

SUSTAINABILITY: RECENT ESG DEVELOPMENTS

Environmental, Social and Governance ("ESG") factors have fast risen to the top of the board agenda across all sectors, with increasing awareness that a failure to address these matters can be detrimental both financially and reputationally. Investor pressure, internal governance and the proliferation of regulatory requirements and voluntary standards across the globe makes this a complex area to manage.

This newsletter is intended to assist banks, financial investors and corporates in keeping up to date with ESG developments.

Further details of these and previous developments can also be found on our [Green and Sustainable Finance Topic Guide](#) on the [Clifford Chance Financial Markets Toolkit](#) and further related resources can be found on our [Clifford Chance ESG page](#).

Key issues

- Legal and regulatory developments
- Official publications
- Industry guidance, voluntary codes and publications
- Advocacy group publications
- Clifford Chance Briefings and Blogs
- Clifford Chance Events - Recordings
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- Contacts

HEADLINES THIS MONTH

- Clifford Chance and the Centre for Sport and Human Rights release report on the [2026 FIFA World Cup candidate cities' human rights strategies](#)
- European Commission [adopts SFDR RTS](#)
- FCA's [policy statement](#) on diversity on company boards and executive committees
- Clifford Chance Comment: [ESG Securitisation: accelerating after a slow start](#)

LEGAL AND REGULATORY DEVELOPMENTS

European Union

(23 April 2022) The [European Parliament](#), the French presidency of the [Council of the European Union](#) and the [European Commission](#) reached an agreement on the scope of the [Digital Services Act \(DSA\)](#). The DSA sets out an "*unprecedented new standard*" for the accountability of online platforms regarding illegal and harmful content and aims to provide better protection for internet users and their fundamental rights, as well as define a single set of rules in the internal market which should assist smaller platforms to scale up

their businesses and operations. The DSA will also include EU-wide due diligence obligations that will apply to all digital services that connect consumers to goods, services or content.

Social Governance | Market-wide

(13 April 2022) The [Committee of Permanent Representatives](#) (Coreper) [approved](#) the EU Council's negotiating position on the EU Commission's proposed regulation on a European green bond standard (EuGBS). | [EESC opinion](#)

Environmental | Market-wide

(13 April 2022) The [European Insurance and Occupational Pensions Authority](#) (EIOPA) published for [consultation](#) draft guidelines on integrating customers' sustainability preferences in the Insurance Distribution Directive (IDD) suitability assessment process.

Comments are due by 13 May 2022. | [Press release](#)

Environmental Social Governance | Insurers

(6 April 2022) The [European Commission](#) adopted a [delegated regulation](#) setting out regulatory technical standards (RTS) under the Sustainable Finance Disclosure Regulation (SFDR). The RTS specify the content, methodologies and presentation of the information that must be provided by financial market participants and financial advisers in relation to sustainability-related disclosures in the financial services sector and are [accompanied by annexes](#) setting out templates on disclosure. The delegated regulation has been transferred to the European Council and Parliament for scrutiny and is scheduled to apply from 1 January 2023.

Environmental Social Governance | Market-wide

(5 April 2022) The [European Parliament](#) announced that it would enter into negotiations with EU governments on a European Commission [Proposal for a Pay Transparency Directive](#). The proposed directive would require EU companies with at least 50 employees to disclose information allowing their employees to compare salaries and expose any existing gender pay gap. The proposed Directive is fully in line with the EU's commitment to the UN 2030 agenda and contributes to the implementation of the UN Sustainable Development Goals (SDG), in particular SDG 5 on achieving gender equality and empowering all women and girls | [Press release](#).

Social Governance | Market-wide

(4 April 2022) The [European Commission](#) has published a call for evidence and targeted consultation on the functioning of the ESG ratings market in the EU and on the consideration of ESG factors in credit ratings. The [call for evidence](#) seeks views aimed at strengthening the reliability and comparability of ESG ratings and ensuring that relevant ESG risks are captured in credit ratings, in particular by improving transparency of the impact of ESG risks on individual credit ratings. The [targeted consultation](#) sets out a questionnaire aimed at informing the Commission of the need for possible EU intervention in relation to the functioning and potential shortcomings of the ESG ratings market and possible shortcomings relating to the consideration of sustainability factors in credit ratings, and disclosures made by credit rating agencies. Comments are due by 6 June 2022.

Environmental Social Governance | Market-wide

Australia

(5 April 2022) The [Australian Federal Executive Council](#) approved the ratification of the International Labour Organization (ILO) [Protocol of 2014 to Forced Labour Convention 1930 \(No. 29\) \(the Protocol\)](#), following a recommendation by the [Joint Standing Committee on Treaties](#) that binding treaty action be taken with respect to the Protocol. The Protocol includes obligations to prevent and suppress forced labour, protect victims and provide access to appropriate and effective remedies, and penalise the perpetrators of forced labour and end their impunity.

Social | Market-wide

Canada

(20 April 2022) Canada's Labour Minister [Seamus O'Regan](#) announced that the Liberal government is preparing a "comprehensive" bill that would require Canadian businesses and government departments to examine their supply chains and corporate practices to ensure that they are not using slave labour or exploiting child workers overseas. The bill would have a transparency element, requiring businesses to report on their supply chains, as well as a due diligence component.

Social Governance | Market-wide

China

(20 April 2022) The [National People's Congress of the People's Republic of China](#) approved the ratification of the [Forced Labour Convention, 1930 \(No. 29\)](#) and the [Abolition of Forced Labour Convention, 1957 \(No. 105\)](#). The ratification of these two Fundamental Conventions brings the total number of International Labour Organization (ILO) Conventions ratified by China to 28, six of which are Fundamental Conventions.

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Finland

(12 April 2022) The [Ministry of Economic Affairs and Employment of Finland](#) prepared a [memorandum](#) investigating the options for the content of a due diligence obligation in national legislation that would apply to Finnish companies. The memorandum considers, among other things, the legislative alternatives for meeting businesses' due diligence obligations and the effect of the obligation on human rights, the environment and companies, and the necessary conditions for implementing such legislation.

Environmental Social Governance | Corporates

The Netherlands

(5 April 2022) The [Lower House of the Netherlands Parliament](#) submitted a [draft bill](#) (in Dutch) on the Amendment of the Pension Act and the Occupational Pension Scheme (Obligatory Membership) Act to the Lower House. The aim of the draft bill is to regulate the Accountability Body (Verantwoordingsorgaan - Vo) and the Stakeholders' body (Belanghebbendenorgaan - Bo) to acquire a right of consultation on the exclusion and socially responsible investments policy pertaining to pension funds.

Social Governance | Asset managers Financial investors Pensions

South Africa

(1 April 2022) The [National Treasury](#) of South Africa [announced](#) the first national [Green Finance Taxonomy](#). The Taxonomy is designed for investors, issuers, lenders and other financial sector participants to track, monitor, and demonstrate the credentials of their green activities in a more confident and efficient way.

Environmental | Market-wide

United Kingdom

(21 April 2022) The [UK government](#) tabled an [amendment](#) to the [Health and Care Bill](#) which aims to eradicate the use of goods and services in the NHS that have been produced by or involving any kind of slave labour. The power would allow the government to impose regulations that set out the steps that the NHS should be taking to assess the level of risk associated with individual suppliers and the basis on which the NHS should exclude them from a tendering process. The amendment was considered in the House of Commons on 25 April 2022.

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United States of America

(20 April 2022) The [State of Mississippi](#), passed [the equal pay bill](#) into law and is the last state to pass such legislation. Mississippi's new law is solely focussed on gender unlike many other states where race-based pay is referenced. However, the legislation allows an employer to pay someone less based on salary history or if there any gaps in their employment history. This new law comes into effect 1 July 2022.

Social | Market-wide

(10 March 2022) The [Florida legislature](#) amended its Civil Rights Act to restrict "divisive concepts" during workplace trainings. Florida House 7/Senate Bill 148 ("HB 7") states that subjecting employees to training that compels them to believe concepts on race, color, sex, or national origin or makes people "feel" a certain way constitutes unlawful discrimination.. The bill applies to public and private employers with at least 15 employees. The Bill was approved by the Governor, 22 April 2022 and the provisions will take effect 1 July 2022.

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OFFICIAL PUBLICATIONS

International

(29 April 2022) The [Financial Stability Board](#) published an [interim report](#) to assist supervisory and regulatory authorities in developing their approaches to monitor, manage and mitigate cross-sectoral and system-wide risks arising from climate change and to promote consistent approaches across sectors and jurisdictions. Comments are due by 30 June 2022 and final recommendations will be published in Q4 2022. | [Press release](#)

Environmental | Market-wide

(27 April 2022) The [Network for Greening the Financial System](#) published a [report](#) on enhancing market transparency in green and transition finance. The report identifies the three key considerations relevant to policymakers: i) enhancing market transparency about issuers' and investors' green and transition objectives; ii) facilitating comparability and interoperability of taxonomies, frameworks, and principles; and iii) accelerating efforts on disclosure and reporting. | [Press release](#)

Environmental | Market-wide

(26 April 2022) The [Network for Greening the Financial System](#) launched a [consultation](#) on its repository or directory of climate data needs and available sources. The consultation is to finalise the repository by seeking feedback from the data users and providers in order to maximise the availability of climate data for the financial sector. The consultation will be open until 6 May 2022.

Environmental | Market-wide

(26 April 2022) The [United Nations Environment Programme Finance Initiative](#) published, 'Are you ready for nature-related disclosures' investigating how far businesses are interested in and ready for nature-related financial disclosures and gathers insights from company leaders to help guide and refine the development of disclosure frameworks, including the Taskforce on Nature-related Financial Disclosures (TNFD).

Environmental Governance | Market-wide

(13 April 2022) The [United Nations Environment Programme Finance Initiative](#) published an [article](#) by David Carlin, Task Force on Climate-related Financial Disclosures' (TCFD) Programme Lead, which discusses how the real estate sector can decarbonise after finding 40% of emissions come from the sector.

Environmental | Real estate Financial investors

(7 April 2022) The [United Nations-convened Net-Zero Asset Owner Alliance](#) published a paper, [The Future of Investor Engagement](#), outlining a systematic stewardship approach for investors that seeks to mitigate the risk of climate change. In particular, the paper outlines and addresses the limits to corporate engagement being used alone and argues for inclusion of policy engagement, sector/value chain engagement, and asset manager engagement within the investors' toolbox.

Environmental Governance | Asset managers Financial investors

(6 April 2022) The [United Nations Environment Programme](#) (UNEP) [announced](#) the launch of the [Land Use Finance Impact Hub](#) and its [Positive Impact Indicators Directory](#) developed for sustainably focused financial institutions. UNEP outlines that this new platform aims to support the rollout of effective industry frameworks to track the social and environmental impacts of land-use investments and to enable the implementation of policy efforts throughout the finance industry, encouraging capital flows into nature positive activities and assets.

Environmental Social Governance | Market-wide

European Union

(13 April 2022) The [European Supervisory Authorities](#) (ESAs) published their [first joint risk assessment](#) for 2022. The report highlights the increasing vulnerabilities across the financial sector and have advised, amongst other

things, that financial institutions further incorporate ESG considerations into their business strategies and governance structures. | [Press release](#)

Environmental Social Governance | Financial institutions

(5 April 2022) The [European Securities and Markets Authority](#) published its fourth [annual statistical report](#) on the cost and performance of European Union (EU) retail investment products. The report found that UCITS with an environmental, social and governance (ESG) strategy (including equity, bond and mixed funds) outperformed their non ESG peers and were also overall cheaper.

Environmental Social Governance | Asset managers Financial investors

(4 April 2022) The [European Insurance and Occupational Pensions Authority](#) launched its [first climate stress test](#) to gain insights into the effects of environmental risks on the European occupational pension sector. The stress test focuses on the impact on IORPs' investments, yet also addresses the effects on IORPs' financial situation, including the financing by sponsoring undertakings. The results of the stress test are expected to be published in December 2022.

Environmental | Pensions

(1 April 2022) The [United Nations Environment Programme Finance Initiative](#) (UNEP FI) [published](#) three key takeaways from a March 2022 meeting to define the Post-2020 Global Biodiversity Framework (GBF). UNEP FI and other partners have been working to help ensure that the critical role of private finance is reflected in the [Framework](#).

Environmental | Market-wide

(31 March 2022) The [European Commission](#) launched the [NextGenerationEU Green Bond Dashboard](#), a tool to increase the transparency of the measures financed by NextGenerationEU green bonds. The dashboard shows how the EU Member States are investing the money raised by green bond issuances. | [Press release](#)

Environmental | Market-wide

France

(28 April 2022) The [Banque de France](#) published its [Responsible investment report 2021](#) for the fourth year running. The bank's responsible investment strategy is built on three pillars, climate, integrating ESG criteria and company engagement.

Environmental Social Governance | Market-wide

Hong Kong

(1 April 2022) The [Hong Kong Monetary Authority's](#) Green and Sustainable Finance Cross-Agency Steering Group launched the [Green and Sustainable Finance \(GSF\) Data Source Repository](#) under the Green and Sustainable Finance Cross-Agency Steering Group. The repository focuses on studying data needs, identifying data gaps, and recommending ways to address such gaps identified to support green and sustainable finance and to assist in climate risk management and other green and sustainable finance related analysis and research.

Environmental Social Governance | Market-wide

(25 March 2022) The [Office of the Privacy Commissioner for Personal Data](#) issued [Guidance for Employers on Collection and Use of Personal Data of Employees during the COVID-19 Pandemic](#) addressing the employers' obligations under the Personal Data (Privacy) Ordinance in relation to the collection and use of employees' health data in the context of the pandemic. | [Press release](#) **Governance | Market-wide**

Luxembourg

(1 April 2022) The [Commission de Surveillance du Secteur Financier](#) (CSSF) issued a [communiqué](#) on the application dates of Regulation (EU) 2019/2088 on sustainability-related disclosures in the financial services sector (SFDR) and on the taxonomy-alignment related product disclosures of Regulation (EU) 2020/852 (Taxonomy Regulation). The CSSF highlights the Joint Committee of the European Supervisory Authorities' [updated supervisory statement](#) dated 25 March 2022 on the application of SFDR and Articles 5 and 6 of the [Taxonomy Regulation](#) regarding the interim period until the application date of the regulatory technical standards on the content, methodologies and presentation of sustainability-related disclosures (RTS). **Environmental Social Governance | Financial institutions**

Turkey

(15 April 2022) The [European Bank for Reconstruction and Development](#) announced it is [supporting Turkey's transition](#) to an environmentally sustainable, low-carbon and climate-resilient economy through new Green Economy Financing Facility, with up to €53.5m funding. **Environmental | Market-wide**

United Kingdom

(25 April 2022) The [Transition Plan Taskforce](#) (TPT), a new body launched by HM Treasury, comprising industry and academic experts, regulators and stakeholders from the third sector, [published](#) its Terms of Reference. It has a two-year mandate to develop good practice for transition plans and associated metrics, which should inform the implementation of the UK's Sustainability Disclosure Requirements. The TPT will report by the end of 2022. **Environmental Social Governance | Market-wide**

(25 April 2022) The [Financial Reporting Council](#) published a report entitled '[Modern Slavery Reporting Practices in the UK: Evidence from Modern Slavery and Annual Reports](#)', which highlights significant shortcomings in the quality of companies' modern slavery reporting and suggests that too many companies appear not to view human rights issues in their workforce or supply chains as a source of risk for their businesses. | [Press release](#) **Social Governance | Corporates**

(20 April 2022) The [Financial Conduct Authority](#) (FCA) published a [policy statement](#) (PS22/3) on diversity and inclusion on company boards and executive management stating that issuers will be required to include a statement in their annual financial report setting out whether they have met specific board diversity targets and if not, explain why not. The rules will apply to listed companies for financial accounting periods starting from 1 April 2022. The FCA intends to review the rules in three years' time to make sure they are

working and to check if the diversity targets are still appropriate. | [Press release](#) **Governance | Market-wide**

(7 April 2022) The [Bank of England](#) published a [speech](#) by Sarah Breeden, Executive Director for Financial Stability Strategy and Risk, given at TheCityUK International Conference on how central banks can support the economy's transition to net zero.

Environmental | Market-wide

United States of America

(12 April 2022) The [Loan Syndications and Trading Association](#) (LSTA) announced the publication of the June 2021 [LSTA's ESG Questionnaire](#) in an excel format following Members feedback. The Questionnaire is designed as a baseline of ESG information and is currently used as both a starting point for discussions with borrowers as well as a means of reporting. It is applicable to companies across industries and has been broadly adopted in loan transactions with respect to ESG. **Environmental Social Governance |**

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INDUSTRY GUIDANCE, VOLUNTARY CODES AND PUBLICATIONS

International

(14 April 2022) The [World Federation of Exchanges](#) (WFE) has published a [briefing](#) on human rights- related disclosure practices within stock exchanges. WFE notes that while companies have made real progress in achieving a better understanding of their environmental impact and governance standards, social issues have not necessarily been given the same level of attention.

Social | Market-wide

(7 April 2022) The [International Finance Corporation](#) published Guidelines entitled '[Investing in Responsible Digital Financial Services](#)' with the objective to promote responsible digital financial services investments and to contribute to a broader financial inclusion and sustainable development.

Social | Market-wide

(4 April 2022) The [Intergovernmental Panel on Climate Change](#) published its [Climate Change 2022: Mitigation of Climate Change report](#) assessing the progress of climate change migration along with the impact of national climate pledges. The report also demonstrates that while financial flows are a factor of three to six times lower than levels needed by 2030 to limit warming to below 2°C (3.6°F), there is already sufficient global capital and liquidity to close investment gaps. | [Press release](#)

Environmental | Market-wide

(30 March 2022) The [International Finance Corporation](#) published a [step-by-step practical guide](#) for financial institutions considering issuing a green bond.

Environmental | Financial institutions

France

(27 April 2022) The [Association Française de la Gestion Financière](#), the French Asset Management Association, published an [explanatory guide](#) (in French) drawn up by a working group to help asset management companies implement specific provisions regarding gender balance. The new provisions are included by Law n° 2021-1774 of 24 December 2021 (“RIXAIN” law) in the Monetary and Financial Code (L. 533-22-2-4).

Social | Asset managers

Hong Kong

(31 March 2022) The [Hong Kong Exchanges and Clearing Limited](#) (HKEX) invited applications from social enterprises in Hong Kong for funding, through the HKEX Impact Funding Scheme 2022 (Scheme), a tailored HKEX Foundation charitable programme. HKEX Foundation will this year allocate \$10 million to the Scheme to support local social enterprises, helping them build and grow their enterprises and undertake innovative projects that address social and environmental challenges. The Scheme looks to support programmes that focus on the following four areas: Financial Literacy, Diversity and Inclusion, Poverty Relief, and Environmental Sustainability. | [Press release](#)

Social | Corporates

Romania

(11 April 2022) The [Bucharest Stock Exchange](#) published its first environmental, social and governance (ESG) reporting guidelines for listed companies. The [ESG Reporting Guidelines](#) for issuers provide clear and comparable information to investors and ensure that they are well placed to comply with forthcoming EU reporting requirements under the Sustainable Finance Disclosure Regulation (SFDR) and the Corporate Sustainable Reporting Directive (CSRD).

Environmental Social Governance | Corporates

United Kingdom

(7 April 2022) [The Chancery Lane Project](#) (TCLP) launched a [Climate Clause Selector](#) tool, which helps users to search the TCLP’s collection of 50 climate solutions across various practice areas and sectors to find the required climate drafting.

Environmental | Market-wide

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ADVOCACY GROUP PUBLICATIONS

United Kingdom

(19 April 2022) [edie](#) published their [2022 Sustainable Business Leadership](#) report which looks at the trends and challenges that will define corporate leadership across the Environmental, Social, and Governance (ESG) spectrum.

Environmental Social Governance | Market-wide

(April 2022) The [International Sustainability Institute Channel Islands](#) published a paper 'How sustainable is the EU's sustainable finance regulation?' which looks at the costs of the EU's approach to sustainable finance regulation.

Environmental Social Governance | Market-wide

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CLIFFORD CHANCE BRIEFINGS AND BLOGS

- (27 April 2022) Clifford Chance Comment: [Buy-Side Regulatory Horizon Scanner](#) - includes topics on SFDR, EU Taxonomy Regulation, EU sustainability amendments to various regulations, UK climate related disclosures, UK sustainability disclosure requirements and UK diversity in financial services
- (27 April 2022) Clifford Chance Comment: [The growing risk of group litigation and class actions](#)
- (13 April 2022) Clifford Chance Comment: [ESG Securitisation: accelerating after a slow start](#)
- (12 April 2022) Clifford Chance and the Centre for Sport and Human Rights published 'The Promise of a Positive Legacy: The FIFA World Cup 2026 Host City Candidates' Human Rights Plans' looking at the human rights strategies developed by all 22 cities across the United Bid.
- (11 April 2022) Clifford Chance Comment: [Consultation on nature-related financial disclosure framework – Adopting the TCFD model](#)
- (8 April 2022) Clifford Chance Blog: [Whistleblowing in China: Demystifying the Myths](#) [Back to top](#)

CLIFFORD CHANCE EVENTS - Recordings

- Spring 2022 [London Legal Developments Perspectives Series](#)
 - (29 March 2022) [Putting digital ethics back on the agenda](#)
- APAC [ESG Perspectives Series](#)
 - (25 March 2022) [Portfolio Acquisition and Management](#)
- European [ESG Perspectives Series](#)
 - (8 March 2022) [The EU sustainable corporate due diligence proposal](#)

CLIFFORD CHANCE EVENTS - Upcoming

- European [Tech Perspectives Series](#)
 - (10 May 2022) [Digital Markets Act: Welcome to a New Era for Tech Regulation](#) | [Register](#)
- International Festival of Fintech
 - (17-19 May 2022) [ESG in financial services. The impact of tech and data](#) | [Register](#)

- Spring 2022 London [Legal Developments Perspectives Series](#)
 - (18 May 2022) Greenwashing – a story for our times | [Register](#)
 - (7 June 2022) The EU Taxonomy Regulation – is it sustainable? | [Register](#)
 - (14 June 2022) China's sustainable finance outlook – 2022 and beyond | [Register](#)
 - (21 June 2022) Energy transition – what is the impact of rising energy prices? | [Register](#)

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