WHITEPAPER | REGULATION

Global Fund Management Regulatory Outlook 2024

FUND MANAGERS | FUND DISTRIBUTORS

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Contents

Executive Summary

Corporate and sustainable disclosures have become indispensable in today's ever-evolving global fund management landscape. These disclosures are instrumental in establishing transparency and accountability, bridging the gap between global economies, firms and funds. However, the pace of development and change varies greatly among players in the field. While some boldly lead the way, others prefer to take a wait and see approach before taking action.

Highlights

- The latest developments in sustainable taxonomies
- The challenges and opportunities of sustainable disclosures
- Regulatory responses to greenwashing and fund labelling
- The evolution of corporate sustainability disclosures
- The future of pre-contractual disclosures such as PRIIPs

This year's FE fundinfo Global Fund Management Regulatory Outlook takes a look at the different stages and approaches of regulatory development and change across Europe, the United Kingdom, Australia, Singapore and Hong Kong, and draws out the importance of interoperability and harmonisation for cross-border sustainable investment flows.

As ever, given the expected understanding of intricacies and nuances, the need for standardised definitions, transparent methodologies and a shared understanding of industry best practices is increasingly apparent. However, what is most promising is the open discourse between the regulatory authorities and the industry's collective willingness to commit to transparency and sustainable financial practices.

> Corporate and sustainable disclosures will take the limelight in 2024.

Sustainable Taxonomies

A sustainable finance taxonomy is a set of definitions of economic activities and assets that contribute to key sustainability objectives, primarily focussed on channelling public and private capital towards sustainable investments. Economies around the world are at vastly different stages of taxonomy development. The European Union leads the way having introduced their Taxonomy Regulation in 2020, and is regarded as a standard for reference as other jurisdictions seek to establish their own frameworks.

In this chapter, we cover the latest developments in the taxonomies across Europe, the United Kingdom, Australia, Singapore and Hong Kong.

European (EU) Taxonomy Regulation

In June 2020, the Taxonomy Regulation (EU/2020/852) was published to operate alongside the Sustainable Finance Disclosure Regulation (SFDR).

The Regulation set out six environmental objectives:

1. Climate change mitigation;
2. Climate change adaptation;
3. The sustainable use and protection of water and marine resources;
4. The transition to a circular economy;
5. Pollution prevention and control;
6. The protection and restoration of biodiversity and ecosystems.

Key Dates

Date	Event
June 2020	EU/2020/852 Taxonomy Regulation published, to sit alongside EU/2019/2088 (Sustainable Finance Disclosure Regulation (SFDR))
June 2021	EU/2021/2139 Climate Delegated Act published for first two environmental objectives in Taxonomy Regulation. Subsequent amendments for the inclusion of natural gas and nuclear power.
Ongoing	Further EU delegated acts for the four other environmental objectives – water and marine resources; transition to a circular economy; pollution prevention and control; and biodiversity and ecosystems

The Regulation also determined that, for an economic activity to be accepted as environmentally sustainable, it would need to make a substantial contribution to one or more of these objectives, do no significant harm to any others and adopt good governance policies.

In June 2021 – shortly after the SFDR came into force – the first Climate Delegated Act was published, with the technical screening criteria for the first two environmental objectives. These screening criteria set out the hurdles for each economic activity to determine whether it would qualify as environmentally sustainable.

During 2022, the European Commission caused controversy when it floated the possibility of nuclear power generation and some forms of natural gas production being added to the taxonomy as environmentally sustainable. Although some EU member states favoured one, but not the other, the proposal was passed into law and the SFDR pre-contractual disclosure templates were amended shortly after their introduction at the start of 2023 to incorporate these changes.

At the time of writing, we are waiting for further climate delegated acts to determine the criteria for the remaining four environmental objectives.

United Kingdom (UK) Green Taxonomy

With the Green Taxonomy Advisory Group (GTAG) set up in June 2021, the UK Green taxonomy was anticipated by the end of 2022. However, a consultation on it is currently expected by the end of 2023.

Key Dates

Date	Event
June 2021	UK's Green Taxonomy Advisory Group (GTAG) established to advise the government on development of the UK Green taxonomy. Plan was to publish the taxonomy by end 2022
End 2023	Expected consultation on UK Green Taxonomy

Australian (AU) Taxonomy

Development of an Australian taxonomy was led by a scoping project in early 2022 followed by the release of a framing paper in December 2022. Led by the Australian Sustainable Finance Institute (ASFI), the development of the taxonomy is part of a broader Government Sustainable Finance Strategy.

Key Dates

Date	Event
July 2023	ASFI commences development of the Australian sustainable finance taxonomy in partnership with Australian Government
Mid-late 2024	Australian sustainable finance taxonomy to finalise initial development phase on key economic sectors

The taxonomy's initial development phase is expected to run for 12 to 18 months, including the creation of climate mitigation technical screening criteria for priority sectors and associated technical work on data requirements, the methodology for incorporating transitional activities, Minimum Social Safeguards and a Do No Significant Harm framework.

The first three priority sectors for taxonomy development are: Electricity generation and supply; Minerals, mining and metals; and Construction and the built environment. Contingent on additional resourcing, up to three of the following additional priority sectors could be developed over an 18-month period: manufacturing/industry; transport; and agriculture.

In addition to the taxonomy, the government's sustainable finance policy agenda includes the development of a mandatory climate disclosure framework, a sovereign green bond program, measures to address greenwashing, and elevating Australia's international engagement on sustainable finance.

As we have observed previously, the governments agenda echoes developments in the UK, EU and elsewhere. The ASFI has noted its intention to closely collaborate with those responsible for developing taxonomies in other jurisdictions, including the EU, Canada, ASEAN and Singapore to align frameworks and criteria as much as possible to foster interoperability.

INTEROPERABILITY: A fine balance between harmonisation and localisation

Interoperability is a crucial principle for taxonomy development.

It ensures that taxonomies can align with other global taxonomies, facilitating cross-border sustainable investment flows. Finding the right balance between harmonisation and localisation is a key challenge, with harmonisation aligning taxonomies with international objectives and localisation adapting them to local contexts.

While jurisdictions are actively seeking closer collaboration to reduce fragmentation, an understanding of specific taxonomies and the evolution of them, considering how vast and varied the pace of development is at present, are integral to the manufacture and distribution of funds in a fast-moving and global context.

Singapore (SG) Green Taxonomy

After four rounds of industry consultation, the Monetary Authority of Singapore (MAS) launched the Singapore-Asia Taxonomy for Sustainable Finance on 3 December 2023.

The Taxonomy sets out thresholds and criteria for defining green and transition activities that contribute to climate change mitigation across eight focus sectors: energy, real estate, transportation, agriculture and forestry or land use, industrial, information and communications technology, waste and circular economy, and carbon capture and sequestration.

Singapore's Taxonomy appears to be the first to introduce a "transition" category, with a traffic light system utilising Green, Amber (transition) and Ineligible activities across the eight sectors as follows:

- **Green** – activities that contribute substantially to climate change mitigation by operating at near zero emissions, or are on a 1.5°C aligned pathway;
- **Amber** – activities not yet on a 1.5°C pathway, but are either;
  - moving towards a green transition pathway within a defined timeframe, or;
  - facilitating significant emissions reductions in the short term with a prescribed sunset date.
- **Ineligible activities** – those not currently eligible, being:
  - activities not complying with Green or Amber criteria (i.e. not currently compatible with a 1.5°C aligned trajectory); or
  - directly unsustainable activities – those incompatible with a 1.5°C aligned pathway and will need to be phased out if emissions cannot be reduced.

The taxonomy also introduces a "measures-based approach" aimed at facilitating a sustainable transition by encouraging investment into decarbonization measures supporting emissions reductions to meet green criteria over time.

While past consultations sought views on including Do No Significant Harm (DNSH) criteria, these will now be proposed in a separate chapter. While pushing back a DNSH inclusion may been seen as unfortunate, the Taxonomy does also include a framework to phase-out coal-fired power plants.

The application of the Taxonomy across financial markets as well as its voluntary or mandatory status has not yet been decided. MAS has indicated that further work will be provided on:

- the mandatory/voluntary nature of the Taxonomy
- use of the Taxonomy in disclosure guidance & regulation
- use of the Taxonomy in debt financing
- expectations on frequency of reporting and compliance

To enhance interoperability with global taxonomies, MAS has commenced mapping with the International Platform for Sustainable Finance Common Ground Taxonomy (CGT), which currently covers the EU Taxonomy and China's Green Bond Endorsed Project Catalogue.

Hong Kong (HK) Green Taxonomy

In May 2023, the Hong Kong Monetary Authority (HKMA) released a discussion paper titled "Prototype of a Green Classification Framework for Hong Kong" regarding development of a green taxonomy for Hong Kong. The HKMA are aiming to develop the taxonomy to enable interoperability with other major regional taxonomies and as such has based their work on the Common Ground Taxonomy, being the taxonomy developed by the International Platform on Sustainable Finance which identifies common ground or areas of convergence between the green/ESG taxonomies in the EU and China.

The Framework is intended to consistently define "green" and "environmentally sustainable" activities and as such will be important for use across a wide range of stakeholders including fund managers, regulators and investors.

It will be based on the following five core principles:

1. alignment with the Paris Agreement;
2. a proof from greenwashing;
3. interoperability with other taxonomies;
4. science-based criteria and thresholds; and
5. foundations of Do No Significant Harm (DNSH) and Social Safeguards.

The proposed prototype of the Hong Kong taxonomy will be delivered in phases across four initial sectors;

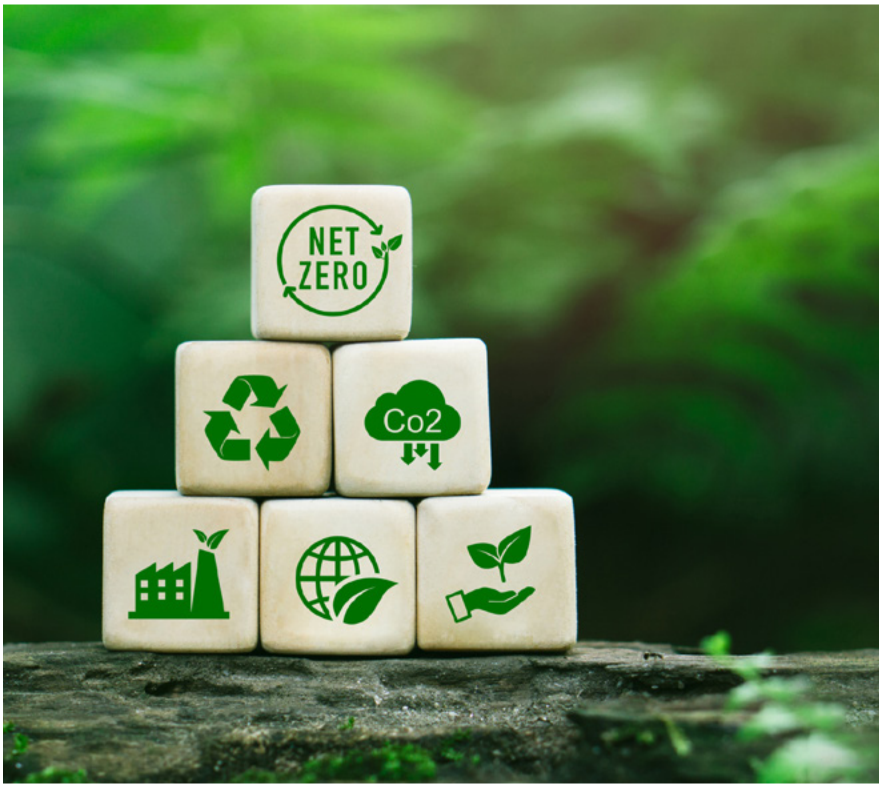
1. Electricity, Gas, Steam and Air Conditioning Supply;
2. Transportation and Storage;
3. Water supply; sewerage, waste management and remediation activities;
4. Construction.

In addition, the Prototype aims to provide three layers of 'depth' regarding green definitions taking into account the complexity of Prototype activities and local circumstances. The three layers are:

- **Layer 1**: mapping activities to standard industrial classification codes and classifications;
- **Layer 2**: identifying key metrics based on existing global guidance and other national or regional taxonomies; and
- **Layer 3**: proposing technical screening criteria that can be applied to an activity.

The HKMA consultation ended on 30 June 2023 with recommendations on next steps expected to be delivered early in the second half 2023.

Sustainable Disclosures including Greenwashing & Fund Labelling



Managing a myriad of sustainability disclosure regimes is a primary challenge for firms.

While sustainability taxonomies aim to define economic activities that are considered to be environmentally sustainable, sustainable disclosures are in place to ensure disclosures and regulatory compliance from market participants that align with the underlying taxonomy. Again, the EU leads the way in the development of its SFDR, while the UK just managed to publish its final rules for the Sustainability Disclosure Requirements (SDR) at the end of 2023. Australia on the other hand is poised to be one of the first to market to formally mandate and implement disclosures based on the International Sustainable Standards Board (ISSB) global baseline for sustainability reporting.

Meanwhile, the UK green taxonomy, which had been expected by the end of 2022, is now due for consultation by the end of 2023. To keep abreast of regulatory changes, sign up to FE fundinfo's blog here.

UK Sustainability Disclosure Requirements and Investment Labels

After having received around 240 responses to its consultation paper CP22/20 on SDR and Investment Labels, the FCA published its 212-page Policy Statement PS23/16 on 28 November 2023.

Key Dates

Date	Event
November 2021	FCA DP21/4 on SDR and investment labels published. Discussion closed 7 January 2022
October 2022	FCA CP22/20 on SDR and investment labels published. Consultation closed 25 January 2023, with policy statement and final rules due by 30 June 2023, delayed to Q3 2023 and then Q4 2023
November 2023	Publication of the SDR final rules and consultation opens for guidance on the anti-greenwashing rule, which will apply from 31 May 2024
26 January 2024	Deadline for FCA consultation on its guidance for the anti-greenwashing rule
31 July 2024	• Firms may start to use fund labels. When they do, they must apply the naming and marketing rules and make the consumer-facing and pre-contractual disclosures • Platforms must include the relevant notice for overseas funds
2 December 2024	• Distributors must include the relevant notice for overseas funds • Deadline for funds using sustainability-related terms in their name and/or marketing to produce consumer-facing and pre-contractual disclosures
H2 2025	Ongoing product-level disclosures must be produced (1 year after first pre-contractual disclosures)
2 December 2025	• First on-demand product-level disclosures may be required by eligible clients • First entity-level disclosures for firms with >£50 billion assets under management
2 December 2026	First entity-level disclosures for firms with £5 billion to £50 billion assets under management

The most obvious difference to what was originally proposed is that there will be four investment fund labels, instead of three. The same three labels will remain (but they now use the term "sustainability" instead of "sustainable") while the new label, Sustainability Mixed Goals, is primarily for funds that straddle the existing categories of Sustainability Impact, Sustainability Focus or Sustainability Improvers.

Visually, the FCA has reinforced its line that no category is greener than any other by making the actual labels all monochrome. And, as before, the labels are optional, with no obligation on funds to adopt them.

The four investment labels

Sustainability Impact

Funds investing mainly in sustainable assets

Sustainability Focus

Funds investing in companies with a credible transition plan

Sustainability Improvers

Funds that make a contribution to a positive environmental or social outcome

Sustainability Mixed Goals

No specific qualification criteria but straddle the existing categories

Qualifying criteria

To qualify for a label, a fund must have a sustainability objective in addition to its financial objective, and an investment policy and strategy that refer to a "robust, evidence-based standard" that is an absolute measure of environmental and/or social sustainability. Firms must:

- determine the KPIs they will use to measure the progress at a fund or underlying asset level;
- have appropriate resources and governance procedures to manage the delivery of the sustainability objective; and also
- describe the stewardship strategy (and escalation plan) they will adopt to support delivery of the objective.

All funds using the labels are subject to a minimum threshold of 70% of the assets meeting the sustainability objective of the label. Any assets outside this must not conflict with the stated sustainability objective, as they are expected to be used for liquidity or risk management purposes.

The FCA is not restricting what funds may invest in and has removed the need to disclose any "unexpected investments", but funds will need to explain any assets held for reasons other than to meet the sustainability objectives, as well as any specific exclusions.

All labels require assessment to confirm that the standard adopted is fit for purpose. This assessment may be conducted internally or externally but must be independent of the investment management process. Firms must review their use of a label at least annually and consider whether, given the sustainability of the assets or their progress towards a target, the fund should continue to use the label.

Specific criteria for each of the labels include:

- **Sustainability Focus** – thematic investment will not, in itself, be sufficient to qualify for this label, but it may be used as long as the sustainability objective is to invest in assets that are environmentally and/or socially sustainable
- **Sustainability Improvers** – this should not be seen as a "catch-all" label, but funds must aim to invest in assets with the potential to improve and meet a standard of sustainability. They must set a time period for either the fund or its assets to meet the standard and set short- and medium-term targets. The FCA does not specify how funds should treat assets once they have met their target.
- **Sustainability Impact** – the requirements to invest new capital or to address market failures or underserved markets have been removed. The impact must be based on a theory of change and can be at the fund or underlying asset level. The escalation plan for assets not meeting their impact targets does not need to include divestment.

There are no specific qualification criteria for Sustainability Mixed Goals funds, but the assets must meet the criteria of each of the other labels and funds must disclose the percentage of assets that meet each of those labels.

> All labels require assessment to confirm that the standard adopted is fit for purpose.

Naming and marketing rules

Funds marketing to retail investors that do not qualify for a label but have sustainability characteristics may, after all, be able to use sustainability-related terms, but they must ensure they accurately describe those characteristics. Unlabelled funds using such terms must produce a statement clarifying that it does not have a label and why.

The exception to this relaxation is that only labelled funds may use the words "sustainable" or "sustainability", and only funds with the Sustainability Impact label may use "impact" in their names.

All firms must comply with the **anti-greenwashing** rule, which takes effect at the end of May 2024, but firms may use terms in factual, non-promotional statements about a product or to describe specific aspects, such as in macroeconomic commentary.

As with all the rules in the policy statement, these apply only to UK authorised firms and funds, and the FCA is working with HM Treasury on what to do about overseas funds sold into the UK.

All firms must comply with the anti-greenwashing rule, which take effect at the end of May 2024.

Disclosures

There are three different disclosures that funds must make if they adopt a label or use sustainability terms in their names or in marketing and there are also entity-level disclosures.

Type of disclosure	Description
Consumer-facing	Funds with no sustainability term in their name or marketing do not have to produce these standalone disclosures, which must be prominently displayed online alongside other key information. The FCA is not prescribing a template, but when printed, it must be no longer than two pages.
Pre-contractual	These must be in the prospectus or prior disclosure document or, where neither of these exists, form "Part A" of a sustainability product report. While these do not need to be updated annually, they should be updated without delay if the fund changes or ceases to use a label.
Ongoing	These make up "Part B" of a sustainability product report and may cross-reference to other relevant information. These must disclose information associated with the criteria of the labels, where applicable, as well the metrics or KPIs used and describe progress towards a target.
Entity-level	Based on the four pillars of the TCFD recommendations, firms must disclose their governance, strategy, risk management and metrics and targets around managing sustainability-related risks and opportunities. They must also disclose their impact on the environment and/or society based on the Global Reporting Initiative (GRI) standards. As with the TCFD-aligned disclosures, these disclosures will be implemented in a staggered fashion, depending on firms' assets under management. Firms with sustainable funds (whether labelled or using terms in their names or marketing) must disclose details of their resources and governance arrangements.

Financial advisers and platforms

While the FCA acknowledges the important role played by advisers in presenting sustainability information to retail investors and helping them make the right investment choices, there are no specific rules aimed at them at this stage.

Instead, the FCA will set up an independent working group to help it build on the rules and determine how these rules and fund labels and disclosures support them in their role.

In the meantime, advisers and platforms must ensure that the labels and disclosures are made available to investors.

Platforms must also place a notice on all overseas funds made available to retail investors in the UK to make it clear that they are out of scope of the UK's labelling and disclosure requirements.

Implementation timeline

First to take effect will be the anti-greenwashing rule, which comes in on 31 May 2024. Until 26 January 2024, the FCA is consulting, through GC23/3, on the guidance around that rule.

Firms may start to use the investment labels on their funds from 31 July 2024 and, if they do, they must make the necessary consumer-facing and pre-contractual disclosures and apply the naming and marketing rules from then. The naming and marketing rules apply to others from 2 December 2024, by when funds with sustainability-related terms but no labels must publish consumer-facing and pre-contractual disclosures. The ongoing product-level disclosures must be published a year after the first pre-contractual disclosures, i.e. between 31 July and 2 December 2025. Eligible clients may also request on demand ongoing product-level disclosures from 2 December 2025.

2 December 2025 is also the deadline for the first entity-level disclosures, for those firms with more than £50bn in assets under management. Firms with between £5bn and £50bn follow a year later, on 2 December 2026.

Click here to download the implementation timeline.

EU Sustainable Finance Disclosure Regulation

The SFDR was published at the end of 2019 and came into effect in March 2021, but the intervening 15 months were not enough to agree a set of technical standards governing the prescribed nature of the pre-contractual or website reports required under Articles 6, 8, 9 and 10 of the Regulation.

Key Dates

Date	Event
November 2019	SFDR published
October 2020	European Commission confirms that the SFDR will go live in March 2021 without regulatory technical standards (RTS)
March 2021	SFDR went live without RTS
January 2023	Live date for SFDR RTS, with Principal Adverse Impact (PAI), pre-contractual and periodic disclosure templates for Article 8 and 9 products
September 2023	Targeted consultation on changes to the SFDR, including possible EU-wide product sustainability labels. Consultation open to 15 December 2023

Firms needed initially to make disclosures in line with the SFDR without any additional instructions about what those disclosures should look like or what exactly they should contain.

Various attempts to "clarify" what was required by the SFDR only led to confusion, with a large number of funds being reclassified from "Article 9" to "Article 8", only for the European Commission to issue further statements that meant that had not been necessary after all.

At the heart of the confusion is the definition of what constitutes a "sustainable investment" and the minimum levels required for Article 8 and 9 funds.

> The SFDR was never intended to be the de facto classification system for sustainable funds that it has become.

The European Commission in late 2023 issued two consultation papers – a high-level one for the wider public and a more detailed one targeting firms implementing the SFDR – which asked whether the SFDR should actually become a fund classification regime. The consultation suggested using either the Article 8 and 9 branding or a new set of labels that look very similar to those proposed by the UK's FCA, but with the possible addition of a category of funds that apply exclusion policies.

The Commission's consultation closed on 15 December 2023 and it will be interesting to see how similar the final version is to the UK's SDR labelling regime.

Swiss Climate Scores

In June 2022, the Federal Council in Switzerland launched its Swiss Climate Scores for investment funds and portfolios as part of its plan to position the country as a leader in "credible climate transparency".

While the scores are voluntary, the hope is that they will get enough traction to become the default set of indicators through which investors can check a fund's transition to net zero and alignment with the Paris Climate Agreement.

The scores are made up of six elements, the first two showing the current state of the portfolio and the others identifying its transition to net zero:

- Greenhouse Gas Emissions, both intensity (per million CHF of revenue) and footprint (per million CHF invested);
- Exposure to fossil fuel activities, as a percentage of the fund or portfolio;
- Global warming alignment, illustrating what temperature rise the global economy would achieve if it matched the portfolio;
- Verified commitments to net zero, showing the percentage of the companies in the portfolio with genuine net-zero commitments and interim targets;
- Credible climate stewardship, identifying whether companies in the fund are part of an active stewardship strategy in respect of climate change; and
- Management to net zero, setting out the path to net zero in the fund's investment strategy.

At the start of the scheme, the authorities indicated the uncertainty to which each of these elements (apart from the last) is subject in their calculations, with the global warming alignment having a high level of uncertainty, and exposure to fossil fuel activities and verified commitments to net zero at the low end.

The Swiss Climate Scores take a different approach from the EU's disclosures under the Sustainable Finance Disclosure Regulation (SFDR), as they are designed to do more than show the current degree of alignment with the taxonomy or the percentage of the portfolio in sustainable assets. They aim to be forward-looking indicators, showing the extent to which the portfolio is on track to meet the target of net zero emissions by 2050 and meet the Paris Agreement goals.

None of the six elements in the scores, or the metrics behind them, should come as a shock, as the Swiss are not looking to create a whole new set of metrics to add to the ESG indicators already out there. Most of the data is based on the Glasgow Financial Alliance for Net Zero (GFANZ) and the Taskforce for Climate-related Financial Disclosures (TCFD).

However, the Swiss believe the way in which the metrics are combined into their scores takes them a step further in terms of their alignment with the Paris Agreement.

There is no obligation on funds to publish these scores, but the Federal Department of Finance is hoping that groups will "seize this opportunity and take a leading role in climate transparency", with the added goal of expanding the country's competitiveness in finance, creating new jobs and generating value added.

As a voluntary disclosure, the early adopters of the Swiss Climate Scores are poised to establish a market trend and standard in Switzerland. However, concerns linger regarding the expectation of a version 1.1 while many are still grappling with the initial implementation. In the long run, an evolution of the Swiss Climate Scores is desired, especially in terms of integrating additional asset classes and aligning with recommendations from the ASIP.

In early December 2023, The Federal Council introduced a number of changes to further improve climate transparency with version 1.1, including a number of additional questions addressing climate targets and fund objectives. Furthermore, clear eligibility criteria and minimum thresholds were also published. The update aims to maintain the relatively low level of complexity of Swiss Climate Score reporting but provide important underlying information.

More traction is starting to build with the likes of leading groups, like UBS, adopting the Swiss Climate Scores. It is unclear whether the majority of groups will choose to adopt Swiss Climate Scores, or a significant number will choose to adopt the disclosure requirements under the SFDR, for consistency with funds across Europe.

AU Sustainable Reporting Standards

Having consistently lagged on a clear framework for sustainability across both corporates and investment management over the past several years, Australia is making up for lost time. Following a series of public consultations commencing December 2022, Australia is potentially poised to become one of the first countries to formally mandate and implement disclosures based on the International Sustainable Standards Board (ISSB) global baseline for sustainability reporting.

Most recent is the release of a consultation in October 2023 from the Australian Accounting Standards Board (AASB) of Exposure Draft ED SR1 Australian Sustainability Reporting Standards – Disclosure of Climate-related Financial Information. Fundamentally, these standards are largely aligned with IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information (IFRS S1) and IFRS S2 Climate-related Disclosures (IFRS S2).

Key Dates

Date	Event
June 2022	ASIC Information Sheet 271 published: How to avoid greenwashing when offering or promoting sustainability-related products
August 2022	FSC Guidance Note No. 44 published – 'Climate Risk Disclosure in Investment Management'
December 2022	Treasury consultation paper – 'Climate-related financial disclosure'
October 2023	Draft Australian Sustainable Reporting Standards (ASRS) released for consultation open to 1 March 2024
November 2023	Sustainable Finance Strategy released for consultation open to 1 December 2023, addressing issues including sustainability related financial disclosures and sustainable fund labelling.
June 2024	Senate inquiry into greenwashing report to be delivered
July 2024	Phased implementation begins for ASRS from 1 July 2024 through to 30 June 2028

ED SR1 includes three draft Australian Sustainability Reporting Standards (ASRS Standards):

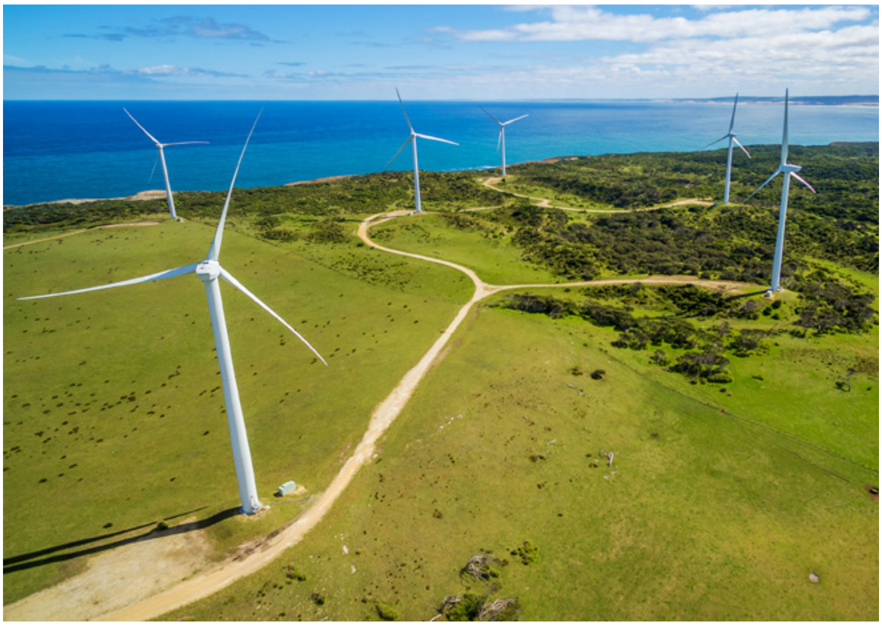
1. **ASRS 1 General Requirements for Disclosure of Climate-related Financial Information,** developed using IFRS S1 as the baseline but with scope limited to climate-related financial disclosure rather than sustainability;
2. **ASRS 2 Climate-related Financial Disclosures,** developed using IFRS S2 as the baseline; and
3. **ASRS 101 References in Australian Sustainability Reporting Standards** is a service standard updated periodically that lists relevant versions of any non-legislative versions of documents published in Australia, as well as any foreign documents referenced in the ASRS Standards.

Currently, the Australian Parliament is yet to pass legislation formalising which entities would be in scope for ASRS disclosures and phasing of these requirements. However, Treasurer Jim Chalmers has previously announced that the federal government will do so. Proposals raised by Treasury and echoed in ED SR1 are as follows:

In Scope

Entities required to report under Chapter 2M of the Corporations Act and that fulfil two of the three thresholds:

	Thresholds			Additional criteria	First year of reporting
Group	Consolidated revenue	Consolidated gross assets	Employees		
1	>$A 500m	>$A 1.0bn	>500	Entities that are a 'controlling corporation' under the NGER Act and meet the NGER publication threshold	FY25
2	>$A 200m	>$A500m	>250		FY27
3	>$A 50m	>$A 25m	>100	Entities that are a 'controlling corporation' under the NGER Act	FY28



Fundamentally, this is likely to capture not only companies and fund managers, but also many investment vehicles that meet the qualifying thresholds including registered managed investment schemes and superannuation funds. The AASB consultation closes on 1 March 2024, and current expectations continue to be that legislation and application of the ASRS will come into effect from 1 July 2024 for Group 1 entities as per the table above.

Similar to the TCFD and IFRS S1 & S2, entities will be required to report on governance, strategy, risk & opportunities and metrics & targets. AASB has decided to address climate-related financial disclosure first which can be applied independently of any broader sustainability reporting framework at a later date.

While yet to be finalised, the move to ASRS represents a material step change for fund managers doing business in Australia. While voluntary TCFD reporting has had some level of penetration locally, particularly among superannuation funds where regulators have strongly encouraged its use, a move to mandating ASRS will have a material impact on reporting requirements for the industry. Participants in Australian financial services would do well to consider not only current developments but also the lessons learnt from offshore developments to guide future planning and resourcing.

Australia is poised to become one of the first countries to mandate the ISSB reporting standards.

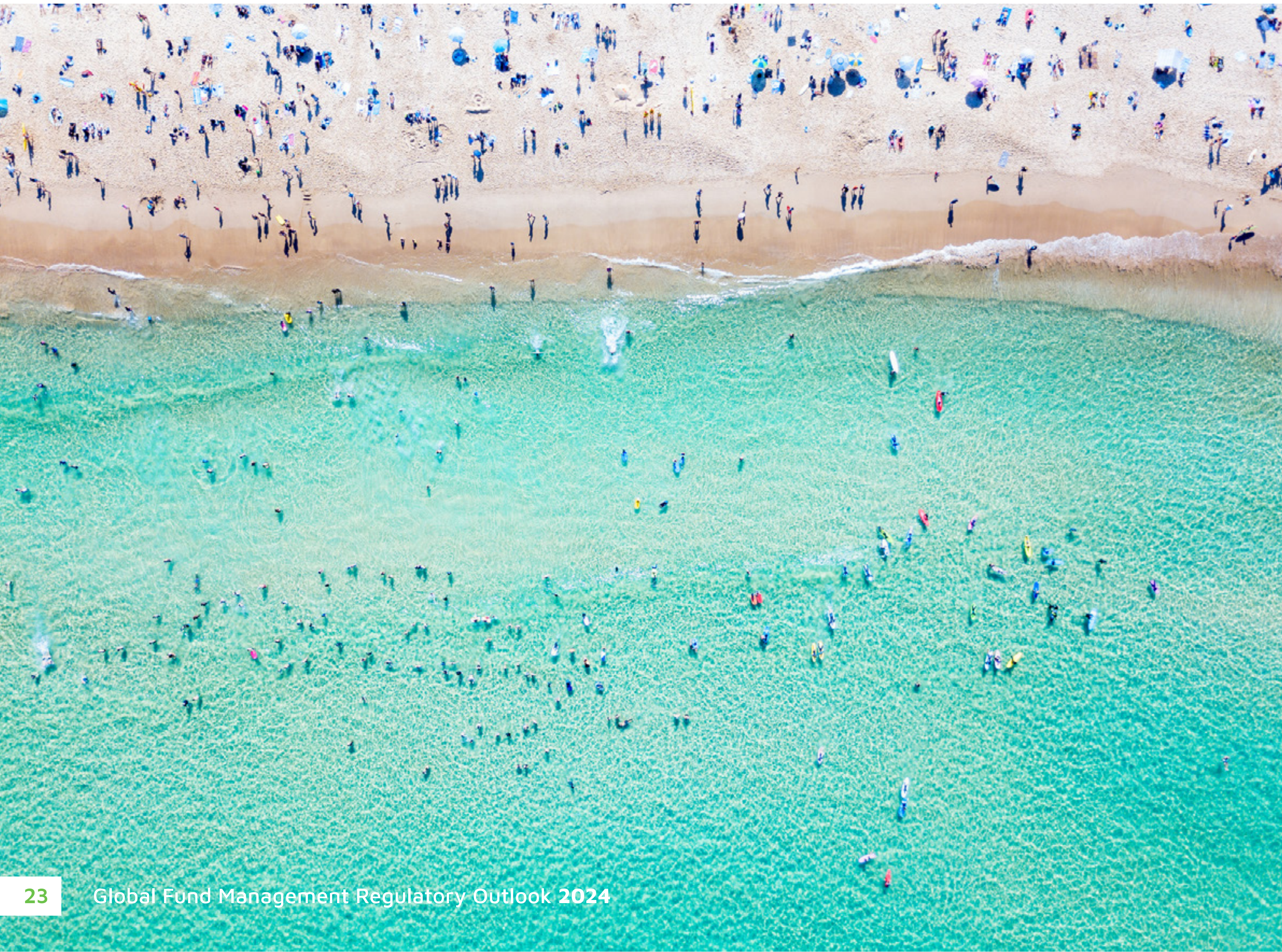
At this point, Australia is yet to formalise rules regarding fund labelling, although this has been tabled as one of the priorities in the Governments Sustainable Finance Strategy which was released for consultation on 2 November 2023.

Similarly, explicit rules on greenwashing in either funds or company disclosures are relatively unconstrained. While ASIC currently defines greenwash as 'the practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical', rather than creating specific anti-greenwash rules, the regulator currently points to existing legislation prohibiting information or actions that are false, misleading or deceptive.

The Australian Competition and Consumer Commission (ACCC) have also sought to remind businesses (including financial services) regarding their obligations under Australian Consumer Law (ACL) when making environmental and sustainability claims. The ACCC released a draft guidance in July 2023 regarding good practices when making such claims and finalised an industry consultation on the issue in September 2023. While acknowledging they cannot take on every matter brought to their attention, they have indicated it is a core enforcement priority that will take a 'harm-based approach' when enforcing the law. Given the potential reach of financial products, this should be a clear warning.

With the ACCC's guidance having being finalised in December 2023, it is likely that ACCC enforcement action is likely to follow ASIC's playbook. Alleged greenwashing in financial institutions has incurred heightened regulatory scrutiny since mid-2022, with ASIC issuing multiple disclosure and infringement notices as well as commencing three civil penalty proceedings. The ACCC is expected to take a similar approach, issuing notices requiring substantiation of green claims or to produce documents or provide information.

In addition to the moves by ASIC and the ACCC, the Australian Senate launched an inquiry into greenwashing in March 2023, with a key focus being legislative options to protect consumers. The Senate committee is expected to report in June 2024.



Singapore Transitioning Planning Guidelines

On 18 October 2023, the MAS released a consultation setting out proposed Transition Planning Guidelines (TPG) for all fund management companies and real estate investment trust managers. The guidelines set out the expectation for these financial institutions to have a sound transition planning process to enable effective climate change mitigation and adaptation measures by their investee companies in the global transition to a net zero economy and the expected physical effects of climate change. Two other consultation papers relating to banks and insurers were also issued concurrently.

Building on the central bank's existing guidance on environmental risk management guidelines (ENRM), which has been effective since June 2022, the proposed TPG aims to move the frontier for transition planning for financial institutions. MAS proposes to extend expectations under the ENRM and apply the TPG to all asset managers, being;

- **a.** all holders of a capital markets services licence for fund management;
- **b.** all holders of a capital markets services licence for real estate investment trust management; and
- **c.** fund management companies registered under paragraph 5(a)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg. 10).

Noting this, MAS is yet to set out any prescriptive scale, scope and business model thresholds.

Asset managers are expected to make disclosures of meaningful and relevant information to enable stakeholders to understand how they are responding over the short, medium and long-term to the material climate-related risks faced by the portfolios they manage, and the governance around processes for addressing such risks. MAS has also indicated that for product-level disclosures, asset managers should consider the appropriate level of disclosure of climate-related considerations embedded in every product. In addition, sustainability and transition-related products should be appropriately labelled and accompanied by a suitable level of climate-related disclosures.

The consultation closed 18 December 2023. Once final guidelines are issued, there will be a phase-in period of 12 months for implementation.

Corporate Sustainability Disclosures

Corporate sustainability disclosures are set out for organisations to report on the environmental and social impact of their business activities, and on the business impact of their environmental, social and governance efforts and initiatives. In this chapter, we take a deep dive into the evolution of TCFD, from a set of principles-based voluntary recommendations to a more formalised set of reporting standards monitored by the ISSB.

Key Dates

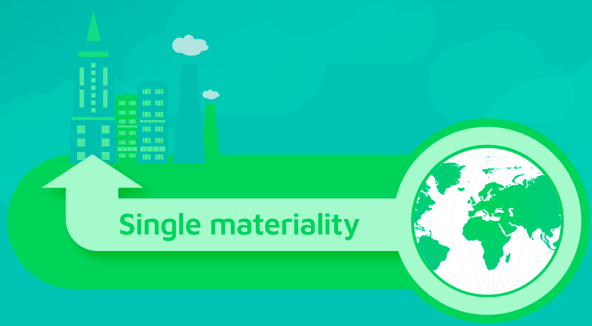
Date	Event
30 June 2023	**UK** – Entity-level TCFD-aligned disclosures required for asset managers with over £50bn AuM and asset owners over £25bn. Product-level disclosures for these entities required by the date of the next annual or interim report
1 January 2024	**EU** – Corporate Sustainability Reporting Directive (CSRD) comes into effect to replace Non-Financial Reporting Directive (NFRD). Member states have until 30 June to transpose into national laws
30 June 2024	**UK** – Entity-level TCFD-aligned disclosures required for asset managers and asset owners with over £5bn AuM. Product-level disclosures for these entities required by the date of the next annual or interim report

A DIVIDE IN THE CONCEPT OF MATERIALITY: Single vs Double

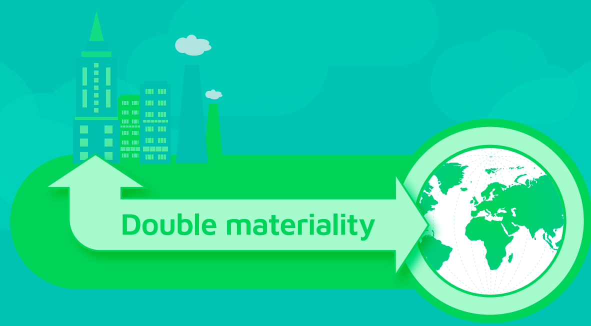
As sustainability disclosures sweep around the world, we are increasingly seeing a divide in the key concept of materiality. Traditionally, financial materiality hinged on whether information would have a material influence on company value and should therefore be disclosed. It is now widely accepted within financial markets that climate-related impacts on a company can be material and therefore be included in this view of 'single materiality', being the impact of external factors on enterprise value.

The concept of 'double materiality' takes this notion one step further. It is not just external impacts on the company that can be material but also impacts of a company on the environment and society. More simply, single materiality is the world's impact on a company. Double materiality is that and the company's impact on the world. It's a two-way street.

The world's impact on a company



The world's impact on a company



The company impact on the world

From a regulation perspective, the implementation of a single vs double materiality focus varies. Disclosures based on TCFD or ISSB are underpinned by single materiality. The CSRD/ESRS frameworks however are based on the double materiality principle.

Comparing single and double materiality principles in sustainability reporting

	Single materiality	Double materiality
Component	Financial	Impact
Definition	Financial materiality considers risks & opportunities that may financially impact enterprise value	Impact materiality considers both positive & negative impact of a company's operations may have on society and the environment.
Influence	Influence on internal factors e.g. cashflows, performance, cost of capital	Influence of external factors arising from issues such as climate change, biodiversity loss
Examples of jurisdictional adoption in disclosures	• **United States** (Proposed – SEC Climate Disclosures) • **United Kingdom** (Proposed) • **Australia** (Proposed – ASRS)	• **Europe** (Confirmed – CSRD)

Depending on a company's jurisdiction, reporting frameworks may apply either single or double materiality principles. Care should be taken to consider scope requirements. For example, it is estimated that numerous non-EU companies are potentially subject to the CSRD reporting rules.

TCFD, ISSB, TNFD and ESRS

In 2015, the Financial Stability Board (FSB), an international body that monitors and makes recommendations about the global financial system, established the Taskforce on Climate-related Financial Disclosures (TCFD). Its remit was to develop climate-related disclosures to promote more informed investment, lending and insurance underwriting decisions, thereby improving the financial system's exposures to climate-related risks.

The TCFD published its 11 voluntary, principles-based recommendations in June 2017, broken down into the four categories of governance, strategy, risk management, and metrics and targets.

These recommendations were adopted by the UK government and the Financial Conduct Authority (FCA) as the baseline for sustainability disclosures by UK registered or listed companies, asset managers, asset owners and their products.

At COP 26 in Glasgow in 2021, the International Financial Reporting Standards (IFRS) Foundation announced the formation of the International Sustainability Standards Board (ISSB) to develop corporate sustainability reporting standards, formalising the TCFD recommendations. IFRS Sustainability Disclosure Standards S1 and S2 were published by the ISSB in June 2023 and endorsed by the International Organisation of Securities Commissions (IOSCO) – the global regulatory overseer – in July 2023.

On endorsement by IOSCO, the FSB announced that the IFRS, through the ISSB, would take over responsibility for monitoring progress on climate-related disclosures. Concurrent with the release of its 2023 status report in October 2023, the TCFD has fulfilled its remit and been disbanded.

> The ISSB was formed to develop global corporate sustainability reporting standards.

TCFD Explained

The benchmark for climate-related financial disclosure

While the ISSB standards formalise the voluntary recommendations from the TCFD, they carry no regulatory power without formal adoption in each jurisdiction. Singapore and Latin American countries have been among the early adopters of the standards, with others committed to creating jurisdiction-specific versions, including the UK and Australia.

In September 2023, the Taskforce on Nature-related Financial Disclosures (TNFD) published its 14 recommendations, aligned very closely with the TCFD recommendations and based on the same four categories. As with the TCFD recommendations, these are voluntary and rely either on companies to adopt them or jurisdictions to mandate them.

In June 2023, the European regulator ESMA published a draft regulation laying down reporting standards in line with the European Sustainability Reporting Standards (ESRS), which set out how companies need to make sustainability disclosures under the Corporate Sustainability Reporting Directive (CSRD) from 2024.

While the ISSB standards are based on the TCFD recommendations and therefore focus only on the risks and opportunities for companies from climate change, the ESRS adopt a "double materiality" approach. This involves looking at both the effect of climate change on companies and the impact of companies' activities on the environment or society.

The month-long consultation on the ESRS received around 600 responses, many of which focused on the ability for companies to make a materiality assessment for disclosures, as this does not apply to product disclosures under the Sustainable Finance Disclosure Regulation (SFDR), leading to a possible disconnect.
The ESRS also require disclosures to receive third party assurance, without prescribing the qualifications required to provide such assurance.

Meanwhile, the CSRD comes into force on 1 January 2024, replacing the Non-Financial Reporting Directive (NFRD), significantly expanding the universe of companies required to report. As a directive, the CSRD needs to be transposed into the national laws of individual member states, and they have until 30 June 2024 to do so.

> The "double materiality" approach looks at both the effect of climate change on companies, and the impact of companies' activities on the environment or society.

United Kingdom

The Department for Work and Pensions (DWP) and the Financial Conduct Authority (FCA) adopted the TCFD recommendations as the baseline for mandatory climate-related disclosures by listed companies, workplace pensions, asset managers and asset owners.

Large occupational pension schemes, premium listed companies, banks, building societies and insurance companies started to come into scope in 2021, with asset managers, life insurance companies and FCA-regulated pensions entering the fray in 2022.

Even before the publication of the first two sets of ISSB standards, the FCA had said it would incorporate the standards in its reporting requirements once they were endorsed by IOSCO (The International Organisation of Securities Commissions), which happened in the summer of 2023.

With the ISSB standards not having regulatory power in themselves, the UK government committed in August 2023 to creating UK Sustainability Disclosure Standards (UK SDS), based very closely on the ISSB standards, with deviations only where necessary to meet local requirements. Endorsement of the ISSB standards by the UK government is expected by the middle of 2024.

TCFD/ISSB vs ESRS

Single materiality	Double materiality
The TCFD was created "to develop recommendations on the types of information that companies should disclose to support investors, lenders, and insurance underwriters in appropriately assessing and pricing" the risks of climate change on those companies. In other words, the TCFD recommendations are concerned about the effects of climate change on the ongoing operations of companies and hence on their value.	The European Sustainable Reporting Standards (ESRS) were produced to meet the corporate reporting requirements under the EU's Corporate Sustainability Reporting Directive (CSRD). This Directive required companies to report using a double materiality perspective. This requires consideration of both the effect of climate change on the value of the company and the impact of the company's activities on the environment and society.

Australia

As noted in Chapter 2 of this whitepaper, the release of the draft ASRS in Australia is intended to capture corporates as well as investment vehicles subject to minimum thresholds based on entity size and scale. Refer to Chapter 2 for further details.

Hong Kong

In April 2023, the Stock Exchange of Hong Kong Limited (HKEX) released an industry consultation on 'Enhancement of Climate Related Disclosures Under the Environmental Social and Governance Framework'.

HKEX proposes to mandate all issuers to make climate-related disclosures aligned with the ISSB. The proposals are aligned with the aim of committing to mandate TCFD-aligned disclosures by 2025. While HKEX published guidance on climate disclosures in 2021, the move to mandating disclosures will be a material shift. HKEX have noted in the consultation that they propose to mandate all issuers to make climate-related disclosures in their ESG reports, moving from the current "comply or explain" to a mandatory setting.

HKEX proposes interim provisions for certain disclosures (e.g. financial effects of climate-related risks and opportunities, scope 3 emissions and certain cross-industry metrics) for the first two reporting years following the proposed effective date of 1 January 2024. HKEX has proposed a two-year transition period, which is an additional year for issuers to get prepare for the enhanced climate disclosures, compared to the ISSB's one year transition period.

Singapore

In July 2023, Singapore's Sustainability Reporting Advisory Committee (SRAC) launched a consultation proposing to make climate-related disclosures mandatory for listed and certain non-listed companies in Singapore. The consultation effectively proposes to mandate climate-related disclosures in line with ISSB climate disclosure standards.

SRAC has proposed that those in scope should make disclosures using local prescribed standards that, to the extent practicable, mirror the requirements in the ISSB baseline.

Currently, only listed issuers in selected industries are required to provide TCFD-aligned disclosures, which came into force progressively from FY2023. All other listed issuers are currently required to apply TCFD on a 'comply-or-explain' basis.

Under the latest consultation, listed issuers would commence reporting from FY2025, while large non-listed companies with annual revenue of at least S$1 billion will follow suit in FY2027. SRAC has indicated that a review will be conducted by 2027 proposing to extend the reporting mandate by large non-listed companies with revenue of at least S$100 million to less than S$1 billion, by around FY2030. The review will consider factors such as international developments, industry capacity and the implementation experience of large non-listed companies.

Notably, SRAC has recommended extending the duration of relief on reporting on Scope 3 GHG emissions for non-listed companies, allowing such companies to opt to make disclosures on Scope 3 two years after the mandatory reporting requirements kick in.

Pre-contractual Disclosures

The aim to standardise precontractual information for retail investors, particularly in Europe and the United Kingdom, is a story of war and peace. Following the major changes that had to be implemented for PRIIPs KIDs at the end of 2022, product manufacturers will be relieved to hear the next round of proposals focus on how these disclosures are delivered to retail investors in the digital age, rather than an overhaul of the content.

In the United Kingdom, the FCA is taking its time in detailing what's next for UK PRIIPs KIDs under the Retail Disclosure Framework, as they are grandfathered until the end of 2026. While further afield in Australia, the market is responding to key observations and issues assessed by ASIC on complying with the DDO which came into force in October 2021.

Key Dates

Date	Event
9 December 2022	**UK** – HM Treasury consultation on the future of PRIIPs in the UK, open until 3 March 2023
13 December 2022	**UK** – FCA discussion paper DP22/6 on the future disclosure framework, open until 7 March 2023
24 May 2023	**EU** – Proposals for Regulation to update PRIIPs in respect of the content and delivery of the KID

EU & UK PRIIPs/UCITS

As part of the EU's Retail Investment Strategy (see page 36) the Commission adopted a new regulation amending the PRIIPs regulation, with a number of changes to the content and delivery of Key Information Documents (KIDs). As at the end of 2023, this amending regulation has stalled in its progress through the European Parliament, because of obstacles related to other aspects of the Retail Investment Strategy.

Out will go the comprehension alert for complicated products and reference to any environmental or social objectives. In will come a new dashboard showing the "Product at a glance", with the type of PRIIP, the summary risk indicator (SRI), the total costs, the recommended holding period and any insurance benefits.

To make the KID more consumer friendly, the default delivery will change to electronic means, with the option of limited personalisation by the consumer, to reflect their chosen investment amount or holding period. There will also be the possibility to deliver information in a layered fashion, with only high level information shown unless the consumer drills down further.

The proposed Regulation was adopted by the European Commission in May and submitted to the European Parliament, with the expectation of a vote in the fourth quarter of 2023 and application from 18 months after publication in the Official Journal, so probably in the first half of 2025. But, given the delay mentioned above, this timeline is likely to slip.

Meanwhile, within days of each other in December 2022, the FCA and HM Treasury both published documents consulting on the future of PRIIPs KIDs in the UK, with the FCA's discussion paper going further and looking at the entire Future Disclosure Framework.

The Treasury has confirmed that PRIIPs KIDs have been rescinded in the Financial Services and Markets Act 2023, but they will not disappear before there is a workable pre-contractual disclosure regime to replace them.

The FCA's discussion paper investigated a number of options, including the timing and method of delivery, a possibly less prescriptive presentation, and a balance between mandatory and tailored content. As the end date for UCITS KIIDs in the UK is currently December 2026, the FCA is taking its time to make sure the replacement meets with less resistance than the current PRIIPs KIDs. After all, as the FCA noted in its discussion paper, "under 3% of retail investors read regulated pre-contractual fund disclosure documents".

There are efforts being made by some in the industry to persuade the FCA to combine the pre-contractual disclosure requirements under the SDR with the wider pre-contractual, disclosures currently served by UCITS KIIDs and PRIIPs KIDs, but the policy statement for the SDR appeared to scupper this.

> Under 3% of retail investors read regulated pre-contractual fund disclosure documents

Australia's DDO Regime

Australia's Design and Distribution Obligations (DDO) came into effect in October 2021, aimed at providing consumers with appropriate financial products by requiring issuers and distributors to adopt a consumer-centric approach to the design and distribution.

In May 2023 the Australian Securities and Investments Commission (ASIC) issued Report 762 – Design and distribution obligations: Investment Products which summarises the regulators key observations on how issuers are meeting obligations and highlights areas for improvement.

In short, ASIC's view was that there is 'considerable room for improvement' in complying with the obligations. Up to 31 September 2023, 41 interim stop orders were issued under DDO. The majority of these relate to breaches of the Target Market Determination (TMD) requirements by issuers of investment products, with the following issues being widely represented:

Issue	Examples
Defining a target market too broadly	Issuer describes a product that generated no to very little income distribution as being potentially appropriate for a consumer seeking income.
Inappropriate risk profiles being used in the target market	High-risk product being considered to be appropriate for consumers with a medium risk tolerance.
Including inappropriate levels of portfolio allocation in a target market	An issuer recommended an investible asset allocation of up to 75% for a single, high-risk product.
Inappropriate intended investment timeframe and/or withdrawal needs in the target market	An issuer stated that consumers requiring 'annual or longer' withdrawal rights were in the target market despite the product not having any withdrawal rights before the end of the fixed term.
Inappropriate or no distribution conditions	An issuer with a very narrow target market did not include any distribution conditions.
Inappropriate use of a TMD template	An issuer inappropriately relied on a pre-set asset allocation in a template of up to 25% for a single asset.

ASIC also made observations about the following key issues:

- Product design; requirement to put the consumer at the centre of the product design process, maintain process oversight by boards, engage in product stress testing, and maintaining distributor engagement.
- Appropriateness of the TMD; focussing on defining the target market appropriately against risk profiles and withdrawal needs, as well as the inclusion of distribution conditions.
- Distribution and oversight arrangements; ensuring reasonable steps are taken to monitor and supervise arrangements for distribution, including third party distributors.
- Monitoring and review arrangements; including conducting reviews and ensuring review triggers in response to events or circumstances which may alter appropriateness of TMDs.

Australia's Financial Services Council (FSC) have engaged in a refresh of TMD templates which has prompted a broad realignment process across the market amongst its member base. ASIC has reiterated that DDO obligations will remain a key regulatory focus. As regulatory pressure continues, fund managers must also continue to manage for additional compliance and administrative obligations.

Better Consumer Protection

Consumer protection is at the heart of fund regulations around the world. Disclosures are enforced to drive behaviours from organisations and funds by way of setting out specific requirements on how information is published, marketed and distributed to enable comparability, unlock transparency and support consumer understanding of investment products.

EU Retail Investment Strategy

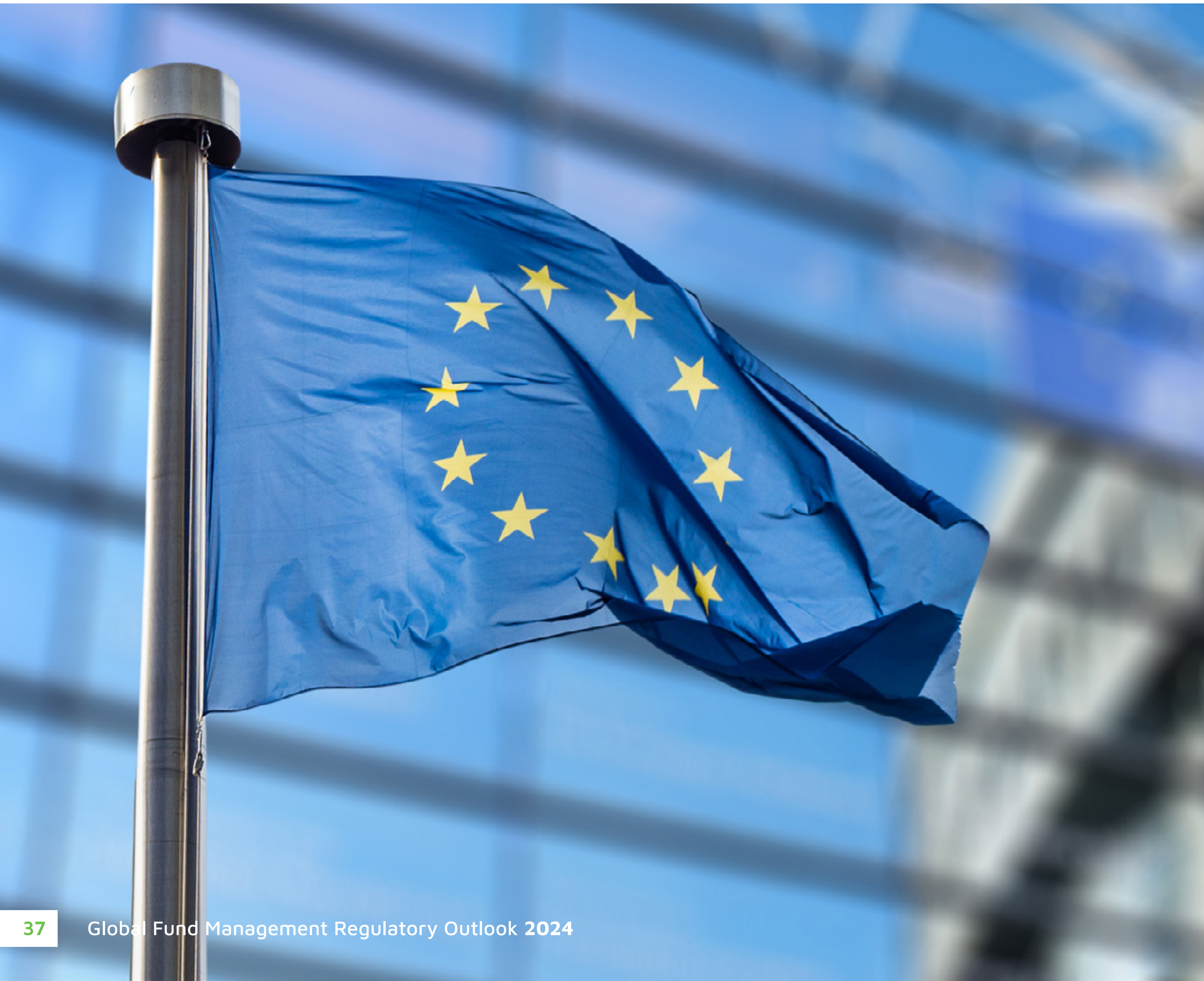
In May 2023, the European Commission approved a draft Regulation to amend the PRIIPs Regulation and a draft omnibus Directive to update UCITS, AIFMD, MiFID II, Solvency II and the Insurance Distribution Directive to introduce a number of measures around better consumer protection.

The Commission had identified four problems with consumer investments –

1. Retail investors struggle to access relevant, comparable, easily understandable product information to make informed investment choices
2. Retail investors are at risk of being unduly influenced by unrealistic marketing information, particularly on social media and new marketing channels
3. Inducements mean financial advice is not always in the best interest of retail investors
4. High levels of costs mean investment products do not always offer value for money for retail investors

A wide range of solutions in the new regulation and Directive include targeted changes to the disclosure and marketing rules, a proposed ban on the payment of inducements (watered down to affect only execution-only business), a strengthened principle of acting in the best interests of the client, improved enforcement by regulators, greater focus on providing value for money (with the possible introduction of benchmarks against which product charges could be compared), better qualified advisers, improved consumer financial literacy, better investor screening, and less unnecessary red tape.

The Regulation and Directive were expected to be voted on by the European Parliament in the fourth quarter of 2023, and to apply from 18 months later, so during the first half of 2025, allowing time for the European Supervisory Authorities (ESAs) to submit regulatory technical standards before the end of 2024. However, there appears to be some resistance to both the partial ban on inducements and the introduction of value for money benchmarks, so the timetable may be subject to delay.



How FE fundinfo can help

FE fundinfo, is a global leader of fund information, technology and services.

Trusted for our data, technology solutions, research and analysis, open international network, and expert insights, we provide transparency and enable efficiency to unlock business potential for asset managers, fund managers, distributors, and financial advisers.

FE fundinfo collects, enriches, and distributes investment fund data, including key information documents, regulatory data, full portfolio holdings and supports the integration of proprietary and 3rd party financial and ESG data to support the compliant manufacture, registration, distribution and marketing of funds globally.

To find out how we can support your regulatory and investor reporting needs, contact our global team of specialists at enquiries@fefundinfo.com

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