Sustainability Reporting Developments

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EY Global Public Policy

An update on sustainability reporting policy developments

In a move that could have considerable implications both in the US and globally, California became the first US state to mandate climate disclosures. Governor Gavin Newsom signed a package of climate bills that include requirements on emissions reporting, climate risk disclosures, and transparency around the marketing of carbon offsets for companies doing business in California.

In its current form, this climate package is more expansive than the **US Securities and Exchange Commission's (SEC)** proposed climate disclosure rule because, unlike the SEC proposal, it would **apply to both private as well as public companies** (the SEC proposal would apply only to certain public companies), **require reporting of Scope 3 emissions** (the SEC proposal would only require reporting of Scope 3 emissions if companies deem them to be material or have established greenhouse gas emissions targets or goals), **and regulate the public reporting of participants in voluntary carbon markets** (the SEC proposal contains no comparable requirement). While two of the bills are targeted to take effect in 2026, Newsom raised concerns about their timing and impact on businesses, and suggested modifications which he intends to pursue in the next legislative session. Ultimately, though, the legislature is under no obligation to address his concerns.

During Climate Week in New York City, the **Taskforce on Nature-Related Financial Disclosures (TNFD)** released its final recommendations for voluntary nature-related disclosures, providing a standardized pathway for organizations to report on evolving nature-related risks and the impact of those risks on their operations.

The **International Sustainability Standards Board (ISSB)** continues to work for countries to adopt climate disclosure rules based on the ISSB's model standards in advance of the 28th Conference of the Parties of the United Nations Climate Change Conference **(COP 28) next month**.

Meanwhile, in **Asia-Pacific**, the **Korean** and **Malaysian** governments recently announced measures to promote the adoption of the ISSB standards in their respective countries.

A more complete rundown of global policy developments relating to sustainability reporting is below.

Key developments

Global

On 19 September, after two years of development, the **TNFD published its final recommendations and guidance for organizations to report and act on evolving nature-related dependencies, impacts, risks, and opportunities**. The TNFD uses a similar approach to the popular Taskforce for Climate-Related Financial Disclosures (TCFD) framework – requiring a company to disclose relevant information in the following four pillars: Governance, Strategy, Risk Management, and Metrics and Targets. The TNFD will now promote, and track annually, the voluntary adoption of these recommendations beginning in 2024. Its framework is already popular in some jurisdictions (the governments of Australia, France, Germany, the Netherlands, Norway, Switzerland and the UK all contributed to its funding and development), and mandatory disclosures based on the TNFD recommendations remain a possibility in the near future, as indicated in the UK's 2023 Green Finance Strategy.

On September 20, **ISSB** Chair Emmanuel Faber laid out **three priorities for the ISSB** heading into Q4 2023. **First**, he said that the ISSB staff will focus on capacity-building and implementation support, which include the ISSB Knowledge Hub and operationalizing the recently established Transition Implementation Group (TIG). **Second**, the ISSB will continue to pursue its global strategy to advocate for countries to adopt the ISSB's standards and support their efforts to do so. By our count, the jurisdictions that are developing, plans to incorporate the standards into their local frameworks include Australia, Canada, Colombia, Hong Kong, Japan, Malaysia, New Zealand, Nigeria, the Philippines, Singapore, and the United Kingdom. **Lastly**, the ISSB and its staff will review the responses to its three recently-closed consultations: on the ISSB digital taxonomy; the applicability of the Sustainability Accounting Standards Board (SASB) industry-based standards; and the ISSB's two-year work plan which Chair Faber expects to be finalized in the first half of 2024.

Meanwhile, the ISSB's sister organization, the **International Accounting Standards Board (IASB)**, announced targeted actions to follow-up on its current project to explore the implementation of climate-related information in financial disclosures.

As for voluntary reporting, **CDP**, the non-profit organization through which nearly 20,000 companies disclose their environmental information, has now partnered with Xtensible Business Reporting Language (**XRBL**), to accelerate digital sustainability reporting globally, with the intent of streamlining and standardizing companies' digital disclosures.

Asia-Pacific

Adoption of the ISSB standards continues to progress rapidly in the Asia-Pacific region. In **Malaysia**, the country's Securities Commission announced its intention to adopt global standards issued by the ISSB. The Commission will consider tailoring the global standards to align with local requirements.

Meanwhile, in **Korea**, the **Financial Securities Commission (FSC)** is facing industry pushback on the timing and initial release of its upcoming climate disclosure standards. Despite these calls for delay, the FSC has maintained that it is not considering postponing the obligatory disclosures. The Commission is expected to establish a roadmap for the disclosure sometime before the end of this year. Separately, the **Korean Sustainability Standards Board (KSSB)** released translated versions of the IFRS S1 and IFRS S2 standards for public consultation. The purpose is to seek feedback from domestic stakeholders on the global standards, which will then assist the KSSB in formulating local sustainability disclosure standards.

In the same month, the International Federation of Accountants (IFAC) also held its Sustainability Summit in September, which focused on further adoption of the ISSB standards across Asia.

In **New Zealand**, the Financial Markets Authority (FMA) published its final guidance for in-scope entities around keeping and maintaining proper records confirming that climate statements comply with the country's disclosure standards.

Americas

In the **US**, **California Governor Gavin Newsom** signed three bills (SB-253, SB-261, AB-1305) into law that, taken together, would require companies, partnerships, and other entities that do business in California to disclose, and provide greater transparency around, climate-related information.

As written, two of the bills impact large companies and take effect in 2026, with SB-253 requiring carbon emissions reporting, **including Scope 3 emissions in 2027**, and SB-261 **mandating a report that complies with the framework of the Task Force on Climate-related Financial Disclosures (TCFD)** (See EY's Technical Line for additional information about the new California reporting requirements and a comparison with the SEC rule proposal and EU ESRS). Additional changes may also come as the **California Air Resources Board (CARB)** issues implementing regulations, a process that normally allows for input and comment from the business community and other interested stakeholders.

The third bill, AB-1305, goes into effect in January 2024 and imposes wide-ranging **disclosure requirements on entities operating in California that make carbon or greenhouse gas emissions reduction claims**, including information about the purchase or use of voluntary carbon offsets to achieve those claims. It also requires entities that market or sell voluntary carbon offsets within California to disclose related information.

In his signing statements for SB-253 and SB-261, Newsom expressed concerns about the impact of the bills, including their implementation timelines and the potential costs to businesses, and indicated he intends to pursue certain changes in the next legislative session. However, the legislature is under no obligation to make changes to the bills based on Newsom's signing statements.

At the federal level, the **US Securities and Exchange Commission (SEC)** remains in the process of considering comments on its proposed climate disclosure rules, with the timing of final action still unclear. In late September, 25 Democratic Senators pressed the SEC to release its climate disclosure rule in October and retain the requirement for Scope 3 emissions reporting. At the same time, many Republican Members of Congress remain opposed to the SEC's efforts to finalize a climate disclosure rule. Based on recent statements by SEC Chair Gary Gensler, the final climate rule, if and when issued, may contain changes to the rule proposal based on comments, including regarding Scope 3 emissions reporting requirements.

Europe, Middle East, India and Africa (EMEIA)

In the **UK**, **Prime Minister Rishi Sunak** announced "a more pragmatic, proportionate, and realistic approach" to the country's green policies, which will mean exemptions and delays to previously pledged net-zero commitments. It's unclear, however, whether this revised approach will impact other sustainability initiatives. With respect to sustainability reporting, the assessment process for the **ISSB standards** is continuing with an endorsement expected by July 2024 to create UK **Sustainability Disclosure Standards (SDS)**. Meanwhile, the UK **Transition Plant Taskforce (TPT)** published its guide for how companies should detail their net-zero transition plans. It is anticipated that the UK government will consult before the end of the year on making the disclosure of transition plans mandatory for large public and private companies.

In the **European Union**, the European Parliament and the European Council are still reviewing the **European Sustainability Reporting Standards (ESRS)**. The deadline for the review is set for late October 2023, unless an extension is requested. If no objections are made by either body, the ESRS will become the binding framework for sustainability reporting under the **Corporate Sustainability Reporting Directive (CSRD)**, whose application date remains 1 January 2024.

Separately, the European Commission has announced that by early November 2023, **European Financial Reporting Advisory Group (EFRAG)**, will open a consultation around implementation guidance for materiality assessments and the interpretation of "value chain" in the ESRS, and a consultation on **sustainability standards for listed SMEs** under the CSRD.

In **Switzerland**, the Swiss Federal Council has announced (official government press release, in German) its key guiding principles for amending the Swiss corporate sustainability reporting obligations, including its intention to align its standards with the EU's CSRD. A detailed draft of the proposed changes is anticipated by the first half of 2024.

On the horizon

Key dates to watch over the next 90+ days:

TBC: In the US, release of the SEC's final climate-related disclosure rule and, separately, a draft human capital management disclosure rule.

November 2023: COP 28 will begin in Dubai, United Arab Emirates.

December 2023: The consultation period for the IAASB sustainability assurance standard will close.

Q4 2023: The UK FCA is expected to publish its final Sustainability Disclosure Requirements (SDR) for asset managers, confirm a new classification and labeling system for sustainable investment products, and bring into force a new general anti-greenwashing rule applicable to all FCA regulated firms.

January 2024: The application period for the CSRD will commence in all 27 member countries of the European Union for the first batch of companies.

January 2024: The application period for the ISSB standards IFRS S1 and IFRS S2 will commence.

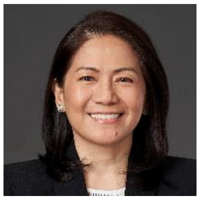
In case you missed it

ESG ratings: whose interests do they serve? From the FT, this piece lays out the varying interpretations of sustainability scores. One of the major issues highlighted is that ESG ratings are about ESG risk to the company's bottom line, not the company's impact on the planet. This idea was discussed in an earlier report from EY, *Five priorities to build trust in ESG*. Link.

Technical Line: California's climate disclosure laws. From EY, this report details the provisions, scope, and timing of the new California climate-disclosure laws as well as how they compare with related standards proposed by the SEC, and included in the ESRS. Link.

Nature Risk Barometer. From EY, the Barometer outlines the current state of nature-related disclosures consistent with the TNFD framework. The assessment covers ten sectors across over 100 US-based S&P 500 companies. Link.

Contact us



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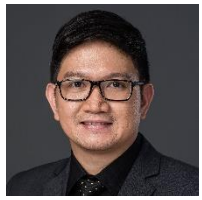

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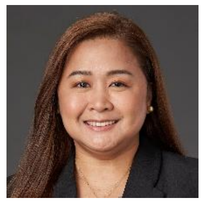

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