Regulation of ESG

A global overview of regulations impacting the investment chain

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HSBC | Opening up a world of opportunity

Contents

Executive Summary

In response to the ambitious targets set by governments and institutions towards a more sustainable future, regulators are responding with a raft of regulatory measures to embed a framework of Environmental, Social and Governance (ESG) standards, transparency and integrity across the investment chain.

Globally, policymakers have high expectations for the financial sector, as it becomes ever more apparent that private capital is needed to accelerate the transition to a sustainable economy. The role of regulators is an important one in this process, as regulatory measures are needed to address the barriers to sustainable investing and to implement effective regulatory frameworks that can support greater capital flows towards sustainable investments.

Firms now need to navigate complex and emerging ESG regulations impacting the entire financial services value chain. Asset owners, asset managers, and issuers need to understand the implications of these regulations not only for themselves, but also to understand the implications for each other.

> This is a complex effort for global firms because the emphasis, timing and outcome of policymaker interventions differ, notwithstanding the common objectives being sought.

This white paper examines the current priorities of regulators around the world as they work to facilitate stronger ESG principles and practices within the financial services sector.

Introduction

Adoption of ESG – from principles to targets
The origins of ESG can be traced back to the ideals of The Club of Rome, an organisation founded in 1968 to address the long-term and connected challenges to maintaining and sustaining a better planet for all. Its mission, now rearticulated in the 21st century for a world population that is optimally aware of the threat to our livelihoods, has resulted in a new brace of deliverables and goals to tackle climate change, taking centre stage.

The 2015 Paris Agreement has brought nations together to commit to a limit of 1.5 degrees in global warming, while targets to achieve that include net-zero carbon pledges by the year 2050 – not to mention even more ambitious pledges by some individual countries. Countries need to report their progress in achieving such targets. This has led to the creation of an Enhanced Transparency Framework (ETF) and the Nationally Determined Contributions (NDC) which are renewed every five years to maintain prominence and focus from the Paris Agreement signatory states.

SUSTAINABLE DEVELOPMENT GOALS

Who cares wins - What does that mean?

Environmental
- Biodiversity
- Climate change
- Greenhouse gas emissions
- Pollution
- Water management
- Land degradation
- Circular economy

Social
- Consumer protection
- Data security
- Working conditions
- Compensation and services
- Human rights (child labour)

Governance
- Risk management
- Corporate ethics
- Incentive structure
- Account and Taxes
- CEO characteristics
- Compensation / Salary
- Board diversity / independance

A more holistic view of ESG – contemplating social and governance practices as well as the more obvious environmental sustainability objective – can be seen in the context of the United Nations' 17 Sustainable Development Goals, already commonly adopted by governments, institutions and industry worldwide to guide them on their journey. The SDGs incorporate a collective roadmap to rid the world of hunger and poverty, ensure quality education and clean energy for all, and innovate in our transport and urban infrastructure.

Achieving ESG targets – the role of regulators and the financial sector

Against the backdrop of these initiatives, pledges and commitments, there is an increasing sense of urgency to accelerate private financing of sustainable businesses and technologies. Public financing alone will not be enough to support the transition to a sustainable economy.

> An additional annual investment of €336 billion is needed to meet the EU's climate and energy targets by 2030.

Based on estimates by the European Commission, an additional annual investment of €336 billion is needed to meet the EU's climate and energy targets by 2030.[1] For the emerging and developing economies, a report from the International Energy Agency produced in collaboration with the World Bank and World Economic Forum estimated that annual investment in clean energy technology must increase to $1 trillion by 2030 to put the world on track to reach net-zero emissions by 2050.[2]

Playing a crucial function in the path to achieving the ESG targets, are financial services regulators who are able to correct the common barriers to sustainable investing, such as too little information on sustainability related corporate activities and limited non financial information disclosures.

With that aim, regulators are focused on developing targeted measures that will foster an enabling regulatory framework to better support the flow of capital towards sustainable investments – a framework that promotes transparency of ESG information, accountability, and strong regard for investor sustainability preferences.

These regulatory measures are crucial to close the information gap for investors, that will in turn serve to address the financing gap towards net zero.

Advancing ESG regulation – the influence of standard setters

A by-product of the regulatory momentum is variation in regulatory approaches and timelines to implement policy. There is a recognition that a consistent rulebook is desirable and this has resulted in further efforts and emphasis by global standard setting organisations to work towards greater harmonisation of standards and frameworks. Such efforts to move towards some form of meaningful convergence, were demonstrated amongst the outcomes of the COP26 summit in November 2021 with organisations announcing initiatives to further progress a global baseline set of standards and commonality amongst requirements.

The major efforts to develop widely adopted frameworks and guidelines with relevance for the financial sector include:

The Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) – Established under the aegis of the G20's Financial Stability Board, the aim of this specialised Task Force is to provide a framework for consistent climate related financial risk disclosures for use by organisations, including asset owners and asset managers, and the issuer community. Since the TCFD released its first set of disclosure recommendations in 2017, it has been increasingly adopted across the economy in both public and private sectors.

In October 2021, the TCFD published new and extended guidance, along with a status report on the progress of implementation, in which it reports 2,600 organisations globally spanning 89 countries supporting the TCFD's climate reporting framework.[3] The TCFD has served as the foundation for jurisdictional regulatory regimes, influencing the direction financial services regulators have taken with respect to the disclosure requirements developed within their own markets. The EU, UK, Switzerland, Japan, Hong Kong, Singapore, New Zealand and Australia have each incorporated the TCFD framework within their own domestic requirements to varying extents.[4]

[1] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, Stepping up Europe's 2030 climate ambition, Investing in a climate-neutral future for the benefit of our people, September 2020: See section 6.4.1.3, download here

[2] International Energy Agency's report on Financing Clean Energy Transitions in Emerging and Developing Countries, download here

[3] Task Force on Climate-related Financial Disclosures: 2021 Status Report (page 14), download here

[4] Task Force on Climate-related Financial Disclosures: 2021 Status Report (page 13), download here

The International Organisation of Securities Commissions (IOSCO) – Recognised as the global standard setter for the world's securities regulators and policymakers, IOSCO has set forth recommendations for the supervision and enforcement of sustainability related practices and disclosures. IOSCO has established its own "Sustainable Finance Task Force" (STF), which issued a report in November 2021 providing regulators with specific recommendations and regulatory considerations for the asset management sector.[5] The report also encourages the disclosure of climate-related risks in line with the TCFD model.

The International Financial Reporting Standards Foundation (IFRS) – Following the COP26 summit in November 2021, the IFRS Foundation has established the "International Sustainability Standards Board" (ISSB) with the intended purpose to create a baseline set of sustainability disclosure standards to better facilitate the comparison of ESG information across markets.[6] The ISSB has since published proposed drafts of climate and general sustainability disclosure requirements built upon TCFD recommendations, which were open for comments by 29 July 2022. Ashley Alder, Chairman of the IOSCO Board, has welcomed the publication of the ISSB's standards and emphasised publicly that the final standards will be a significant step towards the adoption of common standards around the world.[7]

The IFRS Foundation has also committed to merge with other sustainability disclosure organisations to bring standards under one complementary reporting framework, with the aim to simplify the overall reporting landscape.[8]

Global Reporting Initiative (GRI) – The GRI is an international organisation that sets sector specific disclosure standards, including the asset management sector, providing companies with a common language to disclose their impact on the environment. The GRI's Sustainability Reporting Standards are reported to be the most widely used standards for reporting on ESG impacts globally.[9]

[5] https://www.iosco.org/library/pubdocs/pdf/IOSCOPD688.pdf

[6] https://www.ifrs.org/news-and-events/news/2021/11/ifrs-foundation-announces-issb-consolidation-with-cdsb-vrf-publication-of-prototypes/

[7] https://www.ifrs.org/news-and-events/news/2022/03/issb-delivers-proposals-that-create-comprehensive-global-baseline-of-sustainability-disclosures/

[8] In January 2022, the IFRS Foundation merged with the Climate Disclosure Standards Board (CDSB), an international consortium of business and environmental NGOs that offers a framework for reporting environmental information with the same rigour as financial information. Additionally, in July 2022, the IFRS Foundation merged with the Value Reporting Foundation, a unified organisation that brings together the Sustainability Accounting Standards Board (SASB) and the International Integrated Reporting Council (IIRC) under one complementary reporting framework.

[9] https://www.globalreporting.org/

Disclosure Organisations	Standard Setting Bodies
Organisations that determine info to disclose relevant to ESG	Includes international bodies OECD and UN

The International Financial Reporting Standards Foundation (IFRS)

Principles for Responsible Investment (PRI)

Think Ahead ACCA

United Nations Environment Programme (UNEP)

Financial Accounting Standards Board (FASB)

Task Force on Climate-related Financial Disclosures (TCFD)

UN Global Compact

International Federation of Accountants (IFAC)

International Organization for Standardization (ISO)

World Economic Forum

CDP Global

Principles for Responsible Investment (PRI)

Global Reporting Initiative (GRI)

Financial Stability Board (FSB)

Chartered Institute of Management Accountants (CIMA)

The Climate Disclosure Standards Board (CDSB)

International Organization of Securities Commissions (IOSCO)

Organisation for Economic Co-operation and Development (OECD)

Taskforce on Nature-related Financial Disclosure

Value Reporting Foundation

Non-exhaustive list of disclosure organisations and standard setting bodies.

The regulatory imperative: Regulators driving ESG through the investment chain

As the standard setting organisations continue to develop common ESG standards and guidelines, national regulators, in parallel, are adopting and adapting aspects of these global frameworks within their own regulatory regimes. Many of these regional regulations have begun to apply, but the momentum of regulators continues at pace, as regulators seek to expand upon their baseline requirements and work to implement further measures over the next several years.

Presently, regulators continue to fully contemplate the ways in which regulation can support sustainable investing, and how each part of the investment chain should be regulated to achieve the intended outcomes. As such, the ESG regulatory pipeline consists of targeted requirements for asset owners, asset managers, and issuers – with requirements designed to ensure that each of the actors in the investment chain contributes towards achieving ESG outcomes.

Asset Owners

Positioned at the start of the investment chain as the providers of capital, asset owners play an influential role in driving ESG change across the investment community. The fiduciary duties of asset owners require them to seriously consider ESG factors as part of their investment process, and to actively engage with asset managers and issuers on ESG issues. Regulatory initiatives aim to encourage asset owners to properly integrate ESG considerations into their investment beliefs, policies, and mandates, and to communicate their commitments publicly. By clearly committing to take ESG into account in their investment strategies, asset owners create incentives for asset managers to focus on ESG, and trigger resulting sustainable investment practices through the investment chain.

Regulators expect asset owners to underpin their ESG investment beliefs with effective governance processes, ensuring that their sustainability commitments are reflected and evidenced throughout the organisation and its operations. Asset owners need to be able to demonstrate how sustainability factors are taken into account in internal systems, policies, and in the performance of staff in accountable roles.

These governance requirements extend to the manager selection process, and ongoing monitoring of the performance of the asset manager is needed to understand how ESG has been integrated into the investment decision making process. As such, the obligations upon asset owners will drive their managers to regularly disclose to them how ESG factors have been accounted for. By setting out these ESG reporting expectations, asset owners will be better equipped with the information needed to assess how asset managers are performing against their own ESG investment beliefs.

Asset Manager

Playing the central role in the investment chain, asset managers are responding to the bottom-up push from investors to create products with an ESG focus. The rising investor demand has created new commercial opportunities for managers to take advantage of, and in turn, managers have focused greater attention on manufacturing ESG investment products for their asset owner clients.

From the other direction, regulators are placing top-down pressure on asset managers to ensure that they consider and manage material sustainability related risks in their investment and risk management processes, and within their product manufacturing operating model. As such, managers are increasingly obligated, by the regulations of the jurisdictions in which they operate, to disclose how these risks are considered, and to explain the metrics used for each product or investment strategy. These specified regulatory measures require asset managers to fully embed ESG considerations in almost all aspects of their operations from strategic financial planning to governance, risk management and reporting frameworks.

The overarching regulatory intention is to ensure that asset managers promoting ESG remain transparent and accountable in the product manufacturing process, with the key procedural tool being sustainability disclosures. Over time, the disclosures made by asset managers will provide investors with further insights on how their investment portfolios measure up against sustainability objectives, and aid investor understanding of how sustainability risks and opportunities are managed within each of their portfolios.

Issuers

Under mounting public scrutiny, issuers have been obliged to disclose the impact of ESG risks on their performance and that of their activities on sustainability. As a result, transparency in the form of voluntary non financial disclosures have become a necessity for both listed and unlisted issuers seeking to establish and preserve their reputation for upholding ESG standards, and to attract capital and funding by investors with increased ESG emphasis.

Stock exchanges, too, are placing requirements upon listed issuers to supply greater ESG information. By implementing enhanced listing rules, stock exchanges are demanding enhanced ESG disclosures by listed issuers, in turn providing investors with advanced sustainability data across a range of ESG metrics.

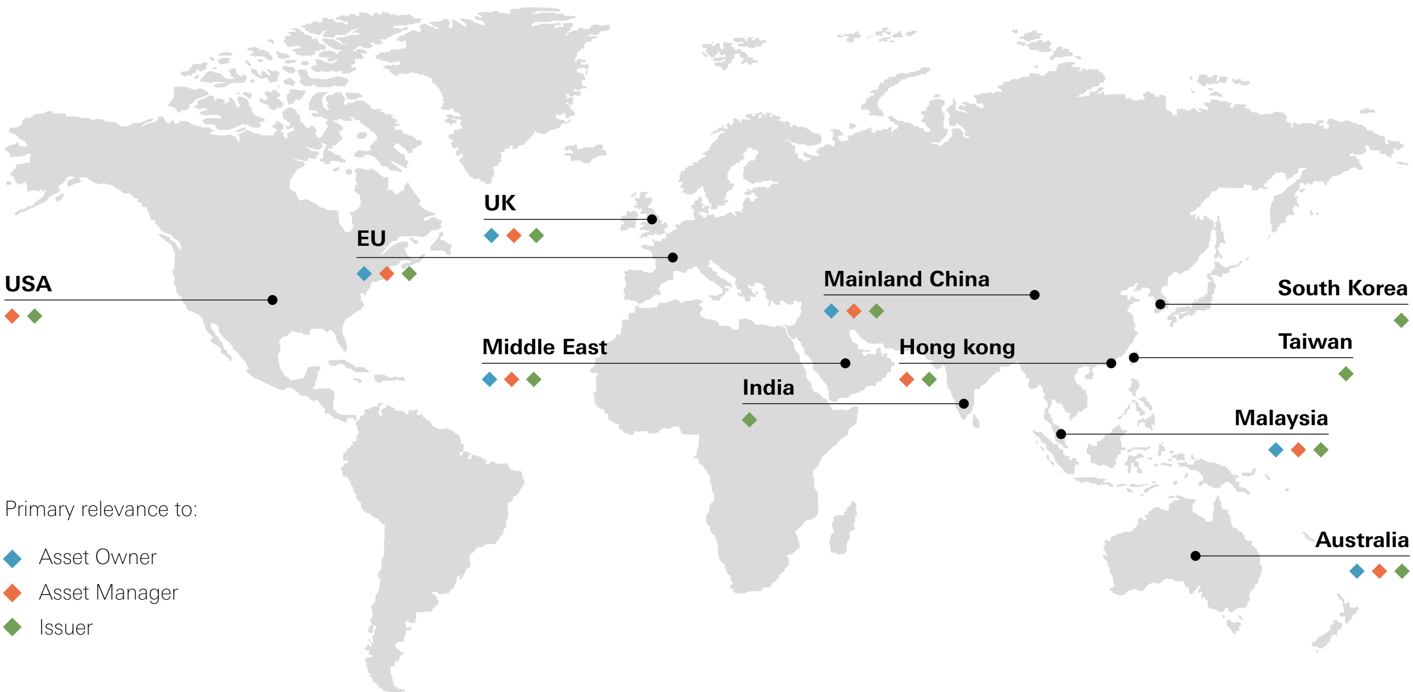
In addition to the requirements from investors and stock exchanges, issuers are now facing more prescriptive mandatory requirements set forth by regulators. Regulators are seeking to formalise issuer disclosures beyond voluntary self led measures, with the aim to improve and increase the amount of non financial data currently disclosed.

> In doing so, regulators intend to apply reporting requirements to a broader scope of issuers to further extend the breadth of ESG data being made available.

To achieve consistency and comparability between disclosed information, regulators are aligning where possible to the recommendations and frameworks of the global standard setting organisations. These measures should, over time, alleviate the challenges currently faced by asset owners and asset managers in obtaining reliable issuer data needed to fulfil their own corporate and product reporting obligations.

What, then, are the key global developments currently needing attention?

Overview of ESG regulatory developments impacting the investment chain



Countries and regions

EU

- Sustainable Finance Disclosures Regulation
- Framework Regulation (i.e. EU Taxonomy)
- Corporate Sustainability Reporting Directive

UK

- TCFD aligned climate related disclosures
- UK Taxonomy – proposed
- Sustainability Disclosure Requirement – proposed

USA

- ESG Disclosure Simplification Act – proposed
- Climate Risk Disclosure Act – proposed
- SEC climate related disclosure rules – proposed
- SEC considering ESG disclosures for asset managers

Mainland China

- EU-China Common Ground Taxonomy (CGT)
- China Securities Regulatory Commission (CSRC) ESG risk disclosure rules

Hong Kong

- SFC Requirement on Climate Related Risks
- SFC Guidance on enhanced disclosure for ESG funds
- Stock Exchange HK Guidance on Climate Disclosures

Taiwan

- Federal Supervisory Commission's Corporate Governance 3.0 Sustainability Blueprint

Australia

- Accounting Standards Board ESG recommendations
- Australian Prudential Regulation Authority (APRA) has outlined its plans concerning (1) climate-related financial risk; (2) climate change vulnerability assessment; and (3) Investment Governance

India

- SEBI Business Responsibility and Sustainability Reporting

South Korea

- Guidance on ESG disclosures to encourage voluntary disclo-sure until 2025 for larger corporations, and 2030 for all KOSPI-listed issuers

Malaysia

- Climate Change and Principle based taxonomy

Middle East

- UAE: Guiding Principles of Sustainable Finance
- Stock exchanges' voluntary guidelines

Non-exhaustive list of regulatory developments across the regions, as of May 2022

Selected ESG regulatory developments

Europe (EU)

The European Commission's Action Plan on Financing Sustainable Growth, published in March 2018, set out the Commission's three core sustainability commitments for the financial services sector – to bolster private capital flows towards sustainable investments, manage financial risks resulting from climate issues, and foster greater ESG transparency.[10] To meet these strategic objectives, the Commission proposed key legislative initiatives for the financial services sector that aim to improve the availability and quality of sustainability-related disclosures and to establish a framework to facilitate sustainable investing.

Leading sustainability disclosures

Since these commitments were announced in 2018, EU regulators have made considerable progress developing ESG regulatory measures to support the Commission's Action Plan. Taking on the global lead for ESG disclosures, the European Union's Sustainable Finance Disclosure Regulation (SFDR) is considered to be the most advanced regulation, setting mandatory sustainability related disclosures for EU asset owners (e.g. pension fund providers and insurers) and asset managers, as well as non-EU managers that market to EU investors. It is the first major effort made globally to regulate transparency on ESG in the asset management industry, with the dual aims to strengthen investor protection and to combat against the risk of 'greenwashing'.[11]

The key terms of SFDR started to apply in March 2021, requiring asset managers to disclose how and to what extent sustainability factors are integrated into their decision making processes, as well as the impact of ESG risks on financial returns – a concept known as the "double materiality" principle of non financial reporting.[12] Additionally, large asset owners and asset managers with over 500 employees must disclose whether principal adverse impacts (PAI) of its investment decisions on sustainability are taken into consideration, with smaller firms permitted the option to disclose on a 'comply or explain' basis.

[10] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0097&from=EN

[11] The UK FCA has defined greenwashing as "marketing that portrays an organisation's products, activities or policies as producing positive environmental outcomes when this is not the case." Source: https://www.fca.org.uk/publication/discussion/dp18-08.pdf at para 4.7.

[12] The concept of double materiality was first introduced by the EU Commission as part of the Non-Binding Guidelines on Non-Financial Reporting Update (NFRD). Under this concept, companies have to report about how sustainability issues affect their business and about their own impact on people and the environment. Source: https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_1806

At the entity level, ESG considerations must be reflected in the firm's investment strategies and policies, and made publicly available on the firm's website. At the product level, investment funds require a classification to indicate the fund's level of alignment with sustainability characteristics or objectives, and associated marketing and other documentation must be updated accordingly. Further periodic reporting on ESG focused products will be required when Level 2 measures apply in January 2023.

The EU Taxonomy

Implemented in parallel to SFDR, the EU Framework Regulation, or more commonly known as the EU Taxonomy, establishes a common definition of what is considered 'environmentally sustainable'.[13] The taxonomy applies across both financial and non financial sectors requiring certain large EU listed companies, including asset managers and insurance companies, to disclose specific KPIs against the activities it has identified to be taxonomy aligned.[14]

Additionally, the taxonomy enhances the product level disclosures made under SFDR, by requiring asset managers marketing sustainable funds to disclose how the funds meet the taxonomy's six environmental objectives and screening criteria, to what extent, and the proportion of investments which are taxonomy aligned.

Although the taxonomy currently only addresses environmental sustainability, with the requirements phasing in during 2022-2023, it is expected that the Commission will expand the taxonomy to address social sustainability criteria in the near future.

Improving non-financial reporting

The third major EU sustainability regulation is the new Corporate Sustainability Reporting Directive (CSRD), which has been proposed to increase and improve the availability of issuer ESG information by addressing the deficiencies of existing reporting requirements for non financial information under the Non Financial Reporting Directive (NFRD).[15] CSRD significantly broadens the scope of reporting entities to all large companies and all companies with securities listed on an EU regulated market, and is estimated to bring 50,000 entities into scope compared to the 11,700 entities currently reporting under NFRD.[16] Mandatory reporting standards and methods will apply so as to address the limited comparability of the data being reported under NFRD which has permitted the use of different standards. The new reporting obligations will apply to companies' annual reports for the financial years starting on or after 1 January 2023. Requirements will be phased in, and over time, CSRD is expected to elevate sustainability reporting to the same standard as that expected for financial reporting.

[13] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN

[14] KPIs including (a) the proportion of their turnover derived from products or services that are associated with environmentally sustainable activities; and (b) the proportion of their capital expenditure and the proportion of their operating expenditure related to assets or processes that are associated with environmentally sustainable activities.

[15] https://ec.europa.eu/info/publications/210421-sustainable-finance-communication_en#csrd

[16] https://www.europarl.europa.eu/legislative-train/theme-legal-affairs-juri/file-review-of-the-non-financial-reporting-directive

United Kingdom

Since the UK published its Green Finance Strategy in 2019, which set out its approach to 'greening financial systems', the UK has a stated intent to position itself as the global leader in sustainable finance.[17] It continues to develop an ambitious regulatory framework to better support sustainable financial flows, recognising that the financial sector is a key enabler in the path to meet its 2050 net zero target. The initial focus has been on implementing climate-related disclosures along the investment chain, as demonstrated by its firm commitment to make TCFD-aligned disclosures mandatory across the economy by 2025, with a significant portion of requirements in place by 2023.

Implementing climate-related disclosures

To achieve this goal, in December 2020 the UK Financial Conduct Authority (FCA) introduced new TCFD aligned disclosure rules for UK listed commercial companies with a premium listing.[18]

> Subsequently in, December 2021, the FCA published further rules to broaden the scope of reporting to issuers of standard listed shares.[19]

Separately, since January 2022, new rules have started to apply for asset managers and certain FCA regulated asset owners to make mandatory disclosures consistent with the TCFD's recommendations on an annual basis.[20] Disclosures for the largest firms in scope must be published by 30 June 2023, and disclosures for smaller firms to follow in June 2024. Disclosures must be made at entity level in the form of a TCFD report disclosing how climate-related risks and opportunities are taken into account in managing or administering investments on behalf of clients and consumers. Additionally, a baseline set of consistent, comparable disclosures must be made at the product/portfolio level, including a core set of metrics.

Broadening disclosures beyond climate

With TCFD aligned disclosures now set to be phased in across the investment chain, the UK government has stated its intention to broaden disclosure requirements beyond climate reporting. In its latest green finance roadmap published in October 2021, the UK expressed it will remain committed to addressing the ESG information gap for market participants by shifting the focus to disclosures covering a wider set of sustainability topics.[21]

The FCA is currently considering the creation of a new Sustainability Disclosure Requirement (SDR) framework, which will bring together existing sustainability-related disclosure requirements under one integrated framework. In its recent discussion paper on SDR published in November 2021, the FCA proposed further requirements for issuers to make sustainability disclosures, as well as new requirements for asset owners and managers to disclose how they take sustainability into account.[22]

Additionally, a new sustainable investment labelling regime is being considered that would require manufacturers of investment products to disclose information on the products' sustainability impact and relevant financial risks and opportunities. Further consultation on this next phase of disclosure rules from the FCA is expected in the second half of 2022.

The UK Taxonomy

To complete its ESG regulatory framework, the UK has further plans to implement a green taxonomy that will set out the criteria which specific economic activities must meet to be considered environmentally sustainable. The UK taxonomy is expected to be largely based upon the EU's taxonomy, adopting the same environmental objectives and will also be underpinned by technical screening criteria for each economic activity to identify how that activity can make a substantial contribution to the environmental objective.

[17] UK HMT Green Finance Strategy, published 2 July 2019

[18] https://www.fca.org.uk/publications/policy-statements/ps20-17-proposals-enhance-climate-related-disclosures-listed-issuers-and-clarification-existing

[19] https://www.fca.org.uk/publications/policy-statements/ps-21-23-enhancing-climate-related-disclosures-standard-listed-companies [20] https://www.fca.org.uk/publications/policy-statements/ps-21-23-enhancing-climate-related-disclosures-standard-listed-companies

[21] https://www.fca.org.uk/publications/policy-statements/ps-21-23-enhancing-climate-related-disclosures-standard-listed-companies

[22] https://www.fca.org.uk/publication/discussion/dp21-4.pdf

Asia

While perhaps taking more of a wait and see approach to ESG regulation in the past, Asia has been gaining considerable pace in its progress on ESG and sustainability policymaking. Asia is of course a very diverse region and this has meant that the adoption of ESG across markets has been quite different and with a focus on issuer disclosures.

> There is, however, an increasing awareness and focus on ESG regulation in asset and wealth management.

Regulators in financial hubs such as Hong Kong and Singapore are quickly catching up to their EU counterparts to roll out ESG governance and disclosure frameworks on the entities they supervise. We also see regional cooperation, for example the proposed ASEAN Sustainable and Responsible Fund Standards (SRFS) under consultation aims to standardize disclosure and reporting requirements among ASEAN asset managers for their ESG / sustainability labelled funds.[23]

ESG regulation gaining pace across the region

Hong Kong – Issuers are currently expected to follow ESG reporting guidelines as issued by the Stock Exchange of Hong Kong. The general rule is to comply or give valid reasons for current non compliance. Asset managers, as far as climate risk is concerned, will be guided by an August 2021 guidance issued by Securities and Futures Commission (SFC) on governance, investment management, risk management and disclosure – applicable to all managers while recognising a principle of proportionality.

The disclosure requirements with an eye on managing 'green washing' risk for retail ESG funds were initially released in 2019 and have been further enhanced in June 2021. ESG guidelines exist for insurers, although ESG risk is yet to be part of any specific disclosure requirements. Turning to pensions, the Mandatory Provident Fund Schemes Authority (MPFA) requires MPF trustees to disclose their progress of ESG integration in MPF schemes' annual consolidated reports for all financial years ending on or after 30 November 2022.

[23] https://www.sec.gov.ph/notices/industry-consultation-on-asean-sustainable-and-responsible-fund-standards-srfs/

Singapore – Issuers are subject to globally-recognised frameworks on standards and disclosure, putting responsibility onto boards to measure performance and engage with stakeholders. As with Hong Kong, issuers need to comply or explain. A recent move by the Singapore Exchange would see these disclosures becoming mandatory in nature. Asset managers are subject to guidelines on environmental risk management covering governance, research and portfolio construction embedding environmental risk, and managing portfolio risk issued in December 2020.[24] Insurers, similarly, in Singapore have been subject to governance, risk management, underwriting, investment and disclosure guidelines since December 2020 and which are effective in June 2022.[25] Monetary Authority of Singapore (MAS) is expected to come up with further disclosure requirements this year. In terms of uplifting the technical capability of the financial industry, MAS has released new guidelines outlining a series of key technical skills and competencies around sustainable finance in February 2022, with the aim of encouraging local financial institutions including asset managers to adopt the same.[26]

South Korea – Guidance is available on issuer ESG disclosures with an aim to encourage voluntary disclosure. This becomes mandatory starting 2025 for larger corporations, and 2030 for all KOSPI-listed issuers.[27]

Mainland China – In a bid to align its green investment standards with other regions, the People's Bank of China (PBOC) intends to organise a sustainable finance study group co-chaired by the US Treasury Department to coordinate a sustainable finance roadmap. Additionally, along with the European Commission, in July 2020 China initiated a dedicated taxonomy working group within the International Platform on Sustainable Finance (IPSF) to help international financial institutions better navigate the different taxonomies across regions. On 4 November 2021, the working group released the EU China Common Ground Taxonomy (CGT) which identifies commonalities and differences between the EU and China's taxonomies and is expected to improve the comparability and interoperability of global sustainable finance standards.

For issuers, in June 2020, the China Securities Regulatory Commission (CSRC), in collaboration with the Ministry of Environmental Protection, introduced rules that required all listed companies and bond issuers to disclose ESG risks associated with their operations. In June 2021, the CSRC published revised versions of the information disclosure rules relating to annual reports and to half-year reports for listed issuers.

[24] https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Fund-Management/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Environmental-Risk-Management-for-Asset-Managers.pdf

[25] https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Insurance/Regulations-Guidance-and-Licensing/Guidelines/Guidelines-on-Environmental-Risk-Management-Insurers.pdf

[26] https://www.mas.gov.sg/news/media-releases/2022/ibf-and-mas-set-out-12-technical-skills-and-competencies-in-sustainable-finance

[27] https://www.fitchratings.com/research/banks/new-korean-exchange-disclosure-rules-to-boost-esg-transparency-21-01-2021

Taiwan – Taiwan's Federal Supervisory Commission (FSC) issued its "Corporate Governance 3.0 Sustainability Blueprint" in August 2020, pledging to strengthen information disclosure by listed companies and enhance their communications with stakeholders. In November 2021, FSC issued a new notice requiring listed issuers to enhance the quality of existing Corporate Social Responsibility (CSR) reporting, which include disclosing information on key environmental and social issues, such as quantitative information on greenhouse gas emissions, water consumption and waste.

> FSC also laid out Taiwan's first set of formal criteria and disclosure requirements for onshore funds claiming an ESG label.[29]

These new rules which became effective in July 2021 require fund houses to provide and disclose their own ESG investment principles, as well as explain why they choose certain companies to include in their ESG fund products over others and what international principles they are following when making these decisions. The FSC will also deliver guidance on ESG investments by launching a sustainability rating and classification system.

Australia – With no specific ESG reporting rules for listed issuers in place, the country's Accounting Standards Board has made a raft of recommendations for issuers to balance the gross carrying value of tangible assets with the dampening impact of climate change risks. Insurers, too, rely on general guidance that focuses on physical risk such as extreme weather events; transition risk such as new technologies or policy changes; and liability risk such as litigation and regulatory enforcement. However, the Australian Prudential Regulation Authority (APRA) has outlined its plans concerning (1) climate-related financial risk; (2) climate change vulnerability assessment; and (3) investment governance.[30]

India – New disclosure requirements issued in May 2021 apply to India's top 1,000 listed issuers by market capitalisation. They are expected to disclose all ESG risks and a fully costed strategy to mitigate or adapt to these risks, subject to certain performance criteria. Though this has been voluntary for 2021-22, the requirements will become mandatory from the 2023 financial year.[31] Securities and Exchange Board of India (SEBI) has also released a consultation in October 2021 for introducing disclosure norms for ESG mutual fund schemes with an aim to ensure that ESG-focused mutual fund schemes remain true to label.[32]

Regional cooperation to establish common standards

Despite the lack of consistent frameworks, asset owners and asset managers in Asia are still likely to have increasing obligations to demonstrate how ESG factors are integrated into their investment decisions, to analyse the likely impact of ESG on returns, to measure, monitor and manage green products to avoid 'greenwashing' and to increase ESG disclosures. Firms will be hoping for a consistent approach amongst different regulators and it is positive that cooperation across jurisdictions is becoming more evident with regional efforts to establish common disclosure standards and taxonomies. As these efforts develop further, Asian firms, as well as global firms with businesses in Asia, will be interested to see the extent to which ESG regulations converge with global standards.

[28] https://www.fsc.gov.tw/ch/home.jsp?id=96&parentpath=0,2&mcustomize=news_view.jsp&dataserno=202111230002&dtable=News

[29] Press Release-The FSC Announced Disclosure Rule for ESG funds issued by Securities Investment Trust Enterprise (SITE)-Financial Supervisory Commission

[30] https://www.apra.gov.au/news-and-publications/apra-releases-guidance-on-managing-financial-risks-of-climate-change

[31] https://www.eyeonesg.com/2021/06/india-imposes-new-esg-reporting-requirements-on-top-1000-listed-companies/

[32] https://economictimes.indiatimes.com/mf/mf-news/sebis-proposed-esg-disclosure-to-address-risk-of-green-washing-experts/articleshow/87361687.cms

United States

Under the current presidential administration, climate change has regained its position at the forefront of the U.S. government's attention, and a number of ambitious climate measures have been announced including targets for a 100% clean energy economy and net-zero by 2050.[33]

> The renewed attention by policymakers, in tandem with the continued demand from investors for greater sustainability information, has spurred regulators to seriously consider the regulatory framework around ESG issues.

Public statements made by Gary Gensler, the Chair of the U.S. Securities and Exchange Commission (SEC), the regulatory body that oversees the securities markets, have signalled the intention of the Commission to shift from principles based guidelines to mandatory regimes, indicating the extent of requirements that may be implemented across the investment chain.[34]

Strengthening sustainability disclosures

Driven by investors seeking information on how companies impact climate change and social issues, policymakers have taken initial steps to legislate for greater ESG disclosures by issuers. In 2021, the U.S. House of Representatives proposed several ESG bills that would require issuers to publicly disclose substantial ESG metrics. The most notable bills proposed are the 'ESG Disclosure Simplification Act of 2021' and the 'Climate Risk Disclosure Act of 2021', which would direct the SEC to define exact ESG disclosure standards and obligate issuers to annually report the impact of ESG risks on the long term business strategy and performance, and the impact of its activities on sustainability and climate change.[35] However, whether these proposals will successfully become legislation is not yet clear, as they are subject to further congressional review.

Whilst the fate of the ESG bills remain unknown, the SEC is exploring the possibility to exercise its rulemaking authority under existing legislation, and has recently released its proposed climate disclosure rule for publicly listed companies.[36]

[33] https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/

[34] https://www.sec.gov/news/speech/gensler-pri-2021-07-28

[35] https://www.congress.gov/congressional-report/117th-congress/house-report/54 and https://www.congress.gov/bill/117th-congress/senate-bill/1217

[36] SEC Announcement: The Enhancement and Standardization of Climate-Related Disclosures for Investors, located here

> The proposed rule will require public companies to report climate risks, aligned to the TCFD framework, starting in 2024 with later phases to follow.

Looking beyond issuer disclosures, the SEC is also considering recommendations by its Asset Management Advisory Committee (AMAC) for asset managers to provide enhanced ESG investment product disclosures to include non-financial objectives such as environmental impact and to evidence compliance with ESG commitments.[37]

Practically, the SEC's rulemaking process will take some time and there is likely to be further substantive negotiation in Congress. The more likely near-term outcome is that for issuers and asset managers to satisfy investor expectation, they will increasingly choose to provide ESG disclosures as part of their own governance practices. However, in the absence of mandatory requirements and clear regulatory expectations, investors may continue to be provided with disclosures of varying standards and metrics.

Regulatory enforcement and examinations

In an effort to proactively address 'greenwashing' concerns, in March 2021 the SEC announced the creation of a Climate and ESG Task Force in the Division of Enforcement.[38] The primary objective of the ESG Task Force is to identify ESG-related misconduct, with the initial focus on examining misstatements in issuers' disclosure of climate risks under existing rules. It will also seek to address compliance issues relating to asset manager and ESG product disclosures. Given the SEC's ambition to implement more ESG disclosure rules in the near future, regulatory examinations of compliance policies, ESG investment practices and disclosures are likely to remain a top priority, with the scope of the ESG Task Force expanding alongside the new rules.

Middle East, North Africa and Türkiye

ESG regulations across the Middle East, North Africa and Türkiye are at a comparatively early stage in development, however activity is picking up pace with regulators issuing ESG reporting guidelines.

Saudi Arabia – Companies are now able to list on the S&P/Hawkamah ESG UAE Index, which is designed to assess issuers on their adoption of ESG best practices. Available to all investors, the aim is to promote good governance and easier comparison within the index.

[37] U.S. Securities and Exchange Commission Asset Management Advisory Committee Recommendations for ESG. July 7, 2021.
[38] SEC Announces Enforcement Task Force Focused on Climate and ESG Issues: https://www.sec.gov/news/press-release/2021-42

Conclusion

ESG is no longer a new concept for many companies and organisations: the practice of embedding environmental, social and governance led principles into business models is becoming an accepted pathway to addressing the global sustainability challenges. Firms across the investment chain will need to adopt and adapt to the evolving ESG regulatory obligations placed upon them, whilst being driven to do even more by their investors.

It is clear that, despite the varying speed and adoption of regulations and guidelines - whether binding or not – to steer the financial sector towards tangible ESG practices for the good of all, significant effort is being put in by governments and standard setters alike to drive best practice ESG regulation across the regions. The urgency of these efforts will inevitably only increase over the next couple of years. It is hoped, that in a globally-pivoted investments environment, the imperative for the entire investment chain to work together will lead to an acceleration of responsible wealth creation, and a consolidation of existing purpose-led economic activity.

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