THE EUROPEAN VOICE OF DIRECTORS

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What's in this issue:

EUROPEAN INSTITUTIONS DEVELOPMENTS

EC, EP: Amending time limits for the adoption of sustainability reporting standards for certain sectors and for certain third-country undertakings

On 17 October 2023, the Commission, following demands from the corporate sector, proposed a 2-year delay of the date of adoption of the sector-specific ESRS (currently required in 2024) to reduce the reporting burden for financial market participants. The European Parliament's Committees on Legal Affairs and on Economic and Monetary Affairs just issued their Committee draft reports, each supporting the proposal: JURI Draft; ECON Draft

EP: MEPs adopt significant changes to draft rules on Environmental, Social and Governance ratings

According to the voting outcome in the Economics and Monetary affairs committee reached on 04 December, rating providers should refrain from aggregating the E, S and G scores, as this could obscure poor performance on any of these individual metrics. The "E" factor (objectives set in the Paris agreement), the compliance with International Labour Organisation core conventions on Right to Organise and Collective Bargaining for the "S" factor, and the alignment with international standard on tax evasion and avoidance for the "G" factor.

More transparency: Rating products should explicitly disclose the rated entity's materiality. ESG rating providers should also disclose information to the public on the methodologies, models and key rating assumptions, and information should also be made available about the limitations of the information available to the rating providers.

Boosting competition: In a bid to encourage competition among ESG rating providers and fostering an environment where smaller rating providers can enter the market, an entity seeking to obtain more than one ESG rating should choose at least one ESG rating provider with a market share below 15%.

ESMA: Contribution to sustainable finance overview

ESMA has issued a summary of its current and upcoming activities related to sustainable finance especially related to greenwashing, investment management, securitization, issuers disclosures, ESG benchmark, credit rating agencies, central counterparties, EU Green bond regulation, ESG ratings regulation, ESG risk assessment and market monitoring activities, and building NCA's (National Competent Authoritie's) and ESMA capacities.

ESAs: Amendments to sustainability disclosures for the financial sector

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) published their Final Report amending the draft Regulatory Technical Standards (RTS) to the Delegated Regulation supplementing the Sustainable Finance Disclosure Regulation (SFDR). The ESAs propose adding new social indicators and streamlining the framework for the disclosure of principal adverse impacts of investment decisions on the environment and society. The ESAs also suggest new product disclosures regarding "greenhouse gas emissions reduction" targets, and further technical revisions to the SFDR Delegated Regulation:

- Improvements to the disclosures on how sustainable investments "Do No Significant Harm" (DNSH) to the environment and society;
- Simplification of the pre-contractual and periodic disclosure templates for financial products; and
- Other technical adjustments concerning, among others, the treatment of derivatives, the calculation of sustainable investments, and provisions for financial products with underlying investment options.

INTERNATIONAL DEVELOPMENTS

AI is testing the limits of Corporate Governance

The boardroom war at OpenAI, (the company behind ChatGPT), has put a spotlight on the role of corporate governance in AI safety. Few doubt that AI is going to be disruptive for society, and governments are beginning to devise regulatory strategies to control its social cost:

1. Companies cannot rely on traditional corporate governance to protect the social good.
2. Even creative governance structures will struggle to tame the profit motive.
3. Independence and social responsibility do not necessarily converge.
4. Corporate governance should try to solve for the alignment of profit and safety.
5. AI companies' boards must maintain a delicate balance in cognitive distance.

ISSB at COP28: IFRS Foundation launches knowledge hub in support of global drive to build capacity for the ISSB Standards

The IFRS Foundation has launched the IFRS Sustainability knowledge hub to support use of the ISSB Standards from next year. The hub went live at COP28's Climate Action Day and is a key component of the IFRS Foundation's capacity building programme. The hub hosts content developed by the IFRS Foundation and more than 100 resources developed by third-party organisations. Materials will be added over time in response to market needs and emerging practices.

ISSB at COP28: close to 400 organisations from 64 jurisdictions to commit to advance the ISSB climate global baseline

Close to 400 organisations from 64 jurisdictions have committed to advancing the adoption or use of the International Sustainability Standards Board's climate-related reporting at a global level. This groundswell of support from companies, investors, stock exchanges, the accountancy profession, multilaterals, NGOs, universities, data analytics providers, corporate advisors and others comes as the ISSB embarks on a new phase - from creation to action - following the issuance of the first two ISSB Standards in June 2023.

NATIONAL DEVELOPMENTS

France: New HCGE report on the application of the AFEP-MEDEF CG Code

The new report of the application of the French CG Code has just been issued by the Haut Comité de Gouvernance d'Entreprises (HCGE)

- The HCGE notes a constant progression in the practices of governance and their communication. The HCGE will be attentive to the fact that the application of the CSRD directive does not result in an excessive burden for European companies, which have had a limited time to prepare. Furthermore, the HCGE emphasizes that, although the code does not require the submission of a climate resolution, known as "Say on Climate", to shareholders, it stipulates the need to present to them the climate strategy and the main actions implemented in this area.

UK: FCA releases anti-greenwashing and sustainability investment product rules

While around 70% of investors report lacking trust in the sustainability claims of investment products, the Financial Conduct Authority (FCA) just announced the release of its new Sustainability Disclosure Requirements (SDR). Targeting asset managers and investment labels rules, a package of those measures aimed at helping investors assess the sustainability attributes of investment products and funds, and avoid greenwashing risk.

US: SEC Chair warns of climate rule exposes

The successful establishment of climate reporting rules in the U.S. could potentially help companies facing more onerous climate-related disclosure requirements in other jurisdictions, according to comments by Securities and Exchange Commission (SEC) Chair Gary Gensler at a Council on Foreign Relations event. Alternatively, the lack of a U.S. rule would be more likely to result in many companies forced to comply with foreign reporting rules such as those in the EU's Corporate Sustainable Reporting Directive (CSRD), Gensler warned, with the SEC unable to discuss substituted compliance – a system under which companies are seen as satisfying some requirements under one jurisdiction's rules by complying with comparable rules elsewhere – with its EU counterparts.

PUBLICATION/ARTICLE

Corporate Sustainability Reporting Obligations in the EU and UK

EU-corporations and non-EU corporations should prepare for new sustainability reporting obligations under the European Corporate Sustainability Reporting Directive (CSRD). The United Kingdom continues to develop its own revised and updated corporate sustainability reporting regime that will apply to UK companies. The report provides an overview.

China's Climate Disclosure Regime: How Regulations, Politics, and Investors Shape Corporate Climate Reporting

The main takeaways of the report are as follows:

- China has a distinctive climate disclosure regime based upon three pillars: regulatory compliance; political expectations; and international investor pressure.
- Disclosures by large, emissions-intensive Chinese firms tend to lag behind those of their international sector peers.
- The quality gaps can be explained in part by the distinctive role of the party-state—a powerful owner-regulator-financier with no parallel in most other large financial markets. It can directly express its disclosure expectations via regulation, making voluntary disclosures less meaningful.

ecoDa News

- **8th of December**: ecoDa European Board Diploma module ESG matters - with Chapter Zero Brussels
- **15th of December**: ecoDa European Board Diploma: Ceremony

- SAVE THE DATE: EU CG Conference under the Belgian presidency scheduled on March 21