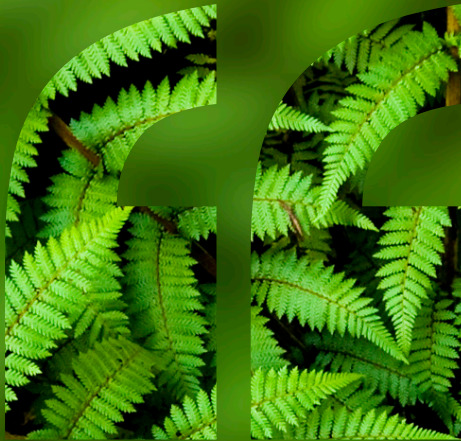


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C H A N C E



**SUSTAINABILITY
AND ITS IMPACT
ON BUSINESS**



— THOUGHT LEADERSHIP

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SUSTAINABILITY AND ITS IMPACT ON BUSINESS

The profile of corporate sustainability has been growing steadily over the last few years. Boosted by initiatives such as the UN Global Compact and its Sustainable Development Goals and the Paris Climate Change Agreement, the topic is becoming a mainstream and core focus of business operations in many sectors.

EU Sustainable Finance Action Plan

The Action plan builds on many of the recommendations of the EU High-Level Expert Group on Sustainable Finance published earlier in 2018. It contains a wide range of legislative and non-legislative measures. Key measures include:

- Establishing an EU classification system for sustainable activities
- Creating standards and labels for green financial products
- Incorporating sustainability when providing financial advice
- Increasing the transparency of sustainability benchmarks
- Clarifying institutional investors' and asset managers' duties to take into account sustainability issues in relation to their investments
- Incorporating sustainability in financial institutions' prudential requirements
- Strengthening sustainability disclosure and accounting rule making building on the Task Force on Climate-related Financial Disclosures (TCFD) recommendations (See our client briefing)

For more information on the Action plan, see our client briefing: [EU SUSTAINABLE FINANCE ACTION PLAN – WHAT YOU NEED TO KNOW](#)

For more information on the first legislative package of implementing measures, see our client briefing: [THE EU'S SUSTAINABLE FINANCE LEGISLATIVE PROPOSALS – WHAT YOU NEED TO KNOW](#)

What is corporate sustainability?

In broad terms corporate sustainability is an approach to managing and operating a business based upon meeting environmental, social, economic and corporate governance goals.

From a business perspective, this has a dual aspect: firstly behaving ethically so that the business conduct complies with general principles of sustainability, such that society's needs are met without preventing future generations from meeting their own needs. Secondly, ensuring that the business model is durable and able to deal with challenges that we will face in the future such as energy security and climate change.

In the business sphere, action on sustainability has traditionally been seen as an effort to move beyond pure regulatory compliance. However, in many cases, corporate sustainability efforts used to begin, and end, at standalone sustainability policies which were often not robust and not effectively implemented.

Initially action focused on how the environmental and social impacts of business operations and supply chains could be minimised. From reducing pollution and responsible sourcing of raw materials and products, these efforts have grown into areas such as carbon emissions reduction, clean energy sourcing and energy efficiency, biodiversity protections, business ethics, employee wellbeing, diversity and inclusion.

The last few years have seen the focus on sustainability broaden from operations and supply chains to finance and investment. There have been a number of voluntary initiatives in this area. Examples include:

- The Equator Principles (first published in 2003) drawn up by a large group of international finance institutions which agreed to consider environmental and social issues before lending to major infrastructure projects (such as dams and pipelines), typically in developing countries.
- The Green Bond Principles (first published in 2014) which establish the criteria for a issuing a credible "green bond" product.
- The UN Principles of Responsible Investment (PRI) (published in 2006) which aim to secure commitments from public and private organisations to consider Environmental Social and Governance issues (ESG) when making investments. These considerations are already compulsory in the EU for certain pension investments.

March 2018 saw the EU's plans to integrate sustainability into the core of the EU financial system with a number of proposals for compulsory measures seeking to ensure that ESG factors are taken into account by institutional investors, asset managers, and financial advisors, as well as ensuring that "green products" can be demonstrated to be genuinely green. In May 2018, the Commission published a first package of proposed legislative measures taking forward various aspects of these plans.

Sustainability reporting initiatives have also been important in ensuring a level of transparency about companies' impacts in ESG areas. Whilst these have generally been voluntary (e.g. Global Reporting Initiative and Carbon Disclosure Project), there have recently been moves towards compulsory reporting in a number of areas. The EU and UK have been key players in this development bringing forward legislation requiring general

company reporting of ESG issues and greenhouse gas emissions. In particular, both the EU and the UK are considering how the Task Force on Climate-related Financial Disclosures (TCFD) recommendations can be incorporated into reporting requirements.

Pressure on businesses to be sustainable is growing from multiple angles. Initially NGOs and other pressure groups led the charge. Increasingly, however, encouragement to be sustainable comes just as much from shareholders, seeking to ensure that companies are not only behaving ethically, but also not simply favouring short-term gain, over long-term returns. At the consumer-end, shoppers are much more likely now to take into account sustainability concerns when choosing products; corporate customers are also being challenged to demonstrate the sustainability of their whole supply chain. The impact of regulatory investigation and litigation in this area is also growing: for example, there are now a number of instances of companies being investigated by regulatory authorities, or challenged in the courts, for failure to disclose information about climate change risks.

Attitudes towards incorporating sustainability in business are steadily developing. Rather than having a standalone sustainability manager seeking to impose a sustainability overlay onto existing operations, sustainability is becoming core to the enlightened business. Not only can a focus on

sustainability satisfy stakeholder demands, but it can also create a longer term durable business, enticing new customers, opening up new markets, leading to greater resource efficiency, and ultimately helping to improve the bottom line. We are therefore seeing sustainability beginning to be embedded more into business units at ground level, rather than as a standalone add-on.

The significance of sustainability in business is only likely to increase in the coming years. Innovation and technology is likely to be key to sustainability efforts in the future: increasing automation and other technological development might lead to better environmental solutions (e.g. smart energy systems and energy storage). However they could also lead to further social and environmental challenges (e.g. the social impact of greater levels of automation on workforces, or the increasing use of energy for data storage). Politics will also play a significant part – it seems likely the stable governments are more likely to be able to focus on sustainability issues. Where national governments are inactive, it is likely action will be taken at City or regional level. Will climate change litigation against businesses become mainstream? Will individual campaigns, such as those against plastics in the sea, lead to a sudden shock changes in the business environment? However these debates go, it seems inevitable that sustainability issues in one form or another, will increasingly find themselves debated more at board level.

How we can help

Clifford Chance has a wealth of experience in advising companies on the broad range of sustainability issues in numerous sectors. Examples include advising clients on:

- Climate change and sustainability policy
- Renewable Energy and Energy Storage projects
- Sustainable Property including energy efficiency
- Sustainable supply chains
- Green Finance and Bonds
- Emissions Trading
- Carbon and Sustainability Reporting
- Environmental compliance
- Business and Human Rights

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This publication does not necessarily deal with every important topic nor cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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