

CSA Adjudicators' Panel

ESG (Environmental, Social and Governance) Issues

Resource Materials

1. What is Sustainability? What is ESG?

- a. International Sustainability Standards Board Standard 1 *General Sustainability* – Click [here 1.a.](#)
- b. ISSB Consultation on next sustainability priorities – Click [here 1.b.](#)
- c. Summary of EU Corporate Sustainability Reporting Requirements: *EU Finalizes ESG Reporting Rules with International Impacts*, Harvard Law School Forum on Corporate Governance, Thibault Meyneir, Sarah H. Mishkin and Matthew Triggs, Sullivan & Cromwell LLP, January 30, 2023 – Click [here 1.c.](#)
- d. *Does ESG really matter – and why?* McKinsey Quarterly, August 10, 2022 – Click [here 1.d.](#)
- e. Sample [non-Canadian] sustainability reports and disclosure
 - i. Bayer Global – Click [here 1.e.i.](#)
 - ii. Shell Global – Click [here 1.e.ii.](#)
 - iii. American Airlines – Click [here 1.e.iii.](#)
- f. Canada forced labour and child labour
 - i. Bill S-211 *An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff* Click [here 1.f.i.](#)
 - ii. Dentons's summary- Click [here 1.f.ii.](#)
- g. Summary of SEC human capital disclosure rules – Click [here 1.g.](#)
- h. Australian modern slavery legislation
 - i. Review and recommendations report on its own modern slavery act, enacted several years back. See Part 2 regarding reporting. See *Report of the statutory review of the Modern Slavery Act 2018 (Cth) The first three years*: Please copy and paste this link into your web browser (do not click the below as a hyperlink as it is a 140 page PDF and your computer will try to download it):
<https://www.ag.gov.au/sites/default/files/2023-05/Report%20-%20Statutory%20Review%20of%20the%20Modern%20Slavery%20Act%202018.PDF>

- ii. Ropes & Gray summary: *Proposed Changes to Australia’s Modern Slavery Act Would Introduce New Obligations for Multinationals*. Please copy and paste this link into your web browser (do not click the below as a hyperlink): <https://www.ropesgray.com/en/insights/alerts/2023/06/proposed-changes-to-australias-modern-slavery-act-would-introduce-new-obligations-for-multinationals>

i. **Current Canadian ESG-related disclosure requirements and guidance**

i. **Non-Investment Funds**

- National Instrument 58-101 *Disclosure of Corporate Governance Practices* – Click [here 1.h.i. \(58-101\)](#)
- National Policy 58-201 *Corporate Governance Guidelines* – Click [here 1.h.i \(58-201\)](#)
- CSA Staff Notice 51-333 *Environmental Reporting Guidance* October 27, 2010 – Click [here 1.h.i. \(51-333\)](#) [includes a summary of existing disclosure requirements]
- CSA Staff Notice 51-358 *Reporting of Climate Change-related Risks*, August 2019 https://www.asc.ca/-/media/ASC-Documents-part-1/Regulatory-Instruments/2019/07/5472091-FINAL_CSA_SN_51-358_for_publication_Aug_1.ashx
- CSA Notice and Request for Comment – Proposed Amendments to Form 58-101F1 [*diversity disclosure*] – Click [here 1.h.i. \(58-101F1\)](#)

ii. **Investment Funds**

- CSA Staff Notice 81-334 *ESG-Related Investment Fund Disclosure* January 19, 2022 – Click [here 1.h.ii.](#)

2. **CSA Focus on climate disclosure**

- a. CSA Staff Notice 51-358 *Reporting of Climate Change-related Risks* August 1, 2019 providing guidance on – Click [here 2.a.](#)
- b. Proposed National Instrument 51-107 *Disclosure of Climate-related Matters*, October 18, 2021 – Click [here 2.b.](#)
- c. IFRS S2 Standard 2 *Climate Related Disclosures* – Click [here 2.c.](#)
- d. Canadian Sustainability Standards Board (CSSB) Frequently Asked Questions relating to status and next steps – Click [here 2.d.](#)

3. **Select Climate-related international developments**

- a. SEC Enforcement Task Force Focused on Climate and ESG Issues including a list of sample enforcement actions by the SEC – Click [here 3.a.](#)
- b. Executive Summary of the SEC’s Proposed Rule on Climate Disclosure Requirements, Deloitte, & Touche LLP March 21, 2022 – Click [here 3.b.](#)

- c. *Review of Comments on SEC Climate Rulemaking*, Harvard Law School Forum on Corporate Governance, Cynthia A. Williams (Indiana University) and Robert G. Eccles (Oxford university), November 23, 2022 – Click [here 3.c.](#)
 - i. Commissioner Allison Herren Lee’s statement in support of the rule and outlining area where input sought – Click [here 3.c.i.](#)
 - ii. Commissioner Hester Peirce’s Statement in opposition to the rule – Click [here 3.c.ii.](#)
 - d. California’s new climate disclosure law,
 - i. Summary: *Technical Line: A closer look at California’s recently enacted climate disclosure laws*, October 12, 2023, Ernst & Young LLP, Click [here 3.d.](#) [includes a table comparing the California requirements to those of the SEC and the EU]
 - ii. SB-253 *Climate Corporate Data Accountability Act*
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=2023202405B253
 - iii. SB-261 *Greenhouse gases: climate-related financial risk*
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=2023202405B261
 - e. Summary of Australia’s proposed climate disclosure requirements:
 - i. *It’s nearly here: how businesses can prepare for mandatory climate-related financial reporting*, July 18, 2023 Allens Linklater LLP – Click [here 3.e.i.](#)
 - ii. *Australia’s first climate standards: no more waiting*, Deloitte, November 2023 – Click [here 3.e.ii.](#)
- 4. Climate-related litigation**
- Litigation in Canada: Columbia University, Climate Case Chart – Click [here 4.](#)