12 October 2021

Legal and Regulatory Updates

11/10/2021 – 15/10/2021

Key Highlights

- This Legal & Regulatory Update covers the week commencing **11/10/2021**.
- FRC reviews IAS 37 'Provisions, Contingent Liabilities and Contingent Assets'
- FRC publishes a report that supports companies in the move towards high-quality digital reporting.
- ECB publishes a working paper on Investment funds, risk-taking and monetary policy in the euro area.
- AMF publishes its report on companies and carbon neutrality.
- AMF announced the names of certified training organisations to verify the knowledge of professionals in sustainable finance.
- ICMA to launch GMRA Clause Library and Taxonomy Project.
- ICMA publishes its Quarterly Report.
- FSB publishes its TCFD report on Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures.
- FSB publishes its TCFD Guidance on Metrics, Targets, and Transition Plans.
- FSB publishes its TCFD 2021 Status Report.
- In this update, we also cover some of the most important news on leveraged finance published by the Financial Times during the week.

Bank of England (BoE)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the Bank of England (BoE) released the following speeches, announcements and publications that might be of interest to our readers:

- Is 'crypto' a financial stability risk? – speech by Jon Cunliffe where he looks at the impact of 'crypto' on the stability of the UK's financial system
- Credit Conditions Survey - 2021 Q3 – this quarterly survey of banks and building societies is aimed at improving our understanding of trends and developments in credit conditions
- Minutes of the Artificial Intelligence Public-Private Forum – together with the FCA, we launched the Artificial Intelligence public-private forum, to help us better understand the impact of Artificial Intelligence (AI) and Machine Learning (ML) on financial services
- Letters to credit unions 'PRA annual assessment of the credit union sector' – letters to directors of credit unions regulated by the PRA, providing feedback from the PRA's annual assessment of credit unions
- Implementation of Basel standards: Final rules – Policy Statement 22/21
- Did the Covid-19 local lockdowns reduce business activity? Evidence from UK SMEs – Staff Working Paper No. 943

Financial Conduct Authority (FCA)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the Financial Conduct Authority (FCA) released the following speeches, announcements and publications that might be of interest to our readers:

- Partnerships, priorities and predictions for the future in the pensions market – speech by Sarah Pritchard, Executive Director, Markets, to the Pensions and Lifetime Savings Association
- PS21/13: LIBOR transition and the derivatives trading obligation – FCA has modified the list of derivatives subject to the derivates trading obligation (DTO) in line with Articles 28 and 32 of UK MiFIR.
- Charles Randell to step down as FCA and PSR Chair in Spring 2022 – Charles Randell has asked the Chancellor of the Exchequer to commence the process to appoint his successor as Chair of the Financial Conduct Authority (FCA) and Payment Systems Regulator (PSR). Charles plans to step down in Spring 2022.

Financial Reporting Council (FRC)

14 October 2021: FRC reviews IAS 37 'Provisions, Contingent Liabilities and Contingent Assets'

The Financial Reporting Council (FRC) published the findings of its review into IAS 37 'Provisions, Contingent Liabilities and Contingent Assets', which has been identified as a recurrent problem area by the FRC. Provisions and contingent liabilities reporting are of particular importance to investors owing to the forward-looking information it can provide about a company's exposures. The issues giving rise to provisions and contingent liabilities are often long-term in nature, such as climate change and other environmental obligations, or significant to the assessment of future business performance, for example, onerous contracts and regulatory penalties or compensation. The FRC's review considered how a sample of 20 companies' annual reports had met relevant reporting requirements, identified examples of good practice and outlined its expectations for future disclosures.

The review found scope for improvements in several areas, in particular in:

- explaining how the amounts of expected outflows have been estimated, identifying the key assumptions applied and describing the associated uncertainties;

- disclosing the phasing of outflows companies expect to see as they utilise their provisions; and
- describing the underlying costs for which companies make provisions.

The FRC also encourages companies to disclose entity-specific accounting policies and to provide more quantitative information about contingent liabilities.

11 October 2021: FRC publishes a report that supports companies in the move towards high-quality digital reporting

The FRC's Lab has published a report that supports companies in the move towards high-quality digital reporting. Under the Disclosure Guidance and Transparency Rules, certain companies are required to start producing their 2021 annual financial reports in a structured electronic format. As a result, electronic data for thousands of companies will become available for automatic extraction, analysis and comparison. However, the data will only be useful if it is of high quality. The Lab review of fifty early structured reports found that many reports fell short of the quality that will be expected for companies' official filings. The report sets out key considerations and tips for companies covering:

- how to set up the structured reporting process;
- how to enhance the usability of structured reports; and
- common tagging issues to avoid.

To further support the market, the Lab is organising a short webinar on 7 December that will highlight some of the report findings, regulatory updates and tips for companies.

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the FRC released the following speeches, announcements, and publications that might be of interest to our readers:

- FRC webinar to discuss key findings of recent corporate reporting reviews – The FRC recently published four thematic reviews namely Streamlined Energy and Carbon Reporting; Viability and Going Concern; Alternative Performance Measures (APMs) and IAS 37 'Provisions, Contingent Liabilities and Contingent Assets'. To discuss the findings of these thematic reviews, FRC is inviting participants to attend the webinar on 20th of October. The webinar will be of particular interest to Prepares of corporate reports, Investors and users of accounts and auditors

European Securities and Markets Authority (ESMA)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the European Securities and Markets Authority (ESMA) released the following speeches, announcements, and publications that might be of interest to our readers:

- ESMA Publishes final report for STS synthetic securitisation notifications – ESMA, has submitted its Final Report on technical standards specifying content and format of the STS notification for on-balance sheet securitisations (synthetic securitisations) to the European Commission. The final report on draft RTS and ITS largely reflects the original proposals included in May's consultation paper, considering the feedback received. It aims at ensuring consistency between the STS notification frameworks for traditional and synthetic securitisations.
- Anneli Tuominen speaks at the ESAS Annual ECON Committee hearing – the Interim Chair of the European Securities and Markets Authority, Anneli Tuominen, participated in the annual hearing of the European Parliament's Economic and Monetary Affairs Committee, together with the Chairmen of the European Banking (EBA) and European Occupational Pensions Authority (EIOPA).
- Verena Ross appointed Chair of the European Securities and Markets Authority

European Insurance and Occupational Pensions Authority (EIOPA)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the European Insurance and Occupational Pensions Authority (EIOPA) released the following speeches, announcements, and publications that might be of interest to our readers:

- Supervisory handbook – the supervisory handbook published, recommends good practices to EIOPA's members and observers for the supervision of 'insurance and reinsurance undertakings and groups carrying on life and non-life business
- Cyber risks: what is the impact on the insurance industry? – October is the European cyber security month. As cyber-attacks are a continuing risk for insurers, in this article EIOPA are discussing their incidence in the financial industry as a whole and among insurers in particular, why insurers are on the radar and what are the consequences for insurers and for policyholders
- Hearing of the Economic and Monetary Affairs Committee of the European Parliament – Introductory statement by Petra Hielkema, Chairperson of the European Insurance and Occupational Pensions Authority

European Banking Authority (EBA)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the European Banking Authority (EBA) released the following speeches, announcements, and publications that might be of interest to our readers:

- EBA points to still elevated benchmark rate transition risks – the EBA published a thematic note on the transition risks of benchmark rates as LIBOR (the London Interbank Offered Rate) and EONIA (the Euro Overnight Index Average) - two major benchmark interest rates - are close to being phased out. The note analysis the EU/EEA banking sector's exposure linked to benchmark rates and transition risks relating to interbank offered rates
- Introductory statements at the Committee on Economic and Monetary Affairs (ECON) of the European Parliament – speech by Jose Manuel Campa, Chairperson of the EBA and the Joint Committee of the European Supervisory Authorities
- EBA repeals its Guidelines on the security of internet payments under the former Payments Services Directive (PSD1) – these Guidelines were issued before the revised Payments Services Directive (PSD2) came into force in 2016 and have since then been superseded by the PSD2 and the related EBA instruments developed in support of PSD2

European Central Bank (ECB)

12 October 2021: ECB publishes a working paper on Investment funds, risk-taking and monetary policy in the euro area

The European Central Bank (ECB) published a working paper on Investment funds, risk-taking and monetary policy in the euro area. It examines how euro area investment funds between 2007 and 2019 responded to monetary policy shocks using Bayesian vector auto-regressions. The paper then examines how fund managers respond to monetary policy in terms of asset allocation within funds, focusing on implications for liquidity risk-taking. Finally, it compares the response of both flows and liquidity buffers following long- and short-end yield curve shocks, as a proxy for the response to conventional and unconventional policies. The paper find that expansionary monetary policy is indeed associated with fund inflows.

The response is heterogeneous across asset classes, with riskier asset classes such as high yield funds and corporate bond funds receiving the largest proportional inflows. This suggests that monetary policy is transmitted via the fund sector, with fund investors responding to expansionary monetary policy with clear search for yield behaviour. Results point towards a stronger risk-taking response to unconventional monetary policy tools in terms of fund flows.

The paper provides new insights into the response of fund managers to monetary policy. It finds that across bond funds, expansionary monetary policy is followed by a drop in cash holdings. On one hand, higher risk-taking is an intended consequence of expansionary monetary policy, as increased demand for non-cash assets by fund managers will help ease financing conditions to the real economy. However, this dynamic may give rise to a build-up in liquidity risk over time, leaving the fund sector less resilient to large outflows in the face of a crisis. Indeed, outflows from corporate and high yield bond funds following the outbreak of the coronavirus crisis in Europe exceeded their cash holdings, resulting in forced asset sales which may have amplified the original market shock. These side effects could be addressed through macroprudential tools which limit funds' capacity to take excessive liquidity risk. Given the increasingly important role of investment funds in the transmission of monetary policy in the euro area, policy tools that effectively mitigate the build-up of risks in the fund sector ex-ante could help to not only limit the liquidity risk in individual funds, but also to prevent system-wide liquidity strains. These could include, for instance, minimum liquid asset buffers or restrictions on redemption frequency and minimum redemption notice periods.

In conclusion, the paper examines the transmission of monetary policy via the euro area investment fund sector using a BVAR framework. Finding that expansionary shocks are associated with net inflows and that these are strongest for riskier fund types, reflecting search for yield among euro area investors. Search for yield behaviour by fund managers is also evident, as they shift away from low yielding cash assets following an expansionary shock. While higher risk-taking is an intended consequence of expansionary monetary policy, this dynamic may give rise to a build-up in liquidity risk over time, leaving the fund sector less resilient to large outflows in the face of a crisis

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the ECB released the following speeches, announcements, letters and publications that might be of interest to our readers:

- Euro area securities issues statistics: August 2021
- The contribution of finance to combating climate change – speech by Christine Lagarde, President of the ECB, at the Finance at Countdown event
- IMFC Statement – statement by Christine Lagarde, President of the ECB, at the forty-fourth meeting of the International Monetary and Financial Committee
- Globalisation after the pandemic – 2021 Per Jacobsson Lecture by Christine Lagarde, President of the ECB, at the IMF Annual Meetings
- Hearing at the European Parliament's Economic and Monetary Affairs Committee – Introductory statement by Andrea Enria, Chair of the Supervisory Board of the ECB.
- The monetary policy toolbox and the effective lower bound – welcome address speech by Philip R. Lane, Member of the Executive Board of the ECB, at the ECB Conference on Monetary Policy: bridging science and practice.
- Macroprudential stress test of the euro area banking system amid the coronavirus (COVID-19) pandemic – the macroprudential stress test for 2021-23 aims to provide insights into the resilience of the European banking sector following the coronavirus (COVID19) crisis
- Global models for a global pandemic: the impact of COVID-19 on small euro area economies – Working paper series - No. 2603
- Do inflation expectations improve model-based inflation forecasts? – Working paper series - No. 2604
- Market finance as a spare tyre? Corporate investment and access to bank credit in Europe – Working paper series - No. 2606
- Not all shocks are created equal: assessing heterogeneity in the bank lending channel – Working paper series - No. 2607
- Demand or supply? An empirical exploration of the effects of climate change on the macroeconomy – Working paper series - No. 2608
- The ECB's tracker: nowcasting the press conferences of the ECB – Working paper series - No. 2609
- Estimating the elasticity of consumer prices to the exchange rate: an accounting approach – Working paper series - No. 2610
- Low rates and bank stability: the risk of a tipping point – Research Bulletin no. 88
- The impact of the euro on trade: two decades into monetary union – Occasional paper series - No. 283
- Overview of central banks' in-house credit assessment systems in the euro area – Occasional paper series - No. 284
- ECB Survey of Monetary Analysts (SMA), October 2021

Autorité des Marchés Financiers (AMF)

14 October 2021: AMF publishes its report on companies and carbon neutrality

The Autorité des Marchés Financiers (AMF) published a report on Companies and carbon neutrality: initial conclusions and issues identified. The report of the AMF's Climate and Sustainable Finance Commission sheds light on the carbon neutrality approaches of companies, the actions that result from them, and the way to report on the efforts undertaken. The objective is to accompany companies in the development and implementation of their climate strategy, in particular by identifying good practices.

Created in 2019, the role of this Climate and Sustainable Finance Commission is to help the AMF in its regulatory and supervisory mission on issues related to sustainable finance. This report, which aims to be educational, comes at a time when companies are making numerous commitments to carbon neutrality.

The following good practices are also highlighted by the report:

- a company reports separately on the different actions taken (reduction of emissions, increase in emissions avoided by other actors, increase in carbon sinks, within and outside its value chain) in order to reflect the physical reality of GHG flows and to help assess the results;

- when a company wants to contribute to the increase of carbon sinks, it takes into account the different limits and benefits of the projects considered;
- when a company can contribute to the increase in avoided emissions through the development of low-carbon products and services, it is important to evaluate these avoided emissions in a rigorous and conservative manner;
- companies can also contribute to the collective objective of carbon neutrality by financing projects outside their value chain, subject to quality criteria. This financial contribution can then be seen as a way to increase the level of ambition of companies and should not replace efforts to reduce emissions which remain a priority.

In the interest of transparency, the AMF and the CCFD highlight the importance of the quality of the information provided by companies on their carbon neutrality commitments. In particular, companies must define distinct objectives for each lever for action by 2030 or earlier. The European standardisation work could specify the framework within which companies will communicate their carbon neutrality commitments.

Overall, this working document aims to provide an initial perspective on the carbon neutrality approaches deployed by companies, the resulting measures, and how to report on the efforts undertaken. It has an educational aim, attempting to clarify the terminologies and levers for action, while identifying some good practices. This document is intended both for companies when working out their climate strategy, and investors, when assessing the measures introduced by companies. It does not, however, deal with the methodological issues faced by investors implementing decarbonisation or carbon neutrality strategies for their portfolios.

14 October 2021: AMF announces the names of certified training organisations to verify the knowledge of professionals in sustainable finance

The AMF announced the names of certified training organisations. Acting on a proposal by the Financial Skills Certification Board (HCCP), the AMF has decided to certify four training organisations to organise the new module for verifying the knowledge of professionals in sustainable finance.

One of the main focuses of the AMF's #Supervision2022 strategic plan is providing support to market participants towards more sustainable finance. Last February, the regulator announced that the section of the general examination for AMF certification devoted to sustainable finance would be extended and that a specific, optional module on sustainable finance would be created. At its meeting on 28 September 2021, the AMF Board examined the applications of the first training organisations seeking to organise the optional Sustainable Finance module of the AMF professional certification. The AMF Board decided to grant certification to four training organisations.

Below is the list of organisations certified by the AMF:

- AFG Formation 41, rue de la Bienfaisance 75008 Paris;
- Bärchen Education 56 bis, rue de Châteaudun 75009 Paris;
- First finance 7, rue Beaujon 75008 Paris; and
- Juriscampus Technoparc 10 - 1202 Occitane 31670 Labège

This module is particularly aimed at sales professionals who, from next year, will be required to obtain the environmental, social and governance (ESG) preferences of clients. It is also aimed at anyone wishing to demonstrate knowledge of the institutional and economic framework of sustainable finance, to understand the essential concepts and to acquire an understanding of the products and methodologies used to propose products adapted to client's needs. They may be people working in areas such as financial analysis, marketing, investor relations and communication. The first examinations should take place in early 2022.

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, AMF released the following circulars, speeches, announcements and publications that might be of interest to our readers:

- Economic position of Europe, integration, and reforms – speech by Robert Ophèle, AMF Chairman – OMFIF Conference (Official Monetary and Financial Institutions Forum)
- International Overview of Responsible Investment Communications Practices – this overview provides a review of the responsible investment offerings proposed to private individuals in various European and third countries, as well as of the communications practices of banks regarding these investments

Basel Committee on Banking Supervision (BCBS)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the Basel Committee on Banking Supervision (BCBS) released the following circulars, speeches, announcements and publications that might be of interest to our readers:

- Progress report on adoption of the Basel regulatory framework – the BCBS based on information provided by all Committee member jurisdictions, updated its progress report and sets out the jurisdictional adoption status of Basel III standards as of end-September 2021. It focuses on the status of adoption of all Basel III standards in relation to the internationally agreed time frame, including the Basel III post-crisis reforms published by the Committee in December 2017 and the finalised minimum capital requirements for market risk in January 2019, which will take effect from 1 January 2023. The report shows that over the past year member jurisdictions have made further progress in adopting the Basel III standards despite the disruptions resulting from Covid-19 and the required shift in regulatory and supervisory priorities. It is complemented by a newly developed dashboard to reflect the full history of Basel III implementation and provide an overview of the progress up to date. The dashboard will be updated regularly and is intended to replace the existing report publications
- Randal K Quarles: Goodbye to all that - the end of LIBOR – Speech by the Vice Chair for Supervision of the Board of Governors of the Federal Reserve System, at the Structured Finance Association Conference, Las Vegas, Nevada
- Richard H Clarida: US economic outlook and monetary policy – Speech by the Vice Chair of the Board of Governors of the Federal Reserve System, at the 2021 Institute of International Finance Annual Membership Meeting: Sustainable Economic Growth and Financial Stability in a Diverging, Decarbonizing, Digitizing, Indebted World, Washington, D.C
- Alejandro Díaz de León: Introductory remarks on regulating big tech – remarks by, Governor of Bank of Mexico, at the Bank for International Settlements Conference "Regulating big tech: between financial regulation, anti-trust and data privacy"
- Concepts and models to combat climate change – central banks' contributions – video by Agustín Carstens, finance at countdown, where he talks about how central banks can and will contribute to tackling climate change, but they need to set the right expectations about their contribution

- The BIS 90 Years exhibition podcast – Project Manager and BIS historian Piet Clement and exhibition designer Pablo Berger discuss the BIS 90 Years exhibition set to take place from 26 October – 4 November 2021 in Basel
- Technological capacity and firms' recovery from Covid-19 BIS Working Papers - No 965 – analyses the extent to which better digital and technological infrastructure has helped firms to withstand the Covid-19 recession and adapt to this new environment

International Capital Market Association (ICMA)

13 October 2021: ICMA to launch GMRA Clause Library and Taxonomy Project

The International Capital Markets Association (ICMA) announces the launch of a four-month initiative with global law tech and legal data consulting firm, D2 Legal Technology (D2LT), to develop ICMA's Global Master Repurchase Agreement (GMRA) Clause Taxonomy and Library. This is aimed at standardising and improving efficiencies in the process of negotiating and managing Repurchase ("repo") transaction documentation. The primary objective of the ICMA Clause Taxonomy and Library Project is to build an industry-wide, foundational clause taxonomy that - through digitisation - will further support the association's primary goal of promoting resilient well-functioning international and globally coherent cross-border debt securities markets, essential to fund sustainable economic growth and development.

Once in place, the clause library will help to reduce legal risk by:

- introducing industry validated clauses, which will reduce scope for error and problematic or inconsistent drafting;
- improving the efficiency of negotiations by allowing lawyers and negotiators to focus on the most substantive and consequential clauses and issues;
- allowing for greater visibility in meeting business, regulatory and operational requirements as and when they arise.

Increased standardisation and digitisation will drive more accurate data capture and more efficient repo trade processing, both within firms and across the market. It will also support the development of technology enabled contract delivery solutions which will facilitate more efficient and cost-effective client onboarding. Finally, the adoption of common standards will be a catalyst for the development and adoption of technology by providing clear product and legal specifications for market participants and technology providers to build towards.

12 October 2021: ICMA publishes its Quarterly Report

ICMA published its Quarterly report for the fourth quarter of 2021. This Quarterly Report is produced by ICMA's Market Practice and Regulatory Policy team. The report begins with a foreword from ICMA's new Chief Executive, Bryan Pascoe, and from Martin Scheck, now ICMA's President. The Quarterly Assessment is on the transition from LIBOR: "tough legacy" bonds. There are international capital market features on: the European Commercial Paper market; the CDM for repo and bonds; China's development in green finance; and the road to formulating local guidelines for social bonds in Japan.

The report also covers ICMA's market practice and regulatory policy work in the primary markets, secondary markets, repo and collateral markets, sustainable finance, asset management, FinTech, the transition from LIBOR to risk- free rates, and capital market developments in China.

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the ICMA released the following speeches, announcements and publications that might be of interest to our readers:

- ICMA launches its 2022 scholarship programme – following the successful launch of its first programme in 2021, ICMA is now offering scholarships for 2022 to individuals from a number of countries in Sub-Saharan Africa and Asia-Pacific who are unable to pursue a financial qualification due to their economic circumstances. As part of ICMA's mission to raise standards and support inclusion in financial markets we have extended the number of scholarships available in 2022 from 25 to 35 and have extended their geographic coverage
- Introducing Bryan Pascoe – ICMA's new Chief Executive joined the International Capital Market Association (ICMA) in September following a 28-year career in financial services mostly with HSBC. In this announcement he talks about what he is bringing to the role, the relevance of ICMA's mission particularly at this critical time and his vision for the future
- ICMA webinars on Repo and Markets – ICMA on 13th October released seven short webinars on SFTR updates; ICMA technology directory reviews; Legal update; ERCC ops update; Common domain model for repo and bonds; CSDR mandatory buy-ins and its 41st ERCC European repo market survey, under its Reop and markets webinar series
- ICMA European Repo and Collateral Council (ERCC) General Meeting – the autumn ERCC General Meeting was a great opportunity for anyone with an interest in the European Repo Market to catch up on the latest market developments and related ERCC initiatives. This event featured a combination of keynote addresses, panel discussions, and updates on the main ERCC workstreams, involving a mix of ICMA experts and market practitioners. The discussions covered the latest repo market trends, including the role of repo in sustainable finance, as well as relevant regulatory initiatives, including CSDR settlement discipline and related industry initiatives to support settlement efficiency

International Organisation of Securities Commission (IOSCO)

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the international organisation of Securities Commission (IOSCO) released the following speeches, announcements and publications that might be of interest to our readers:

- IOSCO World Investor Week raises awareness on the importance of investor education for the protection of investors – IOSCO concluded its fifth World Investor Week (WIW) on 10 October, with a strong and enthusiastic participation of supporters around the globe. Some jurisdictions may conduct WIW-related activities during October or November to accommodate the impact of the Covid-19 pandemic on their local markets and investors. The large number of jurisdictions and the diversity of the stakeholders participating in the campaign underscored the growing importance of investor education and protection throughout the world. Moreover, this growth comes against a backdrop of a global pandemic and the increasing digitalization of services and products available to retail investors. In this regard, the key messages of the IOSCO WIW campaign focused on two themes: 1) sustainable finance, and 2) frauds and scams prevention. These messages complement those of previous IOSCO WIW editions regarding online investing, digital learning, and the basics of investing, all of which were reiterated during the 2021 campaign.

Financial Stability Board (FSB)

14 October 2021: FSB publishes its TCFD report on Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures

The Financial Stability Board (FSB) published its TCFD report on Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures. This document updates and supersedes the 2017 Annex "Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures"

As a background, in December 2015, the Financial Stability Board (FSB) established the industry-led Task Force on Climate-related Financial Disclosures (TCFD or Task Force) to develop climate-related disclosures that "could promote more informed investment, credit [or lending], and insurance underwriting decisions" and, in turn, "would enable stakeholders to understand better the concentrations of carbon-related assets in the financial sector and the financial system's exposures to climate-related risks." To fulfil its remit, the Task Force developed a framework with four widely adoptable recommendations on climate-related financial disclosures applicable to organizations across sectors and industries, as described in the Task Force's report—Recommendations of the Task Force on Climate-related Financial Disclosures (2017 report).

An important aspect of this is, their inclusion in organizations' mainstream (i.e., public) annual financial filings. In most G20 jurisdictions, public companies have a legal obligation to disclose material information in their financial filings—including material climate-related information. The Task Force believes climate-related risks and opportunities are or could be material for many organizations; and its report and this document should be useful to organizations in complying with existing disclosure obligations more effectively.

As a result, the Task Force updated the Annex of this document to incorporate content from and references to these additional publications to reflect the evolution of disclosure practices and better support organizations' implementation efforts. It has not modified its four overarching recommendations on Governance, Strategy, Risk Management, and Metrics and Targets or the 11 associated recommended disclosures; however, it has updated the guidance for all sectors and now asks organizations to disclose their GHG emissions independent of a materiality assessment. Importantly, the Task Force recognizes organizations may need time to implement some of these changes, especially in areas where methodologies are being developed or refined and that data availability is limited.

In addition to changes to the guidance, the Task Force made a few additional changes such as:

- Updated Section A.3. Application of Recommendations to encourage all organizations to disclose Scope 1 and Scope 2 GHG emissions independent of an assessment of materiality. 8 The disclosure of Scope 3 GHG emissions is subject to materiality; however, the Task Force encourages organizations to disclose such emissions.
- Removed tables on alignment of the recommendations with other frameworks, as they were originally included primarily to demonstrate the Task Force's use of existing disclosure frameworks in developing its recommendations.9 Since 2017, many climate-related disclosure regimes have aligned with the TCFD recommendations and generally indicate within their frameworks where such alignment exists.
- Removed the illustrative examples of metrics for the four non-financial groups, as work by other frameworks and standard setters provide more detailed guidance on sector-specific metrics and are updated on a regular basis.

To promote more informed investing, lending, and insurance underwriting decisions, the Task Force recommends all financial and non-financial organizations with public debt or equity implement its recommendations. In addition, TCFD believes asset managers and asset owners, including public- and private-sector pension plans, endowments, and foundations, should implement its recommendations. Because climate-related risks and opportunities are relevant for organizations across all sectors, they encourage all organizations to implement these recommendations.

14 October 2021: FSB publishes its TCFD Guidance on Metrics, Targets, and Transition Plans

The FSB published its Task Force on Climate-related Financial Disclosures Guidance on Metrics, Targets, and Transition Plans. The Task Force developed this guidance to support preparers in disclosing decision-useful metrics, targets, and transition plan information and linking those disclosures with estimates of financial impacts.

The Task Force believes it is critical to reinforce the importance of organizations disclosing the actual and potential financial impacts of climate change on their businesses and strategies to support users' assessments, based on the Task Force's findings of its 2021 status report, as well as market and industry developments. In addition, based on feedback through interviews and the Task Force's 2021 public consultation on its Proposed Guidance on Metrics, Targets, and Transition Plans, users were keenly interested in organizations disclosing certain fundamental categories of metrics that are critical inputs for measuring financial risk. Such information will enable users to appropriately assess their investment and lending risks.

The guidance is further organised as follows:

- Scope and Approach: This section outlines the types of organizations addressed in this report, the approach the Task Force took to develop this guidance, as well as some key considerations for preparers.
- Climate-Related Metrics: This section provides information on selecting and disclosing metrics, including the Task Force's view on a set of metrics that all organizations should disclose.
- Climate-Related Targets: This section provides guidance on selecting and disclosing climate-related targets as well as details on the role of scenario analysis in determining targets.
- Transition Plans. This section describes how organizations might include aspects of their transition plans in their climate-related financial disclosures.
- Financial Impacts: This section underscores the way in which climate-related metrics, targets, and information from transition plans provide useful underlying information with which to estimate the actual or potential impact of climate-related issues on an organization's financial performance and position.

14 October 2021: FSB publishes its TCFD 2021 Status Report

The FSB published its Task Force on Climate-related financial disclosures 2021 status report. This report from the Task Force on Climate-related Financial Disclosures (TCFD) is an annual report on TCFD-aligned disclosures by firms.

The status report finds that disclosure of climate-related financial information aligned with the TCFD recommendations has accelerated over the past year, growing by nine percentage points in 2020 compared to four percentage points in 2019 in the prior year and finds that over 50% of firms disclosed their climate-related risks and opportunities.

More specifically, the status report finds that:

- Disclosure increased more between 2019 and 2020 than in any previous year assessed, consistent with global momentum around climate-related reporting. However, significant progress is still needed as an average of only one in three companies reviewed disclosed climate-related information aligned with the TCFD recommendations.
- Companies remain more likely to disclose information on their climate-related risks and opportunities (Strategy a in the TCFD recommendations), than on any other recommended disclosure, with over half of the companies reviewed including such information in their 2020 reports.
- Disclosure of the resilience of companies' strategies under different climate-related scenarios (Strategy c in the TCFD recommendations), although still the least reported recommended disclosure, encouragingly increased from 5% of companies in 2018 to 13% in 2020.
- Although the TCFD recommends disclosure of governance regardless of materiality, the Governance recommendation remains the least disclosed recommendation with the two Governance recommended disclosures the second and third least disclosed.
- Materials and buildings companies now lead on disclosure. The average level of disclosure across the 11 recommended disclosures for fiscal year 2020 was 38% for materials and buildings companies.
- The insurance industry significantly increased its average level of disclosure by 11 percentage points between 2019 and 2020, and now leads all groups by at least 15 percentage points in disclosure of risk management processes (Risk Management b in the TCFD recommendations).
- Europe remains the leading region for disclosures, with average level of reporting across the 11 recommended disclosures from fiscal year 2020 now at half of European companies assessed. European companies have increased their average disclosure by 15 percentage points since 2019, and now disclose 16 percentage points more than the next closest region.

More than 2,600 organisations have expressed their support for the TCFD recommendations, an increase of over a third since the 2020 status report. These supporters include 1,069 financial institutions, responsible for assets of $194 trillion. TCFD supporters span 89 countries and nearly all sectors of the economy, with a combined market capitalization of over $25 trillion — a 99% increase since last year.

The status report further notes that, as support from the private sector has grown, governments around the world have begun to codify aspects of the TCFD recommendations into policy and regulation, using the TCFD's work as a foundation for climate-related reporting requirements. In addition to the support of dozens of regulators and supervisors, Brazil, the European Union, Hong Kong, Japan, New Zealand, Singapore, Switzerland, and the United Kingdom have announced requirements for domestic organizations to report in alignment with the TCFD recommendations. The IFRS Foundation is establishing an International Sustainability Standards Board (ISSB) to develop a baseline global sustainability reporting standard, built from the TCFD framework and the work of an alliance of sustainability standard setters.

The TCFD has also published alongside the 2021 status report two additional documents:

- Guidance on Metrics, Targets, and Transition Plans to support preparers in disclosing decision-useful information and linking those disclosures with estimates of financial impacts; and
- Updates to the implementation guidance on its Recommendations initially published in 2017.

The FSB has asked the TCFD to continue its work to promote and monitor progress in firms' take-up of its recommendations, and publish a further status report in September 2022, reviewing disclosures by companies in their public reporting for 2021.

11 – 15 October 2021: Speeches, Letters & Other Publications

During the week, the FSB released the following speeches, announcements and publications that might be of interest to our readers:

- FSB Chair's letter to G20 Finance Ministers and Central Bank Governors – the letter from the FSB Chair to G20 Finance Ministers and Central Bank Governors ahead of their meeting on 13 October focused on two key areas of the FSB's work on 'Developing a more resilient NBFI sector' and 'Addressing challenges in cross border payments'. They have submitted reports on these to the upcoming G20 meeting.
- Report on Targets for Addressing the Four Challenges of Cross-Border Payments – this report summaries the comments raised in the public consultation for addressing the four challenges of cross-border payments (i.e., cost, speed, transparency, and access) at a global level. It also summarises the specific questions set out in the consultation and provides an overview of the changes made as a result.
- Final Report: Targets for addressing the four challenges of cross-border payments – the Final report sets out global quantitative targets for addressing the challenges of cost, speed, transparency and access faced by cross-border payments. The targets are based on a consideration of the current payment landscape and publicly available data from multiple sources for three market segments: wholesale; retail payments; and remittances. The targets play an important role in defining the ambition of the work of the G20 Roadmap for Enhancing Cross-border Payments. The FSB will publish an interim report in June 2022 on progress in developing the implementation approach.

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In the News

During the week, the Financial Times published the following news that might be of interest to our readers.

- Bond bankers and investors cry foul over rule change
  "Bank compliance officers began asking for clarification from the regulator, the Securities and Exchange Commission, roping in trade associations to get to the bottom of how five decades could have gone by without anyone — bankers or regulators — seemingly being aware that the rule encompassed debt markets."

- The energy sector dilemma for high-yield debt investors
  "Junk energy has returned 82 per cent since the pandemic trough, versus 28 per cent for the Bloomberg US Corporate High-Yield Bond Index. As one of high-yield's largest industries, with a 13 per cent weighting in the sector benchmark, a portfolio manager ignores it at their peril. For comparison, energy is 8 per cent of the investment grade corporate market and about 3 per cent of the S&P 500 index."

- Climate change drives push for greener pensions
  "But, despite this, fewer than half (46 per cent) of the pension plans in Europe and the UK are considering the investment risks posed by climate change, according to a study of 850 retirement schemes across 12 European countries. published last month by Mercer, the consultant. Just 8 per cent of these pension plans, which together oversee assets of €1tn, have so far pledged to reach "net zero" carbon emissions."

- Libor deadline prompts surge in CLO issuance
  "Managers of bonds backed by pools of risky loans to indebted companies are rushing to get deals done before the Libor interest rate benchmark underpinning the market begins to fade away next year."

- Hedge fund manager Hohn steps up campaign over banks' fossil-fuel loans
  "Billionaire hedge fund manager Chris Hohn has stepped up a campaign against the banking industry over its financing of fossil-fuel projects and criticised regulators for "allowing" systemic risk to build as a result."

- UK funds split over disclosing how much 'skin in the game' they have
  "Simon Hillenbrand, Janus's head of UK retail and intermediary, said co-operating with the survey was "a good way of demonstrating our intent" to increase transparency."

- Diversifying your portfolio in a changing world
  "There is a very real risk that central banks miscalculate on rates, not least because there are no economic parallels in history on which to base their assumptions. "

- Regulate us: Big businesses call for government climate rules
  "The Glasgow Financial Alliance for Net Zero (Gfanz), a Mark Carney-led coalition of nearly 300 international financial companies, laid down a number of demands for governments, including the alignment of regulatory frameworks with net zero emissions targets and serious movement on carbon pricing."

- Hohn vs Odey: the hedge fund battle for the planet
  "Yet they have made Chris Hohn's TCI as one of the world's most successful and outspoken hedge funds, with assets under management of close to $40bn, about 10 times the size of Odey Asset Management. While Odey has lost money in five of the six years to 2020 TCI has fared far better, in part thanks to successful activist campaigns that have pushed for deals or large-scale restructurings of companies it has invested in."

- Evergrande bondholders say they have not received $148m interest payments
  "Evergrande bondholders said they had not received interest payments on three offshore bonds ahead of a deadline on Tuesday, as yields on risky Chinese corporate debt traded near decade highs on concerns that a growing number of developers faced default."

- JPMorgan: muted loan growth takes air out of bank sector rally
  "The bull case for banks rests on the notion that rising interest rates and the return of consumer loan activity will help to revive net interest income. Without a pick-up in loan growth, the sector does not look like much of a bargain."

- EU launches largest-ever green bond
  "The €12bn sale of 15-year debt attracted more than €135bn of orders, and marked the largest green bond deal, narrowly eclipsing the UK's £10bn debut last month. The sale comes as Europe continues to battle an energy crunch, serving to illustrate a growing need for diverse and renewable sources of power."

- Investors need to dig deeper into climate conundrum
  "These votes present a conundrum for companies. They are, in some cases, being asked to answer close-to-impossible questions, particularly in sectors where emissions are hard to remove or abate. They need to set out not only how they're going to get their own emissions to net zero, but their suppliers' and customers' too. And it's the customers — so-called Scope 3 emissions — that are proving the trickiest bit."

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- Bond funds wrestle with human rights dilemma
  "Patrick Scheideler, co-founder of MultiLynq, a fixed-income trading platform, says the question over Egypt's green bond was not straightforward and that the lack of attractive returns elsewhere "probably makes it an even more difficult issue to tackle" for yield-hungry fund managers."
- Sustainable investment 'rebooting' Europe's private markets, research finds
  "The rise in demand for sustainable investments is driving a "structural reboot" of private market investing in Europe, with environmental, social and governance funds on track to account for up to two-fifths of the industry's assets in just a few years. "
- Companies need to plan, not panic, over threat of end to cheap debt
  "Soren Willemann, head of European credit strategy at Barclays, says companies had taken advantage of record-low yields and termed out debt with longer maturity profiles than normal — so they had little need to issue even longer bonds. He also notes that, historically, finance directors needed more to worry about than a risk that money may be more expensive later."
- Squeeze on 'greenium' as ESG bond investors demand more value
  "Measuring greeniums — the difference in yield between green bonds and ordinary bonds of a similar maturity — is difficult to do precisely, as most green bonds coming to market do not have a conventional peer. But figures from the Association for Financial Markets in Europe suggest greeniums are shrinking in Europe's corporate bond market — one of the more advanced markets for green issuance."
- Investor scepticism on ESG points to a maturing market
  "Regulators are starting to act. For example, through the EU's Sustainable Finance Disclosure Regulation (SFDR), asset managers must meet tough standards if they want to market a fund as a sustainable product. And, in the US, heightened scrutiny is coming from the SEC which, in April, issued a risk alert highlighting the dangers to investors of poor definitions of ESG."
- 'Super-low ambitions' for COP15 spell bad news for biodiversity
  "In the pact, known as the Aichi Declaration, global governments promised to put an overdue end to humanity's destruction of natural habitats. The agreement laid down 20 far-reaching targets to be reached within a decade: all fish would be harvested sustainably, for example, and the extinction of species would be halted."
- Boards face growing pressure from ESG petitions
  "And data provider Morningstar has calculated that the average level of shareholder support for all environmental and social petitions increased to a record 34 per cent in the 12 months to July 2021. Diversity, equity and inclusion resolutions won an average of 43 per cent backing and nine petitions passed."
- Regulators put ESG fund names under the microscope
  "This surge in ESG branding has attracted the attention of the Securities and Exchange Commission, the US financial regulator, which has indicated that it will not tolerate "greenwashing" — the practice of embellishing or misrepresenting an investment product's ESG characteristics."
- Calls to action on ESG boost demand for legal expertise
  "Clients are increasingly focusing not only on their own net-zero commitments but how those interplays with the customers and suppliers," say Anna-Marie Slot, global ESG and sustainability partner at Ashurst."
- Legal eye for detail will help battle sustainable finance 'greenwash'
  "While ESG language is already included in the eligibility criteria of some CLOs, this one was structured so that the status of each asset in the CLO was assessed before it was acquired and will be subject to due diligence throughout the life of the deal."
- Does it pay to steer clear of sin stocks?
  "A New York University review of more than 1,000 recent studies looking at ESG metrics and financial performance offers support for the first contention. Some 58 per cent of studies found a positive correlation between ESG measures and corporate financial performance, while 33 per cent of studies identified a positive correlation between ESG and the investment performance of related funds, portfolios and indices."
- Fink warns rushing green energy transition could fuel hyperinflation
  The chief of the world's largest asset manager warned that the recent surge in energy prices was "leading to hyperinflation" as supply has been restricted from a cut back in the exploration of hydrocarbons. A big risk facing countries was that the green transition would be too fast, with consumers paying more for heating and energy use.
- News updates from October 13: US inflation jumps
  "BlackRock's assets under management retreated but remained near an industry peak of $9.5tn, while revenues rose from client demand for actively managed and sustainable funds during a volatile quarter for financial markets."
- BoE bans MPC members from having private meetings with bankers
  "The results of the BoE's next MPC meeting will be published on November 4. Financial markets do not expect the BoE to raise interest rates from the current historic low of 0.1 per cent at that meeting, but increasingly believe that a rise to 0.25 per cent is possible at the December meeting."

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- Investors crank up bets on UK interest rate rises
  "Investors expect the Bank of England to increase rates in December for the first time since the Covid-19 crisis after policymakers sounded the alarm over inflation, pushing UK government bond yields to their highest level in two-and-a-half years."
- Biden paves way for ESG retirement funds in reversal from Trump
  "The proposal comes ahead of the COP26 climate meeting in Glasgow next month, where President Joe Biden will be under pressure to demonstrate the US is a leader in fighting climate change."
- Emerging market bonds fall victim to fickle sentiment
  "While some regard emerging market bonds as punchy play in the often-stolid world of fixed income investing, others see the field as all too dependent on fickle sentiment."

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Regulators and Associations Monitored

1. **FCA**
2. **BoE**
3. **The Pensions Regulator**
4. **FRC**
5. **ESMA**
6. **EBA**
7. **EIOPA**
8. **ESRB**
9. **ECB**
10. **European Commission**
11. **BCBS**
12. **Autorité des Marchés Financiers (AMF) of France**
13. **CSSF**
14. **FINMA**
15. **CBI**
16. **ICMA**
17. **IOSCO**
18. **FSB**

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