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**ICMA GREEN BOND PRINCIPLES AND THE EU GREEN
BOND REGULATION : A COMPARISON**

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On 24 October 2023, the European Council adopted the [regulation on European green bonds](#) (the "**Regulation**", although frequently referred to as the "**Green Bond Standard**" or "**EU GBS**") relating to a "gold standard" label for green bonds that are aligned with the EU Taxonomy Regulation ([Regulation \(EU\) 2020/852](#)) (the "**Taxonomy Regulation**"). The Regulation is expected to be published in the Official Journal during Q4 2023 and will come into effect 12 months later.

Further to our earlier [client briefing](#)¹ this summary table sets out a broad comparison of the requirements in connection with 'use of proceeds' green bonds² under the [ICMA Green Bond Principles](#) (the "**ICMA GBP**") and the Regulation³. This summary does not cover all the detailed provisions of the Regulation. In addition, we have not included references to the optional disclosures regime as the majority of the required disclosures have yet to be specified (see our earlier [client briefing](#) for what is currently known).

Key headlines differences between the ICMA GBP and the EU GBS:

- **Eligible green projects:** the ICMA GBP has a more flexible and expansive concept of eligible green projects whereas the EU GBS require alignment with sustainable economic activities as defined by the Taxonomy Regulation.
- **Prescriptive:** the EU GBS is deliberately a prescriptive "gold standard" intended to create a harmonised set of rules, for example, the required forms of pre-and post-issuance disclosures and reviews. The ICMA GBP is more permissive in its requirements.
- **Reporting:** the EU GBS requires detailed post-issuance allocation and impact reports. These must follow the templates in the Regulation and include specific requirements on Taxonomy Regulation alignment, positive and adverse environmental impacts and details on impact methodology and must be prepared for specified periods. External reviews on allocation reports are mandatory and optional for impact reports but in each case must be prepared in accordance with templates in the Regulation.
- **Cash management:** one of the four ICMA GBP principles is detailed disclosure of the internal management process of proceeds whereas the EU GBS focuses more on the outcomes of the use of proceeds in reporting requirements.
- **Prospectus disclosure regime:** a non-Prospectus Regulation-compliant prospectus can be used to issue an ICMA GBP green bond but a Prospectus Regulation-compliant prospectus is required for a Green Bond (subject to exceptions, for example EEA member states do not need a Prospectus Regulation-compliant prospectus). This requires careful consideration for issuers that typically admit their debt securities to listing and trading on a market which is not an EU "regulated market" but wish to issue Green Bonds.
- **Taxing jurisdictions:** the EU GBS cannot be used by issuers established in non-cooperative jurisdictions for tax purposes. This is not the case for the ICMA GBP.

¹ This was based on the co-legislator provisionally agreed version published in May 2023. There are no substantive changes between the May 2023 version and the October 2023 Council adopted version, save for a helpful clarification regarding external review on the final allocation of financial assets.

² This briefing does not cover securitisation issuances.

³ This briefing refers to Regulation-compliant issuances as "**Green Bonds**".

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	ICMA GREEN BOND PRINCIPLES OR ICMA GBP	EU GREEN BOND REGULATION OR EU GBS
Use of Proceeds	<p>Required</p> <ul style="list-style-type: none"> Issue proceeds (or an equivalent amount) should be utilised for eligible green projects which provide clear environmental benefits, as assessed by the issuer. Eligible green projects categories include (a non-exhaustive list): renewable energy; energy efficiency; pollution prevention and control; environmentally sustainable management of living natural resources and land use; terrestrial and aquatic biodiversity; clean transportation; sustainable water and wastewater management; climate change adaptation; circular economy adapted products, production technologies and processes and green buildings. <p>Recommended</p> <ul style="list-style-type: none"> The ICMA Climate Transition Finance Handbook provides guidance on issuer level disclosures and climate transition strategies which can assist issuers that intend to finance projects implementing a net zero emissions strategy aligned with the goals of the Paris Agreement. Issuers should include details of the share of proceeds used for financing and re-financing, which projects can be re-financed and the expected look-back periods for re-financed projects. Green projects qualify for refinancing provided they are in use, follow the issuer's relevant eligibility criteria at the time of issuance and are still assessed as making a meaningful impact. 	<p>Required</p> <ul style="list-style-type: none"> Prior to maturity issue proceeds must be allocated in full (subject to issuance costs) in accordance with the criteria for economically sustainable economic activities set out in Article 3 of the Taxonomy Regulation (the "Taxonomy Requirements") to one or more of: (i) fixed assets, (ii) certain capital expenditures and operating expenditures (opex must be incurred no more than three years before the issuance of the Green Bond), (iii) financial assets⁵ that were created no more than five years after the issuance of the Green Bond, and/or (iv) assets and expenditure of households (the "gradual approach"). Issuers may also allocate proceeds to a 'portfolio' of fixed assets or financial assets (the "portfolio approach") however, in this case proceeds must be allocated in full on issuance. Sovereigns, federal and municipal entities may also allocate proceeds to the following categories, subject to Taxonomy Requirements: tax relief, subsidies, intermediate consumption, current transfers within a general government, current international cooperation or other types of public expenditure. The Taxonomy Requirements include compliance with the related technical screening criteria ("TSC") which are set out in delegated regulations. Where the TSC are amended prior to allocation of proceeds there is a seven-year period, from the date such amended TSC are applied, for the economic activities to which the proceeds are applied to be aligned with the amended TSC. Up to 15% of the issue proceeds allocated using the gradual approach may be allocated to economic activities that do not comply with the TSC <i>provided</i> all other Taxonomy Requirements are satisfied, although subject to certain other conditions (see Article 5 of the Regulation). Often referred to as the "flexibility pocket".

⁴ There are additional requirements relating to proceeds applied to financial assets.

⁵ Specific rules apply if proceeds are applied in accordance with the portfolio approach or to the issuer's **CapEx plan** (as defined in [Commission Delegated Regulation \(EU\) 2021/2178](#)).

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Project selection	<p>Required</p> <p>Issuers should clearly communicate to investors: (i) the environmental sustainability objectives of the eligible green projects; (ii) the process by which the issuer determines how the projects fit within the eligible green projects categories; and (iii) complementary information on processes by which perceived social and environmental risks associated with the project(s) are identified and managed.</p> <p>Recommended</p> <ul style="list-style-type: none"> • Project selection should be positioned within the issuer's overarching objectives and strategy relating to environmental sustainability. • Information on any alignment of projects with official or market-based taxonomies, related eligibility criteria (including exclusion criteria); and also disclose any green standards or certifications referenced in project selection. 	<p>Required</p> <ul style="list-style-type: none"> • Project selection must align with the requirements under <i>Use of Proceeds</i> above. • A description of the processes by which the issuer will determine how projects align with environmentally sustainable economic activities under the Taxonomy Regulation must be included in the issuer's Factsheet (see <i>Framework Factsheet</i> below). • Information on how the bonds are expected to contribute to the issuer's environmental strategy and the Taxonomy environmental objectives must be included in the issuer's Factsheet (see <i>Framework/Factsheet</i> below).
Management of proceeds	<p>Required</p> <ul style="list-style-type: none"> • Net proceeds (or an equal amount) should be credited to a sub-account, a sub-portfolio or otherwise tracked by the issuer in a formal internal process. During the life of the bond the tracked balance should be adjusted to match allocations to eligible green projects in that period. • Details of temporary placement for unallocated proceeds should be specified. • Proceeds can be managed on a bond-by-bond or aggregated basis. <p>Recommended</p> <ul style="list-style-type: none"> • High degree of transparency. • Issuers should describe the governance process for management of proceeds. • External auditor/third party to verify the internal tracking method and the allocation of funds. 	<p>Required</p> <ul style="list-style-type: none"> • No specific management of proceeds provisions but see <i>Reporting</i> below for details of post-issuance allocation reports that the issuer must prepare. • External reviews are required on allocation reports (see <i>Reporting</i> below).

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Reporting	<p>Required</p> <ul style="list-style-type: none"> Up-to-date information on the use of proceeds to be renewed annually until full allocation, and on a timely basis in case of material developments. Annual report to include a list of projects allocated proceeds, the amounts allocated, and their expected impact. <p>Recommended</p> <ul style="list-style-type: none"> Where there are confidentiality considerations information can be presented in generic terms or on an aggregated portfolio basis. Qualitative performance indicators and, if feasible, quantitative performance measures and key methodology should be disclosed. Where possible issuers should use the guidance and templates provided in ICMA's Harmonised Framework for Impact Reporting. 	<p>Required</p> <ul style="list-style-type: none"> Issuers must prepare post-issuance allocation reports and an impact report. Both the allocation and impact reports must be made publicly available by the issuer. The allocation report must be made public within 270 days of the end of each 12-month period. <p>Allocation reports</p> <ul style="list-style-type: none"> Issuers must prepare allocation reports for every 12-month period (beginning on the issue date) until full allocation of the proceeds and, if applicable, completion of the CapEx plan, to demonstrate that the proceeds have been allocated in accordance with the Regulation (including the applicable TSC see <i>Use of Proceeds</i> above). The allocation report should include progress made on implementation of the issuer's Capex plan and reasons for any delayed implementation (if applicable). When using the portfolio approach the allocation reports must demonstrate that the total value of the assets in the portfolio exceeds the total value of the portfolio of Green Bonds outstanding. The allocation report must include details of any allocation to activities not aligned with the TSC. The allocation report can relate to one or more issuances of Green Bonds. Issuers must use the template in Annex II of the Regulation. External review of allocation reports is mandatory (see <i>External Review</i> below). <p>Impact reports</p> <ul style="list-style-type: none"> An impact report is required following the full allocation of the proceeds. The impact report must include an estimate of the positive and adverse environmental impacts, information on the methodology and assumptions used to evaluate the impacts of projects (if not included in the Factsheet) and any other sustainability or social impacts the issuer wishes to refer to. Impact information should be given project level or, if not, explained. Issuers must use the template in Annex III of the Regulation. External review of impact reports is optional (see <i>External Review</i> below)

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External Review	<p>Recommended</p> <ul style="list-style-type: none"> • Issuers should appoint external reviewer(s) to assess through a pre-issuance external review the alignment of the bond and/or Framework with the core components of GBP. • Post-issuance, management of proceeds should be supplemented by the use of an external auditor/third party to verify internal tracking and allocation of funds. 	<p>Required</p> <ul style="list-style-type: none"> • Mandatory pre-issuance review of Factsheet confirming alignment of the bond proceeds with the Taxonomy Regulation and compliance with Article 4 to 8 of the Regulation. • Mandatory post-issuance review of allocation reports confirming whether the issuer has allocated the proceeds in alignment with Articles 4 to 8 of the Regulation and complied with the intended use of proceeds set out in the Factsheet. • External review is only required on the allocation report prepared after full allocation of the proceeds unless the proceeds are applied on a portfolio approach. In such case an external review is required on each issuer allocation report except where there are no changes in allocation to the portfolio of assets or changes to assets in the portfolio during the period covered by the allocation report. • Optional post-issuance review of impact reports providing an assessment of whether the issuance aligns with the broader environmental strategy of the issuer and the indicated environmental impact of the proceeds. • All external reviews must be prepared in line with and include the information required by template in Annex IV of the Regulation. • All external reviews must be made publicly available. • Sovereign issuers can obtain post-issuance reviews from either an external reviewer or an external reviewer and a state auditor. In the second case (i.e. external reviewer and state auditor) the state auditor should review the allocation of bond proceeds and the external reviewer should confirm if the activities funded by the Green Bond align with the Taxonomy Requirements. • External reviewers will be subject to a new supervisory regime overseen by ESMA.

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Framework / Factsheet	<p>Recommended</p> <ul style="list-style-type: none"> • Issuer should explain the alignment with the core components of the GBP in a Framework or legal documentation. • The Framework should summarise relevant information within the context of the issuer's overarching sustainability strategy. • Use of Climate Transition Finance Handbook when communicating of Paris-aligned transition strategies for project targeting climate change mitigation is encouraged. 	<p>Required</p> <ul style="list-style-type: none"> • Issuers must prepare a pre-issuance green bond factsheet (the "Factsheet") in the form set out in Annex I of the Regulation. • The Factsheet can relate to one or more issuances and must include: <ul style="list-style-type: none"> • information on how the bond will contribute to the issuer's environmental strategy; and if the proceeds will contribute to any Taxonomy Regulation aligned assets, turnover, capex or opex and how the proceeds will contribute to implementation of the issuer's transition plan (if applicable); • details of the intended allocation of proceeds e.g. gradual or portfolio approach; share of proceeds used for financing or re-financing; and details on the activities to which the proceeds will be applied, specifically if transitional or enabling activities or activities related to nuclear energy and fossil gas; • details of allocation to any activities that are not aligned with the TSC; • estimate of timeline for full allocation of Green Bond proceeds; • description of the process by which the issuer will determine alignment of projects with the Taxonomy Regulation; • anticipated environmental impact of the Green Bond; • details on reporting plus links to any CSRD sustainability reports; and • details of any CapEx plan.
Prospectus disclosure	<p>Recommended</p> <ul style="list-style-type: none"> • In terms of general market practice, following ICMA's "four pillar" approach to disclosure will likely lead to a lower degree of scrutiny by the regulators reviewing the relevant prospectus. • While the current Prospectus Regulation does not prescribe green bond disclosure ESMA's July 2023 public statement ("ESMA's statement") should be borne in mind when submitting Prospectus Regulation-compliant prospectuses for review to the relevant National Competent Authority. 	<p>Required</p> <ul style="list-style-type: none"> • Issuers must prepare a Prospectus Regulation-compliant prospectus with the exception of EEA sovereigns, local authorities, the ECB, member state central banks and issues guaranteed by such issuers (i.e. tracking the Prospectus Regulation exemption). • The prospectus should specify that the bond is a "European Green Bond" or "EuGB" issued in accordance with the Regulation (in the Use of Proceeds section). • The prospectus must include (where applicable) a summary of the issuer's CapEx plan. • The Factsheet is not required to be set out or incorporated by reference in the prospectus but it is "regulated information" so an issuer can choose to incorporate by reference into the prospectus. • ESMA's statement will continue to be relevant so far as the Prospectus Regulation regime in its current form continues to apply.

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