and underlying data they use" as part of the SEC's "ongoing efforts to update the public company disclosure regimes on climate risk and human capital".
33. *Request for Comments on Fund Names*, SEC (2 March 2020) (*available at* https://www.sec.gov/rules/other/2020/ic-33809.pdf).
34. *Recommendations for ESG*, SEC Asset Management Advisory Committee (7 July 2021) (*available at* https://www.sec.gov/files/amac-recommendations-esg-subcommittee-070721.pdf).
35. *Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights*, U.S. Dept. of Labor, 29 CFR Part 2550 (13 October 2021) (*available at* https://public-inspection.federalregister.gov/2021-22263.pdf).

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