Housekeeping

News & Events

• Upcoming Events and Resources:
  • Member Meetup: Taking a Stand on Social Issues
    o October 13th at 3pm EDT
  • November Webinar: Combatting Bias in Grantmaking
    o November 9th at 12pm EDT

To ask questions
Enter a question in the panel at the bottom of the screen

We will record today’s webinar
It will be captioned and archived on our website at ccc.bc.edu/webinars

We want your feedback!
Please respond to the survey in the follow up email.
Panelists

KATHERINE SMITH
Executive Director, Boston College Center for Corporate Citizenship

RICHARD PEARL
Executive Advisor, Boston College Center for Corporate Citizenship
Agenda

- What are the rules (in brief)?
- For what purpose are the rules created?
- What does this mean for me?
Sustainable Investing Goes Mainstream: Morgan Stanley and Bloomberg Survey Finds Sustainable Investing A Business Imperative Among U.S. Asset Managers (selected findings)

**Sustainable Investing Goes Mainstream**
- Three in four U.S. asset managers say their firms now offer sustainable investing strategies, up from 65% in 2016, and agree that sustainable investing is no longer a fad, with 89% saying it is here to stay and 63% expecting it to continue to grow in the next five years.

**A Financial Case for Sustainable Investing**
- 82% think strong ESG practices can lead to higher profitability and that companies with such practices may be better long-term investments.

**Product Types Proliferate, Expanding Investor Choice**
- As more firms embrace sustainable investing strategies, they offer a full spectrum of sustainable investing approaches, with 63% employing more than one strategy (shareholder engagement, restriction screening, ESG integration, thematic investing, and impact investing).

**Expertise, Better Data and Impact Reporting Will Support Customization and Drive Future Success**
- Nearly all (89%) respondents report their firms will devote more resources to sustainable investing in the next two years. Common strategies for developing in-house skills and capacity include employee training (41%), dedicating more employee time (36%) and specialist hires (34%).
- 70 % agree that the industry lacks standard metrics to measure nonfinancial performance of sustainable investments.

Larry Fink, BlackRock portfolio company letter, January 2020

As an asset manager, BlackRock invests on behalf of others, and I am writing to you as an advisor and fiduciary to these clients...people in dozens of countries trying to finance long-term goals like retirement...we have a deep responsibility to institutions and individuals—who are shareholders in your company and thousands of others—to promote long-term value.

Climate change has become a defining factor in companies' long-term prospects. ...Will cities...be able to afford their infrastructure needs as climate risk reshapes the market for municipal bonds? What will happen to the 30-year mortgage—a key building block of finance—if lenders can’t estimate the impact of climate risk over such a long timeline, and if there is no viable market for flood or fire insurance in impacted areas?

Climate Risk Is Investment Risk

As a fiduciary, our responsibility is to help clients navigate this transition. This challenge cannot be solved without a coordinated, international response from governments, aligned with the goals of the Paris Agreement...companies and investors have a meaningful role to play.... That is why BlackRock is signatory to the UN’s Principles for Responsible Investment, and we signed the Vatican’s 2019 statement advocating carbon pricing regimes, which we believe are essential to combating climate change.

BlackRock has been engaging with companies for several years on their progress towards TCFD- and SASB-aligned reporting. This year, we are asking the companies that we invest in on behalf of our clients to: (1) publish a disclosure in line with industry-specific SASB guidelines by year-end, if you have not already done so, or disclose a similar set of data in a way that is relevant to your particular business; and (2) disclose climate-related risks in line with the TCFD’s recommendations...We will use these disclosures and our engagements to ascertain whether companies are properly managing and overseeing these risks within their business and adequately planning for the future. In the absence of robust disclosures, investors, including BlackRock, will increasingly conclude that companies are not adequately managing risk.

We believe that when a company is not effectively addressing a material issue, its directors should be held accountable. Last year BlackRock voted against or withheld votes from 4,800 directors at 2,700 different companies. ...
The Securities and Exchange Commission has sent examination letters to firms as record amounts of money flow into ESG funds. These funds broadly market themselves as trying to invest in companies that pursue strategies to address environmental, social or governance challenges, such as climate change and corporate diversity...

The SEC initiative is based out of the agency’s Los Angeles office, according to a person familiar with the matter. It has focused on advisers’ criteria for determining an investment to be socially responsible and their methodology for applying those criteria and making investments...

One letter the SEC sent earlier this year to an investment manager with ESG offerings asked for a list of the stocks it had recommended to clients, its models for judging which companies are environmentally or socially responsible, and its best- and worst-performing ESG investments, according to a copy of the letter viewed by The Wall Street Journal.

The regulator (asked) whether the adviser followed well-known policies for socially responsible investing, including UNPRI… Investment firms including BlackRock Inc. and Fidelity Investments have signed onto the U.N. framework…The SEC also homed in on proxy voting (and)... asked for proxy voting records and documents that related to how the adviser decided to vote on an ESG issue…Ms. Peirce has criticized ESG for having no enforceable or common meaning.

“While financial reporting benefits from uniform standards developed over centuries, many ESG factors rely on research that is far from settled,” she said in a speech last year to California State University Fullerton’s Center for Corporate Reporting and Governance….
“If adopted, (the rules) would provide investors with consistent, comparable, and decision-useful information for making investment decisions and would provide consistent and clear reporting obligations for issuers.”
What rules?

- **Climate-related disclosures**. Rules proposed on March 21, 2022, mandate certain climate-related disclosures, regardless of materiality considerations, in annual reports and registration statements for all companies with SEC reporting obligations under Securities Exchange Act of 1934 (Exchange Act) Section 13(a) or 15(d) and for companies filing a Securities Act of 1933 (Securities Act) or Exchange Act registration statement. Requirements range from disclosing direct and indirect GHG emissions to sharing climate-related risks, targets or goals, and corporate governance practices to manage such risks. There is a phase-in period for compliance, with the compliance date depending on the company’s filing status.

- **Disclosures by certain investment advisers and investment companies**. Rule proposed, May 25, 2022, applies to registered investment companies, business development companies, registered investment advisers and certain unregistered advisers. It would require funds and advisers engaged in ESG investing to provide more specific disclosures related to their ESG strategies in fund prospectuses, annual reports and adviser brochures. The proposed rule also requires enhanced disclosures by funds using proxy voting or relying on an issuer to implement ESG strategies and an affirmation that compliance policies reasonably ensure that the fund aligns with the strategies outlined in its ESG disclosures.

- **Changes to prevent misleading or deceptive fund names**. To combat concerns about “greenwashing,” a rule proposed on May 25, 2022, requires an ESG fund to invest 80% of its assets in the ESG factor suggested by its name. Funds that consider ESG factors alongside, but not more than, non-ESG factors may not use ESG terms in their name.
Qualitative and quantitative disclosures in a separately titled “Climate-Related Disclosure” section to precede the MD&A. These would include:

- Scope 1, Scope 2, and Scope 3 GHG emissions (if material or a registrant has established a reduction target or goal that includes Scope 3)
- Climate-related risks and opportunities
- Climate risk management processes
- Climate targets and goals
- Governance and oversight of climate-related risks
- Assurance (for some registrants)
How is materiality defined in the new rule?

“if there is substantial likelihood that a reasonable investor would consider it important when determining whether to buy or sell securities or how to vote”

(Proposed Rule, p. 64)
What’s the threshold?

• Disclosures in registration statements and annual financial reports required for climate-related risks that are reasonably likely to have a material impact on a company's business or financial statements.

• **Reasonably likely** means a meaningful chance (but not necessarily a probability) of occurring. Reasonably likely means having the character of being more probable than not, based in reason or experience.
What if we’ve been a voluntary reporter?

Expectations…

• We decide the timing
• We determine the scope of reporting
• We decide which standard to employ
• We determine the method of measurement and accounting

…Versus RULES

• ESG disclosures align with SEC reporting timeline (w/in 90 days)
• GHG accounting must be consistent with definitions and scope of operations outlined in financial statements
• ...or be included as Scope 3
• Assurance required for some companies
• TCFD and GHG Protocol most aligned
Big “G” Governance

Part of the disclosure requirement is a discussion of how the board oversees climate risk. Audit committee involvement is emphasized (pp. 95-96).

Enumerate board members / committees responsible for climate risk oversight
  • Expertise

Processes undertaken by management and the board to be informed of and to discuss climate-related risks

Description of how climate risk is considered within strategy, risk management, & financial investments

How does the board establish targets and oversee progress towards them?
  • Reporting & Assurance
What about the “S”?

This is very centrally a set of rules focused on climate-related risk. However, the core principle of…

“if there is substantial likelihood that a reasonable investor would consider it important when determining whether to buy or sell securities or how to vote”

…applies to human rights risk, labor practices, and matters related to equitable access to products, services, and opportunity. These matters are already commonly included in the risk section of the Management Discussion & Analysis. They should not be overlooked.
## When is this happening?

<table>
<thead>
<tr>
<th>Registrant type</th>
<th>All disclosures (Except Scope 3 GHG emission disclosures)</th>
<th>Scope 3 GHG emission disclosure</th>
<th>Attestation on Scope 1 and Scope 2 GHG emission disclosure</th>
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<tbody>
<tr>
<td>Large accelerated filer</td>
<td>FY 2023 (filed in 2024)</td>
<td>FY 2024 (filed in 2025)</td>
<td>Limited assurance—2024 (filed in 2025) Reasonable assurance—2026 (filed in 2027)</td>
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<td>Accelerated filer</td>
<td>FY 2024 (filed in 2025)</td>
<td>FY 2025 (filed in 2026)</td>
<td>Limited assurance—2025 (filed in 2026) Reasonable assurance—2027 (filed in 2028)</td>
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<td>Nonaccelerated filer</td>
<td>FY 2024 (filed in 2025)</td>
<td>FY 2025 (filed in 2026)</td>
<td>Not required</td>
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Division of Enforcement Climate and ESG Task Force (March 2021)

- Designed to proactively identify ESG-related misconduct – including through the use of data analysis to identify potential violations
- Identify material gaps, misstatements, or omissions in public company disclosure of climate risk
- Review disclosure and compliance issues relating to investment adviser and fund ESG strategies

Division of Examinations ESG Investing Risk Alert (April 2021)

- Observations from recent exams of investment advisers, registered investment companies, and private funds offering ESG products and services
- Focus on whether disclosures are consistent with actual practices
- Portfolio management, advertising and marketing, compliance programs
Examples of Enforcement Actions Related to ESG Issues or Statements

The Climate and ESG Task Force is coordinating the effective use of Division resources, including through the use of sophisticated data analysis to mine and assess information across registrants, to identify potential violations including material gaps or misstatements in issuers’ disclosure of climate risks under existing rules, and disclosure and compliance issues relating to investment advisers’ and funds’ ESG strategies. For more information concerning types of ESG-related enforcement actions filed to-date, please see the below non-exhaustive list of matters:

- International mining company charged with misleading investors, Compass Minerals International (2022)
- Health insurance distributor and former CEO charged with making false statements to investors, Health Insurance Innovations (2022)
- Investment adviser charged for misstatements and omissions concerning ESG considerations, BNY Mellon (2022)
- Brazilian mining company charged with misleading investors, Vale S.A. (2022)
- Robo-adviser charged with misleading clients, Wahed Advisers (2022)
- Fraud involving alternative fuel vehicles, Nikola (2021)
- Sham environmentally-friendly bottling company, ECO Manufacturing (2021)

https://www.sec.gov/spotlight/enforcement-task-force-focused-climate-esg-issues
Regulators & Accounting Standards

SEC

• 2010 (33-9106) Climate risk is business risk
• In March 2022, with the “issuer rule,” the SEC proposed rule amendments that would require public companies to provide certain climate-related financial data, and greenhouse gas emissions insights, in public disclosure filings.
  • Focus on investor protection and “truth in advertising” re: SRI and ESG funds
• 2022 ESG Risk Alert (9 April 2021) Representation to investors of material ESG issue management/ portfolio selection

FASB

• FASB Staff Educational Paper (Intersection of ESG Matters with Financial Accounting Standards (19 March 2021)
  • Refers to SEC 33-9106--an entity may consider the effects of certain material ESG matters…w/ a material direct or indirect effect on financial statements and notes.
• Direct & Indirect intersections of GAAP & ESG:
  • 205-40 Going concern
  • 275 Risks & Uncertainties
  • 330 Inventory
  • 350-20&30 Intangibles
  • 360 Property & Plant
  • 410-20&30 Asset Retirement & Environmental Obligations
  • 740 Tax (credits)
  • 820 FV measurement
  • 900 Industry guidance (various)
Reporting Ecosystem

- Increasing consolidation within the reporting landscape
- Planned connection and compatibility between IFRS Accounting Standards and ISSB Standards (IFRS Sustainability Disclosure Standards)
- ISSB will work off of existing investor-focused reporting initiatives – CDSB, SASB, TCFD, IR (Value Reporting Foundation)

How ISSB fits in with reporting and ESG disclosure frameworks

“The ISSB should be a body that looks at sustainability more generally, really focusing on those factors — which could have a material effect on the value of a company and on its future cash flows.” — IASB Vice Chair Sue Lloyd

Credit: Arleigh Andes
Sources: S&P Global Sustainable1, S&P Global Market Intelligence
Safe Harbors

Multiple references to forward-looking "safe harbors" that would apply to certain aspects of the rule under the Private Securities Litigation Reform Act (PSLRA).

There are limitations:
- Enforcement
- IPO or SPAC
Getting prepared?

- Make sure you have your governance processes in line.
- Get clear on what issues are material to your business.
- Make sure you have the technology and processes to collect and report performance data.
- Get familiar with TCFD and GHG Protocol.
- Make sure you goals and claims (and progress towards them can be validated).
- Don’t forget the “S”, which may represent additional risk and opportunity.
Overview: EU Directive

Directive 2014/95/EU – also called the Non-Financial Reporting Directive (NFRD) – lays down the rules on disclosure of non-financial and diversity information by certain large companies. This directive amends the Accounting Directive 2013/34/EU.

Companies that must comply

- EU rules on non-financial reporting currently apply to large public-interest companies with more than 500 employees. This covers approximately 11,700 large companies and groups across the EU, including:
  - listed companies
  - banks
  - insurance companies
  - other companies designated by national authorities as public-interest entities
Overview: Corporate Sustainability Reporting Directive

Corporate Sustainability Reporting Directive (CSRD)

- On 21 April 2021, the Commission adopted a proposal for a Corporate Sustainability Reporting Directive (CSRD), amends the existing reporting requirements of the NFRD. The proposal extends the scope to all large companies (regardless of whether they are listed) and all companies listed on regulated markets
- requires the audit (assurance) of reported information
- introduces more detailed reporting requirements, and a requirement to report according to mandatory EU sustainability reporting standards
- requires companies to digitally ‘tag’ the reported information, so it is machine readable and feeds into the European single access point envisaged in the capital markets union action plan
Thank You!

A recording of today’s webinar will be available for members to access on the CCC website: www.ccc.bc.edu