Addressing the sustainability imperative

A GLOBAL OVERVIEW OF REGULATORY FRAMEWORKS AND INITIATIVES FOR THE INSURANCE SECTOR

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DLA PIPER

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Welcome

What is sustainability and what does it mean for the insurance industry? As used by the UN in the 1980s, sustainable development means the ability to meet the needs of the present without compromising the ability of future generations to meet their own needs. As the European Commission's Vice President Frans Timmermans put it lately, sustainability means providing our children and grandchildren with a cleaner, healthier and fairer future in return for the burdens we pass on to them that arise from our current problems.

The world is not becoming less complicated. We are now in an era defined by widespread, systemic and interlinked challenges which require global answers. Climate change, loss of biodiversity, poverty, hunger, inequality, discrimination, corruption, unfair living and working conditions as well as a multitude of other environmental, societal and governance (ESG) issues threaten current and future societies and, as they are inseparably linked, businesses. More and more policymakers and business leaders are recognizing the need to conserve the earth's resources and to set a course towards a better future. With species disappearing each day, and droughts and extreme weather events hitting societies around the globe, toppling governments and increasing social unrest, a future that treads the same downward path is unattractive, even for those on the top rungs of the global ladder.

There is little time left to change the current course: the next decade is critical in achieving a turn-around, in particular in relation to climate change. By 2030, greenhouse gas emissions must be reduced by between 40% and 60% below current levels to prevent irreversible damage according to the UN Intergovernmental Panel on Climate Change. Hence, it is no surprise that the UN has announced that 2020 will be the start of the "Decade of Action" focusing on achieving the UN's Sustainable Development Goals, including an end to poverty, universal access to quality education, gender equality, responsible consumption of food and energy, and climate action.

Why does this matter to the insurance industry? Like any other business, the insurance industry is inseparably linked with the societies it serves. In addition, the industry is connected to all kinds of businesses around the globe hit by ESG issues. ESG risks affect the insurance business in its entirety: asset prices and investment choice; business transition risk; the ESG risk to insurers' own operations including property, personnel and supply chains; and claims. In the next few years we will see significant expected increase in cost for covering physical risks, combined with a greater correlation between loss events as well as higher volume and quantum of third-party liability claims raising all kinds of ESG risks. To put it bluntly, an unsustainable future will be an uninsurable future.

However, there is a silver lining. Although it is facing profound challenges, the insurance industry is uniquely placed to play a fundamental role in solving ESG issues. It engages with almost every industry and sector; it owns a large amount of the world's assets; and it has a global reach and a finely detailed knowledge of risk transfer and solutions. Taking a step beyond risk identification the insurance industry has huge potential to "reinvent" insurance in a de-carbonized and more sustainable economy, and to take the lead on the required economic transition towards a more resilient future. The industry has shown itself able to adapt and innovate on many occasions in the past and we have already started to see how solutions – such as parametric insurance, insurance linked-securities and the innovative use of insurtech can help. Many insurers around the globe are already cooperating in private initiatives to create and support a framework for just transition and resilience, including disclosure and reporting, risk assessment, decarbonization of asset and insurance portfolios and development of new insurance solutions, for big business to the underinsured.

Climate change, which is currently the number one topic on many agendas, is one of the array of ESG issues, becoming more dominant in national agendas and feeding through to legislation with which insurers must comply, or which affects business in the sector. Regulators are also, in many jurisdictions, taking pro-active steps to require insurers to manage and disclose their ESG risks and climate impact.

Together with a multitude of important private initiatives this trend is creating a veritable "sustainability jungle" which can be challenging for insurers to navigate.

As our contribution to the discussion on sustainable insurance, we have prepared this comprehensive global report describing major initiatives and frameworks that apply to the sector in relation to ESG issues, in particular climate change, around the world, and on a national level in 19 countries. Our aim is to provide an overview of current developments and thus support decision makers, inhouse counsel, sustainability officers and any others dealing with sustainability issues in the insurance industry as they develop their sustainability strategies.

Thanks to our valuable cooperation partners, AIG and FTI Consulting, we are also in a position to offer inside views on a big insurer's sustainability journey and on the issues which are currently on the boardroom agendas of many insurers.

We hope that you will find our report a useful tool and would greatly welcome staying in touch to help you in your individual sustainability journey. We intend to continue our work in this area, so please be on the lookout for future reports and updates from us on sustainable insurance and ESG topics in the insurance industry.

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Insuring a more sustainable world –
A letter from AIG's Chief Sustainability Officer

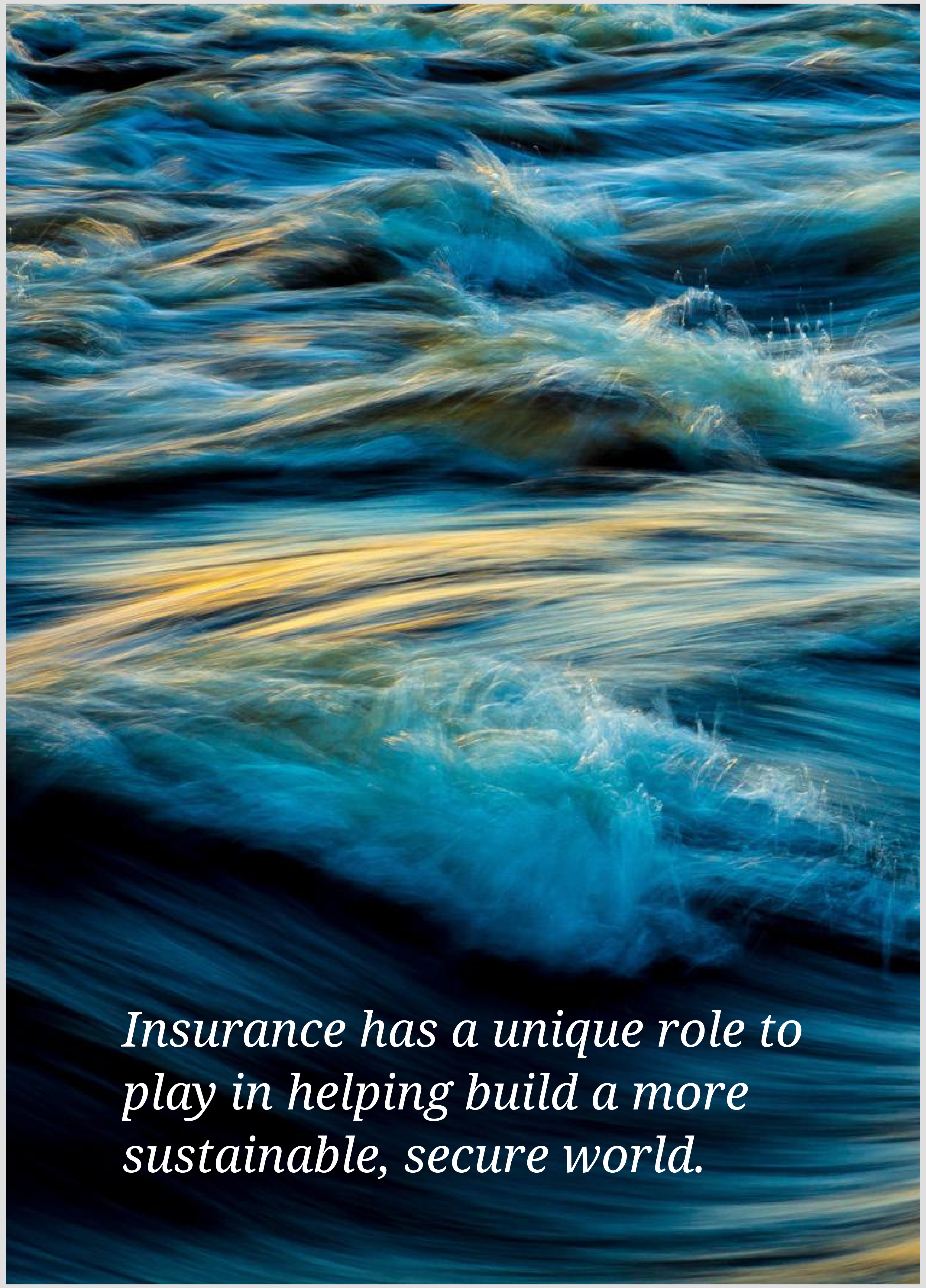
The challenges we face in the world today are as serious as they are complex. As we navigate a global pandemic, the reckoning of systemic racial inequality, increasing economic disparity and a climate crisis, there is a sense of urgency like never before to take meaningful action. And as we seek opportunities to drive progress, we should not lose sight that as an industry, insurance has a unique role to play in helping build a more sustainable, secure world.

Insurance and sustainability are interconnected. Insurance exists to protect against the risk of uncertainty, including environmental, social and governance (ESG) risks. As such, insurers are in a prime position to promote sustainable action through the underwriting process, as well as in investment decisions.

Add to this the shift to a more stakeholder-driven business model which operates under the premise that companies cannot succeed in creating long-term value for their shareholders if they ignore the well-being of their stakeholders. The broader push for more responsible and sustainable business practices reflects this new understanding.

At AIG, we take our commitment to sustainability seriously. To that end, we have developed a sustainability agenda that supports our business strategy and addresses expectations from our key stakeholders, including investors, regulators, clients and employees. We have identified six areas where we focus our sustainability efforts that are core to our business: liabilities, assets, access and affordability, partnerships, reporting and transparency, and leading by example.

Liabilities: Building on our extensive risk expertise, we can facilitate, design and drive innovative solutions to help clients and partners adapt to our changing world. And certainly, one of the biggest sustainability challenges of our time is climate change. At AIG, we actively analyze the latest climate science and policies to anticipate potential changes to our risk profile, pricing models and strategic planning. For example, we continually consider changes in climate and weather patterns as an integral part of the underwriting process. In addition, we provide insurance products and services to help our clients be proactive against the threat of climate change. For example, we maintain a Risk Engineering Group who continually look at ways that clients can make their own property more resilient against losses, including natural catastrophe-related risks such as windstorms, floods and wildfire.



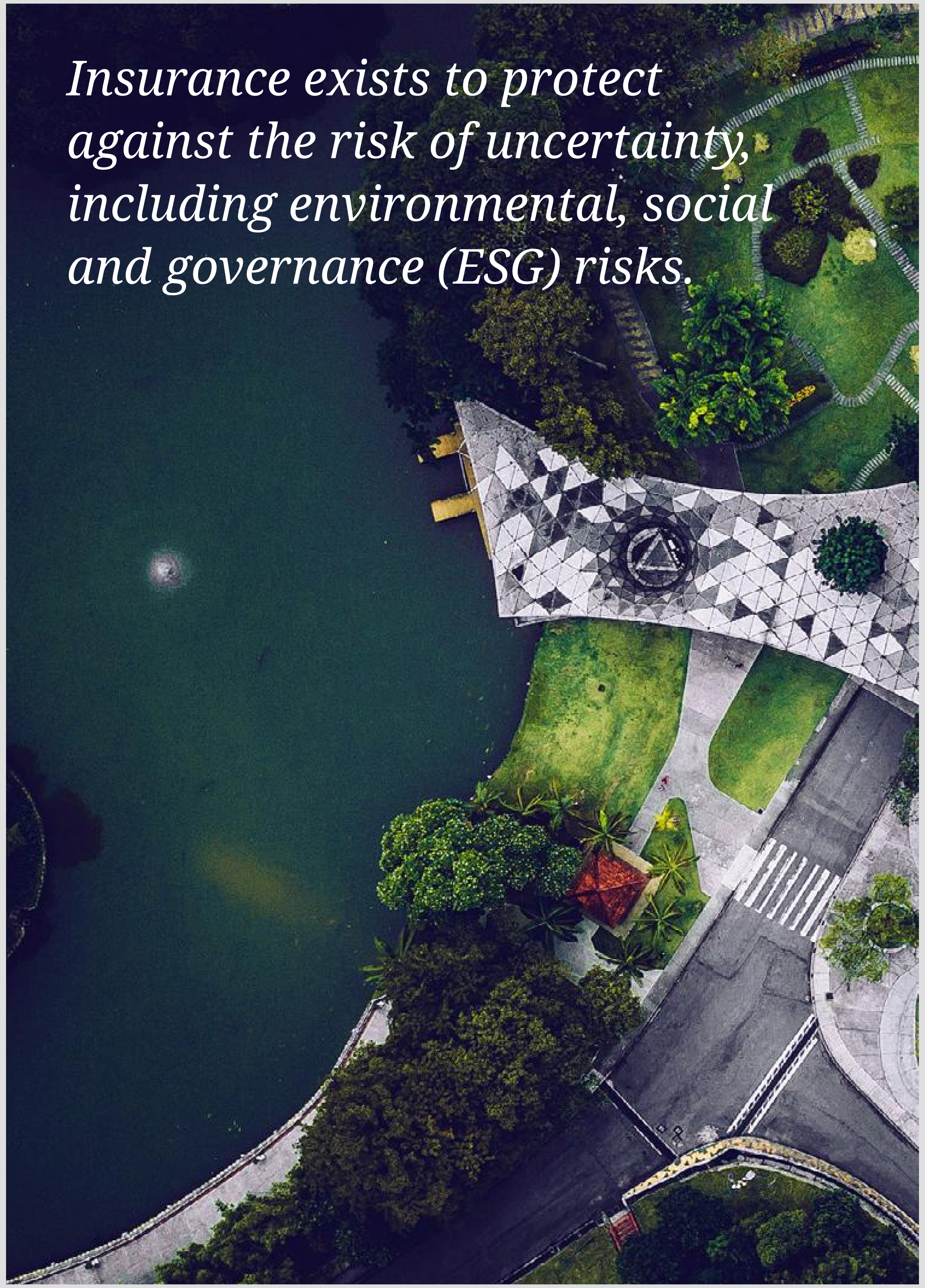
Assets: Insurance companies have a substantial pool of capital investment. Thus, there is the ability to redirect capital flow to address sustainability challenges, such as renewable energy sources and climate-resilient infrastructure. On that point, AIG has invested USD2.2 billion in private wind, solar, geothermal and hydroelectric renewable energy projects worldwide. When AIG makes its fundamental investment analysis of the companies or projects that we invest in, we embed ESG consideration into that process to ensure that the investment's earnings will be sustainable ones. When making such an investment decision, we also consider changes in consumer behavior, industry trends related to ESG factors, and the ability of company's management to respond appropriately to these changes in order to maintain their competitive advantage.

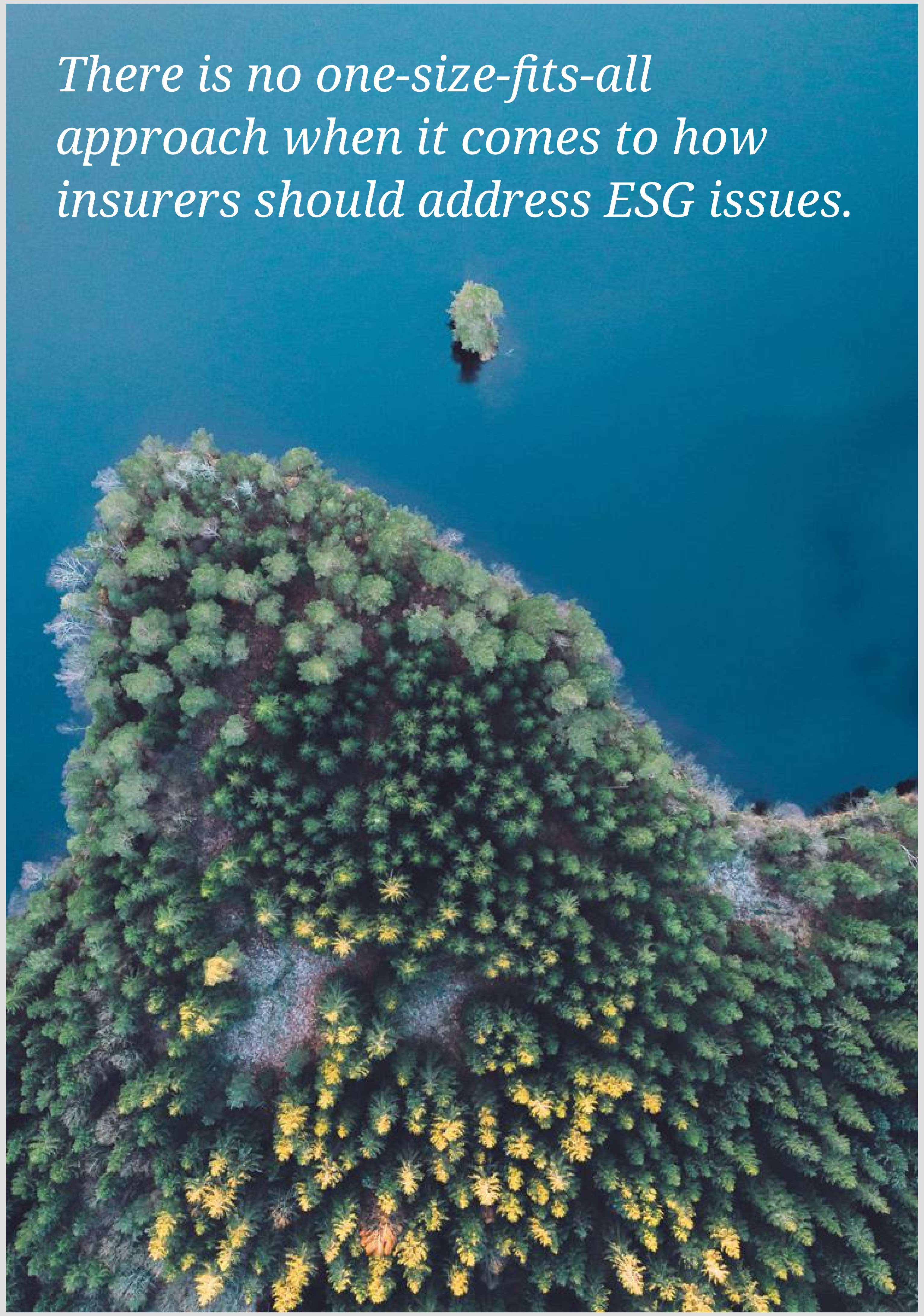
Access and affordability: The ability to obtain insurance coverage in adequate amounts and at a reasonable price is also a critical factor for sustainable growth and financial inclusion, particularly in emerging and developing economies and underserved markets. AIG is a founding member of Blue Marble, a microinsurance consortium, which supports insurance solutions for low-income populations. For example, Blue Marble's weather index insurance program for smallholder coffee farmers provides tailor-made insurance coverage for severe rainfall and drought.

Partnerships: It is clear that the issues of today require the active collaboration of the public and private sectors, academia, non-governmental organizations and civil society. AIG serves as a trusted advisor to many of these stakeholders around the world, based on our technical expertise in analyzing risk. For instance, to help our clients and communities develop more resilient solutions, we partnered with Wood Group to create a resilience framework for urban development projects which proposes a multi-tiered approach for designing construction. Combining AIG's risk mitigation with Wood's environmental and engineering expertise, the collaboration recognizes the importance of having an end-to-end framework that cities can use to manage climate change and environmental risks.

Reporting and transparency: There is a steady rise in expectations from investors, regulators and other stakeholders for unified climate risk reporting across companies and industries. AIG issues its Task Force on Climate-Related Financial Disclosures (TCFD) report to provide greater transparency into our sustainability strategy and to align reporting activities with industry standards. Our latest report can be found here[1]. We have also responded to the CDP (formerly Carbon Disclosure Project) for the past ten years. To identify the most significant ESG issues for our company, we recently initiated a materiality assessment that will guide us as we explore other sustainability reporting frameworks that best reflect our priorities.

AIG has invested USD2.2 billion in private wind, solar, geothermal and hydroelectric renewable energy projects worldwide.





Leading by example: Finally, as insurers, we must look inward at our own sustainability practices. While the natural starting point is often environmental action (energy efficiency, responsible procurement practices, reduction of waste and lower carbon emissions), we must also focus on investments in our people and our communities. Attracting, retaining and developing high-skilled talent is paramount. Promoting a diverse and inclusive culture is at the heart of AIG and we have committed to accelerating our diversity, equity and inclusion strategy at all levels across the organization.

AIG's Employee Resource Groups, comprised of employees who come together based on a shared dimension of diversity, currently engage nearly 12,000 people across 145 chapters. We also recently launched an Executive Diversity Council tasked with ensuring diversity and inclusion are incorporated into AIG's business strategies. Additionally, this year we reestablished the AIG Foundation with an inaugural USD5m contribution and, as an initial statement of support for the black community, donations totaling USD500k were made to organizations focusing on social justice and racial equality. The remainder of the funds will be directed primarily to COVID-19 relief efforts.

We applaud the commitment DLA Piper has made through the publication of this report. It will ensure the insurance industry is informed and educated around the changing regulatory landscape on ESG topics, global coalitions, and partnerships and initiatives supporting businesses, regulators and society in addressing the climate emergency. The global resources included provide a clear lens by which to identify the key sustainability drivers as well as issues and opportunities relevant to our industry. As noted throughout, regulatory and legal actions described are increasingly becoming more focused on the exposure that insurers have to climate and sustainability risk, leaving us with the question: What steps we are taking to address these issues?

Each organization must choose the path that best aligns with its strategic goals and objectives, and accountability to its stakeholders. There is no one-size-fits-all approach when it comes to how insurers should address ESG issues. There are many paths to take and each company must prioritize how to deploy its resources to achieve maximum impact. This report serves as a useful tool in developing those priorities on an informed basis.

We wish you the very best on your sustainability journey. Our collective efforts as an industry have the power to move the needle on some of the biggest issues facing our world today and those yet to come.

Jennifer Waldner Grant

Chief Sustainability Officer, AIG

Rebooting the economy after the pandemic – the link between the response to COVID-19 and sustainability

"Building back better," a term initially coined by the UN Framework for Disaster Risk Reduction, has gained specific momentum in connection with the public response to the COVID-19 pandemic.

When addressing the UN at the end of May 2020, President of the European Commission Ursula von der Leyen underlined the urgency of a "green recovery, a digital recovery, a just and resilient recovery."[2]

In June 2020, Secretary-General of the United Nations António Guterres called on the world's leaders to "build back better with more sustainable, inclusive, gender-equal societies and economies"[3] as a response to COVID-19.

The main idea of building back better is that disaster response should not merely facilitate a return to the pre-disaster status, but pave the way for building up resilience, sparking cultural and behavioral change and ultimately bringing about sustainable change while mitigating future risks. At the core of the approach lies a commitment to learn from the past and acknowledge an extraordinary event such as COVID-19 as an opportunity rather than a threat, to generate long-lasting change. The building back better approach has been used in the context of societal areas such as the education of future generations[4] and most prominently in the context of the economy, especially when it comes to tackling the challenges climate change poses to the world. Building back better can therefore be a useful approach towards a greener economy. Vice President of the European Commission Frans Timmermans warns not to "throw money at a carbon economy that will soon peter out" and to seize the chance to reboot the economy in a sustainable way.[5]

The insurance industry has also identified change towards a sustainable future as being vital to its business interests.[6] Supranational organizations, such as the Organisation for Economic Cooperation and Development (OECD), have joined the discussion on building back better and published reports and policy suggestions which address key factors for post-pandemic economic recovery. Such recovery should not only boost growth but also improve resilience and sustainability of businesses and societies as a whole, according to the OECD.[7] Picking up this theme, some governments increasingly link their economic measures to the advancement of long-term sustainability policies instead of focusing on short-term alleviation. In this article, we focus on some key steps that have been taken globally.

National regulators and supranational regulatory bodies play a major role in shaping the industry. "Mitigating the effects" and "[putting] in place measures that will help insurers to focus on ensuring business continuity" are cornerstones of the European Insurance and Occupational Pensions Authority (EIOPA's) response to COVID-19.[8] Accordingly, some governments and regulators have granted extensions of reporting periods and suspension of certain compliance requirements as short-term relief measures. These measures can be found across the globe. Examples include the governments of the US,[9] Chile,[10] Australia,[11] Italy[12] and the UK[13] which all granted some sort of extension to reporting periods for listed companies in general or insurers in particular. Other administrative measures include, for example, the suspension of on-site tax audits in Mexico[14] and a general extension granted on business licences in Colombia.[15] Some governments also suspended environmental reporting duties (although these efforts were not part of ESG-specific legislation).[16] Likewise, some government projects which addressed questions such as the potential impact of climate change on the financial sector have been put on hold.[17]

It is clear, however, that this is only half the story and that ESG and sustainability have not been forgotten. Another common theme among government and business responses is a shift from exclusively emphasizing the ecological aspects of ESG to paying more attention to the social aspects.[18] Most notable and prevalent is the protection of employees through enhanced employment security and improved working conditions, with examples found in almost every country.[19] For example, the German Federal Government extended its short-time work scheme, Kurzarbeitergeld, to give businesses monetary relief without laying off large parts of the workforce.[20] Likewise, Australia's government has recently announced it would extend its wage subsidy program,[21] as did the government of Colombia, which has launched a similar compensation scheme, the PAEF.[22]

International organizations have advocated for improving working conditions in a sustainable manner, and addressing the corresponding supply chain analysis, for years. See, for example, the UN Principles for Responsible Investment[23] or the OECD Guidelines for Multinational Enterprises.[24] Since the outbreak of the COVID-19 pandemic, the need for improved resilience in workplaces has emerged, not just as a means of protecting the individual's health, but also as a means to build a more robust economy. Some governments have responded to this and are closely scrutinizing the sectors most vulnerable to pandemic exposure. For example, several superspreading events in Germany's meat industry led to a tightening of mandatory working conditions.[25] In the same manner, the Italian government has extended its agile working legislation, which not only allows businesses to remain operative through remote working solutions, but as such is also capable of improving future resilience.[26] Some industry players and organizations have also realized the implications the current pandemic has for the future development of their business, especially with regard to resilience. The World Bank

Group's International Finance Corporation has published a report analyzing the logistics sector and its exposure to the pandemic. The report predicts that the sector may improve its resilience by shortening supply chains and bettering working conditions, be it through automation or increased health and safety protocols.[27]

Most of these measures have no or only some connection to ESG and building back better. However, some governments' responses go beyond stimulating the job market and transforming the workplace, and instead tie robust recovery to the advancement of a spectrum of ESG factors.

Governments considering ESG and sustainability criteria in their policy response can be divided roughly into two groups: governments making ESG compliance a "hard" condition for subsidies and economic stimulus, and governments that advocate such compliance but do not make it an explicit requirement.

For example, the governments of Italy, Germany, Belgium and the Netherlands pursue sustainable economic recovery by giving beneficial financial treatment to certain projects and industries. Both Italy and Germany increased their subsidies for purchases of electric cars. The Netherlands gave government aid to a major airline contingent to further sustainability commitments on the part of the airline.[28] Another example has been announced by UK prime minister Boris Johnson, who pledged to build back greener by investing in wind power to quadruple Britain's offshore wind capacity by 2030.[29]

Leading the pack in terms of tying short-term economic stimulus to long-term sustainable development is the Canadian government. To align Canada's commitment to the Paris Agreement and the goal of net zero carbon emissions by 2050 with financial relief for Canadian enterprises, the government has introduced the Large Employer Emergency Financing Facility (LEEFF), a bridge-financing program for companies with annual revenues of over CAD300m, designed to assist them with their cash flow needs during the COVID-19 pandemic.[30] Any organization that accepts one of these loans is "required to commit to publish annual climate-related disclosure reports consistent with the Financial Stability Board's Task Force on Climate-Related Financial Disclosures, including how their future operations will support environmental sustainability and national climate goals," as Canada's Prime Minister's Office confirmed.[31] The government of Hong Kong has come up with another notable initiative that ties social development to ecological advancement: the Green Employment Scheme. The program aims to subsidize private companies and suitable organizations to employ 2019 or 2020 graduates working in areas related to environmental protection, ecological conservation, green energy and energy conservation, climate change, sustainable development and more. The program will provide employers of eligible graduates with a monthly subsidy of HK5,610, forming part of the monthly salary paid to each eligible graduate for a period of 18 months.[32]

Looking beyond short-term initiatives, many governments perceive the current crisis and measures taken to overcome it as leverage for pursuing long-term development goals. The governments of the Netherlands and Belgium both stressed their continuing support for a reduction of greenhouse gas emissions which has specifically been endorsed by the Belgian Federal Council for Sustainable Development.[33] Moreover, the Belgian Federal Public Health Service published a policy paper which outlines a recovery from COVID-19 and aims to bolster resilience in the future.[34] The German government also emphasized its commitment to the UN Sustainable Development Goals with the support of its Sustainable Finance Committee, a body tasked with advising the government in developing a sustainable finance strategy.[35] This committee supported the release of Germany's first green sovereign bonds at the beginning of September 2020.

Likewise, the Dutch National Bank (DNB) states that integrating the climate agenda into measures aimed at economic recovery could prevent delays in the energy transition and avert increased financial risks.[36] Measures and investments aimed at stimulating economic recovery should be linked, to the extent possible, to investments in sustainability such as those included in the Paris Climate Agreement. According to DNB, state aid should set sustainability requirements for specific emission-intensive companies. DNB also emphasized that reinforcing the European Emissions Trading System (ETS) has become even more important. Such measures would not only stimulate the economic recovery but also reduce the risk that the energy transition will slow down and, as a result, will at a later date be accompanied by sudden shocks to the financial system. Likewise, the Dutch Authority for the Financial Markets (AFM) considers that the crisis may also provide stimulus for the sustainability transition, given the call from politicians to link company support measures to sustainability goals and to use the economic recovery in a broader sense for the sustainability transition, ie, a "green recovery."[37]

To summarize, the most immediate governmental responses to the impact of COVID-19 have focused on short-term damage limitation – ie, minimizing the impact of the pandemic. However, the more governments and organizations realize that rebuilding the economy will take longer than initially hoped, the more sustainability and climate change will rise to the top of the political agenda. Moreover, it would be wrong to assume that all ESG topics have been put on hold during the pandemic. The pandemic has turned a strong spotlight on ESG's "S" and in particular on employees' working and living conditions around the globe, which previously received considerably less attention than climate change.

The long-lasting impact COVID-19 is likely to have on the insurance sector becomes apparent in the AXA Future Risks Report 2020.[38] The report identified "health," which ranked eighth in the previous year, as the new top priority among respondents overall. With COVID-19 being an immediate and omnipresent threat, the shift to pandemics as the top emerging risk and a decrease in the perceived risks of climate change seem to be an obvious consequence. But due to the growing interconnection of risks, the fight against climate change and the fight against the effects of COVID-19 do not necessarily have to hinder one another but can go hand in hand, as the idea of "build back better" well illustrates.

While the specific implementation of the build back better strategy may differ among countries, industry sectors and key players, the consensus among stakeholders is that the key to successfully building back better is a strong international community in which all stakeholders take responsibility for the impact their actions now will have on the society and economy of tomorrow.

"Here we are, not just maintaining our ambitions, but doubling down on the Green Deal. It was our growth strategy, and now it is also our roadmap out of this crisis, a lifeline to a better future.

But what we absolutely should not do is equate income and job protection with the blind preservation of sources of income and employment that we know have no future. Then you are wasting money and people's time.

And we cannot win our fight for greater fairness, for a just transition, if we defend an economic model that delivered growing inequality on the back of a dwindling set of resources.

Nor can we get to a fairer world if we hit 'pause' and let climate change run its course."

Frans Timmermans,
Executive Vice President of the European Commission[39]

Sustainability – practical observations from the insurance board table from FTI Consulting

There has been a sea-change in recent months: sustainability is now on the minds of every board of every major insurance company. There have been notable early adopters who have recognized the power of the insurance industry to shape the debate. But until now, for many players it has been harder to find their role. Instead, they have been taking reactive steps to address specific requests at any point in time.

Now we see insurers taking practical and tangible steps to become positive contributors to the sustainability agenda. One major driver of this is the shift away from a shareholder-driven ESG agenda towards a full set of stakeholders, In particular, investors, customers, regulators, media, staff, distributors and supply chain partners are all becoming more vocal in their expectations. And there is a dependency on third party asset managers and even competitor firms.

The potential for reputational uplift or damage has increased: doing too little or executing poorly in this area will have deeper consequences as we move forward.

Summarizing the observations we make as we engage with clients across the global insurance world on this topic, some key themes emerge:

- Far from being deprioritized during the COVID-19 pandemic, the crisis has served to underline just how transformational an agenda the industry faces. It has become clear that our strategic models and ways of working can quickly be upturned by policymakers' reactions to outside threats. Slow adopters of sustainability run the risk of being caught out by the next black swan. Conversely, responsible investment can be its own reward if that in turn leads the company away from undue exposure to vulnerable industries or companies.

- There is a complex array of requirements, as the rest of this report shows. We would expect this to settle down to a consensus over time but for now it makes it harder to plan. It is a task in itself to stay abreast of the implications arising from the different frameworks that are emerging from the UN, the EU and locally. Those who shoot for "minimum compliance" will find this even harder as the bar raises over time.

- Some insurers see their sustainability agenda as more than just a duty. It is also an opportunity to reinforce their wider sense of purpose, to differentiate themselves, to retain talent and to cement their role as key pillars of the new society.

- Boards are conscious that the pace of action is going to be fierce and the challenge for their businesses will be to keep to ambitious timeframes without leaving their most important stakeholders behind. In the immediate term, with the disclosure regulations coming into play in 2021, companies have a number of key changes to make to their ability to track and report on the tangible impacts of their actions, while juggling conflicting stakeholder demands.

- It is possible to get distracted by just how broadly the business is affected by this topic. Project leaders need to set meaningful short-term milestones while the breadth and complexity of change requires a clearly-set-out journey for multi-year transformation. It is important to allow periods of trial and learning before feeling compelled to crystallize decisions. Also, stakeholder needs will themselves change over time.

These lead to some important immediate steps for each insurance group:

1 Clarify the complete stakeholder list, noting any natural conflicts of agenda

2 Ensure there is a clear summary of requirements to be addressed over the next planning horizon, both minimum and against emerging best practice

3 Take an impartial assessment of the insurer's own maturity against those requirements

4 Ensure clear task ownership and to achieve consensus around the board table for the agreed short-term and long-term outcomes

5 Ensure, given the strategic and transformational implications, CEO ownership of the purpose, objectives and conflict resolution process

6 Run the program visibly, internally and externally, with frequent communication and stakeholder feedback

FTI works closely with all industries on this topic, particularly in relation to stakeholder management, program design and operational evaluation.

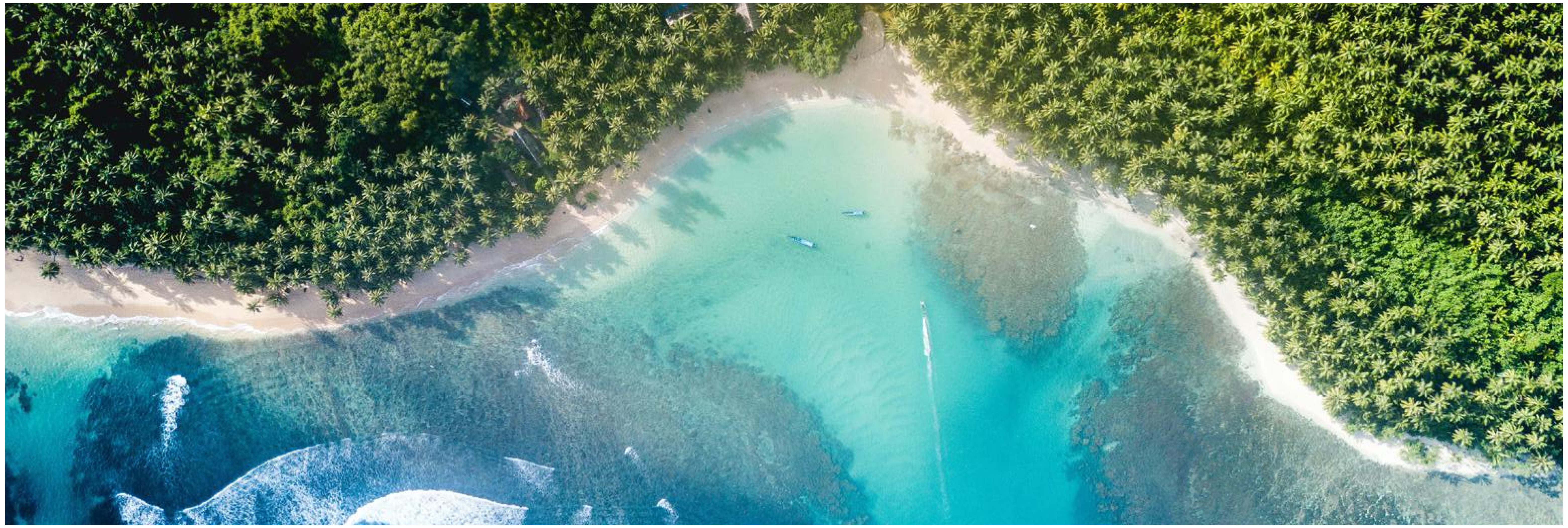
Examples of our activity with the insurance industry include supporting:

- boards on governance and strategy;
- CEOs on investor relations and stakeholder management; and
- CIOs, CROs and CFOs on reporting, responsible investment and program execution.

Graham Handy
Managing Director, Global Insurance Services, FTI Consulting

UN and UN-related initiatives relevant for the insurance sector

Having been established after World War II, the United Nations (UN) initially aimed to prevent future wars and secure international stability. Today in the 21st century the UN has facilitated international cooperation not just concerning peace and security, but brought to life various initiatives concerning diverse aspects of humanity such as human rights, climate change, gender equality and many more.[40]



The term "sustainability" was defined by the UN Brundtland Commission in 1987 as "meeting the needs of the present without compromising the ability of future generations to meet their own needs".[41] In recent years numerous governments, international organizations and private companies committed to implementing sustainable policies which cover a multitude of environmental, social and economic aspects.

The climate crisis is one of the most pressing challenges today's globalized world is facing. In October 2020 already more than 1,700 local governments in 31 countries have declared a climate emergency.[42] The effects of climate change are not limited by borders: national organizations and institutions alone cannot provide sufficient solutions. With the UN warning in March 2019 that there are only 11 years left to prevent irreversible damage from climate change it becomes apparent that the upcoming decade will be decisive.[43] Since the threat of frequent natural disasters caused by climate change does not only have an ecological but also a social and an economic dimension, all aspects of sustainability will benefit from successfully tackling climate change. Governmental, non-governmental and private sector initiatives inside or alongside the UN globally play an important role for the integration of environmental, social and governmental aspects in all kinds of businesses, including the insurance sector.

UN Sustainable Development Goals and UN Environment Programme Finance Initiative

The 17 UN Sustainable Development Goals (SDGs) have their origin at the United Nations Conference on Sustainable Development in Rio de Janeiro in June 2012. In this conference UN Member States adopted the outcome of the document "The Future We Want." It contained inter alia the launch of a process to develop a set of SDGs which aim to achieve peace and prosperity for people and the planet.

From 2013 to 2015, a working group of UN Member States worked on the SDGs. The SDGs were published as part of the 2030 Agenda for Sustainable Development , a 15-year plan of action for people, planet and prosperity.[44] In September 2015, all UN Member States adopted the Agenda including the SDGs.[45]

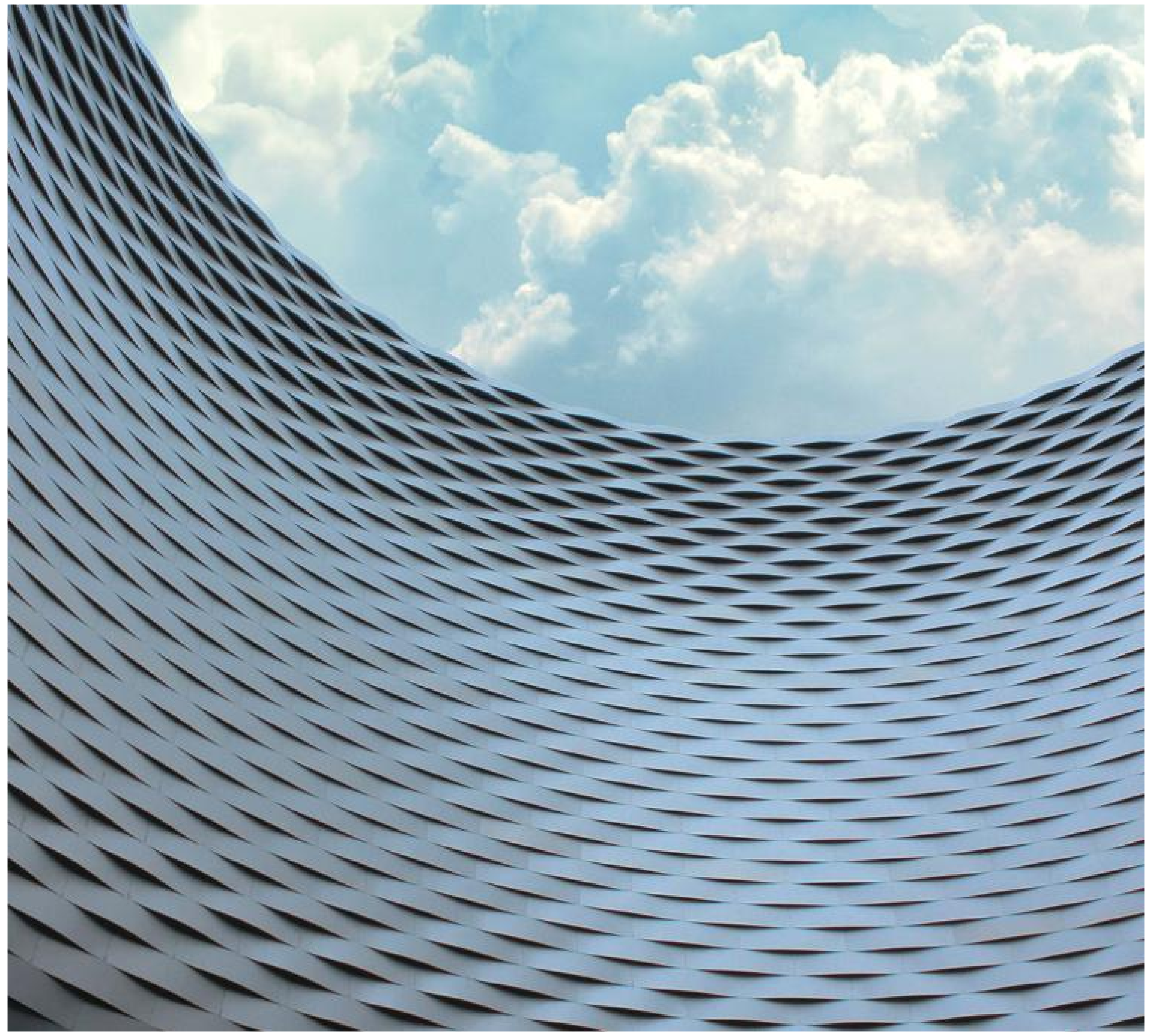
Today, the UN Division for Sustainable Development Goals provides support and capacity-building for the SDGs.[46]

The SDGs are used both as a basis for government actions and for the contributions of individual companies and businesses. Companies can contribute to the SDGs by joining the UN Global Compact, an initiative offering a principle-based framework for companies that are committed to sustainability and responsible business practices.[47] DLA Piper joined the UN Global Compact as a signatory in 2013 as one of the first global law firms.[48]

More specific to the global financial sector and aligned with the SDGs is the UN Environment Programme Finance Initiative (UNEP FI), a partnership between the UN Environment Programme and the global financial sector. UNEP FI helps to integrate sustainability into financial market practice, eg, by supporting the Principles for Responsible Investment and developing the Principles for Sustainable Insurance.

Considering that there are only ten years left to achieve the goals set out in the Agenda including the SDGs, 2020 has been proclaimed by the UN to be the start of the Decade of Action, in which everything possible shall be done to achieve these goals. Since the beginning of 2020, this included the launch of several campaigns and initiatives (eg, UN75, a global conversation on the priorities of the future)[49] as well as the organization of many events. Currently, UNEP FI and UN Global Compact announce almost daily new commitments and initiatives, many of which are relevant to the financial sector.[50]

> *"If possible, the Sustainable Development Goals are even more crucial now than at their inception. And coronavirus clearly demonstrates that Sustainable Development Goals are equally important for every human being on earth. The goals are not set only for those undergoing development, but for all."*
>
> **Ursula von der Leyen,**
> President of the European Commission[51]



Principles for Responsible Investment

The Principles for Responsible Investment (PRI) have been developed by a group of investors and experts from the investment industry, intergovernmental organizations and civil society after an invitation by the UN Secretary-General Kofi Annan. The PRI were launched in April 2006.[52]

The PRI are voluntary and offer a variety of possible actions for incorporating ESG issues into investment practice.

There are six PRI:

(1) We will incorporate ESG issues into investment analysis and decision-making processes.

(2) We will be an active owner and incorporate ESG issues into our ownership policies and practices.

(3) We will seek appropriate disclosure on ESG issues by the entities in which we invest.

(4) We will promote acceptance and implementation of the Principles within the investment industry.

(5) We will work together to enhance our effectiveness in implementing the Principles.

(6) We will each report on our activities and progress towards implementing the Principles.[53]

The PRI additionally offer a variety of possible actions for the incorporation of the PRI such as addressing ESG issues in investment policy statements or supporting the development of ESG-related tools, metrics and analysis to fulfill principle (1) of the PRI.[54]

Over 3,000 signatories, representing over USD103 trillion, had signed the PRI by September 2020,[55] including eg, Generali Group, Allianz SE, Insurance Australia Group, Reinsurance Group of America and Munich Re (the latter was also a drafting signatory).[56]

The PRI can be signed by asset owners, investment managers and service providers.[57] Existing and future signatories need to maintain the following:

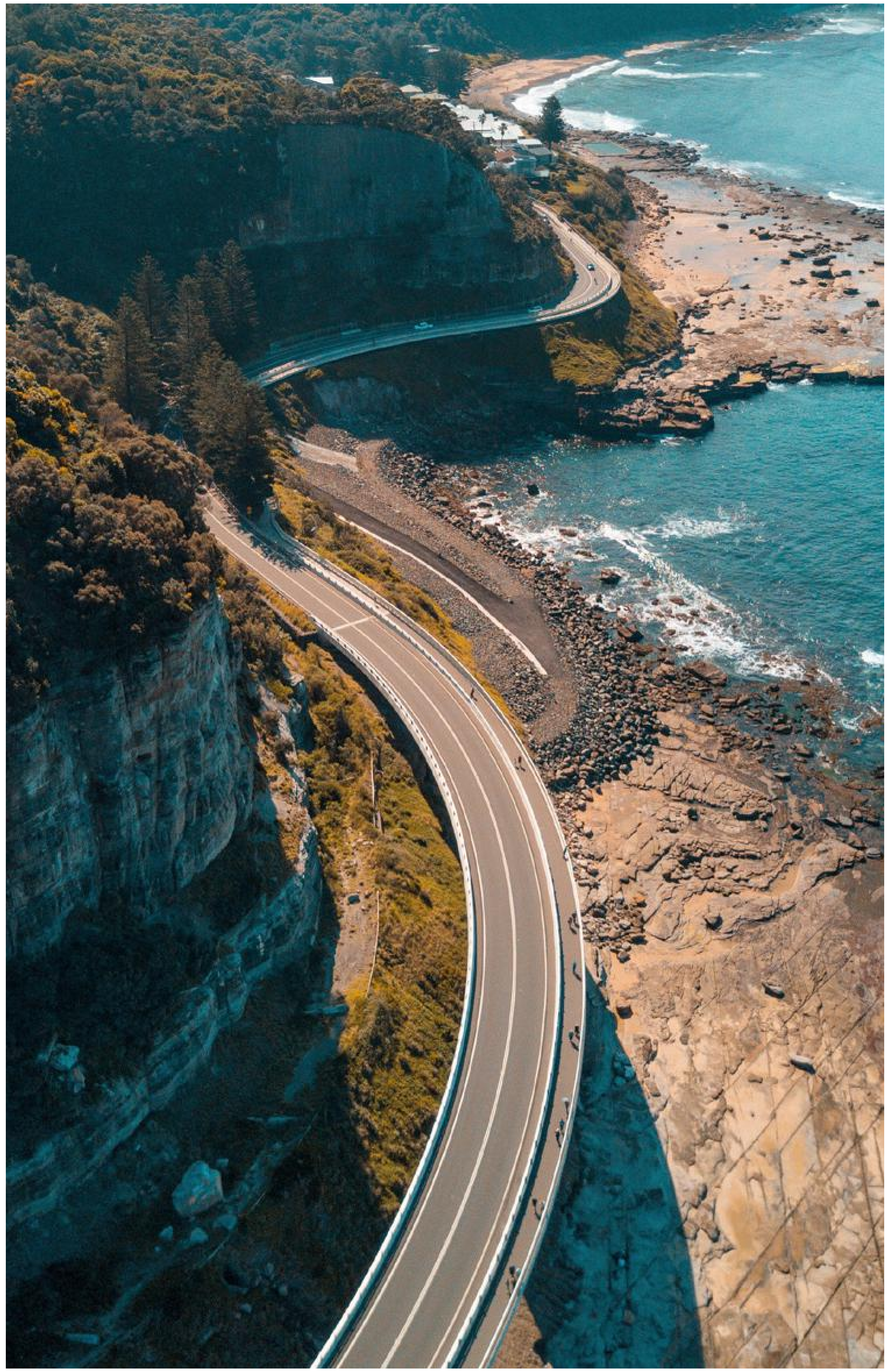
- an investment policy that covers the firm's responsible investment approach, covering >50% of AUM
- internal/external staff responsible for implementing Responsible Investment (RI) policy
- senior-level commitment and accountability mechanisms for RI implementation

The PRI Association will support the signatories in their process of implementing the necessary changes to meet the above requirements. If a signatory fails to meet the requirements within two years of signing the PRI, the PRI Association will reach out to the signatory and, depending on the individual circumstances, such signatory may eventually be delisted.[58]

The PRI Association is an independent initiative and supported by, but not part of, the UN, namely by UNEP FI and the UN Global Compact.[59] Both UN initiatives hold a seat each on the PRI Association Board and play an important role in delivering the PRI Association's strategy.[60]

"For our signatories, no matter where you are in the world, adding your financial weight to ensuring that 2020 becomes a watershed year for responsible investment and the beginning of a decade of action and accountability is vital."

Fiona Reynolds,
CEO of PRI Association[61]



UN Principles for Sustainable Insurance

The Principles for Sustainable Insurance (PSI) are a voluntary and aspirational initiative developed by the UNEP FI and were launched in 2012 to establish an insurance industry which is trusted and plays its full role in enabling a healthy, safe, resilient and sustainable society.[62] The PSI Initiative, administered by and set within the overall governance initiative of UNEP FI, helps promote the adoption and implementation of the PSI globally.[63] The Board of the PSI Initiative includes inter alia representatives from African Risk Capacity, AXA, SulAmérica Insurance and Aon.[64]

The PSI initiative is based on four PSI which are designed to prevent and reduce ESG risks and improve management of opportunities to provide reliable risk protection:[65]

(1) We will embed in our decision-making ESG issues relevant to our insurance business.

(2) We will work together with our clients and business partners to raise awareness of ESG issues, manage risk and develop solutions.

(3) We will work together with governments, regulators and other key stakeholders to promote widespread action across society on ESG issues.

(4) We will demonstrate accountability and transparency in regularly disclosing publicly our progress in implementing the PSI.[66]

In addition, the PSI Initiative offers possible actions to comply with the PSI, eg, for principle (1) the integration of ESG issues into risk management, underwriting and decision-making processes on capital adequacy.[67]

Around 80 insurance companies have signed the PSI, including Ping An Insurance and Allianz SE.[68] The PSI can be signed by all companies with insurance business, in particular (re)insurers and intermediaries. Institutions carrying out activities relevant for the insurance industry (eg, insurance regulatory or supervisory authorities) may become a supporting institution of the PSI. There are a number of such supporting institutions including the Mexican Association of Insurance Institutions, the French Insurance Federation and the California Department of Insurance.

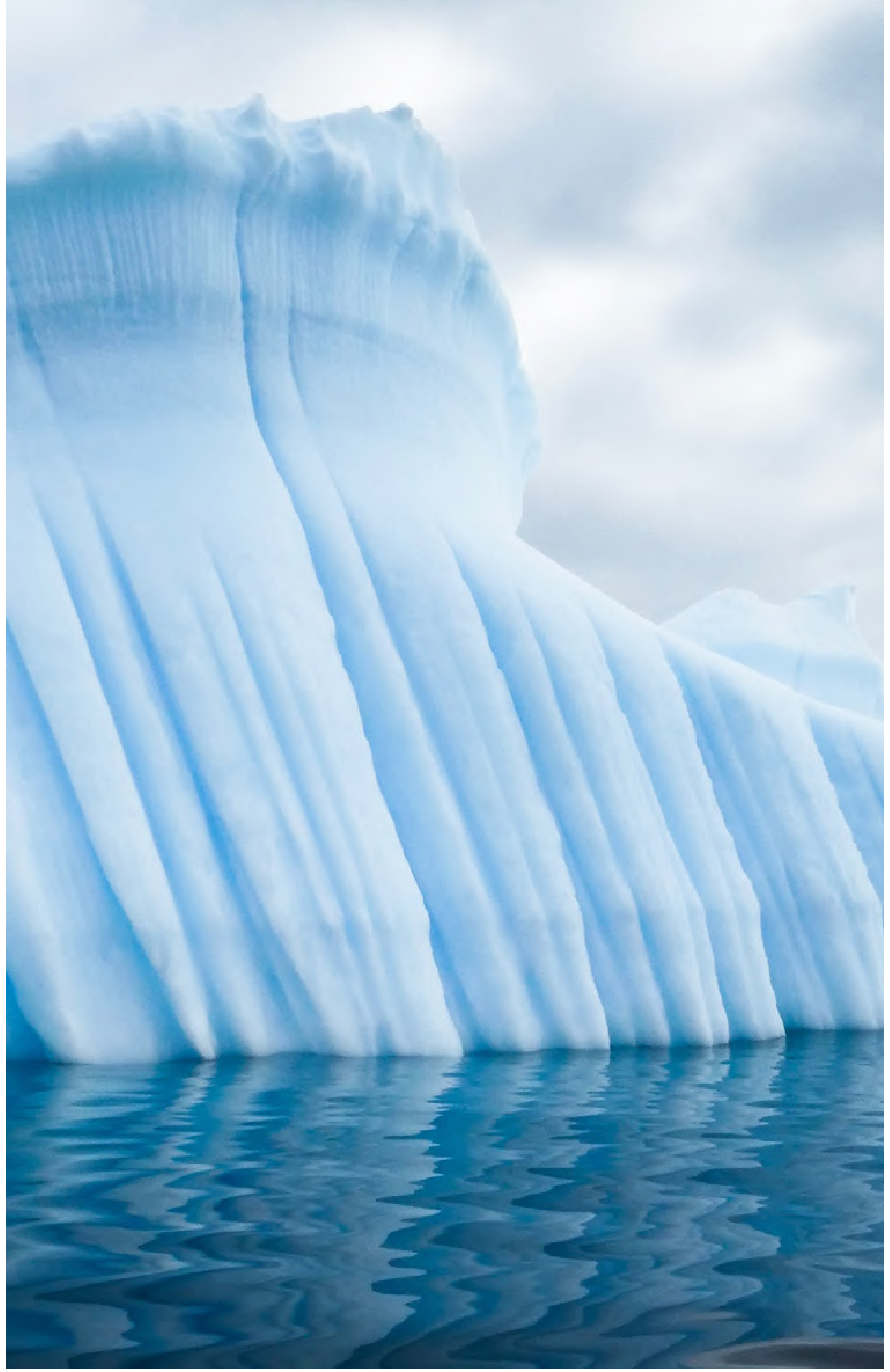
In June 2020, the PSI Initiative published an ESG guide for non-life insurance on how to manage ESG risks in risk assessment and insurance underwriting.[69] This guide includes, among other things, recommendations on how to obtain information on the client/project regarding ESG risks, for example by making it conditional for acceptance or renewal.[70] Furthermore, the guide offers “heat maps” showing the levels of potential ESG risks across economic sectors and lines of business.[71]

Moreover, the PSI Initiative as well as the insurance sector itself have begun to research the insurance sector's potential for a collective and systematic contribution to the SDGs.[72] This includes areas such as specific "Insurance SDGs" (iSDGs), mapping insurance products to the SDGs and strengthening the links between insurance portfolios and the SDGs.[73] According to the respondents of the PSI global pulse survey on insurance and the SDGs, the three most relevant SDGs for the insurance business within the next ten years will be "Climate action" (SDG 13), "Good health and well-being" (SDG 3) and "Sustainable cities and communities" (SDG 11).[74]

Compared to the PRI, the PSI are an initiative only for the insurance industry and their scope includes but is not limited to investment management whereas the PRI are a framework for insurance and non-insurance institutions (eg, insurance companies, pension funds, foundations, investment management companies) and their scope is only on investment management, which they address more comprehensively.[75]

"Insurers are therefore amongst those with the greatest incentives to understand and tackle climate change in the short term. Your motives are sharpened by commercial concern as capitalists and by moral considerations as global citizens. And your response is at the cutting edge of the understanding and management of risks arising from climate change."

Mark Carney,
Former Governor of the Bank of England, United Nations Special Envoy on Climate Action and Finance[76]



UN Framework Convention on Climate Change and UN Climate Change Conference

The United Nations Framework Convention on Climate Change (UNFCCC) is a multilateral environmental agreement with the ultimate aim of preventing human behavior which has an adverse effect on the climate system and stabilizing greenhouse gas concentrations.[77] All 197 countries that have ratified the UNFCCC since its entry into force on March 21, 1994 are represented at the Conference of the Parties (COP). The COP is the governing body of the UNFCCC which monitors the effects of the measures the Parties have implemented and takes the necessary decisions to achieve progress towards the UNFCCC's ultimate goal. The COP meets every year at the United Nations Climate Change Conference in alternating locations.

In 1997 the Kyoto Protocol was adopted at the COP3 which set binding emission reduction targets for 37 industrialized countries and economies in transition and the European Union to reduce greenhouse gases emissions.[78] The Kyoto Protocol's first emission reduction commitment period ran from 2008 until 2012 and was expanded by the Doha Amendment in December 2012 which set out a second emission reduction commitment period from 2013 to 2020. Requiring ratification of three fourths of the Kyoto Protocol Parties the Doha Amendment only entered into force recently with Nigeria's acceptance on 2 October 2020, providing the basis for further multilateral cooperation at COP26.[79]

The Paris Agreement, signed at the COP21 in 2015, has been celebrated as a landmark agreement in the fight against climate change[80] and has been ratified by 189 parties. The US left the Paris Agreement on 4 November 2020.[81] We will wait to see if and when the US will rejoin under its newly elected president.[82]

The Paris Agreement aims to restrict global temperature rise this century to well below 2°C above pre-industrial levels and to pursue efforts to limit it to 1.5°C. It also includes long-term goals of adaption to climate change and to work towards finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

The Agreement requires countries to deliver Nationally Determined Contributions (NDCs) every five years, which embody the efforts of each country to reduce national emissions and adapt to climate change impact. The NDCs are intended to be ambitious, and to "ratchet up" over time, as parties submit more progressive NDCs. So far, 186 parties have submitted their first NDCs, but only three have submitted second or updated versions.

> *"Time for prevarication is over. The urgency of addressing climate change is upon us. The energy transition is a key component and it has to be bold and effective."*
>
> **Christiana Figueres,**
> Former Executive secretary UNFCCC[83]

UN CLIMATE CHANGE CONFERENCE COP26

The UK is co-hosting with Italy the 26th UN Climate Change Conference (COP26) in Glasgow from November 1-12, 2021. This was originally due to take place in November 2020 but was postponed due to the coronavirus pandemic. COP26 is particularly significant as it will be the first COP at which there will be a global stocktake of commitments under the Paris Agreement.

The UK believes the financial sector's contribution is essential to achieving the goals of the Paris Agreement, and that banks and insurers therefore have a key part to play, in both managing risks and seizing opportunities. To this end, in January 2020 the UK government appointed Mark Carney, outgoing head of the Bank of England, as finance adviser for COP26. On his appointment, Mark Carney said: "The combination of these critical meetings [at COP 26] and the UK's global leadership in financial services provides a unique opportunity to address climate change by transforming the financial system. To seize it, all financial decisions need to take into account the risks from climate change and the opportunities from the transition to a net zero economy."

The Glasgow conference will be an opportunity to discuss and negotiate details around the Paris Agreement and is seen by many campaigners as an opportunity to raise ambitions on climate change. Expectations are high as the parties' success in relation to implementing the Paris Agreement will be assessed and new more ambitious NDCs are expected.[84] The UK has been called upon to use its role as the host of COP26 wisely by taking the lead and reviewing and increasing its own NDC.[85] Against a background in which some climate scientists have said that current pledges are not enough to achieve the intended maximum temperature rise, the UK has said it wants to "inject the required urgency" and that at COP 26 "governments, businesses, cities, the global scientific community and civil society [will need] to work together to accelerate the transformation of our economies, deal with the inevitable impacts of the climate change we have already created, and bend the curve on global emissions." China's recent commitment to become carbon neutral by 2060[86] could function as an accelerator for COP26 and raise the pressure on the international community.

> *"The transition to a carbon-neutral economy provides opportunities, not just risks. By shifting the horizon away from the short term and contributing to a more sustainable economic trajectory, the financial sector can become a powerful force acting in our collective best interest. The future path for carbon emissions and the climate is uncertain, but it remains within our power to influence it."*
>
> **Christine Lagarde,**
> President of the ECB[87]

"There are no short-cuts to decisive climate action. We need to take a long-term view. I applaud the leadership of the investors in this Alliance. Their commitment sends a strong signal that financial markets and investors are listening to science, and moving us to a path of resilience and sustainability."

Inger Andersen,
Executive Director of the UN Environment Programme (UNEP)[88]

Net-Zero Asset Owner Alliance

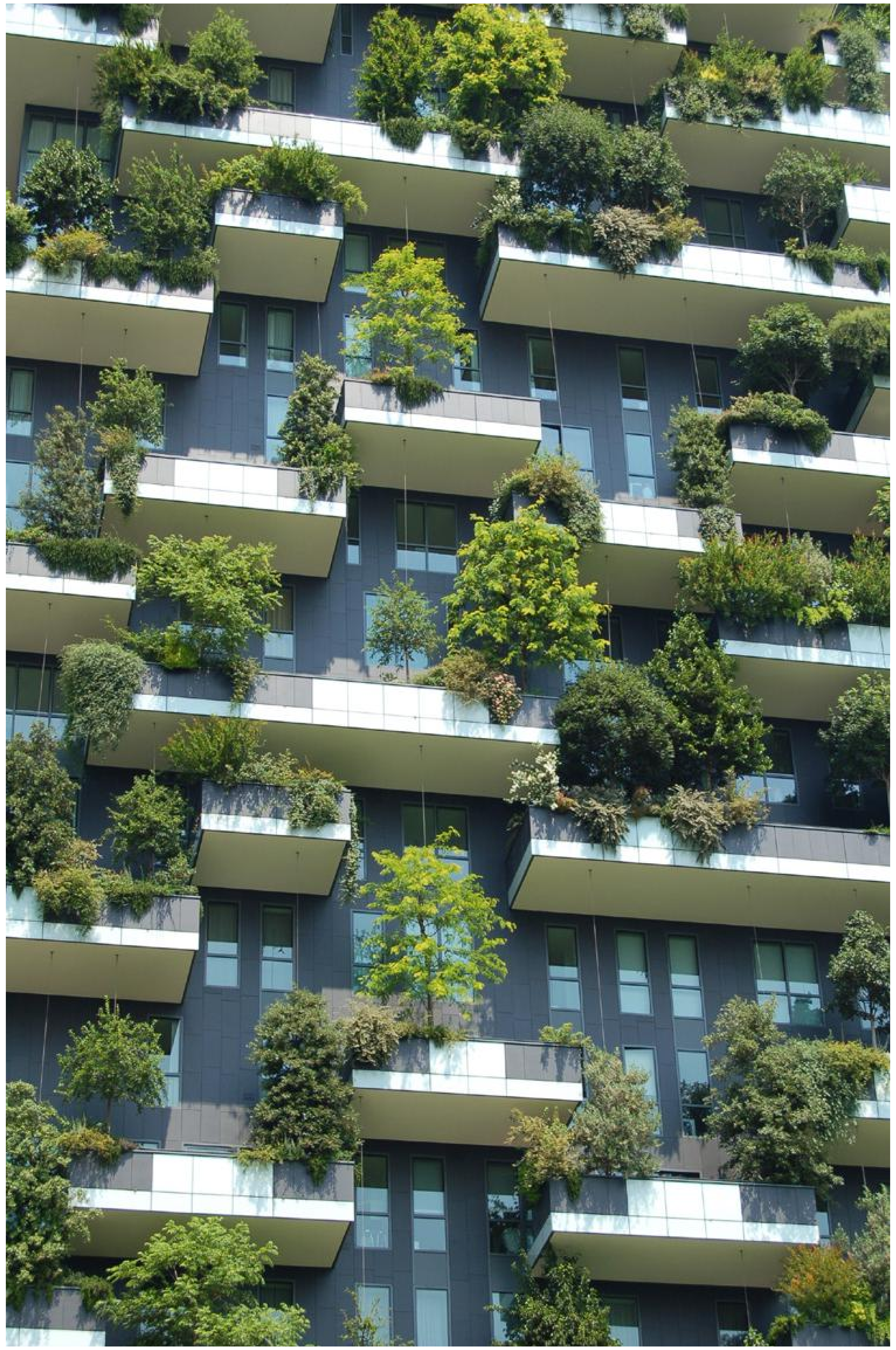
The UN-convened Net-Zero Asset Owner Alliance (Alliance) is an international group of 27 institutional investors (as of July 10, 2020) managing nearly USD5 trillion in assets.

The members made a commitment to transit their investment portfolios to net-zero greenhouse gas emissions by 2050, consistent with a maximum temperature rise of 1.5°C above pre-industrial temperatures while taking into account the best available scientific knowledge and regularly reporting on progress including the establishment of intermediate targets every five years, each in line with Article 4.9 of the Paris Agreement.[89]

The Alliance announced its ambition at the UN Secretary-General's Climate Summit in New York on September 23, 2019 (COP25).

Initiators of the Alliance were Allianz, Caisse des Dépôts, La Caisse de dépôt et placement du Québec (CDPQ), Folksam Group, PensionDanmark and SwissRe. Since then other large insurance companies, such as Generali and AXA, have joined the Alliance.[90]

In order to achieve the alignment with the Paris Agreement, the Alliance will use state-of-the-art tools and align with various initiatives led by members. The Alliance members set specific targets at portfolio level, measure the impact on the real economy and emissions, apply an integrated approach for ESG considerations and measure and manage associated impacts and monitor engagements in an ongoing, joint effort.[91]



Further global initiatives

As the effects of climate change are visible globally across continents, borders and industry sectors, the response requires multinational and multi-dimensional solutions. As well as governments and international organizations, other important stakeholders have stepped up to share the responsibility for taking action to protect the future of the planet. Once again it has proven to be true that extraordinary times require extraordinary measures as countries, central banks, supervisors, international organizations, the private sector and academia have formed taskforces, partnerships and networks in which they share best practices and issue industry specific recommendations.

Global initiatives on climate-related financial disclosures

Over recent years, there has been a steady increase in requirements on businesses around the globe to make climate-related financial disclosures. A key principle underpinning this development is that information disclosed by companies needs to be clear, comparable and consistent to facilitate informed investment decisions. As stated by the former Governor of the Bank of England and former Chairman of the Financial Stability Board, Mark Carney, for markets to do what they do best – allocate capital effectively and dynamically – they need the right information. When risks are unknown or ill-defined, the market cannot allocate resources in an efficient and profitable manner.

TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES

The global initiative to encourage and standardize climate-related financial disclosures was instigated by the G20 Finance Ministers in 2015 and resulted in the creation of the industry-led Task Force on Climate-Related Financial Disclosures (TCFD).[92]

The TCFD's mandate was to develop a set of voluntary climate-related financial disclosures which can be adopted by companies when assessing the risks that climate change presents to their businesses and informing investors and the public about those risks.[93] It identified two categories of risk:

- **transition risk:** including risk of changing government/regulatory policy, litigation risk, technology risk arising from climate-related technological innovations, market risk due to shifts in supply and demand, and reputational risk

- **physical risk:** including direct damage to assets and indirect impacts from supply chain disruption as a result of extreme weather events or longer terms shifts in climate patterns and temperature rise[94]

In 2017 the TCFD released its recommendations setting out 11 sets of disclosures recommended by the TCFD within four thematic areas:

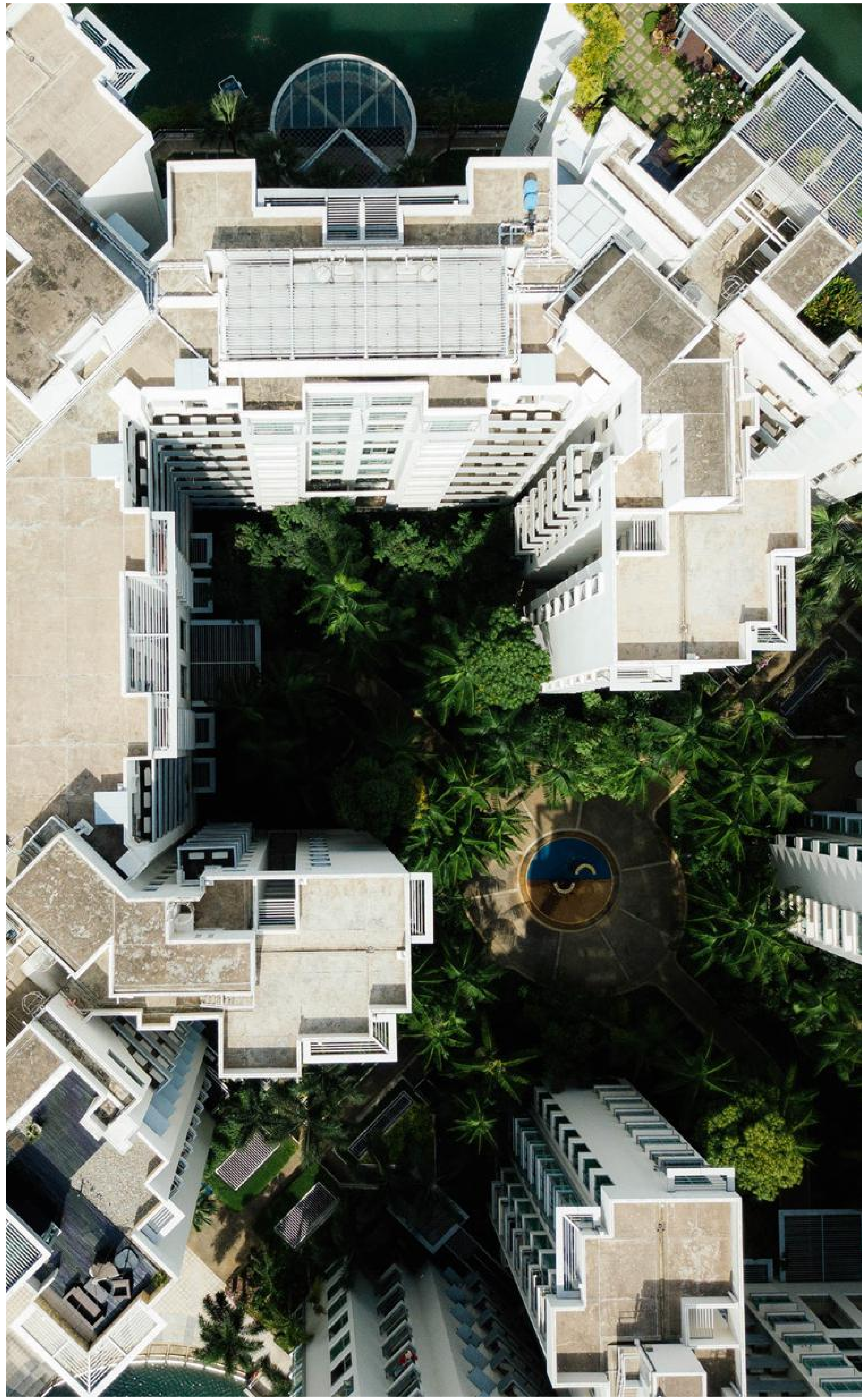
- governance around climate-based risks and opportunities including board oversight

- strategies for addressing those risks and opportunities

- risk management including disclosure of the business process for identifying, assessing and managing climate-related risks

- disclosure of the metrics and targets used to measure those factors[95]

These recommendations include that businesses should conduct and disclose a "scenario analysis" to assess the resilience of the organization's strategy taking into account different climate-related scenarios, including a 2°C temperature rise.[96] For some organizations this type of analysis is likely to be highly complex and costly to implement.



INSURANCE-SPECIFIC DISCLOSURES

In addition to the TCFD's recommendations, which apply to businesses in all sectors, there has also been specific guidance for their application by insurance providers and insurance supervisors.

On February 27, 2020, the International Association of Insurance Supervisors (IAIS) and the Sustainable Insurance Forum (SIF) jointly published an Issues Paper on the implementation of the TCFD recommendations (Issues Paper).[97] This is a useful source for supervisors in the process of enhancing disclosures for climate-related financial risks and has been downloaded over 2,500 times since its launch.[98]

The Issues Paper describes the different approaches that insurance supervisors have adopted around the world when developing practices for encouraging or enforcing climate-related financial disclosures and looks at existing practices in various countries and the way in which the IAIS's Insurance Core Principles address climate risk and related disclosure issues.[99]

One of the key components of the Issues Paper is the recommendation that insurance supervisors adopt the disclosure recommendations by the TCFD and encourage disclosures by insurers.[100] However, the Issues Paper notes the limits of the ability of insurance supervisors to require disclosures, particularly with respect to factors that are outside the traditional focus on insurance prudential regulation. Consequently, the Issues Paper largely emphasizes actions insurance supervisors can take to encourage wider climate-related financial disclosures by insurers,[101] although it also suggests that supervisors may wish to consider mandatory disclosures as a going-forward strategy.[102]

Additional guidance for supervisors in their efforts to integrate climate-related risks into supervisory frameworks can be found in the Draft Application Paper on the Supervision of Climate-related Risks in the Insurance Sector which the IAIS and SIF jointly developed and published on 13 October 2020.[103]

OTHER SUPPORT FOR TCFD RECOMMENDATIONS

The TCFD's recommendations have received wide support from governments and regulators in various countries including Canada, France, Sweden and the UK (notably, not the US). In the UK, for example, the government expects all listed companies and large asset owners to make disclosures in line with the TCFD recommendations by 2022. This is set out in the UK government's "Green Finance Strategy."[104] In addition, it is already a requirement in the UK that listed and non-listed "large" companies report on their emissions and other environmental matters, while trustees of pension schemes must disclose financially material environmental considerations and what they are doing about them.

In December 2017, the Central Banks and Supervisors Network for Greening the Financial System (NGFS) was established by a number of central banks and supervisors. In 2019, the members of the NGFS jointly pledged their support for the recommendations of the TCFD and encouraged all companies issuing public debt or equity to adopt the disclosures of the TCFD.[105]

The United Nations-supported Principles for Responsible Investment (PRI) Association announced in 2019 that TCFD-based reporting would become mandatory to report but voluntary to disclose for its signatories.[106]

Even though the TCFD have already been endorsed by numerous governments, private companies and international organizations, there is still room for further commitment. Mark Carney, in his role as the UN's special envoy for climate action and finance, has urgently been pushing for mandatory TCFD disclosure[107] which would be an important step towards the establishment of TCFD as a reference standard for climate-related risk.

> *"The finance sector, lying at the heart of today's global markets, faces the same challenges, but it also is presented with the vast financial opportunities associated with overhauling economies towards climate-compatibility."*
>
> **UNEPFI**[108]

Network for Greening the Financial System

The Network for Greening the Financial System (NGFS) is a fast-growing global network of central banks and supervisors. The NGFS' purpose is to help strengthen the global response required to meet the goals of the Paris Climate Agreement, to contribute to the development of climate- and environment-related risk management in the financial sector and to mobilize mainstream finance to support the transition towards a sustainable economy.

NGFS, ITS MEMBERS AND OBSERVERS

The NGFS was launched at the Paris One Planet Summit on December 12, 2017. Since its incorporation, more than 80 central banks and supervisors have joined the NGFS, either as member or observer. Currently, the NGFS consists of 69 members[109] and 13 observers.[110] The reach of the NGFS is truly global – the People's Bank of China, for example, is seen as one of the pioneers of the network and the central banks of Russia and Japan are both members.[111] However, the central bank of India and the Federal Reserve are neither a member nor an observer to the NGFS. Currently, the NGFS members and observers represent five continents, at least half of global greenhouse gas emissions and the supervision of over two thirds of the global systemically important banks and insurers.

OBJECTIVES

The NGFS members acknowledge that "climate-related risks are a source of financial risk. It is therefore within the mandates of central banks and supervisors to ensure the financial system is resilient to these risks." Accordingly, the NGFS is aiming to green the financial systems and strengthen the efforts of the financial sector in achieving the Paris Climate Agreement goals. The NGFS does so by exchanging experiences, sharing best practices, enhancing the role of the financial system to manage risks and mobilizing capital for green and low-carbon investments in the broader context of environmentally sustainable development. To this end, the NGFS has structured its work into three dedicated workstreams.[112] It also defines and promotes best practices to be implemented within and outside of the membership of the NGFS and conducts or commissions analytical work on green finance.[113]

The NGFS further issues recommendations which are not binding but are aimed at inspiring all central banks and supervisors and relevant stakeholders to take the necessary measures to foster a greener financial system.

PUBLICATIONS

In April 2019, the NGFS published the report *A Call for Action*, providing six recommendations for central banks, supervisors, policymakers and financial institutions to enhance their role in the greening of the financial system and the managing of environment and climate-related risks.[114] Most recommendations (1 to 4) are aimed at inspiring central banks and supervisors to take these best practices into account, fitting within their mandate. Other recommendations (5 and 6) do not fall directly within the remit of central banks and supervisors but point to actions that can be taken by policymakers to facilitate the work of central banks and supervisors.

These recommendations can be summarized as follows:

(1) integrating climate-related risks into financial stability monitoring and micro-supervision

(2) integrating sustainability factors into own-portfolio management

(3) bridging the data gaps

(4) building awareness and intellectual capacity and encouraging technical assistance and knowledge sharing

(5) achieving robust and internationally consistent climate and environment-related disclosure

(6) supporting the development of a taxonomy of economic activities

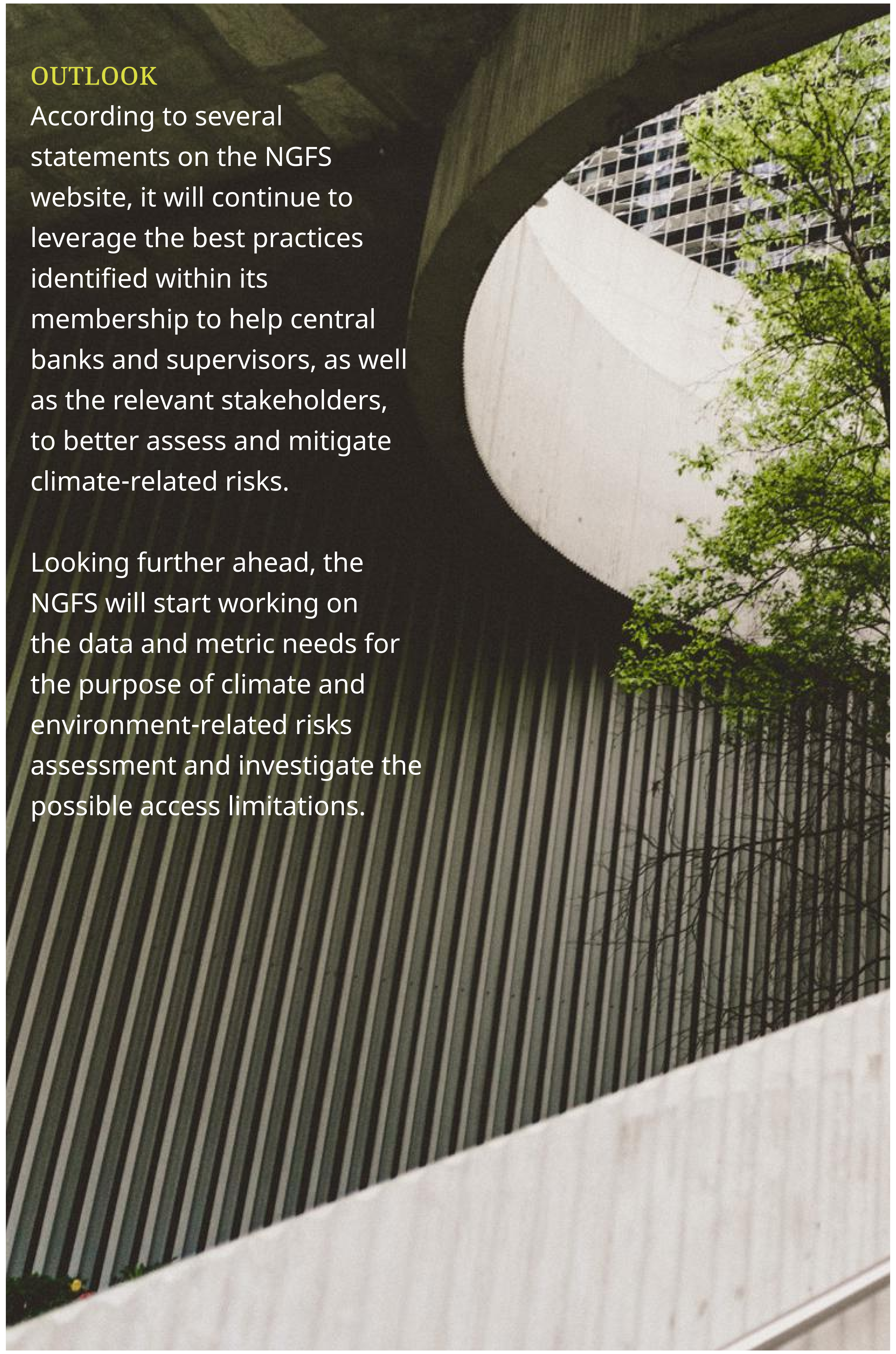
The NGFS has given further substance to these recommendations with the publication of technical documents and other publications. For example:

- a guide for supervisors: integrating climate-related and environmental risks into prudential supervision[115]
- the publication of the NGFS Climate Scenarios alongside a guide to climate scenario analyses for central banks and supervisors[116]
- a technical document describing the macroeconomic and financial stability impacts of climate change.[117]

COVID-19

The NGFS has issued a statement on the need for a green recovery out of the economic crisis caused by the global pandemic (COVID-19). While acknowledging that the COVID-19 pandemic has led to a devastating global health and economic crisis, the NGFS states that one should not "lose sight of the fact that climate change and environmental issues remain as urgent and vital as ever." The NGFS refers to the estimations that as a consequence of the lockdown measures and reduction in economic activity, CO_2 emissions will decline approximately 8% by the end of this year, made in the IEA's Global Energy Report. Recalling the Paris Climate Agreement, the NGFS underlines that emissions must be reduced by a similar order of magnitude every year for the next decade and states that "it is clear we cannot afford to repeat this experience. The economic response to the pandemic should therefore not be to rebuild the old economy with the climate risks it presents, but to act now to lay the groundwork for an orderly transition to a more sustainable economy and climate-resilient financial system – a 'green' recovery."[118]

> *"The transition to a low carbon economy presents a myriad of opportunities. Opportunities for every one of us."*
>
> **Frank Elderson,**
> Executive Director of Supervision of the Netherlands Bank[119]



OUTLOOK

According to several statements on the NGFS website, it will continue to leverage the best practices identified within its membership to help central banks and supervisors, as well as the relevant stakeholders, to better assess and mitigate climate-related risks.

Looking further ahead, the NGFS will start working on the data and metric needs for the purpose of climate and environment-related risks assessment and investigate the possible access limitations.

InsuResilience Global Partnership

The InsuResilience Global Partnership for Climate and Disaster Risk Finance and Insurance Solutions (Partnership) was launched at the UN Climate Conference in November 2017. It brings together key players from the most influential industrial and emerging countries (G20) and from the poorest and most vulnerable countries (V20) as well as international organizations (eg, OECD, UNDP, World Bank), the private sector and academia, who work together to develop concrete and practical solutions that will provide financial protection against climate risks and natural disasters.

Against the backdrop of increasing costs for responding to extreme weather events and other climate shocks, the Partnership aims to develop disaster risk finance and insurance solutions. This will increase the number of people in vulnerable developing countries that have access to insurance coverage against the negative impact of climate change. Such finance and insurance solutions aim to be long-term, provide a reliable source of funding and can also be used to finance measures to build resilience against climate change (eg, resilient infrastructure, sustainable use of natural resources), as opposed to purely reactive short-term disaster response measures (eg, flood aid). The work of the Partnership builds on, and goes beyond, the work of its predecessor, the G7 Climate Risk Insurance Initiative established under the German G20 presidency. In fact, the German government still provides the majority of the funding to the Partnership and its various activities.

The vision of the Partnership is "to strengthen the resilience of developing countries and to protect the lives and livelihoods of poor and vulnerable people from the impacts of disasters by enabling faster, more reliable and cost-effective responses to disasters."[120] This is all in recognition of the fact that poor and vulnerable people in developing countries are disproportionately affected by extreme weather events that result from climate change and insurance solutions can help safeguard their livelihoods.

Among other things, the Partnership seeks to amplify the impact of ongoing initiatives, including regional catastrophe risk pools, and develop new climate and disaster risk insurance solutions such as innovative insurance products.

Funding from the Partnership has allowed the development or expansion of regional risk pools in developing countries. Examples include the Pacific Catastrophe Risk Assessment and Financing Initiative, which provides Pacific Island states with insurance against tropical cyclones, earthquakes and tsunamis,[121] and the African Risk Capacity which provides index insurance against droughts to African Union member states and can reach up to 150 million beneficiaries.[122] In addition, members of the Partnership provide funding to develop and finance such insurance solutions, eg, via the Global Risk Financing Facility[123] and the InsuResilience Solutions Fund.[124]

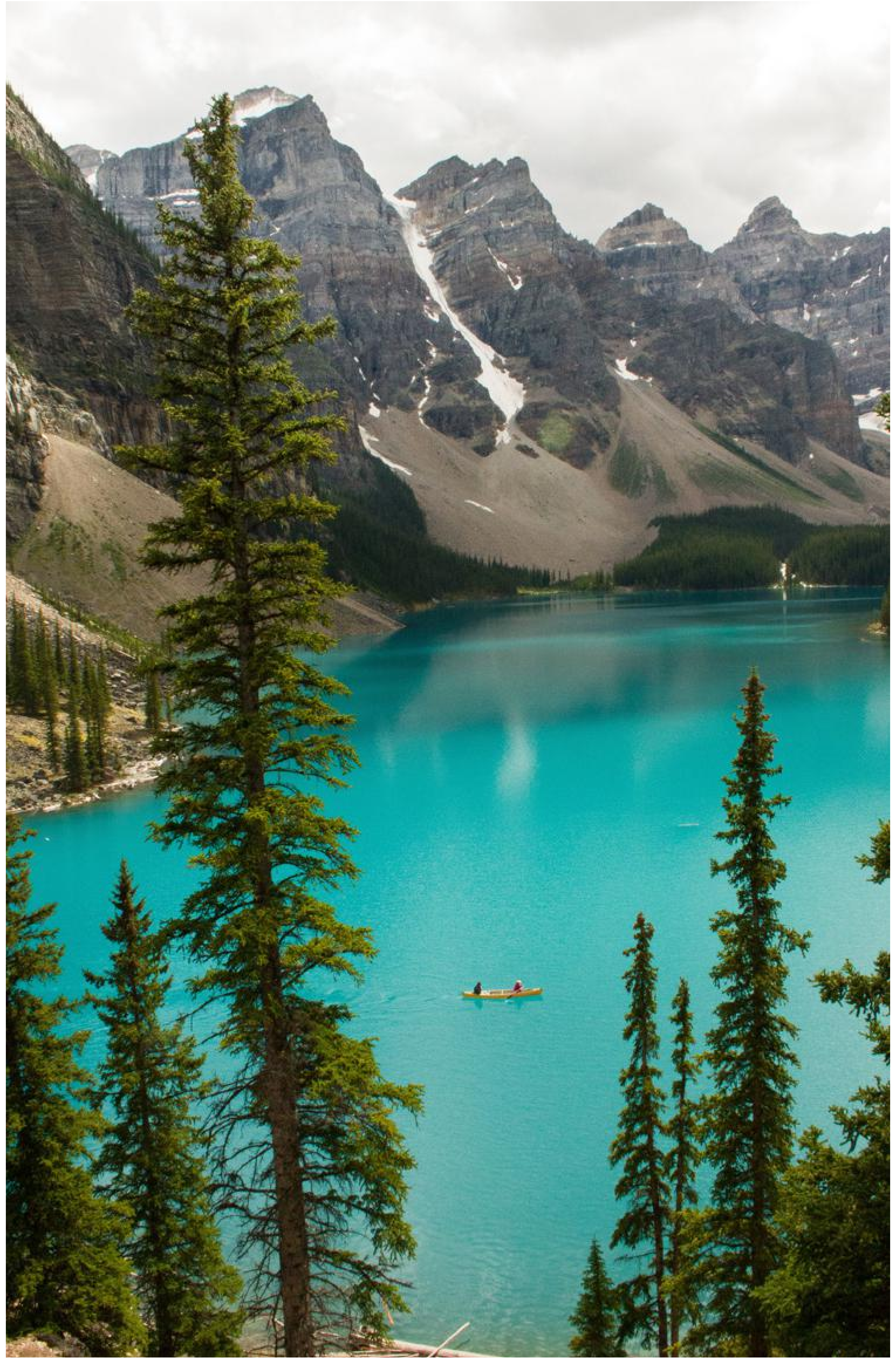
A number of major insurers and reinsurers, including Allianz, AXA, Munich Re, SCOR and Swiss Re, as well as global insurance brokers like Aon and Willis Towers Watson are members of the Partnership. The Partnership also provides a forum for a number of microinsurance companies. Insurers assist the work of the Partnership, including by sharing applicable expertise and solutions for finance risk management, identifying information gaps and contributing to public private partnerships. The Partnership is a member of the UN Principles for Sustainable Insurance and vice versa.

"During our presidencies of the G7 in 2015 and G20 in 2017, we set up and developed the Global Partnership for Climate and Disaster Risk Finance and Insurance Solutions. It is intended in this way to insure an additional 400 million people against climate risks by 2020. In industrialised countries we are familiar with such insurance solutions: they are common practice. But they are not yet so widespread in economically weaker countries. However, it is those very countries that are particularly hard hit by climate change impacts."

Angela Merkel,
Chancellor of Germany[125]

EU initiatives relating to sustainability

The European Union (EU) governs common economic, social and security policies with the purpose of enhancing peace, stability and prosperity in its 27 member states. The predecessor of the EU, the European Economic Community, like the UN was created in the aftermath of WW II and initially focused on fostering economic cooperation to ensure stability and peace.[126] With the globalized world presenting more and more complex challenges concerning various aspects of policy areas, the EU continued evolving and soon set areas as climate, environment, health, external relations, justice and migration on its agenda.[127] With Article 191 of the Treaty of the Functioning of the European Union[128] making combating climate change an explicit objective of EU environmental policy, being on the forefront of the fight against climate change lies at the core of the EU's self-concept. To make good on its promises and achieve a Europe that can call itself, "the world's first climate neutral continent by 2050"[129] the EU initiated numerous ambitious projects and regulations.



The EU Green Deal: demands for industry leadership in a period of political tectonic shifts

Announced early on as the flagship initiative of the new European Commission under President von der Leyen, the European Green Deal is undoubtably one of the most ambitious sets of European legislation to date.

A NEW APPROACH TO FINANCIAL SERVICES REGULATION

On the basis of the assumption that "as the EU moves towards climate-neutrality and steps up the fight against environmental degradation, the financial and industrial sectors will have to undergo a large-scale transformation, requiring massive investment,"[130] the Green Deal has become the "software" of the Commission's policy making. It is a common yardstick, shaping all of the European executives' initiatives to integrate sustainability and social and environmental, as well as governance, considerations into every aspect of EU policy making.

The Commission intends that the financial services and insurance sector play a particular role in this transition for Europe to become the first carbon neutral continent by 2050. Where the Commission's approach over the past years was very much shaped by the post-2008 crisis years and a desire to guarantee stability, it now sees the sector as a key driver of transformation, with a specific responsibility to divert and increase investment in more sustainable economic activities, or in EU terms, "financing the European Green Deal and increasing the financial resilience of the economy, companies and citizens."[131]

While this is not a new development, the measures set out in the Commission's 2018 sustainable finance strategy and the upshot, a Sustainable Growth Action Plan, are now taking center stage. Moreover, the Commission is currently working on concretely shaping its ambitious plan through a renewed sustainable finance strategy, expected at the end of 2020. The insurance sector will thus have to contend with the dual challenge of adapting to complex and rapidly evolving legislation – the adoption of the Taxonomy Regulation[132] or the review of the Non-Financial Reporting Directive are good examples – and of actively participating in the policy debate that will set the tone for years to come.

GROWING EXPECTATION OF INDUSTRY LEADERSHIP IN SHAPING THE FUTURE FRAMEWORK

These ambitious plans come at a time of increased pressure on insurers' business environments and models. This has not escaped the attention of European regulators and decision makers. The European Insurance and Occupational Pensions Authority (EIOPA) has identified the low-interest rate environment as a key source of systemic risk for the sector, compounded by the COVID-19 outbreak leading to a potential "low for long" scenario. While the interplay of policy shifts and a difficult market environment will pose a very real challenge to the industry, the breadth and scope of the Commission's plan have created both space and demand in Brussels for industry leadership. Insurers benefit from the fact that the thinking in the Commission corridors, trying to move the focus away from short-term thinking into more long-term considerations, is much more in line with the sector's business model and worldview. That proximity does come with an additional burden however, as insurers are now expected to actively participate in shaping legislation and regulatory approach.

In the words of EIOPA chairman Gabriel Bernardino, speaking at an event in early 2020: "Insurers are the risk managers of our society, so you really need to lead by example." Bernardino further called upon the sector to do its part and "make sure you take this as an opportunity to develop new products, to [review] calibration of risk according to the evidence you get, to differentiate pricing, to foster innovation towards transition and mitigation of climate risk."[133]

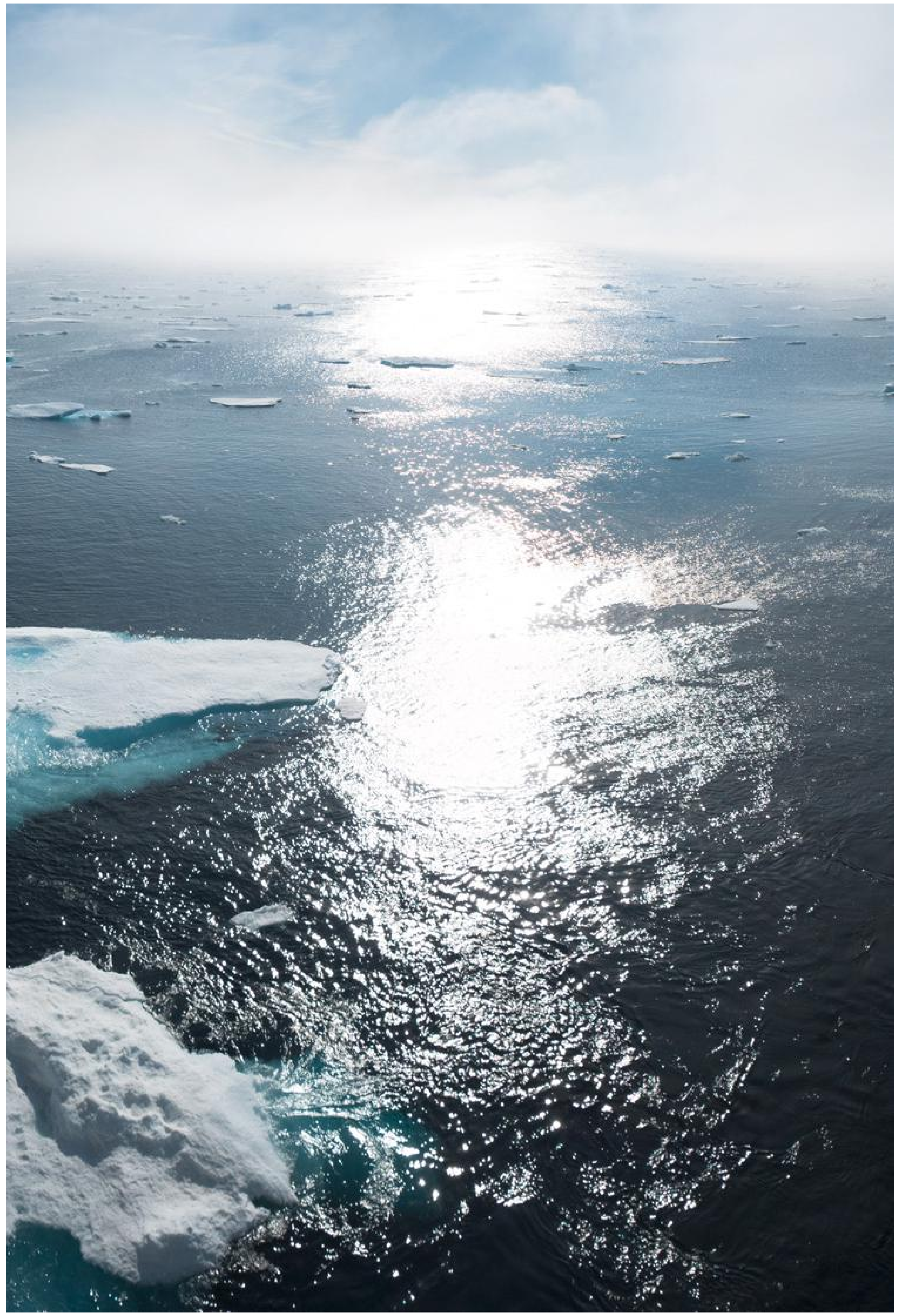
THE COMMISSION'S CORE PRINCIPLES FOR THE FUTURE OF SUSTAINABLE FINANCE

The public consultation around the renewed sustainable finance strategy that concluded in July was only the first of a series of opportunities to get involved and help set the stage for years to come. The three core elements behind this strategy will continue to define policy going ahead.

Firstly, the Commission aims at "strengthening the foundations for sustainable investment by creating an enabling framework, with appropriate tools and structures," effectively freeing up corporations from what the Commission sees as undue pressure from the financial sector. These are believed to lead to an excessive focus on short term financial results by addressing what is sees as corporate governance shortcomings. The upcoming legislation is likely to draw largely from the regulatory agencies' (European Banking Authority (EBA), EIOPA and European Securities and Markets Authority (ESMA)) reports of December 2019, which recommended strenghtening ESG disclosure requirements in the hope of facilitating institutional investor engagement.

Secondly, the Commission aims to further incentivize investments that have "a positive impact on sustainability for citizens, financial institutions and corporates."[134] While this work is already ongoing, it will continue to be the main driver behind European Commission policy. The main challenge thus far has been defining sustainable and positive activities. A key milestone was already reached in June 2020, when the Taxonomy Regulation, setting up a classification system for sustainable activities, had passed the last hurdles and came into force. The Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union (FISMA) is also expected to prepare a decision to expand the EU ecolabel standard for retail investment products to financial products by 2021.

Thirdly, the European Commission believes that "climate and environmental risks will need to be fully managed and integrated into financial institutions and the financial system as a whole." The Brussels executive is likely to take further steps to ensure that sustainability risks and more generally what it deems a responsible approach to business become the norm in financial institutions. It will be building on the measures of its 2018 Action Plan, such as the Disclosure Regulation,[135] whose Regulatory Technical Standards are likely to be defined at the beginning of 2021, the 2019 Action Plan by EBA, which aims to "provide supervisors with adequate tools to understand, monitor and assess ESG risks in their supervisory practices."[136] The further strengthening of the European supervisory bodies is also likely to increase scrutiny of business practices.



INSURERS WILL FACE A RANGE OF CHANGES BEYOND SUSTAINABLE FINANCE AND ESG LEGISLATION

The Green Deal should however not become the tree hiding the legislative forest and insurers will be contending with a wide variety of policy initiatives from across the sector. The more traditional regulatory agenda is equally ambitious. The European Commission aims to conduct reviews of the EU's Alternative Investment Fund Managers Directive[137] (AIFMD), the Markets in Financial Instruments Directive[138] (MiFID II), the Directive on Undertakings for Collective Investments in Transferable Securities[139] (UCITS) and the Regulation on key information documents for packaged retail and insurance-based investment products[140] (PRIIPs) before the end of its mandate. The revision of prudential rules for insurance and reinsurance companies, the so-called Solvency II, is also expected by the end of next year. Against this backdrop, it will be essential for the insurers to remain involved and juggle the various priorities to ensure that their voice remains heard across specific areas in the European policy arena.

THE OPPORTUNITY FOR INSURERS TO DRIVE CHANGE AND SHAPE THEIR ENVIRONMENT

The economic environment the insurance sector operates in is changing, so are the policy priorities. The coming months will be shaping the future for years to come. As with all transitions, the road ahead is likely to be rocky. However, many of the plans are still limited to broad objectives and most legislation is yet to be drafted. With constructive, proactive and value-driven input, the European insurance sector also has the opportunity to demonstrate how its current best practices are making a positive contribution to European and global goals for a more sustainable approach to insurance.

"There is no more urgent need for acceleration than when it comes to the future of our fragile planet. (...) The European Green Deal is our blueprint to make that transformation.

At the heart of it is our mission to become the first climate-neutral continent by 2050."

"But the mission of the European Green Deal involves much more than cutting emissions.

It is about making systemic modernisation across our economy, society and industry. It is about building a stronger world to live in."

Ursula von der Leyen,
President of the European Commission[141]

EU Disclosure and Labelling Provisions

Within the EU legal framework, disclosure obligations on ESG which may be relevant for insurance companies are set out in the Non-Financial Reporting Directive (NFRD),[142] the Disclosure Regulation[143] and the Taxonomy Regulation.[144] All three legal acts play an important role in the transparency of sustainable investment, especially in relation to the elimination of "greenwashing" and the increase of market awareness on sustainability matters.[145]

The NFRD was the first of the three legal acts, adopted in 2014. The Disclosure Regulation was adopted on November 27, 2019 and the Taxonomy Regulation on June 18, 2020.

With regards to ESG aspects, the NFRD and the Disclosure Regulation contain extensive disclosure obligations on all three components of ESG, whereas the disclosure obligations in the Taxonomy Regulation mainly cover environmental aspects. Only a few social and governance objectives (eg, the alignment with the UN Guiding Principles on Business and Human Rights) are part of the minimum safeguards the economic activity has to comply with in order to be considered environmentally sustainable (see Art. 18 of the Taxonomy Regulation). In addition, the EU Commission plans to publish a report on extending the scope of the Taxonomy Regulation to social objectives by December 31, 2021.[146]

The disclosure provisions in the Taxonomy Regulation are partly linked to the scope of the Disclosure Regulation and the NFRD and supplement them by expanding the ESG disclosure obligations. Different from the NFRD and the Disclosure Regulation which deal only with disclosure, the main element of the Taxonomy Regulation is the establishment of a unified classification system for sustainable activities.

DISCLOSURES UNDER THE NFRD

According to the NFRD, large public-interest companies with more than 500 employees on average are obliged to publish reports on their implementation of environmental protection, social responsibility and treatment of employees, respect for human rights, anti-corruption and bribery as well as diversity on company boards (Art. 19a, Art. 29a).[147] Having the legal status of a directive, the NFRD has to be implemented into the laws of the EU member states by respective local laws, eg, in Germany in Sections 289b and 289c of the German Commercial Code.

Companies that fall under the scope of the NFRD have flexibility to disclose relevant information in the way they consider most useful.[148] The Commission published a non-binding guideline[149] to help companies with disclosures of environmental and social information in June 2017. Moreover, the Commission also published a guideline on reporting climate-related information[150] in June 2019.

As part of the European Green Deal, the Commission decided to review the NFRD in 2020 to strengthen the foundations for sustainable investment. Therefore, all citizens and organizations, especially the companies issuing the above-mentioned reports, were able to give feedback during a public consultation from February 20, 2020 until June 11, 2020.[151]

"What we urgently need to see next is an ambitious implementation of the recovery package focused on achieving a green and digital transition, with the European Green Deal at its core and an elevated short-term emissions reduction target in its sights."

"We are writing to call on you, as European leaders, to avoid the worst effects of climate change and secure a sustainable, competitive economic recovery by:

- *endorsing the ambition set out in the European Green Deal*
- *submitting resilient recovery plans which enable the green investments needed to deliver climate neutrality*
- *agreeing a clearly defined target to reduce domestic greenhouse gas emissions by at least 55% by 2030 and associated objectives"*

Letter to EU policymakers by business and investor CEOs on EU 2030 GHG emission targets[152]

DISCLOSURES UNDER THE DISCLOSURE REGULATION

The Disclosure Regulation, directly applicable in all EU Member States from March 10, 2021, contains disclosure regulations with regard to:[153]

(1) the integration of sustainability risks

(2) the consideration of adverse sustainability impacts in the processes of the financial market participants and financial advisers and

(3) the provision of sustainability-related information with respect to financial products.

SCOPE OF APPLICATION

The Disclosure Regulation applies to financial market participants and financial advisers. It contains duties to (i) disclose how addressees integrate sustainability risks and consider adverse sustainability aspects in their internal processes and (ii) provide sustainability-related information in relation to financial products.[154]

Financial market participants include inter alia insurance undertakings which make available an insurance-based investment product (IBIP),[155] investment firms which provide portfolio management and UCITS management companies.[156] Financial advisers are inter alia insurance intermediaries or undertakings which provide insurance advice to IBIPs.[157]

Financial products include, among other things, portfolio management,[158] AIFs[159] IBIPs and UCITS[160] (Art. 2 para. 12).

"Sustainable investment" is defined in general as an investment in an economic activity which contributes to an environmental or social objective provided that such investment does not significantly harm any of those objectives and that the investee company follows good governance practices.[161]

DISCLOSURE OBLIGATIONS

The Disclosure Regulation contains a number of different disclosure obligations, including eg, the duty to publish:

- adverse sustainability impacts of investment decisions/investment advice on sustainability factors on the website[162] and
- the manner in which sustainability risks are integrated into investment decisions/investment or insurance advice in pre-contractual disclosures.[163]

Moreover, if a financial product has sustainable investment as its objective and an index has been designated as a reference benchmark, the pre-contractual disclosures must also include information on how the designated index is aligned with this objective.[164]

NEXT STEPS

Until September 1, 2020, the ESAs sought for input on the proposed Regulatory Technical Standards (RTS) on content, methodologies and presentation of disclosures under the Disclosure Regulation (Art. 2a).[165] Among others, Insurance Europe, the European (re)insurance federation, provided input and welcomed in general the transparency created by the Disclosure Regulation. However, Insurance Europe pointed out that the European regulatory bodies need to make the disclosure regime "implementable in practice" and avoid information overload and lack of understanding by customers.[166]

"Our response to the COVID-19 crises gives us the opportunity to save jobs not for years but for decades to come, and create new jobs. We may never again spend as much to reboot our economy – and I sure I hope we will never again have to. Yet the debt we are loading on the shoulders of our children and grandchildren makes it even more necessary to ensure we provide them with a better future. A cleaner future, a healthier future, and a fairer future."

Frans Timmermans,
Executive Vice President of the European Commission[167]

The Taxonomy Regulation

The most important feature of the Taxonomy Regulation, which entered into force on July 12, 2020,[168] is the creation of a unified classification system for sustainable activities setting out requirements for environmentally sustainable economic activities. This classification system is an essential part of the EU Action Plan.[169]

SCOPE OF APPLICATION

The Taxonomy Regulation applies to:

- financial market participants offering financial products (as defined in the Disclosure Regulation, see above)
- companies which are subject to the disclosure obligations in the NFRD (see above) and
- EU Member States and the EU.[170]

The EU and its Member States shall apply the criteria for determining environmentally sustainable activities for the purposes of any measures setting out requirements for financial market participants or ssuers regarding financial products or corporate bonds offered as "environmentally sustainable."[171]

MAY 2018
Proposal for Taxonomy Regulation

DECEMBER 5 2019
Political agreement between Council and European Parliament on Taxonomy Regulation

MARCH 9 2020
Final report on EU taxonomy by TEG

JUNE 18 2020
Approval by European Commission

JULY 12 2020
Taxonomy Regulation entered into force

DECEMBER 31 2020
Adoption of delegated act on technical screening data for climate change mitigation and adaptation

DECEMBER 31 2021
Adoption of delegated act on technical screening data for the other environmental objectives

JANUARY 1 2022
Application of delegated act on climate change mitigation and adaptation

JANUARY 1 2023
Application of delegated act on remaining objectives

CLASSIFICATION SYSTEM

An economic activity is considered "environmentally sustainable" if the activity complies with all of the following criteria:[172]

- substantial contribution to one or more of the environmental objectives
- no significant harm to any of the environmental objectives (the "do-no-harm" principle)
- is carried out in compliance with the minimum safeguards (eg, the UN Guiding Principles on Business and Human Rights[173]
- is carried out in compliance with technical screening criteria established by the EU Commission

Source: TEG Final report on the EU Taxonomy, p. 2.[174]

THE ENVIRONMENTAL OBJECTIVES INCLUDE:[175]

CLIMATE CHANGE MITIGATION

CLIMATE CHANGE ADAPTATION

SUSTAINABLE USE OF WATER AND MARINE RESOURCES

CIRCULAR ECONOMY

POLLUTION PREVENTION

HEALTHY ECOSYSTEM

Source: Fact Sheet: Financing Sustainable Growth, p. 3[176]

Considering that in many business areas environmentally sustainable activities may not yet be fully available, the Taxonomy Regulation also caters for so-called "enabling" and "transition" activities. An "enabling activity" directly enables other activities to make a substantial contribution to one or more environmental objectives, provided that the activity does not lead to a lock-in in assets that undermine long-term environmental goals, considering the lifetime of those assets, and has a substantial positive environmental impact on the basis of lifecycle considerations.[177] A "transition activity" is an activity for which there are no technologically and economically feasible low-carbon alternatives and which supports the transition to a climate neutral economy with a "pathway to limit the temperature increase to 1.5 °C above pre-industrial levels."[178]

DISCLOSURE OBLIGATIONS

The provisions on disclosure obligations in the Taxonomy Regulation are linked to the scope of the Disclosure Regulation and the NFRD.

Financial market participants (as defined in the Disclosure Regulation) have to disclose in pre-contractual disclosures and periodic reports:

- information on the environmental objective(s) to which the investment underlying the financial product contributes; and
- a description of how and to what extent the investments underlying the financial product are in economic activities that qualify as environmentally sustainable, including the proportion of underlying investments that are Taxonomy Regulation-aligned.[179]

The same applies to financial products that promote environmental characteristics.[180] For financial products that do not invest in environmentally sustainable activities, a disclaimer stating that the relevant investments "do not take into account the EU criteria for environmentally sustainable investments"[181] has to be included.

Companies that fall under the scope of the NFRD need to disclose how and to what extent their activities are environmentally sustainable as defined in the Taxonomy Regulation.[182]

TECHNICAL EXPERT GROUP

In order to make the criteria more practical, the Technical Expert Group (TEG) in sustainable finance recently published its final technical report on the EU taxonomy[183] after analyzing feedback from a wide range of stakeholders regarding the first report.[184]

Moreover, the TEG added a technical annex to the report which contains an updated list of technical screening criteria for economic activities that substantially contribute to climate change mitigation or adaptation as well as an updated methodology section which supports the recommendations on the technical screening criteria.[185]

PLATFORM ON SUSTAINABLE FINANCE AND MEMBER STATE EXPERT GROUP ON SUSTAINABLE FINANCE

According to the Taxonomy Regulation, the EU Commission shall also establish a Platform on Sustainable Finance (Platform), consisting of representatives of European institutions and experts, inter alia from the financial sector, civil society and science. The Platform will advise and assist the Commission as well as "monitor and report regularly to the Commission on EU and Member State level trends regarding capital flows towards sustainable investment."[186] The Platform has become operational on 1 October 2020.[187]

Furthermore, the Member State Expert Group on Sustainable Finance shall advise the Commission on the appropriateness of the technical screening criteria and the approach taken by the Platform regarding the development of the criteria.[188]

NEXT STEPS

The Commission will now have to adopt the delegated acts which establish the actual classification in the form of technical screening data for each environmental objective and sector. The delegated act on the first two environmental objectives (climate change mitigation and climate change adaptation) will be adopted by December 31, 2020 and will apply from January 1, 2022.[189] The EU Commission will adopt the delegated act on the remaining objectives by December 31, 2021 and such act will apply from January 1, 2023.[190]

Stakeholders have been given the opportunity to give feedback on detailed technical screening criteria during a feedback period following the publication of the draft for the first delegated act in September/October 2020.[191] The Commission is currently preparing the delegated act based on the feedback received.

The first set of disclosures for financial market participants under the Taxonomy Regulation with regard to the first two environmental objectives (climate change mitigation and climate change adaptation) is due by January 1, 2022.[192] The second set covering all six environmental objectives is due by January 1, 2023.[193]

Companies that fall under the NFRD are obliged to meet their Taxonomy Regulation-related disclosure obligations on the same dates as financial market participants, meaning that disclosures will become available in the course of 2022 regarding climate change mitigation and adaptation[194] and in the course of 2023 for all six environmental objectives. By June 2021, the EU Commission will adopt a delegated act to the Taxonomy Regulation which specifies how the obligations for companies under the NFRD shall be applied in practice.[195]

"Our top priority in the agenda has been to end 'greenwashing'. Thanks to the EU taxonomy, by the end of the year, we will – for the first time – have clear criteria that determine which economic activities truly help achieve our climate goals."

Frans Timmermans,
Executive Vice President of the European Commission[196]

NEW DISCLOSURE OBLIGATIONS UNDER NFRD, DISCLOSURE REGULATION AND TAXONOMY REGULATION

COMPANIES UNDER ART. 19A, 29A OF THE NFRD

JUNE 1 2021
Adoption of delegated act specifying disclosure obligations for NFRD companies

JANUARY 1 2022
Disclosures for activities related to climate change mitigation and adaptation (publication in the course of 2022)

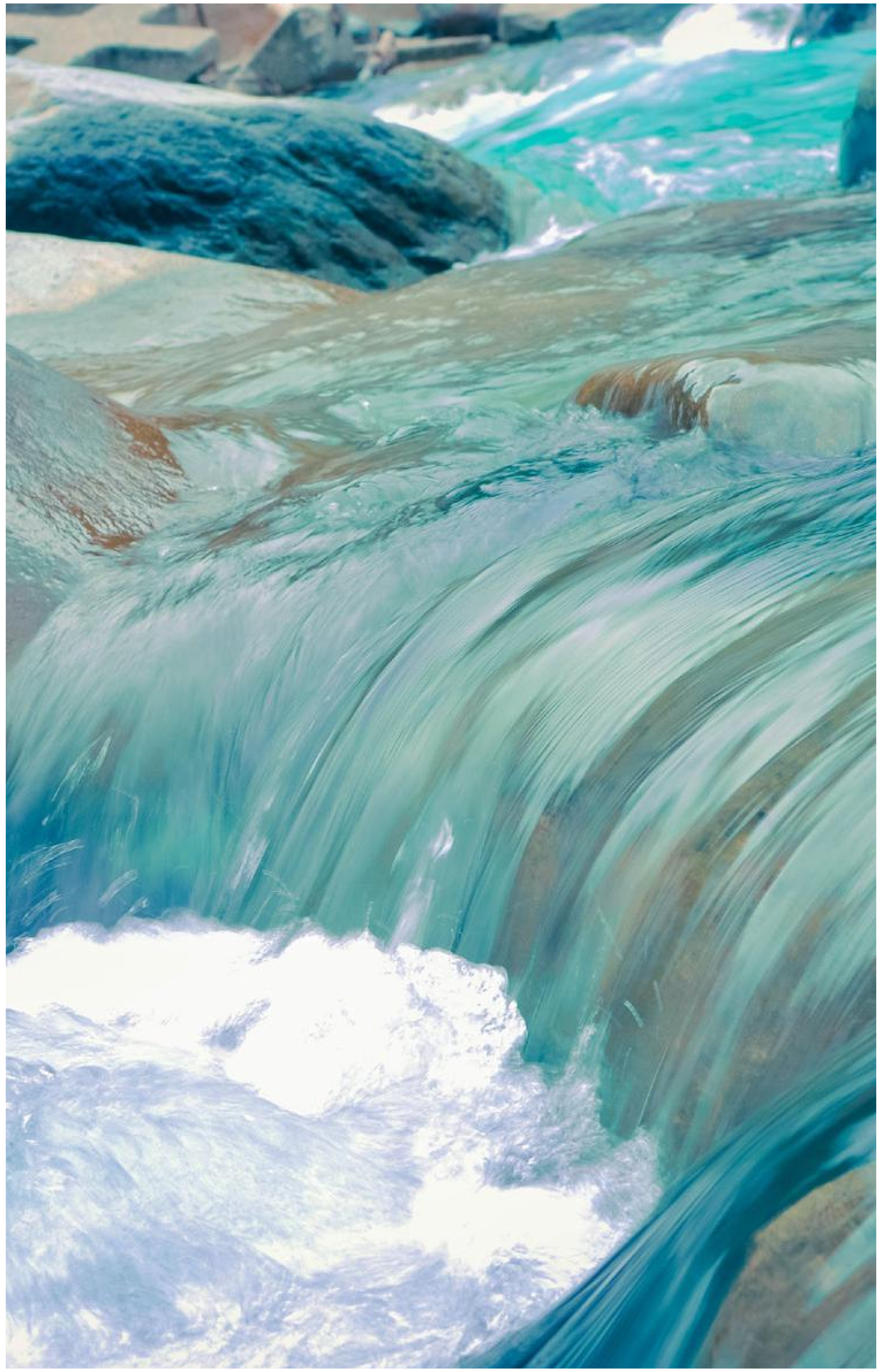
JANUARY 1 2023
Disclosures for activities related to all environmental objectives (publication in the course of 2023)

FINANCIAL MARKET PARTICIPANTS

JANUARY 1 2022
Disclosures in relation to climate change mitigation and adaptation

JANUARY 1 2023
Disclosures in relation to all environmental objectives

Source: TEG final report on the EU taxonomy p. 26[197]



Amendments to the Benchmark Regulation

Benchmarks are used for the pricing of many financial instruments and contracts as well as to measure the performance of investment funds. In order to create a transparent determination of benchmarks and to avoid conflicts of interest, the Benchmark Regulation[198] was adopted on June 8, 2016.

In November 2019, the EU Parliament and the EU Council agreed upon a regulation[199] amending the Benchmark Regulation creating two new categories of low-carbon benchmarks: the EU Climate Transition Benchmark and the EU Paris-Aligned Benchmark, both of which are not (yet) linked to the Taxonomy Regulation.

An EU Climate Transition Benchmark is a benchmark which fulfills the following requirements:

- its underlying assets are selected, weighted or excluded in such a manner that the resulting benchmark portfolio is on a decarbonization trajectory
- it is constructed[200] with the minimum standards laid down in the delegated acts[201]

Administrators of such EU Climate Transition Benchmarks need to select, weigh or exclude underlying assets by December 31, 2022 in accordance with the following requirements:

- the issuing companies disclose measurable carbon emission reduction targets to be achieved within specific timeframes
- the companies disclose a reduction in carbon emissions which is disaggregated down to the level of relevant operating subsidiaries
- the companies disclose annual information on progress made towards those targets
- activities relating to its underlying assets do not significantly harm any ESG objectives[202]

By January 1, 2022, administrators located in the EU which provide significant benchmarks determined on the basis of the value of one or more underlying assets or prices shall endeavor to provide one or more EU Climate Transition Benchmarks.[203]

An EU Paris-Aligned Benchmark is a benchmark fulfilling the following requirements:

- its underlying assets are selected, weighted or excluded in such a manner that the resulting benchmark portfolio's carbon emissions are aligned with the objectives of the Paris Agreement[204]
- it is constructed according to the minimum standards laid down in the delegated acts (see above)
- activities relating to its underlying assets do not significantly harm other ESG objectives[205]

The EU Ecolabel for retail financial products

The EU Commission established the EU Ecolabel, a label of environmental excellence, in 1992. The EU Ecolabel is awarded to products as well as services.[206]

The EU Commission started the development of criteria for retail financial products within the framework of the EU Action Plan in October 2018.[207] Up to now, the Joint Research Center (JRC) has published two technical reports on retail financial products.[208]

According to the Second Technical Report[209], financial products can be considered as services for distribution or use and are hence covered by the EU Ecolabel Regulation.[210] The EU Ecolabel will therefore not be awarded to the financial product itself but rather to the financial services provided by the manufacturer of the financial product. Nevertheless, the promotional material of the financial product can be marked with the EU Ecolabel logo.[211]

The Second Technical Report proposes the following criteria for the award of the EU Ecolabel for financial products:

- investment in green economic activities
- exclusions in the investment portfolio based on environmental aspects
- exclusions of eg, equities or corporate bonds based on social and governance aspects
- engagement of the fund manager, inter alia with the aim of improving the environmental performance of the company
- retail investor information, eg, information on how the fund manager actively engages with companies on sustainability issues
- information appearing on the EU Ecolabel according to the EU Ecolabel Logo Guidelines[212]

The EU Ecolabel is based on a pass-or-fail system, awarding the EU Ecolabel only if the criteria are fulfilled.[213] In order to strengthen the EU Ecolabel for financial products the Second Technical Report proposes a mandatory criteria system.[214]

Integration of sustainability in Solvency II

2020 SOLVENCY II REVIEW

Since January 2016, the Solvency II regulatory regime has governed EU (re)insurers.[215] To ensure the regime remains fit for purpose, the Solvency II Directive[216] requires the review of certain areas by the EU Commission in 2020[217] including inter alia long-term guarantee measures and measures on equity risk[218] as well as methods, assumptions and standards parameters used when calculating the Solvency Capital Requirement[219] standard formula.[220]

Currently, the EU Commission has received and/or requested technical advice and opinions from the European Insurance and Occupational Pensions Authority (EIOPA)[221] on a number of topics (including sustainability) and is holding a consultation on the 2020 Solvency II Review which will end on October 21, 2020.[222]

OPINION ON SUSTAINABILITY WITHIN SOLVENCY II

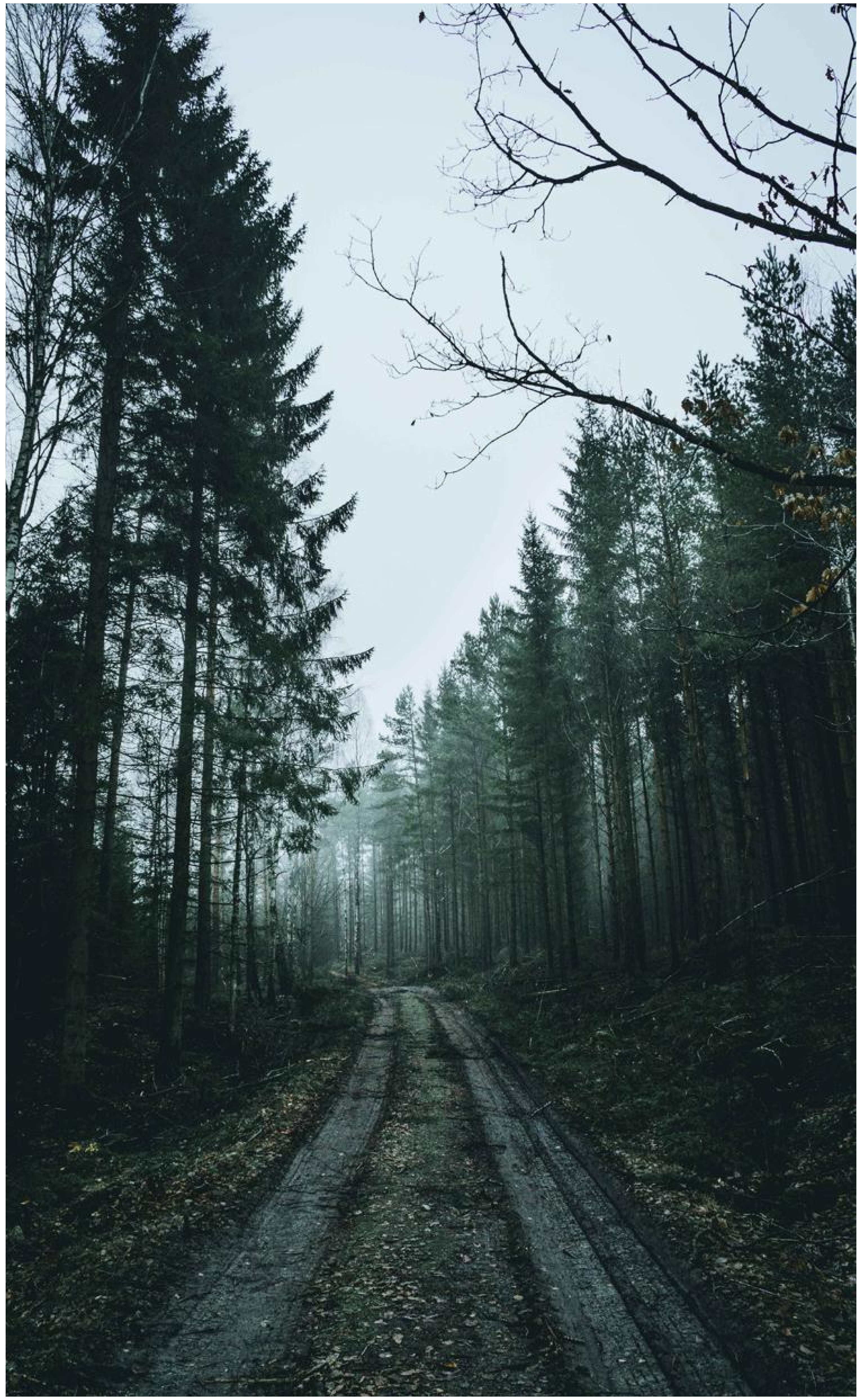
Within the review process, EIOPA plays an important role by providing technical advice and opinions to the EU Commission.

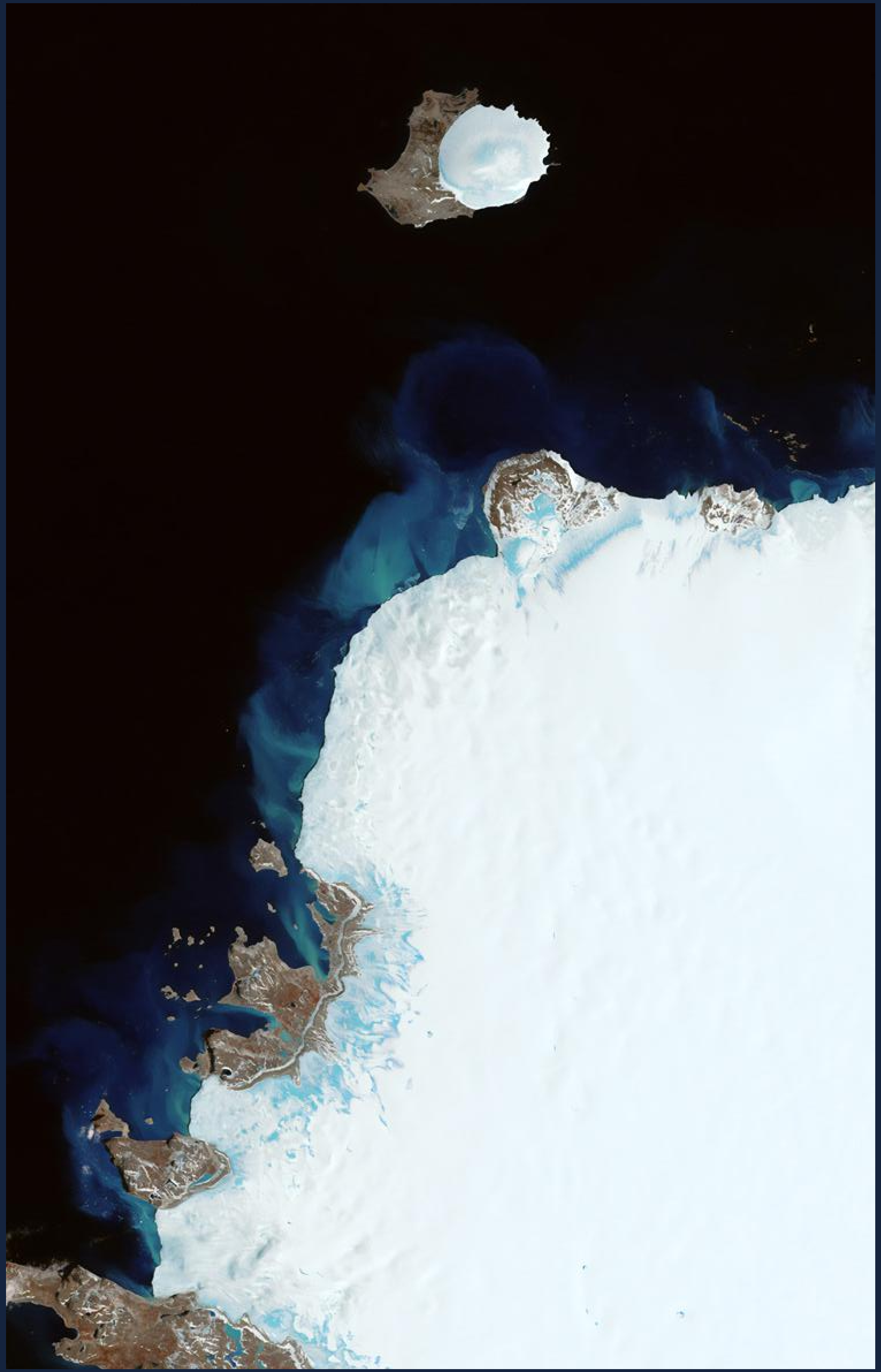
In September 2019 EIOPA submitted an Opinion on Sustainability within Solvency II[223] upon the EU Commission's request which shall be taken into account in the preparation of the EU Commission's report on Solvency II, due January 1, 2021. The report is made in the context of the 2020 Solvency II review.

The Opinion focuses on climate- and climate-change-related risks and the integration of such sustainability risks in Pillar 1 requirements.
It is structured into:

- the valuation of assets and liabilities
- investment and underwriting practices
- capital requirements
- internal models and
- challenges in integrating sustainable finance considerations in Pillar 1 requirements.[224]

EIOPA emphasizes in its Opinion inter alia the importance of scenario analysis in the undertakings' risk management[225] as well as the impact of the (re)insurers' underwriting practices on the environment.[226]





As a follow-up, EIOPA drafted an opinion on the use of climate change risk scenarios in the Own Risk and Solvency Assessment (ORSA) which is part of the reporting under Solvency II. The draft opinion contains EIOPA's expectation to the national supervisory authorities on the supervision of the integration of climate change scenarios by insurers in their ORSA.[227] The aim of the opinion is to enhance supervisory convergence across Europe.[228] According to the draft opinion, supervisors should ensure that insurers subject to material climate change risks take at least two long-term climate scenarios into account:

1. the global temperature increase remains below 2°C, preferably not more than 1.5°C, in line with the EU commitments; and

2. the global temperature increase exceeds 2°C.[229]

Stakeholders are invited to give feedback on the draft opinion by 5 January 2021.[230] The final opinion will presumably be published in spring 2021.[231]

AMENDMENTS TO SOLVENCY II AND IDD DELEGATED REGULATIONS ON THE INTEGRATION OF SUSTAINABLE RISKS AND FACTORS

Simultaneously with the current 2020 Solvency II Review, the EU Commission published drafts of the delegated regulations[232] amending the Solvency II Delegated Regulation[233] and the IDD Delegated Regulations[234] in June 2020. The overall purpose of the amendments is the integration of duties of financial institutions to provide clients with advice on social and environmental risks and opportunities linked to their investments.[235]

The draft of the amendments to the Solvency II Delegated Regulation contains inter alia the integration of sustainability risks in the risk management and risk management function[236] as well as in the prudent person principle.[237] The latter means that insurers shall take into account the potential long-term impact of the investment strategy and decisions on sustainability factors and their strategy and decision shall reflect the sustainability preferences of the customers.[238]

The draft of the amendments to the IDD Delegated Regulations regulates inter alia the integration of sustainability preferences as criteria for the design of insurance products and the integration of sustainability factors in the assessment of the suitability of insurance-based investment products for customers.[239] Furthermore, sustainability preferences shall be taken into account in the product testing and product monitoring.[240]

Both drafts are based on a Technical Advice[241] by EIOPA submitted in May 2019.

A feedback period from June 8, 2020 until July 6, 2020 followed the publication of the drafts.[242] Overall, the respondents of the feedback period welcomed the idea to advance sustainable finance and investments. One of the major criticisms (inter alia from the PRI Association, the Polish Chamber of Insurance and the German Investment and Asset Management Association (BVI)) was directed at the definition of "sustainability preferences" in both drafts. The definition restricts sustainability preferences to a fund category set out in Art. 8 of the Disclosure Regulation.[243] Art. 8 products are those promoting environmental and social characteristics in contrast to products according to Art. 9 of the Disclosure Regulation which pursue sustainability objectives. The definition is considered too narrow since consumers will not formulate their preference in such a way[244] and there is no reason to apply additional requirements only for Art. 8 and not for Art. 9 products (which are both sustainable products within the framework of the Disclosure Regulation).[245]

In a last step the EU Commission will have to adopt the drafts of the delegated regulations, which was originally planned for the second quarter of 2019.[246] Currently no specific timeframe is provided for the adoption of the drafts.

CLIMATE STRESS TESTS

Climate stress tests have become a broadly discussed topic in the insurance industry over the past years. Climate change does not only have an impact on the liabilities side, eg, more property damage through intense and frequent storms and floods due to heavy rain, but also on the asset side: due to effects caused by climate change and measures to counteract it, eg, a higher carbon dioxide price, the value of certain investments, such as shares in carbon dioxide intensive manufacturing companies, may decrease.[247]

On the EU level, EIOPA plans to do an analysis of the sensitivity of insurers' balance sheets to climate-change-related financial risks in 2020. For that purpose and to support possible future stress-testing, it published a discussion paper about insurance sector climate-related transition risk describing the framework for the 2020 sensitivity analysis and providing "key preliminary findings based on parts of the methodology under consideration for this exercise."[248] The sensitivity analysis will have its focus on equity and corporate bonds that can be linked to physical production.[249]

Certain EU Member State regulators (including the UK which is expected to continue applying certain EU standards after Brexit) have also acknowledged the major role climate stress tests will play in the insurance sector and have announced stress tests for insurers in relation to climate-related risks.

The UK Prudential Regulation Authority (PRA) will do a Biennial Exploratory Scenario (BES) exercise in 2021. This follows an informal stress test in 2019, when the PRA asked insurers to include in that year's exercise an exploratory test of resilience to climate change and cyberthreats in order to inform the BES. The PRA indicated that the test revealed gaps in capabilities, data and tools to evaluate climate-related scenarios that need to be filled before firms can align their strategy to specific emission transition trajectories. Prior to the launch of the BES, the Bank of England intends to provide additional guidance and material such as reference scenarios (and firms may also have reference to the Climate Financial Risk Forum guidance). The aim of the BES is to test the resilience of the largest banks and insurers to climate-related physical and transition risks. The BES will use three distinct climate scenarios (early, late and no additional policy action to meet global climate goals). The launch of the BES was postponed until at least mid-2021 due to COVID-19.[250]

Besides the PRA, the French Prudential Supervision and Resolution Authority (ACPR) also decided to run climate stress tests for French banks and insurers in 2020 which are voluntary and anonymous. The ACPR set out four scenarios for the exercise:

- orderly transition
- disorderly transition by a sudden and unanticipated but sufficient response
- insufficient and late transition that does not allow for global warming to be limited
- absence of transition with materialization of severe physical risks[251]

Banks and insurers will have to submit their results until the end of 2020.[252] Results will be published in April 2021.[253]

Not only European supervisory authorities have focused on climate stress tests for insurers lately, but also regulators in certain non-EU countries, such as Singapore and Australia. The Monetary Authority of Singapore (MAS) already included climate risks such as extreme flooding and damage to insured properties in the 2018 Industry-Wide Stress Test and plans to incorporate more climate-change-related risks in future stress tests. The Australian Prudential Regulation Authority (APRA) is currently designing a "climate change financial risk vulnerability assessment" for banks this year and will execute it in 2021. Other industries such as insurance will follow according to the APRA.

"In late 2019, UN Secretary-General António Guterres warned that a "point of no-return" on climate change is "in sight and hurtling toward us". Respondents to the Forum's Global Risks Perception Survey also are sounding the alarm. For the first time in the history of the survey, climate-related issues dominated all of the top-five long term risks by likelihood among members of the Forum's multistakeholder community."

The Global Risks Report 2020,
World Economic Forum[254]

DLA Piper's environmental journey:
Tackling the climate emergency

As we begin this "Decade of Action" on accelerating sustainable solutions to all the world's biggest challenges (as promulgated by the UN Secretary-General) our commitment as a law firm and member of the global business community is to continually reduce our environmental impact. This is integral to our business conduct. We strive to lead where we can, particularly when it comes to managing the environmental footprint of business activities and operations across our entire value chain, be that legal services or business support, such as property and workplace management, organization of events and procurement. We are committed to developing Science Based Targets and contribute our part to limit global temperature increase to 1.5°C.

BUSINESS INTEGRATION

Environmental management and sustainability in DLA Piper are driven from the very top.

Strategic direction and expectations are set by our Global Board and are operationalized via initiatives and committees at various levels, geographies and through many different teams across the firm. Our aim is to deliver the firm's ambition to tackle the climate crisis through a range programs that touch every service area and office. Local management functions share leadership responsibilities by ensuring compliance with country-specific laws and regulations, firm-wide environmental sustainability requirements and other commitments.

Externally, DLA Piper has maintained a leadership role within the legal sector on addressing environmental issues for well over ten years. We are a founding member of the Legal Sustainability Alliance (LSA),[255] an inclusive movement of legal firms and related organizations committed to working collaboratively on improving the environmental sustainability of their operations and activities. This collaboration model is now firmly established in the UK and Australia (Australian Legal Sector Alliance).[256]

OUR COMMITMENTS

Our Environmental Sustainability and Energy and Climate Change policies state our overall commitment and approach to sustainability and commit DLA Piper to support delivery of the pathway to a 1.5°C target. One of our most prominent international commitments is our support for the UN Global Compact (UNGC). As part of our commitment, we produce an annual "Communication on Progress" report against the ten universal principles and the 17 UN Sustainable Development Goals (SDGs). We require that contractors and service providers throughout our value chain demonstrate adherence to similar values and principles, and use established criteria for assessment. Our aim is that 100% of key suppliers are aligned to our sustainability commitments.

OUR AMBITION

The Board recently approved a new set of environmental targets for the period 2019-25. We remain firmly focused on the areas where we have the greatest control and impact: energy, carbon emissions, waste and procurement.

We actively seek opportunities to progress further faster and in August 2020 DLA Piper International made a formal commitment to the Science Based Targets initiative (SBTi)[257] to set new carbon reduction targets in alignment with limiting global warming to 1.5°C, covering our operations in Europe, Middle East, Africa, Australia and Asia.

ENERGY
Reduce energy use by 20% by 2025

RENEWABLE
Increase use of green energy

EMISSIONS
Reduce carbon footprint by 25% by 2025

WASTES
Divert 95% away from landfill

SUPPLIERS
Partner to achieve targets

OUR ENVIRONMENTAL SUSTAINABILITY PRIORITY AREAS

Together with our sustainability partner, Carbon Intelligence,[258] we have developed a strategy to reduce our energy use, improve energy efficiency and increase use of green energy across our portfolio of 90 offices. In addition, we are building an understanding of our wider carbon footprint with the ambition to further reduce resource use (eg, electricity, gas, water, paper), promote green initiatives, monitor travel-related emissions and offset non-client-related travel emissions.

We also maintain principles of responsible procurement and actively encourage our suppliers, partners and contractors to partner with us on a journey to environmental sustainability.

To ensure we are able to deliver on our policy commitments DLA Piper International is working now to put the firm's operations in Europe, Middle East, Africa, Australia and Asia on a 1.5°C pathway. Over the coming year we will implement a new environmental data management system to better capture our emissions and support our reporting, enhance our understanding of our Scope 3 footprint[259] by working closely with suppliers and mapping data, develop a new travel strategy and continue roll-out of smart systems to deliver energy savings and carbon reductions in our offices. In the UK, for example, we've already committed to sourcing 100% certified renewable electricity for all our offices and premises by 2025, as part of the Legal Sustainability Alliance's Legal Renewables Initiative.

OUR ASSURANCE

To meet our environmental and wider sustainability commitments and to ensure a consistent approach across our offices and areas of operation, we maintain a robust management system including certification to ISO 14001 (environmental management) and ISO 50001 (energy management). Our carbon footprint is also externally verified by Carbon Trust[260] in the UK.

THE FUTURE

Ultimately, it is our people in our offices around the world who are delivering environmental improvements day to day. We will seek greater input from teams in every office, empower local champions, enable their initiatives and ensure that progress of individual offices is better understood and communicated. This will mean continually finding ways to minimize our environmental impact. Most clearly, as we adapt to new ways of working, this will include reducing air travel and having a conversation with clients about this. It also means better understanding and managing our environmental targets to ensure they are both realistic and challenging. In the future we should all expect, and be ready for, law firms such as ours driving to be net positive.

Our journey to environmental sustainability

2005
We established the Global Sustainability Initiative, a board-level group charged with setting our sustainability strategy and ensuring an integrated approach for managing the environmental impact of our business.

2007
We became the first law firm to achieve global certification to ISO 14001 environmental management standard.

2010
We became a founding member of the Legal Sustainability Alliance in the UK – a collaboration of law firms working to reduce the sector's carbon footprint.

2012
We set our first firm-wide environmental targets to maximise energy efficiency, increase use of renewable electricity, reduce paper use and maintain principles of sustainability in procurement.

2013
We launched our workplan for achieving our targets and began monitoring progress across the global offices.

2018
We reduced our electricity use by 18% since 2012 and approximately 50% of that electricity came from renewable energy sources. We also achieved a nearly 100% recycling rate for paper and other 'office recyclables'.

2019
We set ourselves new and more challenging environmental targets:

- 20% reduction in energy consumption by 2025
- Year on year increase in use of green energy
- 25% reduction in carbon footprint by 2025
- 95% of all wastes diverted away from landfills
- All critical contractors working towards our commitments

2020
We established International Energy and Climate Change committee and started our journey towards developing science-based targets in line with Business Ambition for 1.5°C future.

2020 - 2030
We are developing a roadmap for achieving our science-based targets by 2030. This will include:

- Introducing a smart data monitoring platform for energy and other environmental data from our offices
- Setting an internal carbon price, so that our business costs accurately reflect the real price of environmental impact
- Fully assessing and quantifying the risks that climate change poses for our business, and aligning our environmental reporting to the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD) and
- Partnering with our clients, and key suppliers and service providers, to find solutions and achieve our targets together.

2030+
Beyond 2030 we expect that law firms such as ours will be well on their way towards a net zero carbon footprint and even becoming carbon negative.

Country perspectives

ARGENTINA

Sustainability issues have not yet received widespread attention in Argentine law or in social and political discussions. While environmental matters have drawn significant and increasing attention in recent decades, they have not yet created major social pressures directed towards preserving the sustainability of economic and other activities. This reflects certain characteristics of the country's geography and social situation. Population density, for example, is very low, so the effects of population and economic activity on the environment do not yet have the visibility they present in other countries. Climate change, though clearly perceptible in Argentina, has not yet shown as harmful an impact as in other countries. In addition, since extensive agriculture is the main source of foreign exchange for the country, there is a demonstrated reluctance at different levels of society, including the government, to interfere with certain agricultural practices even though they may have negative environmental consequences.

Nevertheless, in the last decades there has been a significant tendency towards more stringent environmental regulation along with stronger consumer and citizen awareness of the importance of environmental issues and long-term sustainability.

The environmental rules presently in effect in Argentina result, to a large extent, from the imitation of practices adopted in more developed economies rather than from local experience or political pressure.

BASIC RULES

The Argentine federal constitution was amended in 1994. The constitutional amendments included a new Art. 41, requiring the enforcement of certain rules and standards related to environmental matters, including a general standard of sustainability. Art. 41 provides that all the country's inhabitants have the right to a healthy and balanced environment, adequate for human development. It also states that all inhabitants have a duty to preserve the environment and that productive activities which satisfy present needs must not compromise those of future generations. Environmental damage creates the obligation to recover the environment, as provided by law. The authorities will enforce the protection of these environmental rights and will promote the rational use of natural resources, the preservation of the natural and cultural patrimony and of biological diversity, and environmental information and education. The importation of hazardous or radioactive waste is prohibited.

Due to the federal structure of the Argentine state, environmental rules, including those related to sustainability, may be enacted by the federal government and by the provinces, within their respective jurisdictions.

In 2002, a General Environmental Law (Law 25,675)[261] was enacted, setting down the basic principles and framework for the implementation of the constitutional provisions on environmental law. Among other provisions, Art. 4 of the law includes a "sustainability principle" to be applied in all matters involving environmental law, pursuant to which "social and economic development, as well as the use of natural resources must take place by means of an appropriate environmental management, so as not to compromise the possibilities of present and future generations."

Law 25,675 provides that constructions and activities taking place within Argentina are subject to prior environmental impact review if they are likely to have a degrading effect on the environment or to significantly affect the living conditions of the population. Different laws and regulations, at national and provincial levels, have implemented these general environmental impact review requirements.

ENVIRONMENTAL SUSTAINABILITY IN THE INSURANCE SECTOR

The National Superintendency of Insurance, by means of Resolution 1008 of 2018,[262] has created a special environmental sustainability program. Pursuant to this program, insurance companies must allocate 1% of certain premiums for investment in special forestry programs. In addition, within certain limits, they may make voluntary investments in other environmental projects.

Additionally, in 2019, the Superintendency of Insurance authorized and regulated a special type of insurance policy[263] with coverage over environmental risks whose extension may impact collective interests.

ENVIRONMENTAL SUSTAINABILITY IN THE BANKING AND FINANCIAL SECTOR

The Argentine Banking Association, which includes some of the main banks operating in Argentina, has included environmental sustainability in the common agenda pursued by its member organizations.

ENVIRONMENTAL SUSTAINABILITY IN CAPITAL MARKETS

Different rules and initiatives have taken place with the purpose of promoting environmental sustainability in the context of capital markets operations, namely:

- The National Securities Commission has issued regulations requiring an evaluation of the environmental impact of the activities of the companies whose securities are publicly traded in their yearly reports.
- Some publicly traded companies, including certain banks, have developed and adopted a "sustainability index" which measures the environmental sustainability of such companies. This index is voluntary and has been developed with the support of the Inter-American Development Bank.
- The National Securities Commission has issued guidelines on the issuance of "green" bonds and securities,[264] namely those that are issued by companies which satisfy adequate standards of environmental sustainability.

"As insurance supervisors, our goal is to promote a responsible, sustainable and resilient market. We are focused on developing financial tools and new products, in order to increase the availability of insurance to undeserved population. Aligned with the UN Sustainable Development Goals for 2030, our priority is to secure sustainable development, focusing on three topics: access to insurance, climate change and economic sustainability. [...]"

Juan A. Pazo,
National Superintendent of Insurance, Argentina[265]

AUSTRALIA

Sustainability and the emerging challenges posed by the environment have been pushed to the forefront of the public's conscience in recent months as Australia endured some of its worst bushfires in recent history. Over the last few years, climate risk has emerged as an operational issue for participants in the Australian insurance market and climate change risks are now a focal point for the prudential and securities market regulators.

REGULATORY ACTIVITY

In 2016, the Australian Prudential Regulation Authority (APRA) formally established a thematic supervision priority on climate change financial risks and began to develop supervisory guidance to support and build the capabilities of APRA supervisors.

In 2019, APRA published an information paper which shared insights into the industry's response to climate change and outlined APRA's expectations.[266]

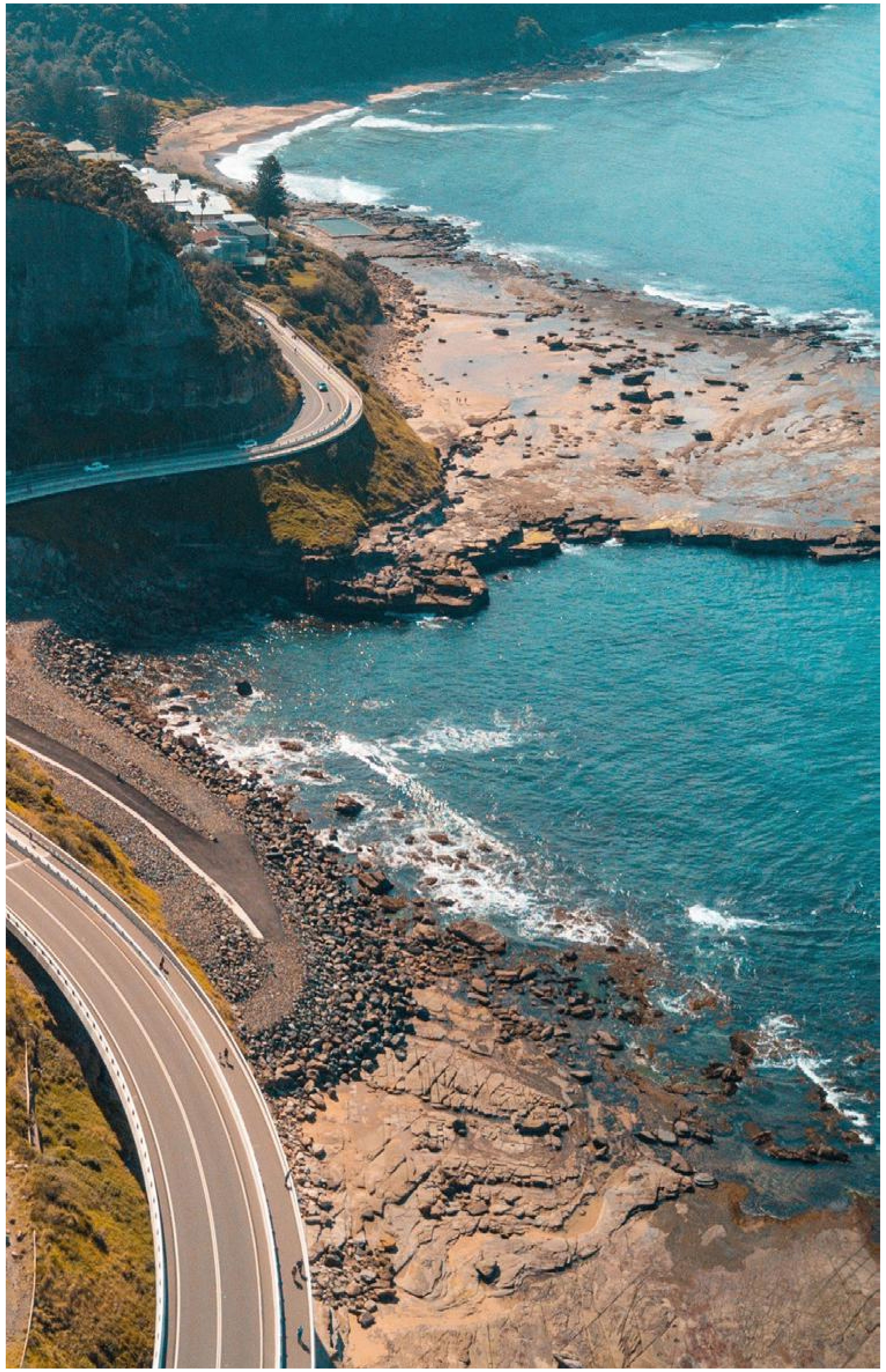
This paper flagged that APRA was embedding the assessment of climate risk in its ongoing supervisory activities – including to assess the effectiveness of risk identification, measurement and mitigation strategies adopted by APRA-registered insurers – and expected to observe a continuous improvement in the sophistication of entities' management of climate change risks.

APRA currently expects climate change financial risks to be managed through existing regulations related to risk management, ie the minimum requirements set by Prudential Standard CPS 220 Risk Management[267] and Prudential Standard SPS 220 Risk Management.[268]

However, on February 24, 2020, APRA published an open letter[269] to all APRA-regulated entities, including insurers, which contained an announcement that it intends to develop and consult on climate change financial risk prudential guidance to provide clarity on regulatory expectations.

In addition, the letter announced that APRA will be seeking to undertake a "climate change financial risk vulnerability assessment". This will require entities to estimate the potential physical impacts of a changing climate, including extreme weather events, on their balance sheet as well as the risks that may arise from the global transition to a low-carbon economy. The assessments were originally expected to be designed in 2020 and executed in 2021, beginning with banks, and followed by insurers and other industries. This timing is now likely to be somewhat delayed due to APRA temporarily shifting its focus to COVID-19 implications.

The letter also encouraged the adoption of voluntary frameworks to assist entities with assessing, managing and disclosing financial risks associated with climate change, such as the recommendations of the Taskforce for Climate-Related Financial Disclosures (TCFD).



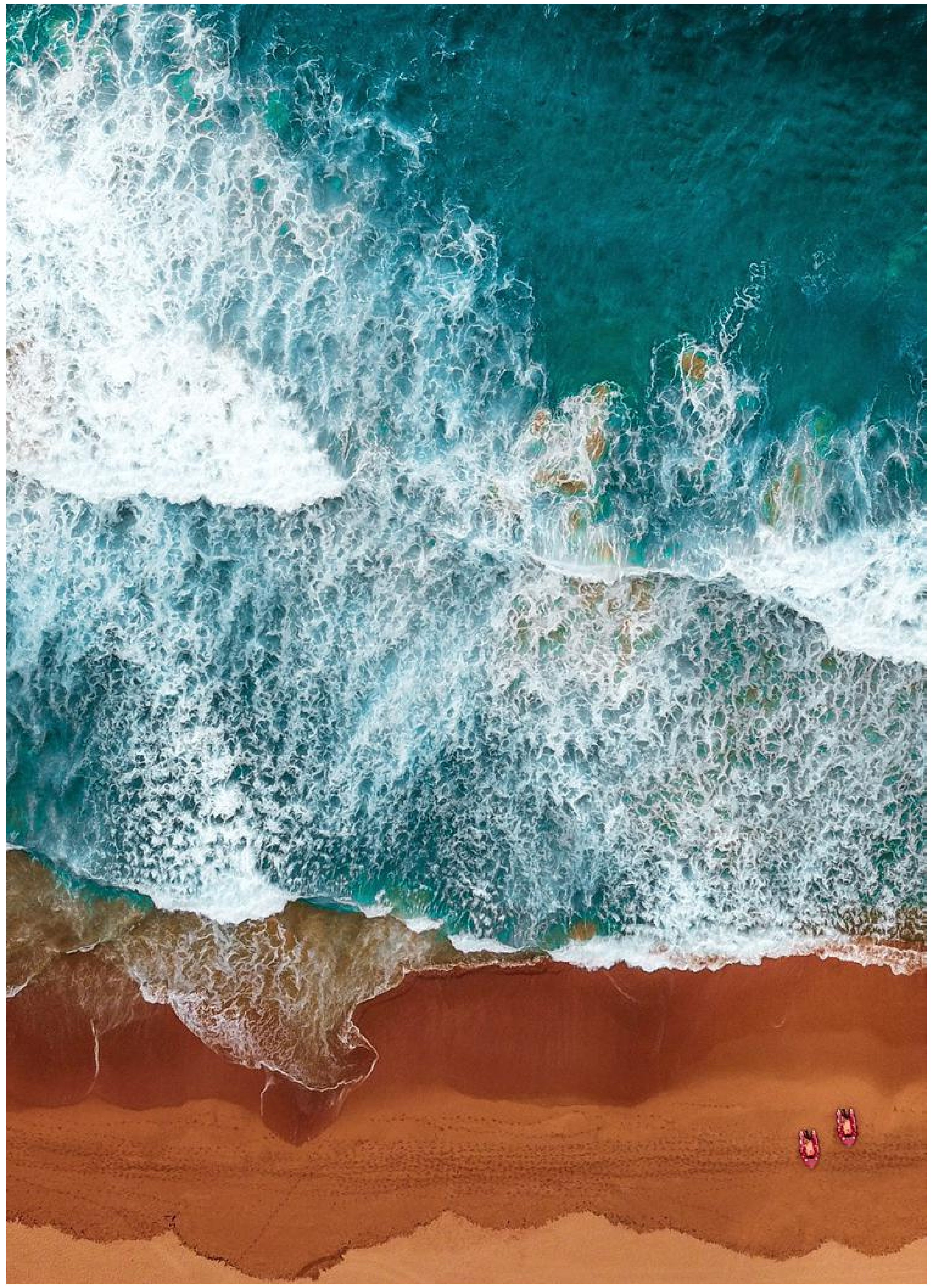
CLIMATE CHANGE AND DISCLOSURE

Climate risk disclosure still has a long way to go in Australia before it becomes commonplace. In 2018, just 17% of listed companies identified climate risk as a material risk in their operating and financial reviews.[270]

However in March 2019, guidelines released by the Australian Stock Exchange Governance Council included, for the first time, a clause requiring directors of listed companies to follow international guidelines from the TCFD.[271] The Australian Securities and Investments Commission also released guidance notes in 2019 requiring directors of listed entities to include climate-change-related risks in directors' reports.[272] The adoption of the TCFD guidelines remains voluntary for non-listed insurers, though, as noted above, is encouraged by APRA.

INDUSTRY TRENDS

The Insurance Council of Australia (ICA), the representative body of the general insurance industry in Australia, issued public statements on climate change in June 2019. The ICA is a signatory to the UN Principles for Sustainable Insurance and has established a Climate Change Action Committee which will work with regulators to promote action on climate change and other environmental issues, and support industry disclosure of climate risks and opportunities.



"As a shared risk, and shared responsibility, climate change presents several concurrent pressures for the insurance industry and wider Australian community:

- *changing physical risk, extreme weather patterns, and the need for new tools, modelling and investment to inform decision making, climate adaptation and mitigation*
- *the continued need for suitable and affordable insurance products to protect the community and businesses against perils*
- *a changing economy and the transition to a net zero carbon emissions economy*
- *the need to ensure the solvency and stability of prudentially regulated entities."*

Insurance Council of Australia[273]

In recent years, a number of participants within the insurance industry have acknowledged and begun to address the potential risks associated with sustainability and climate change, and have published public statements on this topic including information on their sustainability initiatives, governance arrangements and memberships.

Findings from a recent APRA survey, included in their 2019 paper, revealed that general insurers believe climate change is material to their business and that many insurers have oversight arrangements in place. These include considering climate-related financial risks in their risk management framework and having specific employees responsible for such risks. However, in comparison, the APRA survey revealed life insurers have taken fewer steps in respect to the potential risks associated with climate change.

> *"As the climate changes, our business models and systems need to change too. As does our way of thinking … Already, the built environment is being rethought with climate change in mind. We need to continue to be part of this change by leading our industry and working with other organizations."*
>
> **Insurance Australia Group[274]**

ESG is also a key consideration for a number of insurers in terms of investment and portfolio management. The ICA has indicated that some of its insurance company members have been withdrawing investment from high-emission industries. Further, some insurers have indicated company emission reduction plans are an important investment consideration and have shifted investments to companies with lower exposure to climate-related risks or with strategies for managing such risks.[275]

Other insurers have indicated they are currently taking a strategy of mitigation by purchasing reinsurance to adequately protect themselves and customers.[276] It is not yet clear what impact the recent natural disasters in Australia will have on reinsurance costs and, consequently, insurance premiums charged to customers.

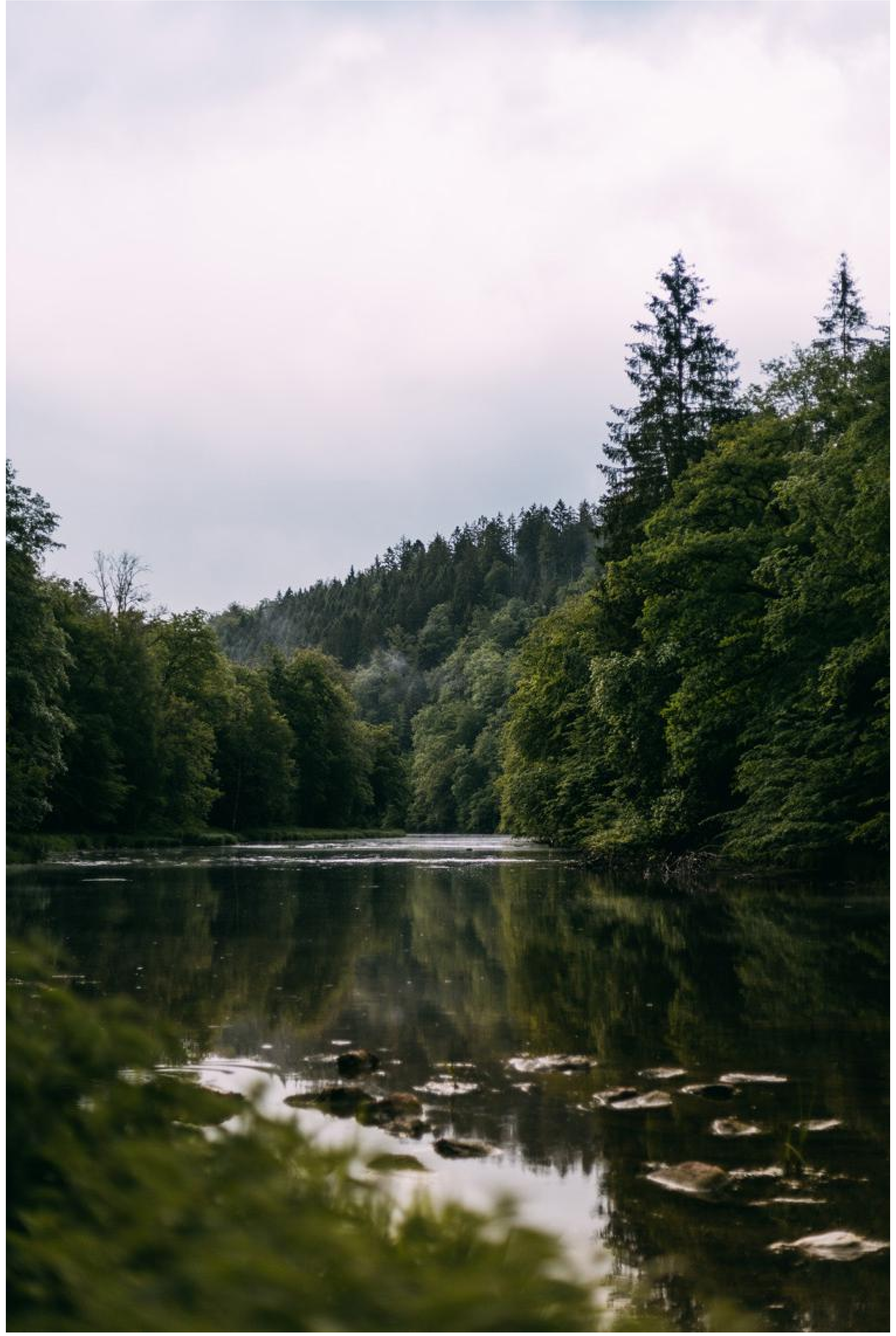
There are concerns about the future affordability of insurance in certain regions, such as northern Australia, where consumers are particularly susceptible to the effects of climate change.[277] The concerns stem from the potential for unsustainable increases in premiums to reflect the increasing risk of natural disasters in the region. Insurers have advocated for greater investment into natural disaster resilience, following the 2019-20 Australian bushfire season, to improve insurance affordability and accessibility.[278] This would include greater investment in public and private mitigation works such as allocating funds to increase resilience of older properties in areas prone to natural disasters.[279]

The call for greater investment in resilience, mitigation and hazard reduction measures to protect vulnerable communities was echoed by APRA in October 2020 (in a speech by Executive Board Member Geoff Summerhayes to the Australian Business Roundtable for Disaster Resilience and Safer Communities), where it was also suggested that insurers should look to incentivise mitigation by ensuring appropriate reductions in premiums where this occurs.[280] In respect to product development, while there exists a clear risk of personal exposure to directors and officers for climate-related risks, including class actions and regulatory prosecutions, the D&O liability insurance market is still developing an understanding of these risks. Consequently, current pricing is unlikely to be adequately reflective of emerging new risks affecting directors and officers.

> *"The role of general insurance is to assist policyholders to recover from losses, such as those caused by extreme weather events. With expertise in risk management developed over hundreds of years of operation, general insurers play a critical role in communicating, managing and responding to the risks that many policyholders face today, as well as how those risks may evolve under a changing climate."*
>
> **Insurance Council of Australia[281]**

BELGIUM

Located at the heart of Europe, Belgium is determined to play a leading role in establishing a sustainable and resilient finance sector that is considerate of climate related risks. Not surprisingly, Belgium developed a quality label for financial products called “Towards Sustainability” which aspires to increase the level of socially responsible and sustainable financial products and is one of the strictest in Europe.



FINANCIAL SECTOR SURVEY ON CLIMATE-RELATED RISKS

In a first attempt to address the data and information gaps hampering an in-depth analysis of the Belgian financial sector's exposure to climate-related risks, the Belgian regulator, the National Bank of Belgium (NBB), has conducted a survey to assess the relevance of these risks and also to increase financial institutions' awareness. The survey covers topics ranging from general strategy and governance to risks on both the assets and liabilities sides, as well as reputational and supervisory priorities, and was published in the NBB's Financial Stability Report of 2019.[282]

The survey was directed towards seven banks and eight insurance companies in Belgium. The survey showed that, while financial institutions are generally aware of the existing risks and willing to adapt to the impending changes, they are currently not very advanced when it comes to the quantification and integration of these risks in their risk management. In the same vein, several institutions indicate that they are keen to contribute to a transition towards a more sustainable economy, but the proportion of "green" assets in financial institutions' portfolios remains negligible. Financial institutions underline the importance of access to and ability to provide good information and consider this should be a priority for regulators and supervisors going forward.

"TOWARDS SUSTAINABILITY" – QUALITY LABEL FOR FINANCIAL PRODUCTS

Febelfin, the financial sector organization in Belgium, together with the financial industry, launched a quality standard for socially responsible financial products called "Towards Sustainability"[283] in November 2019. This seeks to provide a practical interpretation of what it could mean for a financial product to be called "socially responsible" or "sustainable."

The quality standard developed by Febelfin is one of the strictest in Europe. Sustainability is allowed but cannot be limited to a very small group of niche products. The role of the financial sector in the sustainability of the economy and society consists of reorienting capital flows. That is why Febelfin chose to start with a standard that requires serious and feasible efforts from managers and investors.

The quality standard sets out a number of minimum requirements which sustainable financial products must meet, both in the investment process as well as in the investment portfolio.

Products that meet those basic requirements, and preferably are even more ambitious, receive a label.

The standard was developed with five principles in mind:

1. There is a clear strategy aimed at sustainability.
2. Highly harmful businesses or activities are excluded.
3. There is a transparent policy on socially questionable practices, eg, nuclear energy, tax avoidance and capital punishment.
4. The investor receives clear, comprehensible and comparable information.
5. Compliance with the quality standard is independently verified.

Financial products that comply with the quality requirements of the standard are listed on a dedicated website[284] and will be granted the label.

All distributors and managers, domestic and foreign, of socially responsible or sustainable financial products can apply for the label. The quality standard and its label are a not-for-profit initiative. However, a fee per labelled product is due to cover the costs of the management of the central labelling agency, the supervision procedure and the dedicated website.

The main scope of the quality standard covers all standardized products that are actively marketed as being "socially responsible" or "sustainable," towards primarily retail but also private and institutional clients in Belgium. Products subject to Belgian and foreign law, commercialized in Belgium by domestic or foreign distributors, are in scope. The notion of "financial products" covers investment products, such as mutual funds, life insurance products and structured notes, and savings products. The standard applies to financial products that are marketed as "sustainable," "socially responsible," "ethical," "SRI" or equivalent denominations. Custom-made portfolios, tailored to the specific financial and sustainability expectations of individual private or institutional clients, are not strictly in scope; although the principles laid out in this quality standard could be inspirational.

The standard is not legally binding. As such, for transitional or technical reasons, products could be marketed as socially responsible or sustainable without being compliant with the quality standard. This is of course not encouraged as a structural situation. It will also not benefit from promotion and sectoral support and is likely to be subject to additional societal scrutiny. The use of the quality standard is not mandatory. However, the institution using the label is under the obligation to comply with the terms and requirements of the label. Non-compliance with the requirements of the label may result in the label not being renewed or the withdrawal of the label by the central labelling agency. In addition, a number of legal rules will need to be complied with when using the label.

"The TCFD's recommendations are an important global step in accelerating the process of climate-related disclosure. The FSMA will work together with other market authorities and relevant bodies to foster transparency of material climate-related information in line with the TCFD's recommendations."

Jean-Paul Servais,
Chairman of the Financial Services and Markets Authority, Belgium[285]

Under Belgian law, the Financial Services and Markets Authority (FSMA) can bring actions including administrative penalties against financial institutions not complying with the information obligations, set forth in the Act of August 2, 2002 on financial supervision.[286] If a product uses the label but is in fact not compliant with the quality standard, clients or competitors could bring legal action, namely a cease and desist order against the relevant financial institution, administrative penalties and, exceptionally, criminal penalties. If a judge sees fit, an entity could be subjected to a prohibitory injunction or fines. Belgian law also provides for the possibility for consumers and small and medium enterprises (SME) to initiate class actions.

An updated list of labelled products was published on March 2, 2020.[287] This includes 410 investment, insurance and savings products, 311 of which were awarded in November 2019 and 99 in February 2020. "Towards Sustainability" is the most comprehensive label in the EU by product offering. It is also the largest in terms of assets under management, according to the French sustainable finance portal Novéthic.[288] Internationally, a total of more than EUR175 billion is managed in accordance with the requirements of the "towards sustainability" quality standard. More than EUR50 billion of this comes from Belgian savers and investors.

"We need to support the creation of the right market infrastructure to finance the battle against climate change and pollution. A few weeks ago, our government set the example by launching our first green bond here in Belgium for a total amount of 4.5 billion Euro. The financial sector should incorporate the costs related to climate change and pollution in their own models of credit and market risks."

Johan Van Overtveldt,
Former Minister of Finance of Belgium[289]

BRAZIL

With sustainability gaining momentum around the world, Brazil's insurance sector is strongly committed to the UN's Principles for Sustainable Insurance and to promoting awareness for sustainable investments. Determined to be a leader when it comes to modernizing supervisory and regulatory procedures, the Brazilian Private Insurance Superintendence is playing a key role in the industry's actions towards a sustainable economy.

In 2016, the Brazilian Private Insurance Superintendence (Superintendencia de Seguros Privados, SUSEP) issued a letter addressed to the market informing it of the initiative to support the UN Principles for Sustainable Insurance (PSI) of the Financial Initiative of the United Nations Environment Program (UNEP FI), which is also supported by the International Association of Insurance Supervisors (IAIS).

SUSEP's initiative followed the steps of the Brazilian Federation of Insurers (Confederação Nacional das Empresas de Seguros Gerais, Previdência Privada e Vida, Saúde Suplementar e Caitalização, CNSEG) which has 170 supervised entities as members and has supported PSI since 2012. Many Brazilian insurers were already following PSI's principles and guidance.

As part of the commitment to PSI, SUSEP begun monitoring environmental, social and governance aspects of sustainability in the Brazilian insurance market. Their first step was to identify sustainable practices within the industry by rolling out a questionnaire to the supervised entities asking them to provide their comments about sustainable initiatives deployed in their operations. The questionnaire was inspired by the initiatives of the Prudential Regulatory Authority (PRA) and Bank of England in the UK, and the National Association of Insurance Commissioners (NAIC).

SUSEP issued a report in June 2016[290] collating the information gathered from the market, in which it was noted that sustainability was high on the agenda for most insurers, even though effective steps to put sustainable principles in practice were still ongoing. In the report, they concluded that SUSEP was also committed to its own sustainability, by further developing awareness on sustainable practices internally.

In May 2018, the leadership of CNSEG, SUSEP and UNEP-FI signed the "Rio Declaration on the transparency of climate risk for the Brazilian insurance sector."[291] This reaffirmed the commitment of the Brazilian insurance industry with the purpose of the Paris Agreement on Climate Change and established dialogue on practical and effective measures to comply with the recommendations of the Financial Stability Board Task Force on Climate-Related Financial Disclosures (TCFD).

This shows the commitment of the Brazilian insurance sector to the PSI and their engagement with Brazilian-supervised entities implementing the recommendations issued by the TCFD.

"Managing risk is the core business of the insurance industry. This includes understanding and reducing risks in the insurance industry's underwriting and investment activities associated with both the physical impacts of climate change and the transition to a low-carbon economy."

Marcio Serôa de Araujo Coriolano,
President of the Brazilian Insurance Confederation (CNseg)[292]

Since then, even though no enforceable regulations have been issued to impose supervised entities to follow sustainable measures in their operations, SUSEP has been issuing regulations encouraging them to make investments in sustainable portfolios. It also aims to increase awareness of the importance of sustainability for the industry.

Another matter of relevance is that the insurance regulator has issued several regulations establishing the use of electronic documents instead of hard copies in some circumstances which can help improve environmental sustainability. As an example, the Brazilian National Private Insurance Council (Conselho Nacional de Seguros Privados, CNSP) has issued Resolution No. 294, dated September 6, 2013.[293] This states that insurers are authorized to offer and commercialize products only electronically, releasing companies from the obligation of sending hard copies of the insurance policy, general conditions and insurance application, along with other documents.

Additionally, and more recently, SUSEP issued Ruling No 230, dated November 12, 2019,[294] allowing the possibility of filing documents and administrative proceedings electronically. With this measure, SUSEP moved forward on the commitment to environmental protection. Before then, most administrative proceedings submitted by regulated entities had to be filed with copies of bulky statements and documents. These can now be scanned and presented digitally.

Despite this, there is still no obligation to offer insurance to customers and/or to submit administrative proceedings only electronically. The above examples show that the Brazilian insurance regulator is playing its part in the commitment to sustainability, giving grounds to regulated entities and players of the insurance market to adhere to those initiatives.

CANADA

As the second largest country of the world by area, tackling climate change and preserving the country's diverse nature lies at the heart of Canada's politics. Several regulatory and industry initiatives are set out to implement ESG related policies and TCFD's disclosure standards in the insurance sector.

REGULATION OF THE INSURANCE INDUSTRY

At the federal level, the Office of the Superintendent of Financial Institutions (OSFI) regulates insurance companies incorporated under the Insurance Companies Act.[295] This includes most of the property and casualty (P&C) insurance industry. Canada's provinces and territories each have their own Superintendent of Insurance. Each jurisdiction regulates the insurance companies incorporated in their jurisdictions, the licensing of insurers operating in their jurisdictions and the marketing of products within their jurisdictions. Federal, provincial and territorial insurance regulators are members of the Canadian Council of Insurance Regulators (CCIR) which facilitates and promotes an efficient and effective insurance regulatory system in Canada.

NEWS FROM THE REGULATORS

OSFI has acknowledged the existence of climate-change-related risks to the Canadian financial system and has recently called on insurers to estimate those risks, conduct stress analyses and diversify their risk through reinsurance.[296] Reinsurance is provided by the Property and Casualty Insurance Compensation Corporation which is funded by P&C insurance companies and approved by regulators. Jeremy Rudin, superintendent of OSFI, recently discussed the possibility of updating OSFI's guidance and advised that OSFI will follow the same process for climate-change-related risks as other significant new risks.[297] Current guidelines cover capital and liquidity requirements, risk management, and corporate governance and disclosure requirements. The CCIR has also studied and reported on the increasing frequency and severity of weather-related natural catastrophes and will continue to monitor the effects of climate change on the Canadian insurance industry.[298]

INDUSTRY INITIATIVES

The Insurance Institute of Canada (IIC), a professional umbrella organization, recently published a report discussing the implications of climate-related risks on insurance companies but remained optimistic about the industry's ability to adapt. Average annual severe weather claims are expected to double from CAD2.1 billion per year to CAD5 billion, but the increased risk of loss presents an opportunity to expand coverage at a fair premium. For example, following major floods in 2013, several insurers introduced residential overland flood coverage. Climate liability is still uncertain in Canada and the insurance industry is exposed through the coverage it provides, but it expects that its experience with tobacco and asbestos litigation will inform its management of climate liability to a certain extent. Additionally, as society transitions to a low-carbon economy, the insurance industry intends to continue to adapt its underwriting, operational, investment and regulatory approaches.[299]

DISCLOSURE OF CLIMATE-CHANGE-RELATED RISKS

Canadian securities law requires public companies to disclose information material to investor decision-making, including material climate-change-related risks, in their mandatory regulatory filings.

The Canadian Securities Administrators (CSA), which comprises securities regulators from each province and territory, has published guidance to assist issuers in identifying and disclosing climate-related risks.[300]

The recommendations of the Financial Stability Board's Task Force on Climate-Related Financial Disclosures (TCFD) and its supplemental guidance for the financial sector is not mandatory in Canada, but is gaining institutional support. In its 2019 Budget, the Canadian government articulated support for the TCFD's voluntary disclosure standards and a phased approach to adopting those standards by major Canadian companies.[301] Later that year, Canada's Expert Panel on Sustainable Finance recommended implementing the TCFD recommendations and suggested a five-year timeline for financial institutions including P&C insurers.[302] Additionally, the IIC has recommended that insurers embrace the TFCD's guidance developed specifically for insurance companies.[303]

> *"We are committed to moving the 2030 Agenda forward, and through the efforts at home and abroad, we are working hard in order to continue to deliver real change for Canadians. Together we will ensure that everyone can share in Canada's economic, social and environmental prosperity. Canada will leave no one behind."*
>
> **The Honorable Jean-Yves Duclos,**
> Canadian Minister of Families, Children and Social Development[304]

CHILE

Chile can claim a leading role in Latin America when it comes to sustainability. As the country that chaired the last climate change summit (COP 25), Chile has been a promoter of the implementation of the agreements reached under the United Nations Framework Convention on Climate Change (UNFCCC) that lay down specific obligations for all states to fight climate change. It has also been fostering the emission of carbon credits, as well as seeking to green the financial market as a result of public-private alliances among relevant actors, including insurance companies. Chile's efforts are also reflected in numerous initiatives to anchor sustainability goals more firmly in legislation at the national level and through the implementation of international agreements.

FINANCIAL SUPERVISORY AUTHORITY

Since 2017, banking supervision and securities and insurance supervision in Chile have been carried out uniformly by the Commission for the Financial Market (Comisión para el Mercado Financiero, CMF).[305]

AGENDA 2030 FOR SUSTAINABLE DEVELOPMENT

In 2015, Chile adopted the UN's 2030 Agenda for Sustainable Development (Agenda).

Within this context, in 2016, Chile created the National Council for the Implementation of Agenda 2030 in order to advise the President of the republic on the implementation and monitoring of the Agenda and to manage cooperation with the various stakeholders. Several working groups on different subjects have also been established.

NATIONAL INITIATIVES

At a national level, Chile has adopted a National Climate Change Action Plan[306] for 2017-2022 which seeks to implement measures for adapting to the specific effects of climate change and thereby reducing the country's vulnerability. In July 2019, the "Green Finance Public-Private Roundtable" was launched which aims to achieve a protocol that considers contents and specific variables associated with green issues, such as measuring the financial risk of climate change, making a declaration of general criteria to improve the financial market's approach to managing the risks and opportunities of climate change and establishing a roadmap for climate finance in Chile from 2020 to 2024.[307]

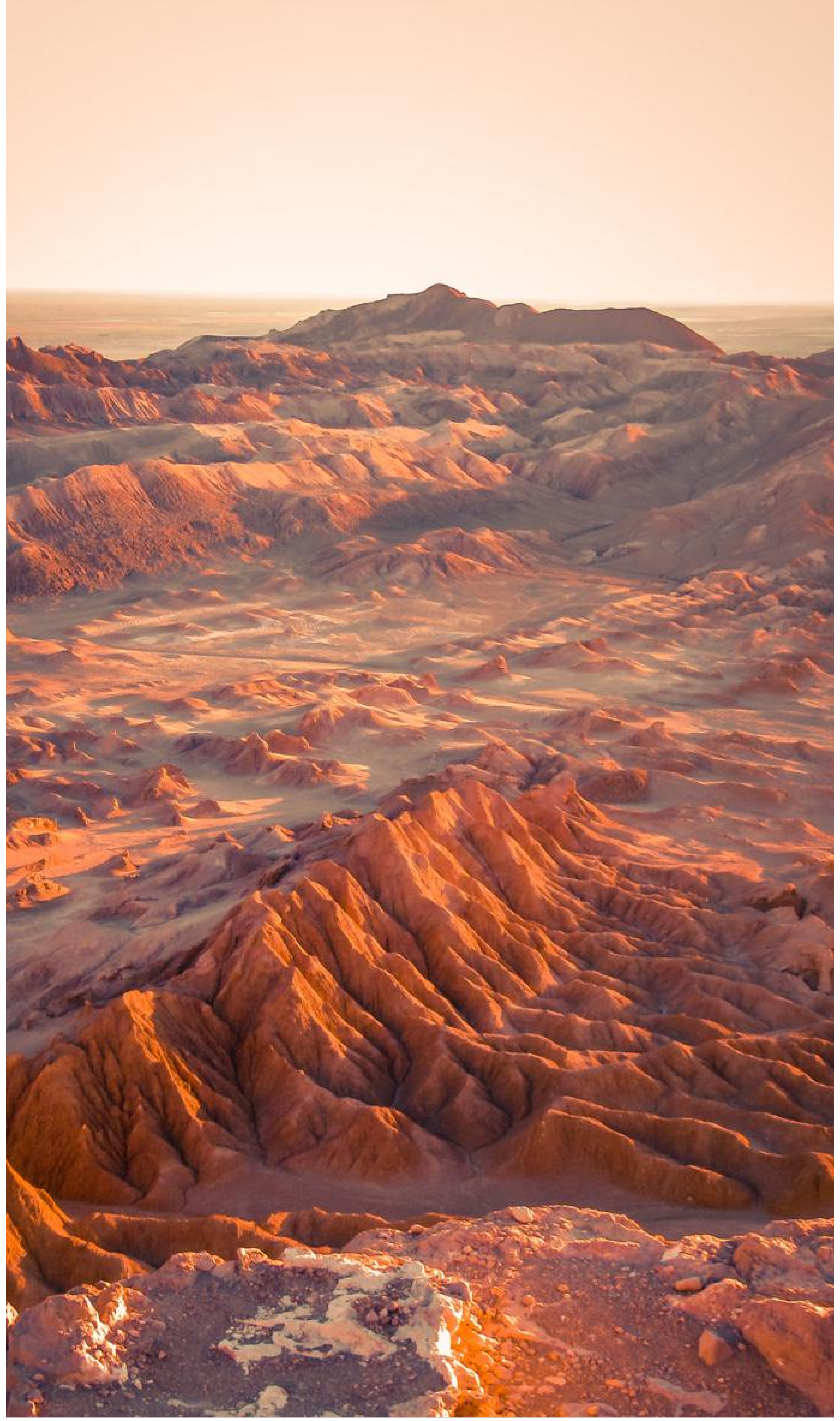
STATUTORY REPORTING OBLIGATIONS

General Rule No. 30, issued by the CMF, stipulates that all companies or issuers registered in the Register of Securities according to Law No. 18,046 must draw up an annual report which contains information on social responsibility and sustainable development.

A digitalized copy of the report must be provided to the CMF and must be made available to the public and shareholders in case of open corporations. The information must remain available for at least five years from the time of its publication.

Due to the inadequacies of the regulation, which only addresses social sustainability and gender equality issues, the CMF published a draft amendment for public consultation in December 2019. This included new requirements for economic, social and environmental information in the annual report.

The aim of the proposal is to provide the market with more information to assess and select corporate financial instruments that best meet sustainable investment criteria.[308] The amended report is due to be incorporated into the annual report for the year 2020, to be published in 2021.



PRIVATE INITIATIVES AND THE LOCAL INSURANCE MARKET

There are numerous companies in Chile that have committed themselves to the issue of sustainability within the framework of private or international initiatives, for example by adhering to the UN Global Compact Principles or becoming members of Chilean organizations that aim to improve sustainability.

Particularly regarding the insurance market, it is remarkable that insurers have been adapting the policies offered to cover negative impacts on the environment, known as the "environmental risk." The most common policies that may cover this risk are those corresponding to civil liability insurance, guarantee insurance and environmental civil liability insurance.

The coverage of said insurances may include, among others:

- expenses for cleaning and remediation of the affected area;
- compensation to third parties affected, covering consequential damage, loss of profit and non-material damage; and
- legal defense expenses, which may include defense from actions filed by affected parties or by environmental agencies.

In general, these policies do not cover gradual pollution, but only accidental and unforeseeable pollution events.

Finally, automobile insurance based on a low base rate and the number of kilometers driven per month, which has been offered by some Chilean insurance companies since 2017, has experienced a significant rise amid the COVID-19 pandemic. As this type of insurance is recommended for drivers who generally drive little and therefore creates an incentive to use the car less to keep costs down, the contracting of this type of insurance has increased in the context of the coronavirus crisis, particularly in those places which have been under quarantine measures.

"Each generation has its own challenges. But no generation has had such an urgent and formidable challenge as climate change and global warming."

"Protecting our nature, our biodiversity, and our planet is not only an environmental obligation. It is a moral obligation. We have that obligation with ourselves, our children, our grandchildren, and those who will come, who have a right to inherit a better world than the one we received from our parents."

Sebastián Piñera,
President of the Republic of Chile[309]

COLOMBIA

Since the early 2000s, Colombia has heavily invested in security and peace to position itself as a competitive and ethical country. The country has therefore been able to build trust with the investors (government) and promote socio-economic growth and formal employment (social). As a result of the increase in investment, Colombia has focused its growth sustainably hand in hand with environmental policies that ensure the preservation of its environment, one of the most biodiverse in the world (environmental). These are some elements that have been the basis for the development of ESG in Colombia.

LEGAL FRAMEWORK

Environmental: Colombia is part of the Paris Agreement which was ratified by the Colombian Congress and is part of the country's body of laws. There is also a robust regulatory system focused on environmentally responsible construction and environmental compensation of infrastructure projects' impact.

Social: The national government included in its governance objectives (Plan de Desarrollo) segments devoted to social stability and formal job development. Additionally, Colombia is part of the International Labor Organization (ILO) and has continuously striven for social stability for its population by strengthening security and peace over the national territory.

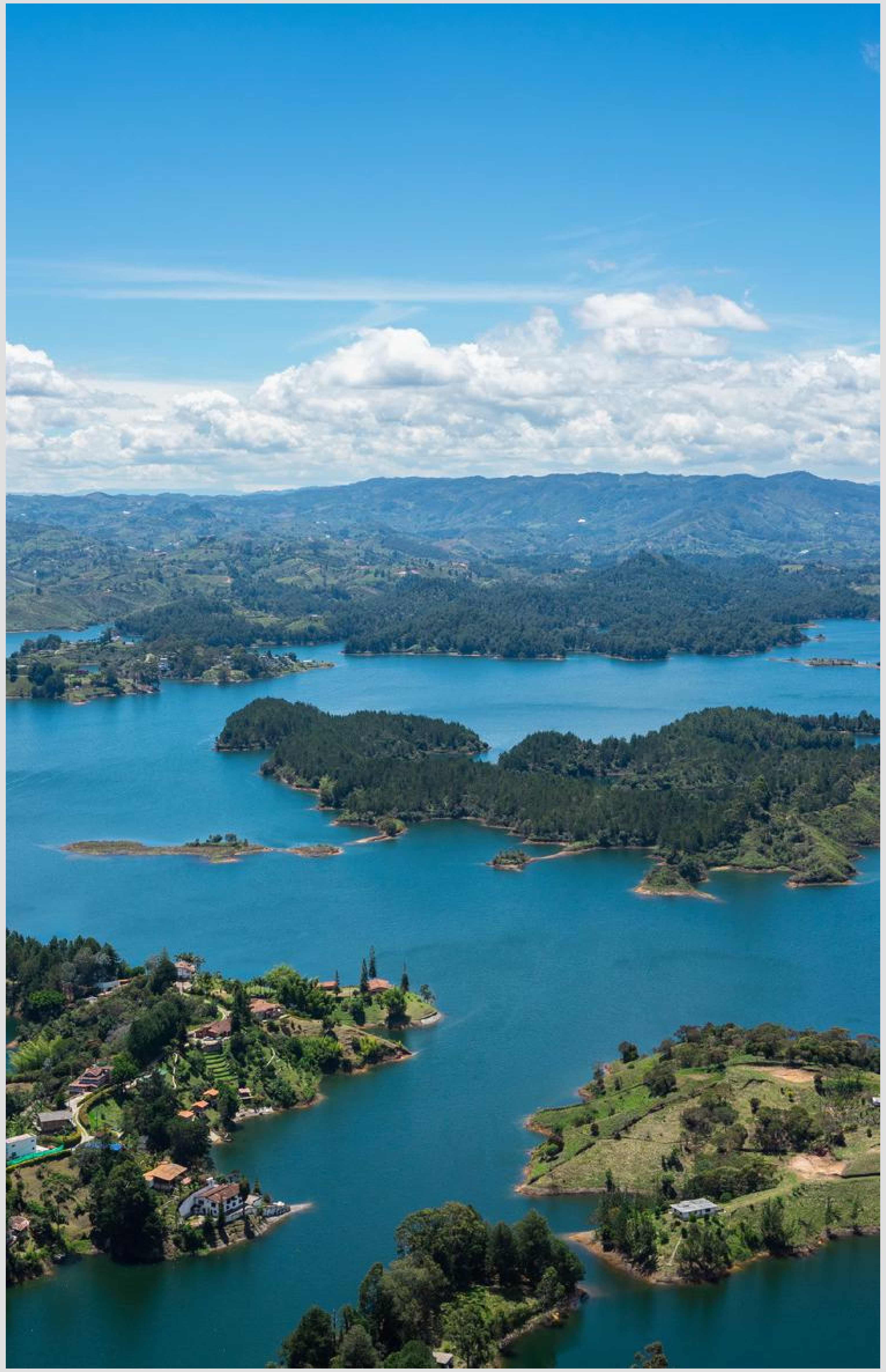
Corporate governance: The financial sector is under the surveillance of the Financial Supervisory Authority (Superintendencia Financiera de Colombia, SFC), which issues guidelines for the proper control of financial entities. The SFC monitors and develops global guidelines such as those of the Organization for Economic Co-operation and Development (OECD), which Colombia has been part of since April 2020.

After studying the international conventions, the Constitutional Court of Colombia ordered the national government to perform ESG duties as an obligation which the Colombian state has to follow based on its membership in the OECD.

Beyond the regulations, the most significant ESG advancement in Colombia has been through self-regulation instruments and the quest to create competitiveness in order to achieve and comply with global market requirements.

THE FINANCIAL SECTOR

The Colombian insurance federation (Federación de Aseguradores Colombianos, Fasecolda) has significantly developed ESG measures under self-regulation initiatives. Fasecolda has issued a Corporate Governance Code which has been incorporated by 89% of its affiliates.[310] The code strengthens and raises the corporate governance standards requested by the SFC by including aspects such as the qualities and functions of the boards of directors, compliance standards, remuneration policies and conflict of interest management.



The environmental and social aspects have been focused on three fronts through which the insurance industry operates:

- **Investor:** Insurance companies in Colombia are vital participants in both the financial and stock exchange markets, as these companies are potential high-volume investors due to their financial capacity. Moreover, the best-practices model adopted has generated a corporate culture that promotes the financing of sustainable projects.

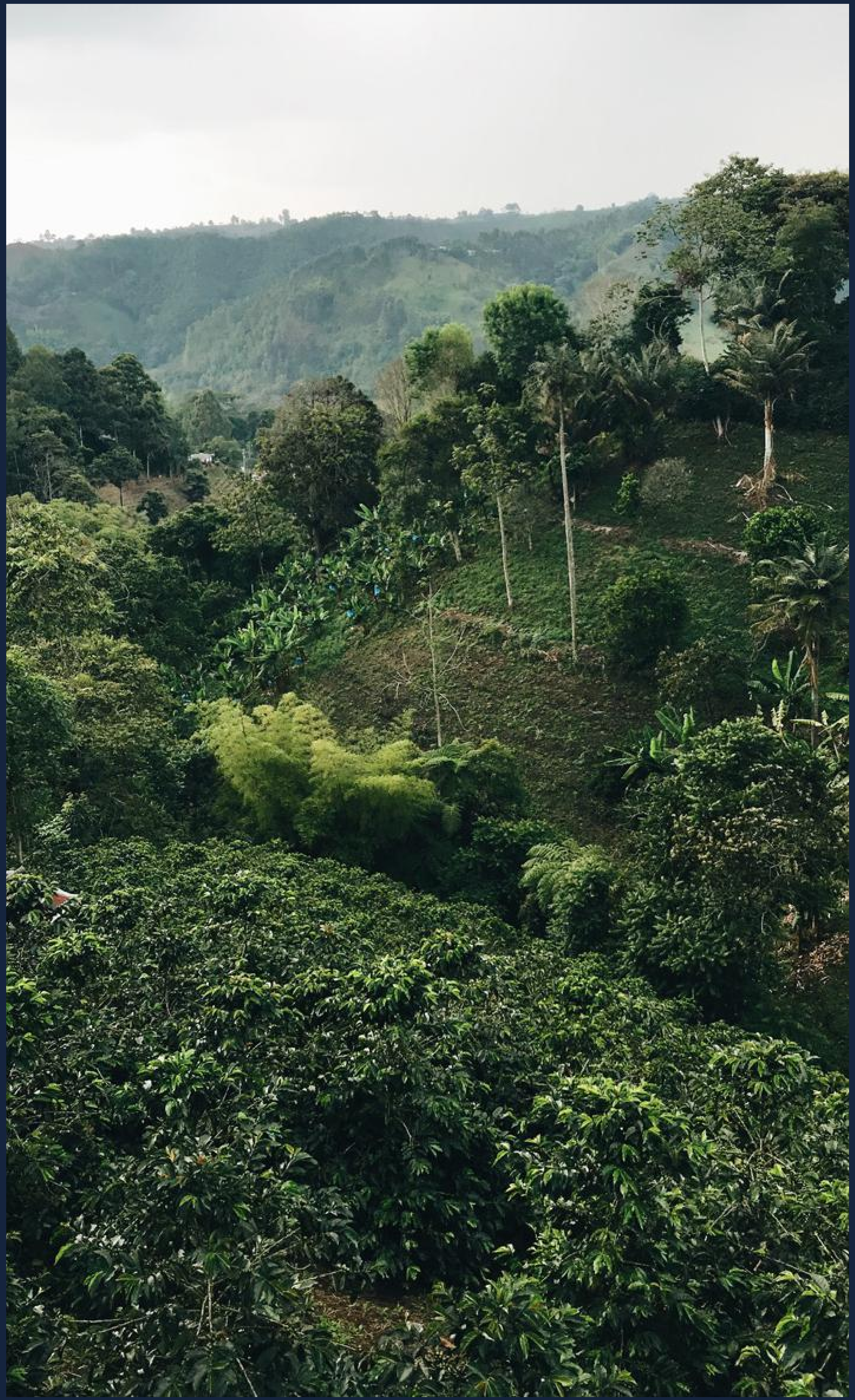
- **Employer:** The insurance industry is a stable sector for its employees and generates 0.06% of the jobs in Colombia.[311] In the face of the market and society at large, this industry seeks to generate financial inclusion for the entire population by creating accessible products for all social sectors.

- **Insurer:** In the execution of its insurance activities, the insurance industry conducts studies on the environmental risks of projects that it insures and generates plans to mitigate significant environmental impacts. Likewise, insured projects must comply with at least minimum environmental preservation standards and the applicable environmental regulation.

It is important to mention that, since 2012, the Colombian Banking Association (Asociación Bancaria y de Entidades Financieras de Colombia, Asobancaria) has been developing guidelines for the care of the environment with a document called the Green Protocol. These guidelines are voluntarily assumed by banks and, since 2018, Fasecolda has been part of this protocol.

The stock market has been monitoring the sustainable environmental guidelines in Colombia. Thus, "green bonds" have been issued, mainly by the foreign trade bank of Colombia (Banco de Comercio Exterior, Bancoldex).[312] These bonds are intended to finance projects such as pollution control, renewable energies and sustainable transport.

The SFC supervises proper compliance of financial institutions in matters of financial and operational risks and compliance. Additionally, it has created the "Código País," a voluntary code of good practice for securities issuers to guarantee the management of investors' resources. It is essential to highlight that the Código País includes guidelines to adopt environmental sustainability policies.



SOCIAL AND EMPLOYMENT INCENTIVES

Since 2002, the Colombian Congress has issued rules to protect and promote employment. Labor laws have sought to reduce labor costs and parafiscal contributions for employers. In addition, measures that have been set forth are, among others, unemployment subsidies, employment formalization and labor flexibility regarding working hours and surcharges.

In addition, and in accordance with the ILO, Colombia enforces a social protection floor to grant people adequate employment conditions.

Moreover, due to COVID-19, the Colombian national government has created measures and mechanisms to protect employment. For example, they introduced the Formal Employment Support Program (PAEF), which provided financial support to companies, consortiums, individuals or temporary unions that comply with several requirements. This benefit was a grant paid out in May, June, July and August 2020.

The issue of flexible working hours during the pandemic has also been addressed. Employers and employees may agree to work either continuous working shifts of up to eight hours a day for 36 hours a week; or 48 hours per week over four days, with a maximum 12-hour daily shift.

The government has additionally provided employers monetary aid of approximately USD56 from employees' legal bonuses. They have also introduced a labor mechanism that employers may agree with employees to protect and encourage employment. This includes compensable paid leave, a reduction of working hours and salary, modification or suspension of extralegal benefits, flexible working schedules, suspension of the employment contract and unpaid leave.

OUTCOMES AND CHALLENGES

Despite the regulation, the most significant development of ESG in the Colombian financial sector is due to self-regulation. This has been motivated by competitiveness and the need to improve current factors in the global market.

The national government has planned post-COVID-19 economic reactivation through multiple infrastructure projects. This process will include participation from the insurance industry, following ESG parameters, to contribute to the economic reactivation and to continue to strengthen the stability of the financial sector in Colombia.

> *"We must continue to move forward in a world where partnerships make it possible to mitigate the effects of climate change, strengthen fair trade, tackle corruption and transnational crime, create employment opportunities, put an end to discrimination and promote the idea of producing while conserving and conserving while producing."*
>
> **Iván Duque Márquez,**
> President of the Republic of Colombia[313]

FRANCE

Facing the enormous challenges of sustainable development, the insurance and finance sectors in France have implemented several mechanisms, in conjunction with the government, to ensure a sustainable and livable environment for future generations.

Offering "green" products and socially responsible investments, managing financial and real estate portfolios oriented towards sustainable development and respecting environmentally friendly principles on a daily basis, insurance companies as well as the banking and financial sector have set up initiatives to "save the planet" in the face of risks of new magnitude.

MINISTRY FOR ECOLOGICAL TRANSITION

In France, the Ministry for Ecological Transition is dedicated to monitoring and implementing concrete measures to ensure sustainable development in France. This ministry acts as a conductor to enable sustainable development in public life and the private economy.

Through numerous initiatives, the ministry monitors and aims to reform the sectors of science, technology and innovation, and to develop partnerships, but also to come up with concrete solutions in insurance, finance and commerce. Each law or decree containing a "green" component is subject to assessment and enrichment through useful measures by the Ministry for Ecological Transition in order to achieve its mandate "Agenda 2030" for sustainable development.[314]

"GREEN" INVESTMENTS IN LIFE INSURANCE CONTRACTS

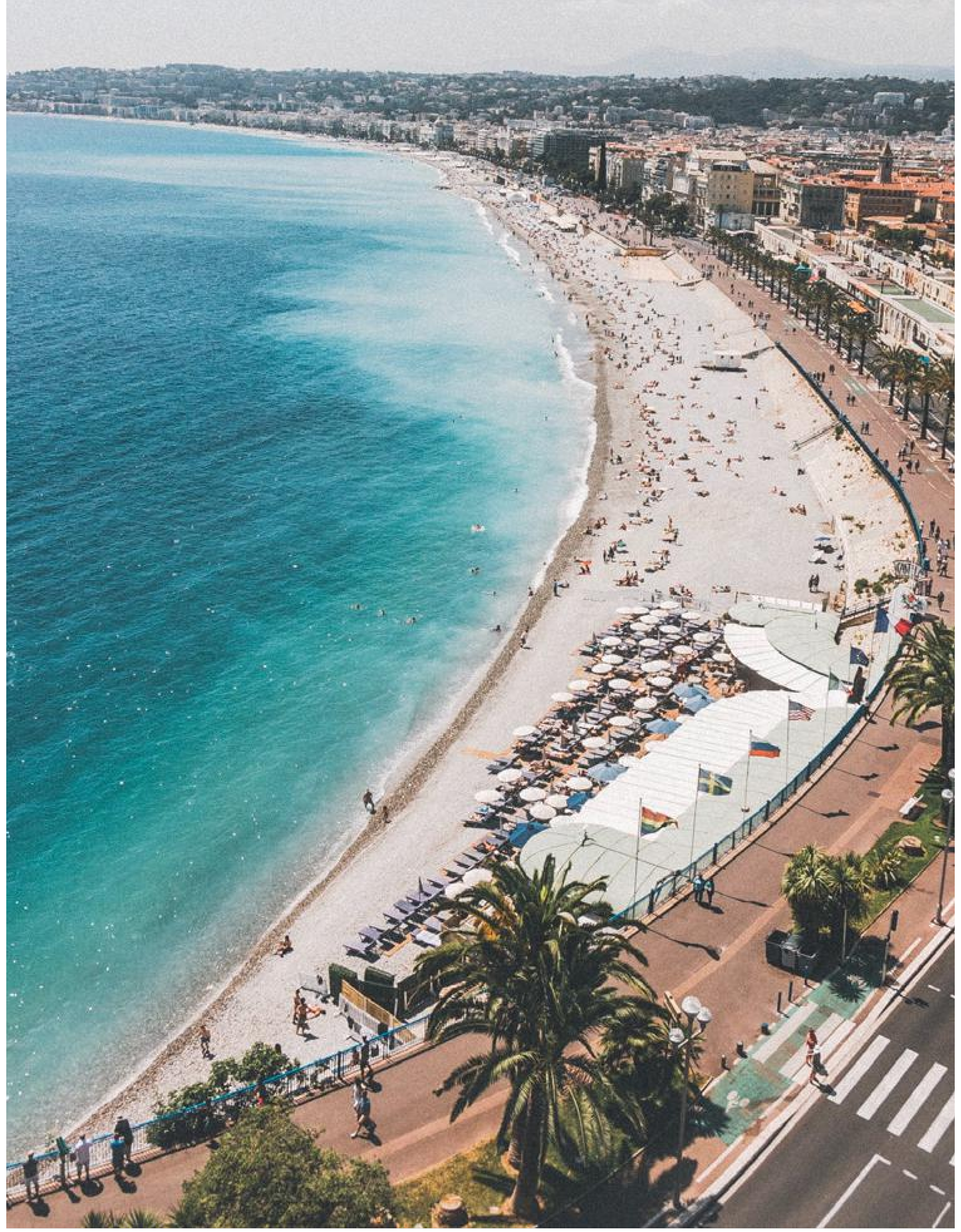
Diversity in investment is first increased by a new obligation imposed on insurers for unit-linked contracts (C. assur., art. L. 131-1-2).[315] The PACTE Law 2019-486 of May 22, 2019 seeks to develop green, solidary and responsible units of account.

Thus, as of January 1, 2020, all unit-linked contracts will have to offer at least one "solidary" or "labelled" unit of account. The subscriber will therefore have a wider choice as to the support of his investment as they will be offered at least one unit of account with one of the following characteristics:

- a "solidary" unit of account, ie for which the outstanding amount is composed, for a share between 5% and 10% of securities issued by approved solidary companies of social utility, by venture capital companies mentioned in I of Art. 1 of Law n° 85-695 of July 11, 1985 on various economic and financial provisions, or by venture capital mutual funds with at least 40% of their assets composed of securities issued by solidary companies

- a "green labelled" unit of account, ie having obtained a label recognized by the state and satisfying the criteria for financing the energy and ecological transition, according to the procedures defined by decree ("Greenfin", France's green finance label)

- a unit of account "responsibly labelled", ie having obtained a label recognized by the state and meeting the criteria for socially responsible investment, according to the terms defined by decree (SRI label: "socially responsible investment").



While these modalities are for the moment in the alternative (ie the insurer is only required to offer a single unit meeting one of the three characteristics), they are intended to become cumulative. As of January 1, 2022, contracts and subscriptions will have to refer to units of account respecting the three modalities and the proportion of units of account in the contract respecting these modalities will have to be communicated to subscribers before subscription to these contracts.

In other words, at least one unit of account must be offered in each category. The choice offered to the subscriber will therefore be both diversified and enlightened. Of course, the subscriber will not be required to subscribe to these funds but will, at the very least, be informed of their existence.

SRI LABEL: "SOCIALLY RESPONSIBLE INVESTMENT"

Decree n°2016-10 of January 8, 2016 relating to the "socially responsible investment"[316] introduced the "SRI" label.

This label is a distinctive sign that certifies the compliance of an investment product or service with a sustainable development frame of reference.

Obtaining the label means, for a collective investment fund, that it complies with a set of criteria relating to its management methods. These criteria aim to qualify an investment that combines economic performance with social and environmental impact by financing companies and public entities that contribute to sustainable development, regardless of their sector of activity.

The French market for responsible investment continues to grow and was worth EUR149 billion in 2018, compared to a few tens of millions of EUR 15 years ago. Outstanding amounts recorded under the banner of responsible investment grew by 11% over one year. In 2018, 488 "sustainable" funds, only half of which had the SRI label, were marketed.

"A fair, transparent and consistent reporting on climate-related risks and opportunities is key to collectively delivering on the Paris Agreement, to improving the effectiveness of companies communication on climate change integration in their strategy and implications for their business, to fostering a dialogue with investors and to enhancing the contribution of financial institutions to accompany companies through an efficient transition towards low carbon and climate resilient economies."

Bruno Le Maire,
French Minister for Economy and Finance[317]

GERMANY

Sustainability and ecological aspects have played an important role in German society and politics for more than 40 years, from the first anti-nuclear protests giving rise to the Green Party to the current discussion on the exit from carbon-based energy production. Accordingly, it is no surprise that the German Federal Government (Bundesregierung) intends to make Germany a "global sustainable finance champion."[318] The German Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin) is also placing sustainability and the handling of sustainability risks at the forefront of its supervisory practice.

SUSTAINABLE FINANCE ADVISORY BOARD

Considering the enormous transformation effort required to implement the German sustainability strategy at a political level, the German government also takes into account market intelligence and scientific expertise. For that purpose, and to develop recommendations for action to strengthen the financial and commercial location of Germany in the long-term, it has established the Sustainable Finance Advisory Board (Sustainable Finance Beirat). It consists of 38 experts including five representatives of the insurance sector, inter alia from Allianz SE and Munich Re.[319]

FEDERAL FINANCIAL SUPERVISORY AUTHORITY

For the German Federal Government, BaFin is also of particular importance in connection with the realization of political sustainability goals. In December 2019, BaFin published a guidance notice to insurance companies, banks and investment fund managers on how to deal with sustainability risks (Guidance Notice). This Guidance Notice is a compendium of formally non-binding procedures, known as good practice principles. In fact, like all announcements of the supervisory authority, the Guidance Notice is of course of considerable importance for the supervised entities.

Based on the principle of proportionality, BaFin expects the supervised entities to adjust proper business organization and appropriate risk management systems to the increasingly important issues of sustainability risks.

BaFin has adopted a broad definition of sustainability risks which includes adverse environmental, social or governance events, and climate-related risks. The latter are subdivided into physical risks (direct and indirect), transition risks (changes as reactions to physical risks) and interdependent risks which may even extend to financial or reputational stability risks. Climate and environmental risks or, in general, sustainability risks, are not a new type of risk per se, but are or have to be reflected in credit, market, operational and liquidity risks which are already subject to supervision.

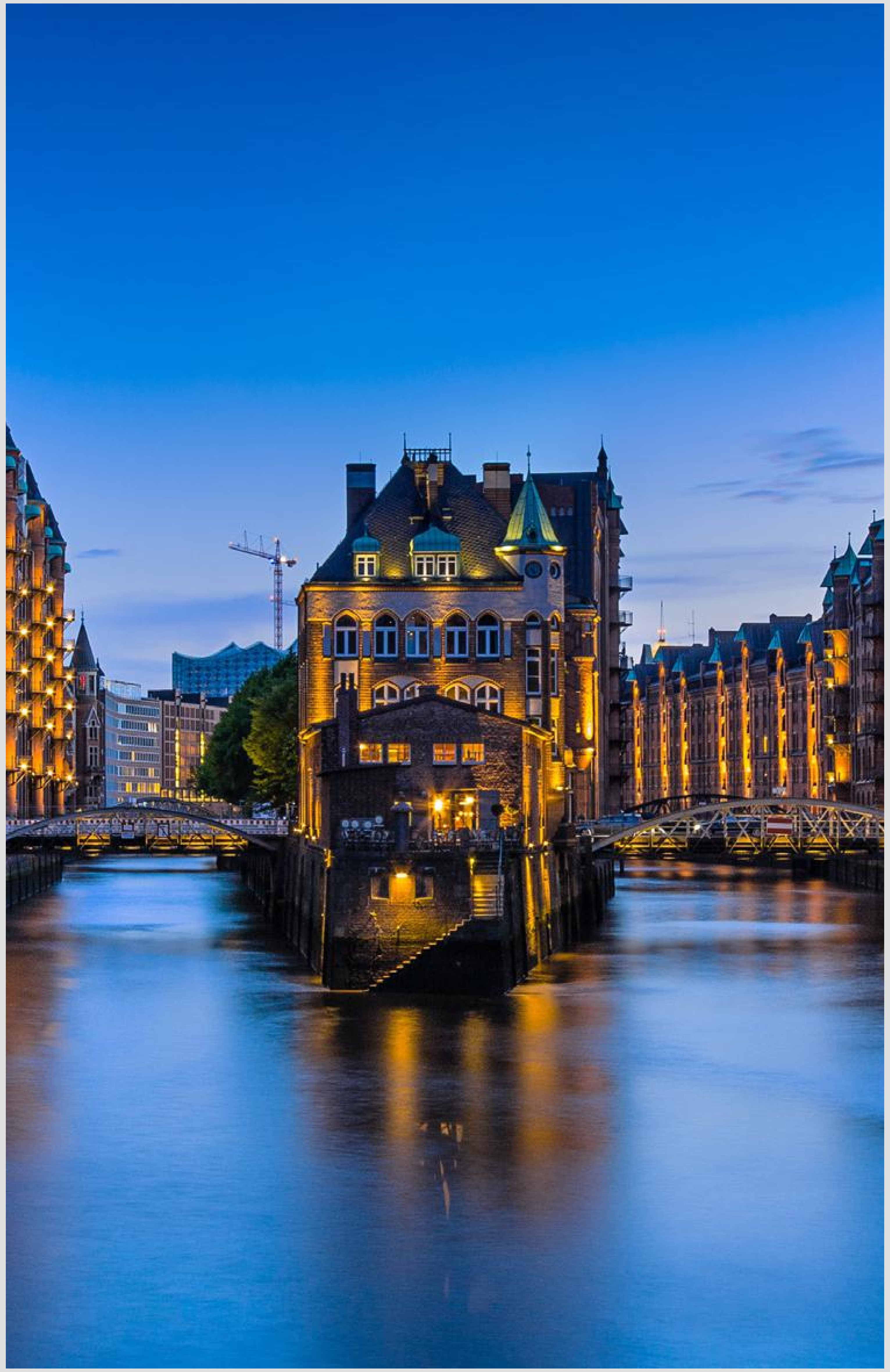
Technically, the main focus of the Guidance Notice lies on risk management embedded in a consistent business and risk strategy, which is the responsibility of the management board. BaFin "recommends" a strategic assessment of sustainability risks. The Guidance Notice covers in this context the aspects of risk identification, management and control processes together with traditional methods and procedures, each with a specific reference to sustainability risks.

In addition, the Guidance Notice considers issues regarding stress tests including scenario analyses, particularly with regard to entity-specific tests, and considers transition and impact scenarios. For example, Allianz Group has recently carried out climate-related stress tests with regard to its corporate bond, equity and real estate portfolios and Munich Re is working on its own test scenarios.[320] Last but not least, the Guidance Notice covers questions relating to outsourcing, group issues and the use of sustainability ratings.

In mid-January 2020, BaFin announced the priorities of its supervisory activities for 2020. It is no surprise that sustainable business models and sustainable finance are one of the four key topics. 2020 has already and will continue to show how BaFin will implement this in practice and how the supervised entities will react. BaFin's new chief sustainable finance officer, Frank Pierschel, expects supervised entities to incorporate the relevant risks into their strategic planning. The fact that BaFin has created the position of a "chief sustainable financial officer" again shows the importance which it attaches to this aspect.

"It is obvious that action must be taken. The financial sector and supervisory authorities are well advised to address sustainability issues as early and intensively as possible."

Felix Hufeld,
President of the German Federal Financial Services Regulatory Authority[321]



ADDITIONAL DISCLOSURE OBLIGATIONS

Although all eyes seem to be on sustainability disclosure right now, this is not an entirely new topic: the CSR Directive of 2013 already contained some duties to disclose environmental, social and compliance matters.[322] In Germany this has been implemented in Sections 289, 289b, 289c, 264a, 336 and 315 of the German Commercial Code (Handelsgesetzbuch).

Large[323] stock corporations and limited partnerships with a corporate entity as general partner must disclose such information in their management report (Lagebericht) or group management report (Konzernlagebericht), if available. Accordingly, non-financial performance indicators, such as information about environmental matters, must be disclosed in the management report if these are relevant for the business performance or situation. According to a recommendation by the European Commission this includes policies and programs that have been adopted by the respective company in respect of environmental measures, especially regarding pollution prevention.[324] For example, in its 2018 management report Allianz Group disclosed information on its group-wide environmental management system.[325]

If shares or securities issued by these companies are listed on an organized market (Section 264d HGB) and they have more than 50 employees, they will also need to issue a non-financial declaration as part of their annual report. This should contain information on existing environmental matters and essential risks connected with the company's business which have or are likely to have serious negative effects on environmental matters. For an insurer this may include, for example, information on current greenhouse/carbon dioxide emissions.[326]

ESG RATING

In March 2020, a landmark dispute on ESG ratings was filed with the Regional Court of Munich. Optics producer Isra Vision obtained an injunction against rating agency ISS ESG in relation to an unsolicited sustainability rating.[327] ISS ESG had previously contacted Isra Vision and asked it to participate in the writing process. Isra Vision did not respond and ISS ESG undertook the rating on the basis of publicly available information. For each category where no such information was available, ISS ESG awarded the worst possible rating to Isra Vision. ISS ESG objected to the injunction and in the respective oral hearing the Regional Court of Munich pointed out that ISS ESG was not entitled to assume non-compliance with ESG standards just because no public information was available.[328]

This dispute clearly illustrates the current lack of available information on ESG criteria. It may be easy for BaFin and the European Commission to oblige investors and asset managers to disclose information on ESG criteria of their investments but there is still no convincing answer to where this information will come from.

> *"Climate change knows no borders. It will not stop before the Pacific islands and the whole of the international community here has to shoulder a responsibility to bring about a sustainable development."*
>
> **Angela Merkel**,
> Chancellor of Germany[329]

HONG KONG

As Hong Kong has made a name in the world for itself as an international financial center, the city has been looking to simultaneously brand itself as a "regional green finance hub" since 2016.[330] In the fast-evolving landscape, "green finance" has become one of the key agenda items, from Hong Kong initially being at the nascent stage to now entering the growth stage to foster its ESG eco-system. Against such a backdrop, the Green and Sustainable Finance Cross-Agency Steering Group was established in 2020 with significant focus placed on creating a more coordinated policy environment and to encourage initiatives in society.

THE FINANCIAL SERVICES DEVELOPMENT COUNCIL AND THE GREEN AND SUSTAINABLE FINANCE CROSS-AGENCY STEERING GROUP

In Hong Kong's journey to develop an ESG policy roadmap, the Financial Services Development Council (FSDC) has played a significant role in the growth of "green finance" in the city. In addition to publishing reports on building Hong Kong's ESG investment eco-system and policy recommendations for market regulators, the FSDC has also conducted closed-door roundtable discussions with various parties to continue to foster the development of "green finance."[331]

As part of the broader scheme advocated by the FSDC, the Hong Kong Insurance Authority (IA) is one of the founding members of the Green and Sustainable Finance Cross-Agency Steering Group initiated by the Hong Kong Monetary Authority and the Securities and Futures Commission. Established in May 2020, it aims to bolster Hong Kong's position as a leading green and sustainable finance center through facilitating policy direction and coordinating the management of climate and environmental risks, enabling the development of a comprehensive green and sustainable finance strategy.[332]

DISCLOSURE GUIDELINES

Generally speaking, the current regulatory landscape in Hong Kong is such that ESG disclosure obligations are only imposed on listed companies and certain other companies incorporated in Hong Kong. In light of this, the FSDC published a report recommending the IA to encourage insurers to: (i) consider ESG risks in their investments and publish policies on explaining such risks to their stakeholders, and (ii) provide their boards with information regarding financial risks arising due to climate change. It has also been recommended for the relevant guidelines to take shape as FAQs or as non-binding guidelines, by making reference to the ESG Reporting Guide published by the Hong Kong Stock Exchange, as well as the Principles of Responsible Ownership issued by the Securities and Futures Commission.[333]

In addition, it has been proposed by the FSDC that insurers should be equipped with a greater variety of detailed climate data to further facilitate their disclosure. Although the possibility of a centralized ESG database which enables access to previous and future climate data has been considered, this proposal clearly poses several technical and operational challenges. In spite of the difficulties, this proposal remains an agenda item that Hong Kong may consider including in its ESG eco-system in the future.[334]

> *"The impact of climate change is increasingly being felt in all quarters, arousing concern among different stakeholders in the financial market. Insurers assist people and businesses to identify, analyse and mitigate their risk exposures, while serving a dual role as institutional investors which could shape the behaviour of asset owners and managers. [...]"*
>
> **Clement Cheung,**
> Chief Executive Officer of Insurance Authority, Hong Kong[335]

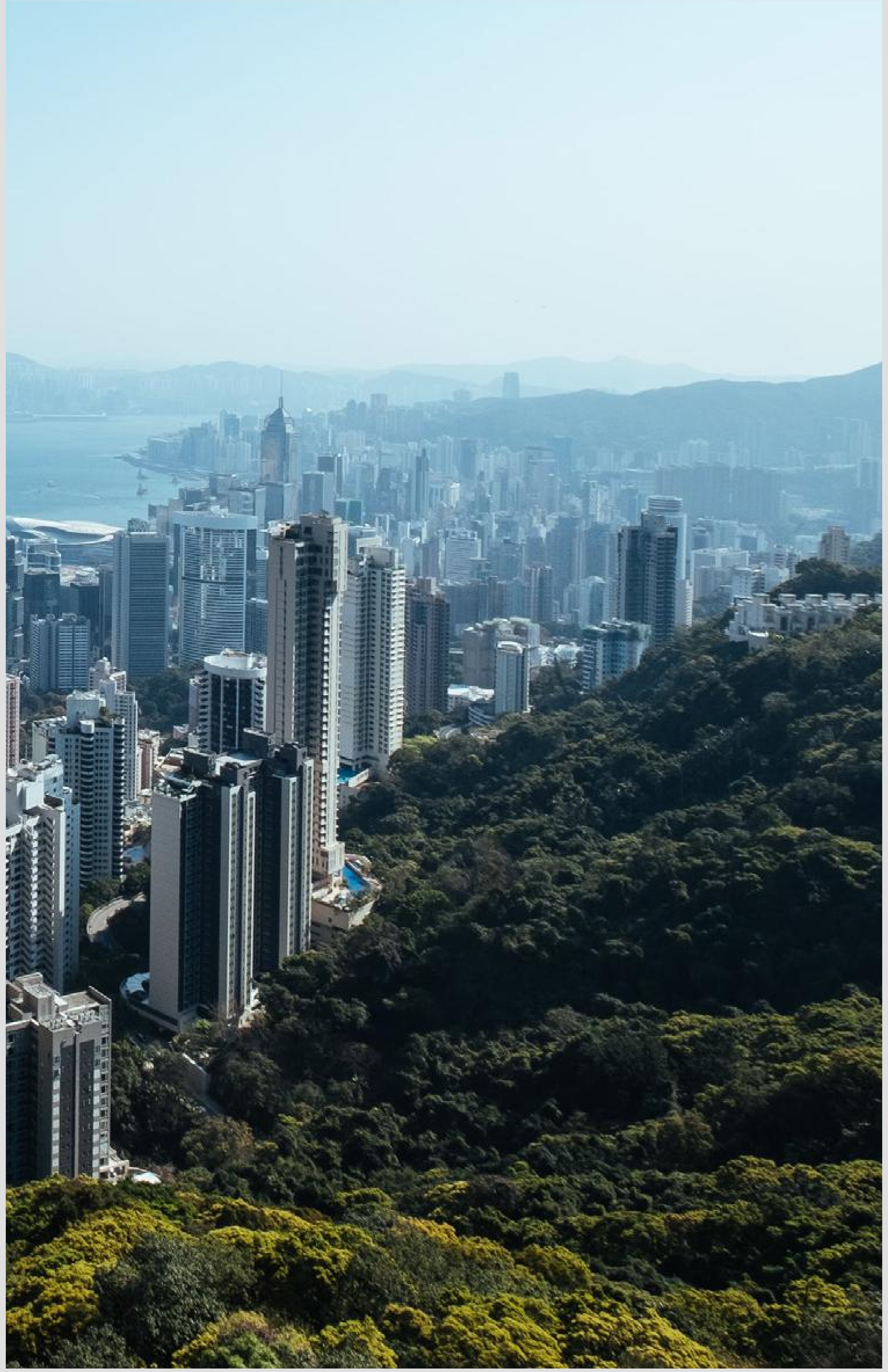
> *"No country or city can escape from the impact of climate change. It is a global challenge that can and should only be tackled by collective actions through sharing of knowledge and experiences, and mobilising resources for capacity. Menaces of climate change respect no boundaries and, likewise, the solutions must lie with cross-border collaborations and concerted action."*
>
> **Matthew Cheung Kin-chung**,
> Chief Secretary for Administration, Hong Kong[336]

ESG REPORTING COMPLIANCE

As mentioned in the previous section, the Hong Kong Stock Exchange has published an ESG Reporting Guide on the ESG disclosure requirements for listed issuers in Hong Kong.

It appears that many Hong Kong-listed companies are failing to meet disclosure rules regarding environmental performance indicators. According to a study by BDO in 2019, within a randomly selected batch of ESG reports, only 39% disclosed their environmental key performance indicators and only 12% detailed their plans to tackle climate-change issues, with even fewer able to provide examples on the actions taken.[337]

In order for Hong Kong to earn the title of "regional green finance hub," firms in Hong Kong will need to step up in the quality and substance of their corporate ESG disclosures. Whether the disclosure regime to be imposed by the IA on Hong Kong insurers will be effective in further addressing and highlighting ESG issues remains to be seen, but for now, the IA's representation on the Green and Sustainable Finance Cross-Agency Steering Group and the recommendation from the FSDC remain good starting points for the insurance sector in Hong Kong.



ITALY

As a co-host together with the UK for the 26th UN Climate Change Conference of the Parties, Italy is committed to the principles of the UN and to reaching the goals set out in the Paris Agreement. The "Dialogue for Financial Sustainability" which was launched by the Ministry of Environment in 2016 has set the ground for a number of important ESG related initiatives.

ESG INITIATIVES IN ITALY

In 2016, the Ministry of Environment, with the support of UNEP launched the "Dialogue for Financial Sustainability" with the aim of assessing the common sensitivity towards ESG matters in Italy.

The main outcome of the initiative described above is the Report on Financial Sustainability which was circulated among the operators during 2017.[338]

The Observatory for Sustainable Finance[339] was created in 2018 and is articulated in four working groups (WG).

WG3's focus is on banking, insurance and institutional investors.

The main target of WG3 is to (i) assess the situation among financial operators in terms of disclosure to customers of ESG topics and verify that its recommendations and guidelines are implemented in the operators' decision-making processes, and (ii) indicate how the financial environment must comply with the indications provided and their possible developments.

In this respect, WG3 has drafted a questionnaire to be submitted to the operators in order to increase awareness of these topics.

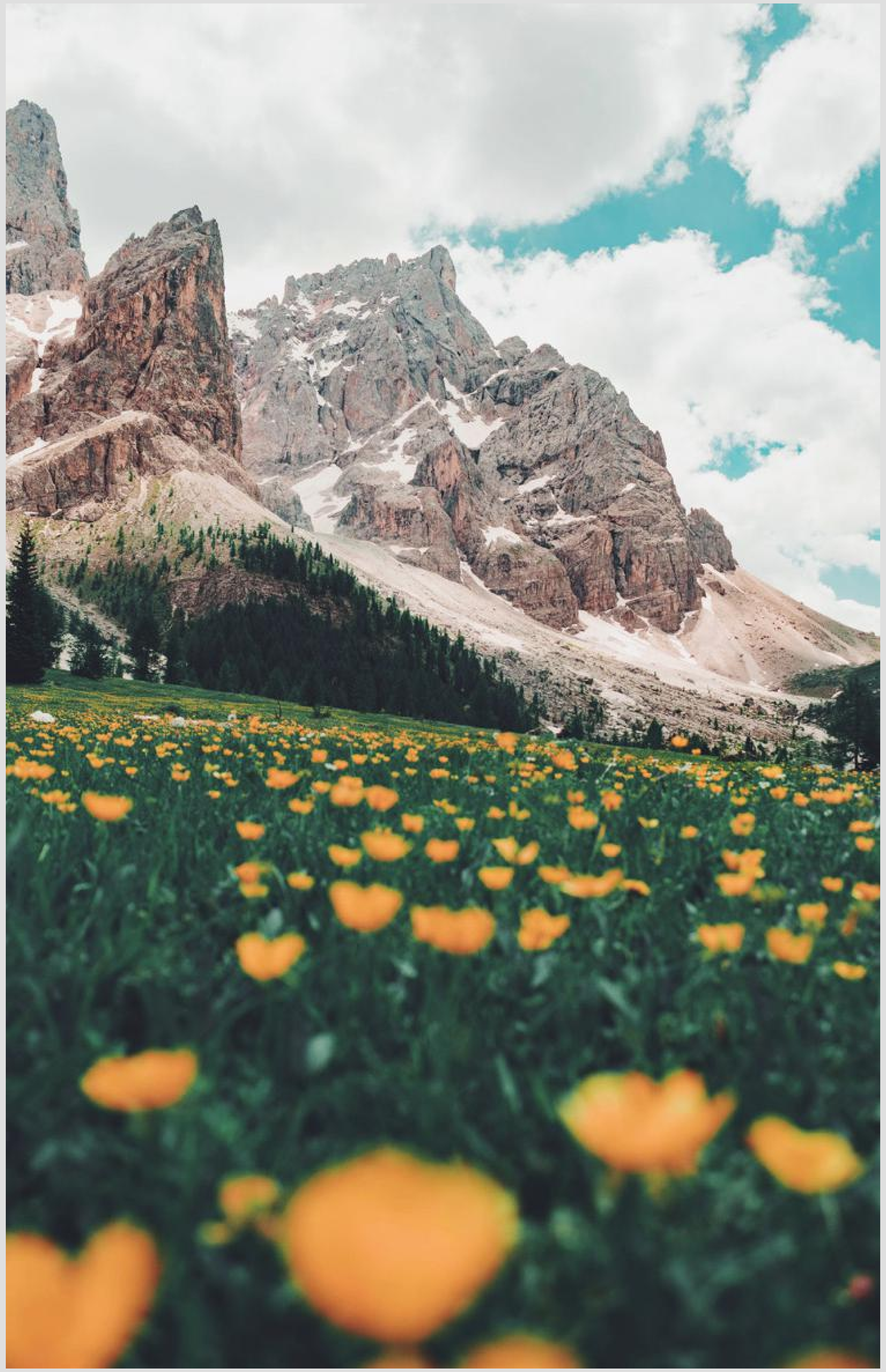
INSITUTE FOR INSURANCE SUPERVISION (ISTITUTO PER LA VIGILANZA SULLE ASSICURAZIONI (IVASS))

With respect to WG3, IVASS plays a pivotal role.

Based on the initiatives launched and the WG3 guidelines, IVASS launched a first questionnaire in 2016. This was submitted to the domestic insurance companies with which the regulator started to trace common sensitivities on ESG topics.

In 2018, with Regulation no. 38[340] on corporate governance at individual and group level, IVASS also included the principles that (i) the measures adopted by insurance companies to mitigate risks must also include ESG risks, both generated and suffered, which must be evaluated by the board of directors, the risk, asset manager, and the HR and compliance functions (Art. 4, para. 2), and that (ii) the variable remuneration of board members and chiefs of functions must include ESG parameters, including management of customers (Art. 47, para. 2, lit. b).

In addition to the above, in 2018, IVASS submitted a second questionnaire to the domestic insurance companies regarding climate change.



ITALIAN INSURANCE COMPANY ASSOCIATION (ASSOCIAZIONE NAZIONALE FRA LE IMPRESE ASSICURATRICI , ANIA)

Beside the initiatives taken by IVASS, in 2018 ANIA launched a program articulated in two phases for a period of three years. The first phase involves the collection of information and assessment of the best practices in place in the market. The second is based on a definition of ESG benchmarks for clusters of insurance companies/insurance groups

The main key performance indicators include:

- diversity and inclusion;
- HR developments;
- creation of value;
- responsible management of assets, with a particular focus on ESG impacts;
- portfolios of sustainable products; and
- health, safety and environment.

At the end of the program, ANIA will release a report which will be shared with the insurance industry sector, CONSOB (Italian Stock Exchange Authority) and other stakeholders.

"These initiatives are inspired by the sustainable development goals inscribed in Agenda 2030. Poverty, inequalities, unemployment, and the devastating effects of climate change are ills that concern every Country, independently of their level of development."

Giuseppe Conte,
Prime Minister of Italy[341]

MEXICO

In recent years, sustainability has become a major topic in Mexico as a greater focus on the depletion of natural resources, climate change, increased energy demand, population growth and waste management, among others, has emerged. World markets have led the Mexican government, as well as entrepreneurs and investors, to adapt to this new perspective. Consequently, various strategies are already being implemented to face the new challenges ahead, such as sustainability at economic, environmental and socio-cultural levels.

CURRENT STATUS

According to the information published in 2018 by the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía, INEGI), the depletion of natural resources and environmental degradation cost Mexico the equivalent to 4.3% of its Gross Domestic Product at market prices.[342] The cost of assuming these environmental damages has decreased over the past few years through the efforts of public and private initiatives. A decrease in the official figures for 2019 is expected, as well as in the following years.

The Mexican government's efforts to fulfill its commitment to sustainability are based on the right to an adequate environment for the development and welfare of people, one that is considered a fundamental and human right established in the fifth paragraph of Art. 4 of the Political Constitution of the United Mexican States. This right must be understood as a duty to preserve above all the sustainability of the environment, as well as the correlative obligation by the authorities to protect the environment through the surveillance of the relevant regulations.

This commitment to sustainability has also been reflected in the enactment of several laws and regulations. For example, regarding energy matters, the Law of Energy Transition (Ley de Transición Energética)[343] stands out. This aims to regulate the sustainable use of energy, as well as obligations in terms of clean energy and the reduction of pollutant emissions of the electricity industry, maintaining the competitiveness of the sector. In relation to the protection of the environment, the General Law of Climate Change (Ley General de Cambio Climático)[344] has been enacted, providing rules to face the adverse effects of climate change. This law was amended in 2018 in order to be consistent with the provisions of the Paris Agreement. Regarding the social sector, the Ministry of Environment and Natural Resources (Secretaría de Medio Ambiente y Recursos Naturales, SEMARNAT) published a series of guidelines towards urban sustainability (Lineamientos hacia la Sustentabilidad Urbana) that promote sustainable urban development. This is of vital importance in Mexico as 62.8% of the country's population is concentrated in urban areas – a percentage equivalent to 75.1 million people.[345]

> *"A transparent framework and an adequate assessment of environmental and social risks can indeed modify considerably the allocation of resources, towards more economic efficient activities and sustainable assets."*
>
> **Alejandro Díaz de León,**
> Governor of Banco de México[346]

In 2011, the Mexican Stock Exchange (Bolsa Mexicana de Valores, BMV) launched the Sustainable Price and Quotation Index (Índice de Precios y Cotizaciones Sustentable, IPC-Sustainable), which aimed to follow the stock market behavior of Mexican securities issuers that have sustainability programs. The BMV was aware of the international trend for entrepreneurs to evaluate other aspects beyond credit quality in their decision-making, such as social and environmental responsibility. In April 2020, S&P Dow Jones Indices and BMV launched a new environmental, social and governance index (ESG)[347] that provides local and international investors with a new indicator based on global principles of sustainability which replaces the IPC-Sustainable.

POSITION OF THE MEXICAN INSURANCE SECTOR REGARDING SUSTAINABILITY

In Mexico, one of the main risks in the insurance sector is the greater number and intensity of natural phenomena that occur in the country, such as earthquakes, hurricanes, torrential rains, floods and droughts. These catastrophic events can be intensified by the effects of climate change. The insurance industry in Mexico plays an important role in this, especially regarding coverage of associated risks and in the strengthening of a prevention and adaptation agenda. To the extent that entrepreneurs and investors manage to create a mapping of risks aligned to sustainable matters and their effect on commercial performance, such entrepreneurs and investors will have a greater capacity to respond and mitigate these types of situations and implement effective actions.

THE NETHERLANDS

In an effort to reduce greenhouse gas emissions, the Dutch government takes mitigation measures and cooperates with non-state actors. In addition to adaption measures protecting the country against the consequences of climate change, the Netherlands is committed to tackling climate issues on a global scale and actively participates in international negotiations and agreements.[348]

As a result of signing the Paris Climate Agreement, the Netherlands adopted a Climate Act. The Climate Act shall give individuals and companies in the Netherlands more certainty about climate goals. Under the Climate Act, the government is required to draw up a Climate Policy setting out measures to ensure that the targets stipulated in the act are achieved. The National Climate Agreement, concluded in June 2019, contains agreements with the sectors on what they will do to help achieve these climate goals.[349]

The Dutch financial sector is also committed to act on climate change and is therefore party to the Climate Agreement. The great level of commitment is shown by the Dutch Central Bank (De Nederlandsche Bank, DNB) launching and participating in a number of climate-change-related initiatives.

URGENDA

Urgenda, an environmental NGO, had started proceedings against the Dutch state in 2015, arguing that the Dutch Climate Policy (with a reduction target of 20% in 2020) was in breach of the international soft-law target of 25% that developed countries should adhere to in order to keep global warming below 2°C.

On December 20, 2019 the Dutch Supreme Court upheld the Appeal Court's order to the Dutch state to effect a 25% reduction in CO2 emissions vis-a-vis the 1990 level by 2020.[350]

The Dutch Court of Appeals in The Hague found that Art. 2 and 8 of the European Convention on Human Rights contain a positive obligation to combat climate change.

The decision is likely to result in more and more successful climate change actions against states and companies, not only in the Netherlands but also in Europe and globally.[351]

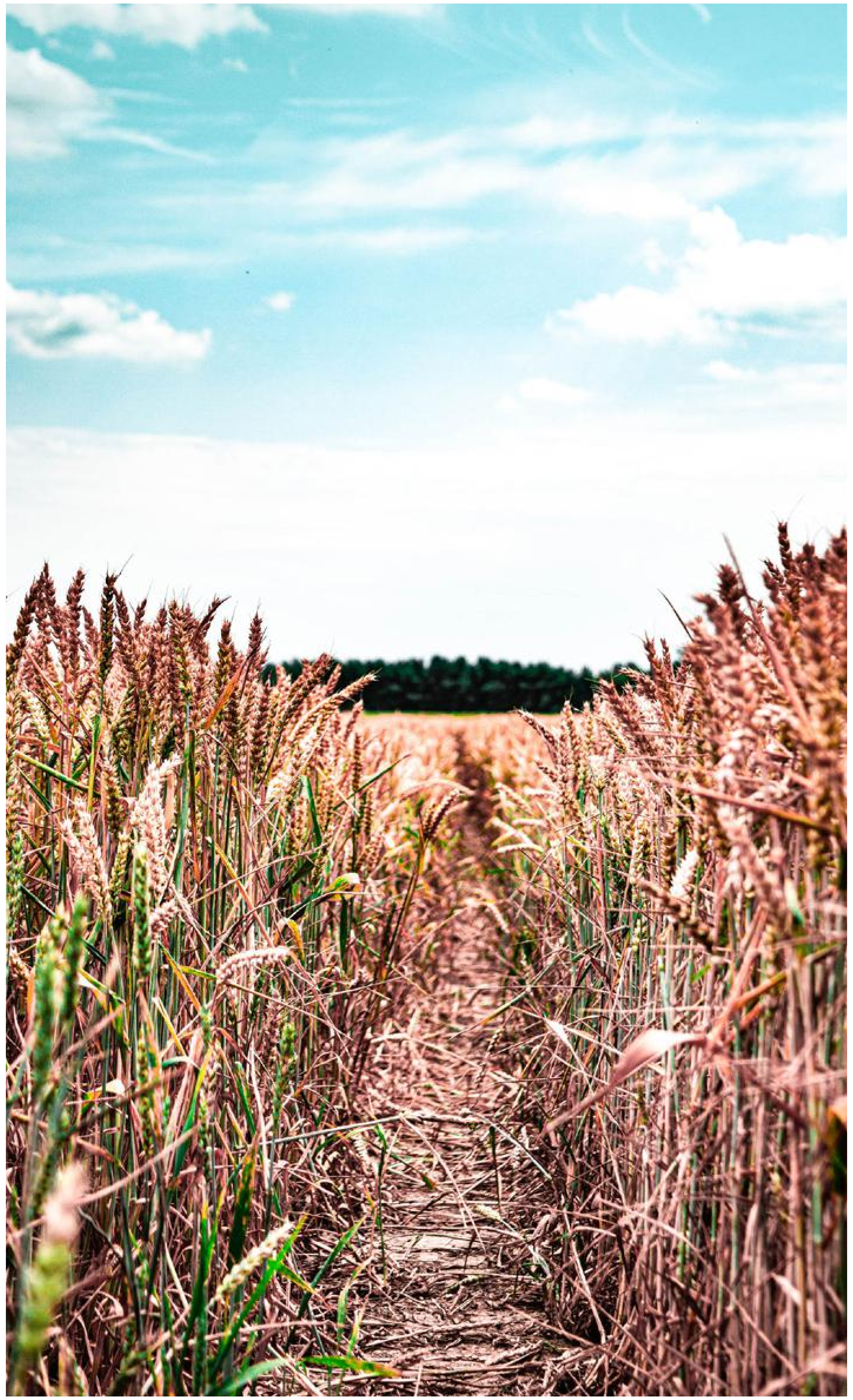
In response to the Urgenda decision, the Dutch state announced additional measures as part of its Climate Policy in April 2020. Together with those already taken, the additional measures led to a structural reduction of 11 million tonnes of CO2, if implemented on time. This meant the Netherlands would still have four million tonnes to go in order to reach the 25% reduction target by 2020.

THE DUTCH CLIMATE AGREEMENT

The Dutch Climate Agreement is part of the Dutch Climate Policy. It is an agreement between many organizations and companies in the Netherlands to combat climate change. The government's central goal with the National Climate Agreement is to reduce greenhouse gas emissions in the Netherlands by 49% by 2030 compared to 1990 levels. This ambitious goal affects all sectors of the Dutch economy and society and requires broad support and effective cooperation from all actors and stakeholders.

In order to guarantee the climate commitment of the participating institutions in the financial sector, the sector itself will be working with the Ministry of Finance to develop the implementation compliance structure, to allow the parties' progress in the development of the commitment to be determined on an annual basis. The development of project financing will be transferred from the Financing Task Force to Invest-NL[352] which will continue to involve the relevant institutions across the entire sector.[353]

The commitment of the financial sector to the success of the crucial energy transition relates both to providing suitable market-based financing arrangements for sustainability and to the integration of climate targets, including carbon emissions reduction targets, into the sector's own strategy. The financial sector wishes to make a substantial contribution to the sustainability projects, in order to shape the energy transition in the various sectors of the economy and society in a positive way, based on the market.



Through the Financing Task Force of the Climate Agreement, the financial sector has chosen to focus on advancing cross-sector forms of financing to improve coordination of supply and demand and to identify and resolve any obstacles. Where necessary and beneficial, this function will be embedded in a portal in collaboration with Invest-NL, resulting in a further increase in the opportunities for the optimization of cross-sector funding. The energy transition has presented financial sector parties with the challenge of carrying out their role in a controlled and sustainable manner.

Climate policy and developments in carbon neutral technologies may lead to rapid changes. This is something parties must anticipate, in relation to both the corresponding opportunities and the threats. For financial parties, this may be a reason to engage in dialogue with businesses and other customers, with the aim of reducing carbon dioxide emissions. At the heart of the sector's commitment is the notion that each party will focus primarily on the activities that lie in its immediate sphere of influence, match the financial risk-return objectives and are in line with the role of the relevant party in the financial chain.[354]

DNB

DNB is firmly committed to strengthening the global and national response required to foster the development of sustainable finance. As such, DNB is the chair of both the Network for Greening the Financial System (NGFS) and the Sustainable Finance Platform (see below).

In the past years, DNB has conducted several studies and analyses with regard to climate-related risks on both the micro and macro level. In one of its studies, assessing the potential impacts of a transition to a carbon neutral society and the physical risks of climate change on the Dutch financial sector, DNB found clear examples of both transition and physical climate risks. New legislation requiring a minimum level of energy efficiency for Dutch commercial real estate, a clear example of a policy measure taken to facilitate the energy transition, directly affects the collateral for a loan provided by a credit institution and therefore the quality of such credit. In the same study, DNB stresses that insurance companies are facing more and higher claims as a result of the increasing number of severe weather events.[355]

At the macro level, DNB conducted an energy transition stress test in 2018, providing a forward-looking insight into possible losses under different future scenarios. The outcomes suggest that climate-transition risks warrant close and timely attention from a financial stability perspective. DNB's report "Values at risk?" (2019)[356] shows that other ecological and social risks, such as loss of biodiversity, may also be relevant to the financial sector, as these can translate into financial risks through the same channels (physical and transition). DNB therefore encourages institutions to take a holistic approach to ESG risks when integrating them into their risk management framework.

On the basis of the knowledge gathered from its studies, DNB is now taking the next step by integrating climate-related risks into its financial supervision practices. By doing so, financial institutions are required more and more to identify and mitigate these risks in their own businesses. To provide guidance on integrating these risks, and to explain DNB's expectations in this regard, DNB has published a Q&A and a Good Practices document for the banking sector.[357] A similar document for the insurance sector is expected soon. For the pension sector, DNB envisages publishing a factsheet on new ESG-related regulation to provide transparency in this rapidly advancing landscape.[358]

THE SUSTAINABLE FINANCE PLATFORM

In 2016, DNB established the Sustainable Finance Platform (Platform). It was set to promote and increase awareness of sustainable funding in the financial sector. The Platform is a cooperative venture of DNB, the Dutch Banking Association, the Dutch Association of Insurers, the Federation of the Dutch Pension Funds, the Dutch Fund and Asset Management Association, Invest-NL, the Dutch Authority for the Financial Markets, the Ministry of Finance, the Ministry of Economic Affairs and Climate, and the Sustainable Finance Lab. The Platform offers relevant parties a place to share knowledge and experiences among themselves in the financial sector. By exchanging best practices, frontrunners within the financial sector can help other financial parties, who may have less capacity to initiate innovations themselves due to their smaller size, to formulate ambitions that suit the institution and to develop an approach for the effective implementation of those ambitions.[359]

The Platform's members can decide to establish a working group, representing a wide range of interests from the financial sector, dealing with a specific theme.[360] The Platform discusses the findings during its bi-annual meetings, adopts positions and publishes definitive reports.[361]

"We want to speed up the reduction of CO2 emissions in our country and the EU by up to 55% per cent by 2030, compared with 1990 levels. We aim to halve the use of raw materials by 2030. And we want to be a completely circular economy by 2050.

But we must act in concert with other nations. Because no country and no government can fight climate change alone. I can only rephrase what I said to the UN General Assembly last month. For the sake of our planet and the generations to come, we need a transnational outlook.

We need to build on constructive multilateralism as a positive force for progress, prosperity and future sustainability. The Netherlands is using the Sustainable Development Goals and the Paris Climate Agreement as guiding principles in our international trade and development policies."

Mark Rutte,
Prime Minister of the Netherlands[362]

NEW ZEALAND

New Zealand has a long history of guarding its reputation as a clean and green country. This was displayed in 1985 when the then Prime Minister, David Lange, rejected the arrival of the *USS Buchanan* as it was a nuclear-capable ship. Although this decision had significant impacts on New Zealand's intelligence sharing and military relationships with Australia and the USA, it was widely supported in New Zealand and displayed the country taking a stand on the world stage for environmental issues, regardless of the consequences.

Although New Zealand is small and emits a tiny fraction of global greenhouse gases, it takes climate change seriously and has taken various steps that display its commitment in this area.

ZERO CARBON ACT

In 2019, the government passed the Climate Change Response (Zero Carbon) Amendment Act 2019 (Act).[363] The Act provides a framework for New Zealand to develop and implement clear and stable climate change policies that contribute to the global effort under the Paris Agreement. The Act commits the government to a domestic greenhouse gas emissions reduction target to transition to a net zero emissions economy by 2050. Businesses that produce emissions will be affected by the carbon budgets, most significantly New Zealand's substantial agriculture industry. These businesses need to be aware of the impact of the Act in the following areas:

- a cap on emissions
- updated emissions pricing
- long term clarity whereby a framework will be established for the transition to a lower emissions economy over the next 30 years

The Act also establishes a new Climate Change Commission[364] for the purposes of providing independent, expert advice to the government on mitigating and adapting to the effects of climate change, and to monitor and review the government's progress towards its emissions reduction.

COURT DECISION

In the wake of similar climate change litigation around the world, the New Zealand High Court recently granted permission to climate change spokesperson, Mike Smith, to continue proceedings against some of New Zealand's largest agricultural and energy companies.[365] It is alleged that these businesses have failed to do enough to reduce emissions in the face of scientific evidence and that those emissions have caused, and will continue to cause, harm.

Although the High Court struck out most of the causes of action, the allegation that companies have a duty of care in tort to cease contributing damage to the climate system was permitted to proceed. However, this may not lead to a run of successful climate change cases in New Zealand in circumstances where the court cautioned that it would be virtually impossible to obtain injunctions halting the defendants' activities.

LOCAL INITIATIVES

Various local councils, including Auckland Council and Wellington City Council, have recently declared climate emergencies.[366] By declaring emergencies, it is hoped to begin a pathway to adopting a blueprint for becoming zero-carbon cities. It will also put the protection of local environments and climate change at the forefront of council decision-making. The declarations include initiatives such as reaching a zero-carbon target earlier than the government's goal of 2050, more natural and green spaces, and promoting active and better public transport, such as zero-emission fleets.

ADOPTING THE TCFD'S RECOMMENDATIONS

There has also been a push by the New Zealand government to endorse the recommendations of the Financial Stability Board Taskforce on Climate-Related Disclosures (TCFD).[367]

Currently, only a small number of New Zealand companies publish climate-related information in their annual reports. While the TCFD recommendations in New Zealand are currently voluntary, on September 15, 2020, the Minister for Climate Change, Hon James Shaw, announced a proposed mandatory climate-related financial disclosure system for financial entities.[368] This announcement followed the Ministry for the Environment releasing a discussion paper in October 2019 seeking feedback on proposals to adopt a mandatory (comply-or-explain) climate-related financial disclosures regime that aligns with the TCFD recommendations.[369]

Although the proposed regime is still under consultation, the current proposal is to introduce the regime through legislation which could be passed in 2021 (though its introduction could be delayed as a result of the ongoing effects of the COVID-19 pandemic). Under the system proposed by the Minister for Climate Change, financial entities will be subject to a comply-or-explain regime that will be based on the TCFD framework.[370]

Financial entities covered by the new regime would be required to make annual disclosures covering governance arrangements, risk management and strategies for mitigating any climate change impacts. If they are unable to make these annual disclosures, they will be required to explain why. If the new system is approved by the next parliament, it is expected that the earliest financial entities will be required to make disclosures will be 2023. Upon its implementation, the new reporting requirements will apply to:

- all registered banks, credit unions and building societies with total assets of more than NZD1b;
- all managers of registered investment schemes with greater than NZD1 billion in total assets under management;
- all licensed insurers with greater than NZD1 billion in total assets under management or annual premium income greater than NZD250m;
- all equity and debt issuers listed on the NZX;
- crown financial institutions with greater than NZD1 billion in total assets under management, such as ACC and the NZ Super Fund; and
- overseas incorporated organizations would also be required to disclose in their New Zealand annual reporting.

"Mandatory disclosure of climate change exposure is being considered in New Zealand and internationally the tools to do this are being developed. Long-term sustainable investment must be informed by the impact of climate change and will be critical to a financially stable, smooth transition to a low carbon economy. It will be important to have consistent ways of measuring climate change exposure to achieve this."

Tim Grafton,
CEO of Insurance Council of New Zealand

"Let's be clear: We are still on track towards a future where we are all playing our part to solve the challenge of climate change, but we are not going to get there unless countries are working more closely together. Carbon markets must have fair rules and ensure genuine emissions reductions, which is why getting an agreement on the rules countries should stick to has been a priority for New Zealand since the world committed to climate action in Paris in 2015."[371]

"Decisions we take now and in the future about everything from the places we live, to how we get around, to public health, to how we relate to one another will be impacted one way or another by climate change. It's crucial therefore that when we're making big decisions climate change is at the forefront of our minds."[372]

"I often tell the story of the Chief Executive who said to me during the passage of our Government's Zero Carbon Bill that his young daughter had told him one evening that she no longer wanted to have children because of the climate crisis. "What do I say to her?" he asked me. Today I am pleased I can say to him that businesses up and down the country will now play their part in making this world cleaner and safer – a world I am sure he is hoping will one day be home to his grandchildren."[373]

Hon James Shaw,
Minister for Climate Change, New Zealand

PERU

According to Peruvian legislation, sustainability and environmental aspects initially became defined with the entry into force of the Environment and Natural Resources Code in 1990 and the creation of the National Environment Council (CONAM)[374] in 1994. Later, with the enactment of the General Environmental Law, Law N° 28611[375] (Law) and the creation of the Ministry of the Environment in 2008, the Peruvian environmental system reached maturity.

The Law generally addresses environmental policy, environmental management instruments and the responsibility system for environmental damage. In consideration of the responsibility system for environmental damage, the Law has established that every natural person or legal entity, public or private, must bear the cost of the risks or damages that it generates with respect to the environment.

Likewise, Art. 148 of the Law states that, under the frame of environmentally risky activities, the environment competent authority can require a guarantee intended to compensate for environmental damages. The Law contemplates in those cases guarantees which cover the costs of the rehabilitation measures for the periods of closure of operations, and post-closure, through one of the modalities contained in the Law N° 26702,[376] the General Law of the Financial and Insurance Systems and other applicable laws such as letters of guarantee and guarantee trusts.

In addition, "environmental damage" is defined as any material impairment that the environment and/or any of its components suffer which may be caused by contravening legal provisions and that generates or may generate negative effects. In the case of negative environmental impacts that cannot be avoided, an Environmental Compensation Plan must be implemented. The General Guide for the Environmental Compensation Plan approved by Ministerial Resolution N° 066-2016-MINAM[377] establishes that the project holder must apply a financial guarantee in order to comply with the provisions of the compensation plan.

In this sense, although the Peruvian environmental regulation establishes the obligation to guarantee the compensation of environmental damages, it does not specifically require an environmental insurance. The only exception is the regulation on transportation of solid waste, which is a particular case in the Peruvian legal framework.

Based on this, the Peruvian insurance market does not offer environmental liability insurance. However, liability insurance policies can be adapted to cover the damages caused to the environment. Moreover, the current legal framework may mean that, in the following years, the industry will develop specific environmental insurance products.

"Peru is a megadiverse country, but it also suffers from the effects of climate change. We have to act now. Not only with laws, but with actions in the field. Our responsibility as human beings is to see how we reverse this situation."

Martín Vizcarra,
President of Peru[378]

"From now on, every time we think of investments, we have to think about how to make them sustainable. We have to work on planning what we want. We need a well thought out investment that we can benefit from, for example making the most of rainwater in the most remote areas; and to be capable of becoming a resilient country."

Fabiola Muñoz,
Peruvian Minister of Environment[379]

SINGAPORE

In Singapore, the government and regulators have increasingly put sustainability on the national agenda. The Monetary Authority of Singapore has committed to make sustainable finance a defining feature of Singapore's role as an international financial center. It has developed a long-term strategy and action plan to promote ESG and sustainability principles, and a greater role for insurers and the financial sector to monitor and manage environmental risks.

MAS' LONG-TERM STRATEGY FOR SUSTAINABLE FINANCE

In 2019, the Monetary Authority of Singapore (MAS) announced the development of a new comprehensive, long-term strategy to make sustainable finance a defining feature of Singapore's role as an international financial center.[380]

With an aim to build resilience, develop markets and leverage technology, the Green Finance Action Plan focus on various aspects including:

- developing environmental risk management guidelines across banking, insurance and asset management;
- developing grant schemes to support mainstreaming of green and sustainability-linked loans;
- setting up a USD2 billion green investments program;
- supporting expansion plans of external reviewers and rating agencies in Singapore to deepen technical capabilities and grow the green ecosystem in Asia; and
- anchoring centers of excellence with world-class research institutes and leading universities to contribute Asia-focused climate research and training programs.

PROPOSED GUIDELINES ON ENVIRONMENTAL RISK MANAGEMENT FOR INSURERS

On June 25, 2020, MAS began consultation on the Proposed Guidelines on Environmental Risk Management for Insurers.[381]

The purpose of the guidelines is to set out sound practices in relation to governance, risk management and disclosure of environmental risks and is intended to apply to all insurers, including insurers carrying on a business in Singapore under a foreign insurer scheme established under Part IIA of the Insurance Act (Cap. 142).

SUSTAINABLE FINANCE INITIATIVES

Besides the long-term strategy and action plan, MAS has also led to a number of sustainable finance initiatives.[382] These include:

- a sustainable bond grant available to sustainable bond issuers to cover the initial cost of obtaining an external review for eligible green, social and sustainability bonds; and
- participation in the Sustainable Insurance Forum, the network of leading insurance supervisors and regulators seeking to strengthen their understanding of and response to sustainability issue for the business of insurance.

OTHER DISCLOSURE OBLIGATIONS

Since 2016, the Singapore Exchange (SGX) has implemented sustainability reporting for all publicly listed companies on a "comply or explain" basis.[383]

Under the SGX Code of Corporate Governance issued on May 2, 2012,[384] the board has the role of considering sustainability issues, such as environmental and social factors, as part of its strategic formulation and is accordingly required to determine the ESG factors identified as material to the business and ensure that they are monitored and managed.

The SGX has also made available a number of sustainability reporting guides and other resources on sustainability reporting.[385]

"Singapore is fully committed to supporting global action on climate change, and not only because we are extremely vulnerable. It is because global action calls for everyone, big and small emitters, to come on board. Singapore calls on everyone to see climate change not just as an inevitable catastrophe but as an opportunity to transform the way we live, work and pursue economic growth in a sustainable way. Even if the actions needed to address climate change are costly, and require resources to be channeled away from other competing needs, we deem them as necessary. Acting pre-emptively will be less costly in the longer term, and we believe it is important to move Singapore towards a low carbon and climate-resilient future."

Masagos Zulkifli,
Minister for the Environment and Water Resources, Singapore[386]

SWEDEN

Sustainability and ecology have played an important role in Swedish society and politics for a long time. In 2015, the Swedish parliament decided on a new goal for a financial sector policy according to which the financial system must contribute to sustainable development. According to the instructions given by the Swedish government to the Swedish Financial Supervisory Authority (Finansinspektionen, FI), the authority shall, within the framework of its own decisions on resource allocation and planning, work towards the goal that the financial system contributes to sustainable development. FI is therefore increasingly placing sustainability and the handling of sustainability risks at the forefront of its supervisory practice.

Insurance Sweden[387] adopted an updated industry-wide recommendation for reporting the carbon footprint in insurance companies' investment portfolios in June 2020. The recommendation has been adapted to the Task Force for Climate-Related Financial Disclosures (TCFD) recommendations, but also goes beyond the recommendations and includes more asset classes.

On the Nordic level, the Nordic Insurance organizations, Insurance Sweden, Insurance & Pension Denmark, Finance Norway, Finance Finland and Icelandic Financial Services Association are cooperating on sustainability issues. These organizations have published a Position Paper on Insurance For a Sustainable Society that summarizes their common position on sustainability issues in the Nordic insurance industry.[388]

FINANSINSPEKTIONEN

FI regards sustainability issues as a natural extension and development of its task to promote financial stability, good consumer protection and well-functioning markets. Sustainability issues represent risks that must be weighed up and have their proper place in both the financial companies' and FI's own risk assessments. By taking into account sustainability-related risks in their daily operations, financial actors and companies can work for a stable financial system. FI also considers it important that consumers and investors have access to relevant information enabling those who want to invest sustainably to do so, and that the products offered are as durable as they claim to be. Stable and well-functioning financial markets are pointed out as a prerequisite for the financial sector, to support them effectively with the comprehensive measures and investments required to achieve sustainable development and to help them meet the sustainability goals defined within the framework of Agenda 2030.

FI has surveyed how financial firms are providing information about sustainability and concluded that the firms need to ensure their sustainability reporting is relevant and usable, and that comparability and harmonization must increase not only across firms but also across regions and industries. FI found that a large number of the standards firms applied in their sustainability reporting made it impossible to compare the information provided, and often also to see how the firms integrate sustainability into their operations and in practice into their risk assessment and management.

This in turn means that it is not possible to assess if and how firms are adopting their operations to the risks and opportunities they see. The targeted supervisory activities which FI has carried out in this area over the past few years have increased FI's understanding on how the industry addresses sustainability issues. FI is currently pursuing dialogues with the industry on how sustainability is integrated into the firms' work and expects them to continue to work proactively for sustainability to be a part of their governance, strategies and business models.

DUTY TO PREPARE AND FILE ANNUAL SUSTAINABILITY REPORTS

A Swedish insurance company that has (i) an average number of 250 employees or more, (ii) total assets amounting to more than SEK175 million, and (iii) annual net sales which amount to more than SEK350 million, must prepare an Annual Sustainability Report in connection with the preparation and filing of its annual report.[389] Under the regulation, the sustainability report must contain information needed for understanding the company's development, position and results, and the consequences for the business. In the report, the company must describe its business model, policy documents in the areas, the results of these policies, significant risks and how they are managed, and key performance indicators that are relevant to the business. The areas that the company always should report on are environment, social conditions, personnel, respect for human rights and anti-corruption measures.

The preparatory notes to the regulation do not state whether the sustainability report should follow a certain regulatory framework. The most widely accepted framework appears to be the Global Reporting Initiative (GRI). Additional frameworks or standards are, for example, the UN Global Compact, ISO 26000, the UN Guiding Principles Reporting Framework and Integrated Reporting. The Sustainability Report may also contain references to the UN SDG.

INSURANCE SWEDEN: UPDATED INDUSTRY STANDARD FOR REPORTING CARBON FOOTPRINTS

In June 2020, Insurance Sweden adopted an updated industry-wide recommendation for reporting the carbon footprint in the insurance companies' investment portfolios. The recommendation has been adapted to the TCFD recommendations but also goes beyond these and includes more asset classes.

As early as in 2016, Insurance Sweden adopted a recommendation for calculating greenhouse gas emissions from the companies in the insurance companies' investment portfolios. Since then, there have been a number of changes in the area that the updated recommendation takes into account:

- The EU directive for non-financial reporting has been implemented in the Swedish Annual Accounts Act and supplemented with detailed guidelines for climate reporting.
- Several new investor-led climate initiatives have been launched.
- The EU has presented its plans for a green market and a sustainable financial market.
- The TCFD has presented recommendations for climate-related financial disclosures.

TCFD's framework has in a short time become dominant in the area and is the framework that most climate initiatives, reporting frameworks and the European Commission have supported and applied.

Insurance Sweden has noticed that sustainability issues are becoming increasingly important for investors. This is something that the insurance industry has been working on for a long time. The industry also strives for increased transparency and comparability between the companies, and Insurance Sweden has now taken another step in the development by adapting their recommendation to the TCDF's international framework.

In practical terms, the new industry standard means that the calculation formula in the recommendation is adjusted to show the investment portfolio's exposure to carbon-intensive companies, instead of the portfolio's ownership interest in companies with high carbon dioxide intensity. In addition, the standard has been supplemented with a voluntary measure that captures the investment portfolio's absolute emissions for the insurance companies that want to report the development of the total emissions over time, for example to measure how well their portfolio relates to the climate goals in the Paris Agreement.

The industry standard has also been extended to include more asset classes. Not only are the insurance companies' holdings in listed shares now included, but also the corporate bonds issued by listed companies as well as directly owned properties and/or real estate companies.

It is important that the reporting of climate data from the portfolio companies is improved for development to progress. By measuring and publishing the investment portfolio's carbon footprint, the insurance companies want to increase the pressure on the companies they invest in for them to reduce their greenhouse gas emissions.

The updated recommendation will enter into force on December 31, 2020.

NORDIC POSITION PAPER ON INSURANCE FOR A SUSTAINABLE SOCIETY

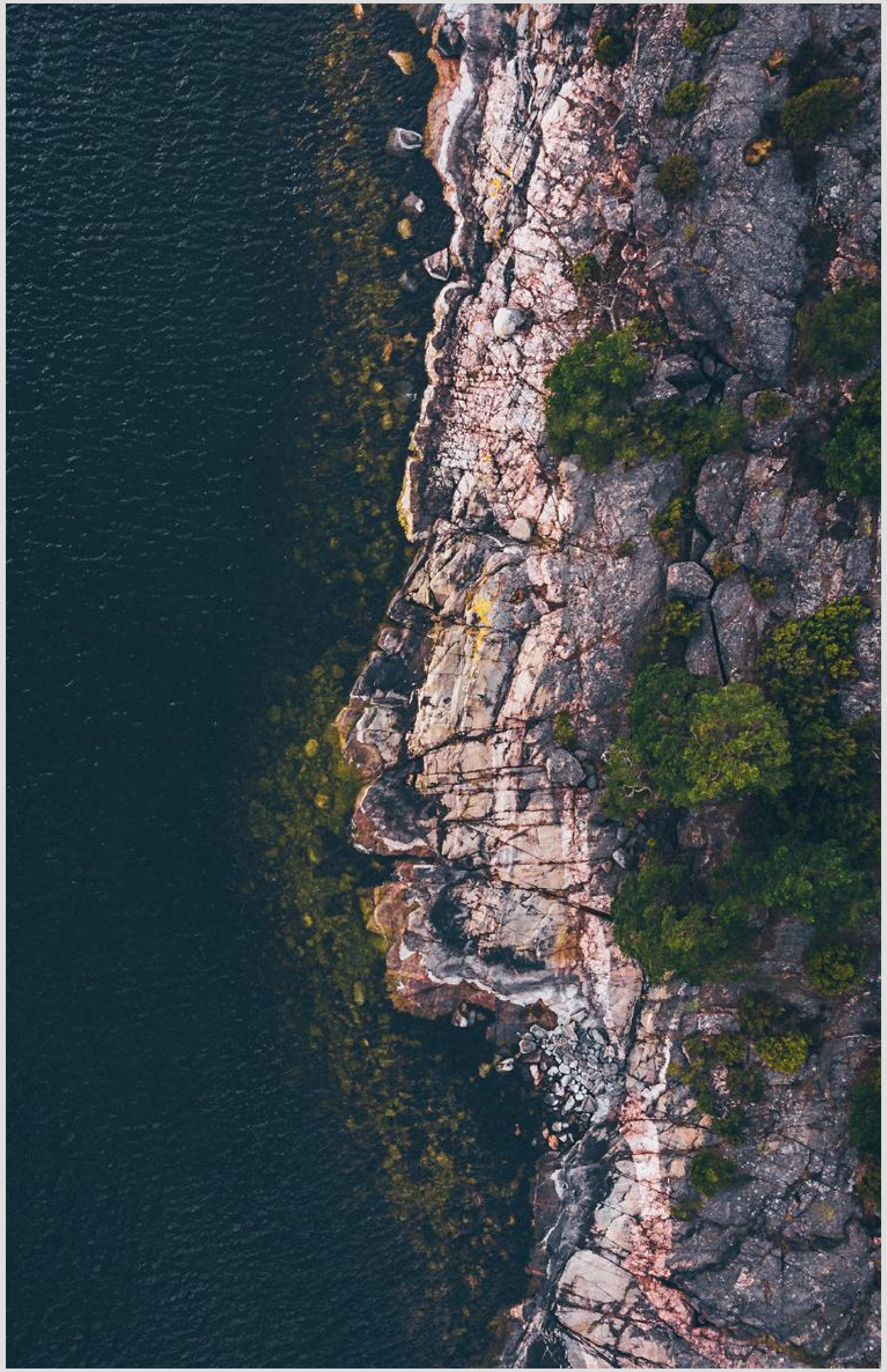
The insurance industry in the Nordic countries is committed to supporting the development of a more sustainable society. The position paper[390] states that by gathering evidence on emerging risks, sharing knowledge with society, pushing for increased accountability and committing to increased transparency, the Nordic insurance industry's business models will evolve to ascertain profitability and sustainability. This ongoing transformation is said to be necessary to secure pensions and to the provision of insurance protection in the future. As the constant ability to mitigate the effects of non-financial risks is the core function of insurance and essential to modern society, they state that protecting it must be the common goal of the industry, supervisors, regulators and legislators.

It is stated in the paper that better, easier and faster access to climate-related data enables the insurance industry to offer climate-smart products and services.

Nordic insurers welcome the framework for EU taxonomy on sustainability as an important move forward and also the TCFD recommendations.

Research into sustainable asset management and green finance is said to be required to safeguard the quality of long-term investment for pensions and savings in the future.

Many Nordic insurers have been at the forefront of sustainable investment over the last fifteen years. However, momentum has been held back by the great variation in how the integration of climate and sustainability has been accomplished.



The report states among other things that:

- clear rules and long-term policies are essential for society and industry to transform consumption and production towards greater sustainability. They are also fundamental for investors to be able to contribute to this transformation;
- insurers need a good, objective taxonomy as a measuring tool;
- insurers need high quality climate data to be able to identify, measure and value climate risk. The development of reporting standards is said to be central to this;
- Nordic insurers are strong supporters of the risk-based Solvency II system. Just like the other risks reflected in the prudential system, any climate risk-related regulatory adjustment must be based on correct measurement and valuation, combined with an understanding of how these risks interact with other risks. In view of the larger and more frequent damages caused by extreme weather conditions, work on resilience is essential to ascertain access to affordable insurance in the future; and
- accurate pricing of risk and pricing new types of risk in a way that encourages reduced emissions and adaptation to climate change is the key – and access to data is the key in achieving this.

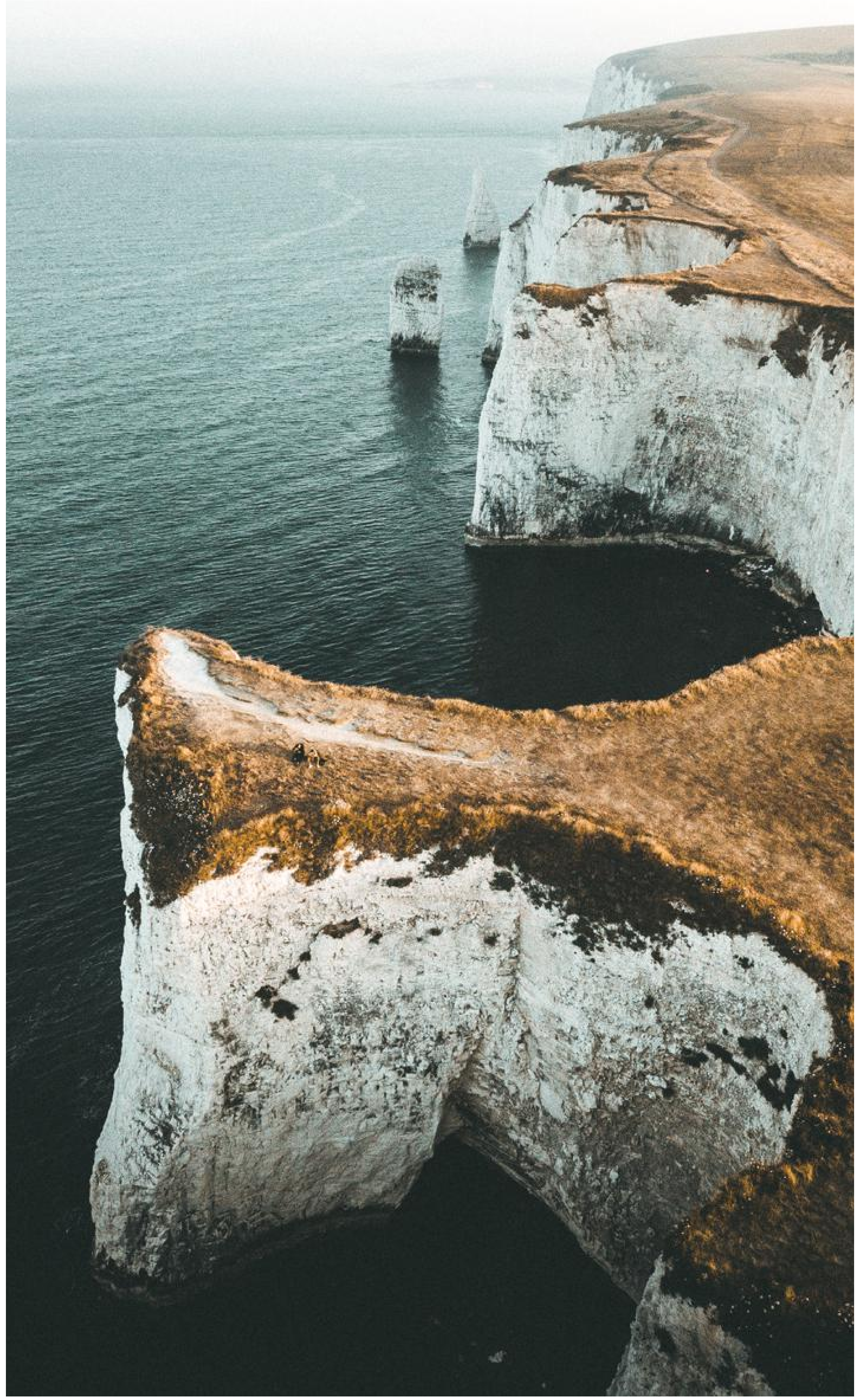
Nordic insurers point out that it is important to work together with local, national and European authorities to further sustainability work within the Nordic insurance industry.

"The implementation of the global goals is also a high priority for the Swedish Government. And – I am pleased to say – for Swedish society. Swedish business, trade unions, CSOs and academia have been deeply engaged in the formulation and negotiations on the 2030 Agenda and are now preparing for its implementation."

Stefan Löfven,
Prime Minister of Sweden[391]

UK

The UK wants to be seen as leading the world in combatting climate change. It was the first country to legislate for legally binding greenhouse gas emissions targets and the first within the G7 to pass a law requiring emissions to be brought to net zero by 2050. Since it was set up in 2008, the UK's Committee on Climate Change[392] has been advising the government on emission targets and reporting to parliament on progress made. The UK will also host the UN Climate Conference COP26 in November 2021.



Climate change was a particular focus for Mark Carney while he was Governor of the Bank of England. Although he initially faced some criticism on the ground that climate change was outside his remit, the Bank of England now engages internationally in this area. This includes working with other central banks and supervisors in the Network for Greening the Financial System to enhance the financial system's role in managing climate risks, to mobilize capital for green and low-carbon investment, and to assist with preparations for COP26. Mark Carney himself, since stepping down as governor early this year, has taken up roles as United Nations special envoy for climate action and finance, and as finance advisor for the UK presidency of the COP26.

The Prudential Regulation Authority (PRA), the UK's prudential regulator of insurers and banks and a division of the Bank of England, has taken a keen interest in climate change and has been very active in this area. It recognizes three ways in which climate change can give rise to prudential risk for insurers:

- Physical risk arising from more frequent extreme events including flooding, hurricanes and rising sea levels, and knock-on effects such as disruption to supply chains and the potential for civil unrest. Insurers are used to dealing with the loss from physical risk but climate change could cause much greater and more highly correlated losses.
- Transition risk arising from adjustment to a low-carbon economy which may rapidly affect asset values in insurers' investment portfolios and incoming premium in, for example, the oil and gas sector which has been a major market for UK insurers.
- Liability risk from climate-change-related litigation, with insureds seeking to recover under liability policies.

The PRA and UK Financial Conduct Authority (FCA) have committed to a program of climate change and green finance initiatives and have already taken steps, including the PRA's Climate Biennial Exploratory Scenario (BES), the world's first bottom-up system-wide climate stress test for banks and insurers. Although a framework for this exercise was published in December 2019,[393] the launch has now been delayed by COVID-19 until at least mid-2021.

To inform the BES, an informal stress test took place in 2019[394] when the PRA asked insurers for an exploratory test of resilience to climate change and cyberthreats. Prior to the launch of the BES, the Bank intends to provide additional guidance and material such as reference scenarios. Firms may also have reference to the Climate Financial Risk Forum guidance (see below).

In 2019, the PRA issued a Supervisory Statement (SS3/19)[395] on enhancing firms' approaches to managing financial risks from climate change[396] as well as a framework for assessing the financial impact of physical climate change for the general insurance sector.[397]

It also circulated a letter[398] to firms in July 2020 which stated that PRA-regulated firms must have fully embedded their approaches to managing climate-related financial risks by the end of 2021. The PRA noted a number of key points including that:

- strategic responses should be clearer, firms should develop tools to inform business decisions and climate management information should be communicated consistently and actively discussed at board level;
- firms' oversight of climate-related financial risks could better demonstrate the far-reaching breadth and magnitude of the risks and their relationship to financial risks;

- risk metrics and quantification were the most challenging aspects of assessing climate-related financial risks;
- risk management processes within insurers and others are at early stages of development;
- firms have significant gaps in their capabilities, data and tools, and have not integrated scenario analysis into broader risk assessments; and
- firms' appetites for making climate disclosures are limited by capabilities.

In 2019, following consultation, the FCA set out a number of priorities[399] including:

- Proposals for enhanced disclosure requirements for premium-listed issuers aligned with the recommendations of TCFD. This has been consulted on by the FCA and follows the direction of travel in the UK government's Green Finance Strategy which sets out an expectation that all listed issuers and large asset owners will disclose in accordance with TCFD recommendations by 2022[400]. The consultation states that the FCA is considering how best to enhance climate-related disclosures by regulated firms, including asset managers and life insurers. The FCA has recently indicated that it intends to consult on implementing client focused TCFD-aligned disclosures for asset managers and contract-based pension schemes in the first half of 2021, with obligations coming into force (possibly on a phased basis) in 2022.[401]
- The second priority is ensuring regulated firms integrate consideration of material climate-related risks and opportunities into business, risk and investment decisions. The FCA consulted on a framework for effective investor stewardship in 2019. It was determined that further stewardship requirements should not be imposed on life insurers and asset managers at this stage, but that actions should be taken to build on existing initiatives to address barriers to effective stewardship.
- Addressing "greenwashing," ensuring consumers have access to genuinely green financial products and services. The FCA is undertaking exploratory work into the design and disclosure of retail investment products to inform ongoing work with HM Treasury in line with the UK government's commitments in the Green Finance Strategy.

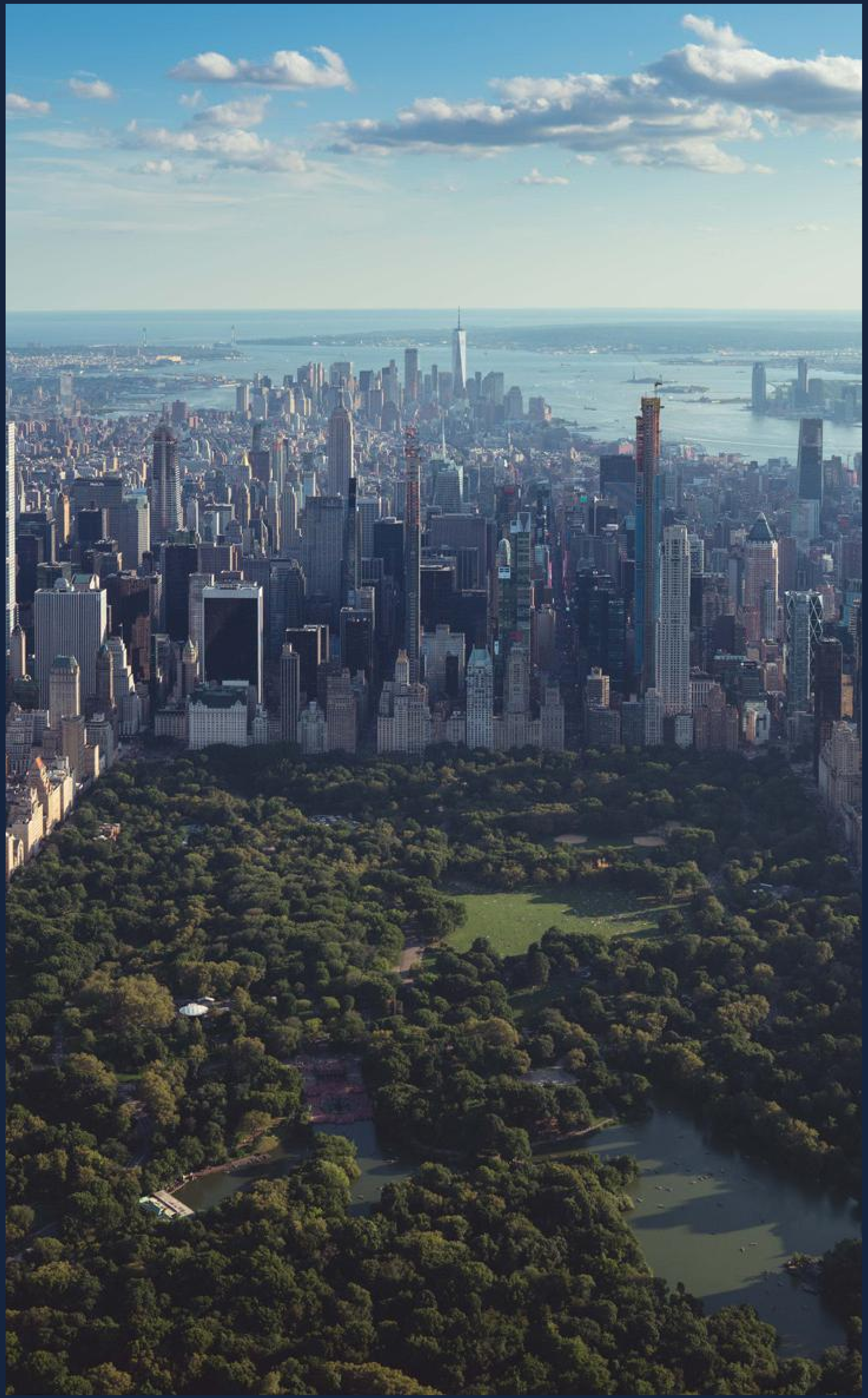
An industry led Forum, the Climate Financial Risk Forum (CFRF)[402] was established in 2019 by the PRA and FCA, which includes a number of insurers. It focuses on priority areas for cross-sectoral input, namely risk management, scenario analysis, disclosures and innovation. They have also published a guide on how financial services firms should approach these areas, providing practical tools, experience and knowledge. This aims to complement other frameworks, such as the UN Principles for Responsible Investment, the UN Principles for Responsible Banking, the UN Principles for Sustainable Insurance and TCFD, as well as providing a view of current good practice. The CFRF recently discussed its priorities for its second year: working groups on the identified priority areas will undertake thematic work on metrics, data and methodologies, and will build further on the guide, highlighting how good practice can be effectively implemented by firms.

"Climate change has the potential to create significant financial risks for the firms the PRA regulates. The challenge we face in mitigating these risks is unprecedented, and we need to begin to act now if we are to ensure an orderly transition to a carbon-neutral economy."

Sam Woods,
Deputy Governor for Prudential Regulation and Chief Executive Officer of the Prudential Regulation Authority, UK[403]

US

US regulators have not taken the lead in requiring companies to disclose the impacts of climate-related risks at either the state or federal level. This trend appears to be changing, with efforts at both levels to address certain of these issues in a more proactive manner. Significantly, pension funds, fund managers and other financial institutions which manage over USD1 trillion in assets have launched efforts to urge the federal regulators to explicitly integrate climate change requirements into their mandates. The core of these efforts is to encourage the federal agencies to treat climate change as a systemic risk and for the US Securities and Exchange Commission (SEC) to establish mandatory and consistent disclosure of climate threats facing those companies which they regulate.



STATE-LEVEL EFFORTS

In 2010, the National Association of Insurance Commissioners (NAIC) adopted an Insurer Climate Risk Disclosure Survey (Survey)[404] designed to be an insurers' reporting mechanism to show regulators how insurers, across all lines of insurance, assess and manage risks related to climate change. The Survey asks insurers to provide a description of how they incorporate risks into their mitigation, risk management and investment plans. Insurers are requested to identify steps they take to engage key constituencies and policy holders on the topic of climate change. Currently, over 1,000 companies are participating in these surveys, among them more than 70% of the entire US insurance market. This information provides regulators, insurance companies and the public with the ability to identify insurance industry trends, vulnerabilities and best practices with respect to climate change.

In addition, the NAIC has established a Climate Risk and Resilience Working Group to engage with industry and stakeholders in the US and abroad on climate-related risks and resiliency issues. The Working Group will identify sustainability, resilience and mitigation issues and solutions related to the insurance industry and, among other things, will evaluate private-public partnerships to improve insurance market capacity related to catastrophe perils.

The New York State Department of Financial Services (NYDFS) has recently taken these concerns about climate risk a step further. In September 2019, the NYDFS became the first US state banking regulator to join the Network for Greening the Financial System (NGFS). In May 2020, the NGFS released its "Guide for Supervisors: Integrating Climate-Related and Environmental Risks into Prudential Supervision." Neither the Federal Reserve nor any US federal regulatory agency has joined the NGFS as an active member or as an observer. In a letter signed by 41 members of the US House of Representatives, the Federal Reserve was urged to join the NGFS.

Also, the NYDFS joined the United Nations Environment Programme Sustainable Insurance Forum (SIF),[405] an international network of insurance supervisors seeking to find collaborative ways to help the global insurance industry meet the challenges posed by climate change. The NYDFS works with the insurance industry to address climate change by requiring those regulated insurers to have business continuity plans and submit annual disaster preparedness response plans to safeguard their operations. This helps to ensure that those insurance companies can continue serving their customers during a disaster.

In addition, in May 2020, the NYDFS created its first-ever sustainability and climate initiatives director,[406] whose mandate consists of developing the department's portfolio of policy initiatives involving sustainability, green financing and climate mitigation. Building on that, in September 2020, the NYDFS issued a circular letter[407] implementing several new initiatives to address climate-related financial risk and calling on insurers to begin integrating these practices into their risk management and business strategies. As part of these initiatives, the NYDFS has become a supporting institution of the UNEP FI's Principles for Sustainable Insurance in order to publicly demonstrate its support for sustainable insurance aims. Also, under a Memorandum of Understanding,[408] the NYDFS and the New York State Energy Research and Development Authority will work together to address the effects of climate change and support New York's climate goals. They will leverage the state's financial sector by creating insurance and financial products to speed up the development of low-carbon technologies by providing technical support and regulatory guidance, and facilitating market access.

In its circular letter, the NYDFS encourages insurers to analyze how climate change affects their investments, liquidity, operations, reputation, business strategy and underwriting. For example, insurers are expected to designate a board member or committee of the board, as well as a senior management function, to be accountable for the company's assessment and management of the financial risks from climate change. Insurers are also expected to address climate change as a reasonably foreseeable and relevant material risk. The NYDFS intends to publish detailed guidance consistent with international best practices on climate-related financial supervision and plans to incorporate questions on insurers' approaches and activities related to climate change in its examination process starting in 2021. In this process, each insurer should take a proportionate approach that reflects its exposure to the financial risks for climate change and the nature, scale and complexity of its business. As the NYDFS superintendent acknowledged:

"While the US is behind our European counterparts in terms of climate-related supervision, we have learned from their experience, can take advantage of the supervisory tools that they have developed and will continue collaborating with them in this area going forward."[409]

The State of Washington has also been proactive in the climate risk and sustainability area. The Office of the Insurance Commissioner of Washington State joined the SIF in 2016, and Commissioner Mike Kreidler currently chairs the NAIC Climate Committee.

Further, California has taken an active role in supporting sustainability initiatives and was one of the participants in the Climate Risk Disclosure Survey which was mandatory for some insurers. In addition, it formed a Climate Smart Insurance Products Database[410] tracking reported investments in fossil fuel industry by insurers licensed in California and has pressured those insurers to divest from such investments.

More recently, in 2019, pursuant to legislation (SB 30) adopted in 2018,[411] the California Department of Insurance formed a Climate Insurance Working Group of experts to evaluate access to insurance products, assess risk opportunities and forge policy recommendations. The Working Group, which will have three to four open meetings per year, held its initial meetings in September and November 2019 and subsequently has met every few months. The Working Group is seeking to coordinate its efforts with the California Technical Advisory Council (TAC) which has asked the Working Group to look into how insurance products can be used to advance climate mitigation efforts, the local initiatives that can pass on savings, education regarding insurance resources and how to access such resources. The Working Group is also planning to use the NAIC Climate and Risk Resilience Working Group to expand the audience for its efforts and has formed subgroups to address issues relating to extreme heat, floods, sea level rises and wildfire.

FEDERAL-LEVEL EFFORTS

The SEC does not specifically require publicly traded companies to disclose climate-related risks but does require those companies to disclose risks if they are "material" under the federal securities laws. However, in the Management's Discussion and Analysis section of SEC-mandated public reports, publicly traded companies must provide a narrative explanation of their financial statements and disclose any known trends, events or uncertainties which are reasonably likely to have a material effect on that company's financial condition or operating performance beyond what its reported financial statements reflect. In 2010, the SEC issued a Commission Guidance Regarding Disclosure Related to Climate Change[412] but has not since then followed up with any more specific guidance or regulation.

In addition, the House Financial Services Committee introduced a bill, the Climate Risk Disclosure Act of 2019,[413] to require publicly traded companies to evaluate the financial effects of climate change and to describe their strategies to mitigate and manage those risks. The bill would require the SEC to adopt specific disclosure rules for certain industries as well as reporting standards for greenhouse gas emissions, fossil fuel-related assets and the social cost of carbon. It also would require the disclosure by those companies of their financial strategies under different climate scenarios to deal with those issues.

"Understanding, preventing, and reducing climate risk is of paramount importance, and we need innovative insurance solutions to accelerate the transition to sustainable and resilient communities and economies."

Ricardo Lara,
Insurance Commissioner, California, US[414]

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