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The Power of Together

Taxonomies and Transition

What do we mean by green?

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What do we mean by green?

In recent articles, we have looked at:

- managing the risks associated with the transition to net-zero;
- practical insights in relation to carbon trading; and
- recent regulatory guidance issued by the Hong Kong Securities and Futures Commission (**SFC**) on enhanced disclosure for environmental, social and governance (**ESG**) funds.

Central to all of the above topics, is the need for a consistent and transparent classification system (i.e. **taxonomy**) in order to accurately and objectively assess the green credentials of a financial product or portfolio or the green performance of a particular project, fund or company.

Our ability to effectively **MEASURE, REDUCE** and **OFFSET** greenhouse gas (**GHG**) emissions and assess collective progress towards achieving the targets set under the 2015 Paris Agreement are dependent on our ability to:

- **identify** the standards that apply; and
- objectively **determine** if those standards have been met.

Without consistent and transparent standards, the risks are that:

- we overestimate or underestimate how far we have come and how far we have to go;
- green or sustainable data is unreliable;
- strong performers are not recognised; and
- weak performers are not incentivised to improve.

In this article, we examine:

- what we mean by green taxonomy;
- the success factors for green taxonomies;
- why there is no single set of standards;
- the distinction between official and market based green taxonomies;
- differences in approach to green taxonomy; and
- how core principles can be mapped.

"*We all know that what gets measured gets managed. Climate change is not yet consistently measured, although the private sector has moved in this direction since Paris. We now need to make measurement and disclosure mandatory. That's a priority of the UN COP26 climate conference…*" Mark Carney, UN Special Envoy on Climate Action and Finance

What is a green taxonomy?

In the context of the financial markets, a green taxonomy is a classification system that identifies environmentally sustainable economic activities. The existence of a green taxonomy is important because it:

- ✓ enables the upscaling of sustainable investment;
- ✓ facilitates consistent and transparent reporting and verification;
- ✓ creates stability in the financial markets;
- ✓ protects investors from green-washing;
- ✓ helps businesses to transition to ‘sustainable’ targets;
- ✓ mitigates market fragmentation; and
- ✓ rebalances investment priorities and capital flows.

The commercial and regulatory challenge is that different green standards may apply according to the applicable:

- ❑ jurisdiction / territory
- ❑ industry / sector
- ❑ type of financial product
- ❑ type of investor

The resulting risk is that material inconsistencies or conflicts arise.

A green taxonomy may be:

Official – political and regulatory policies that identify priority objectives and incentivise positive change (e.g. the EU Regulation – see page 5 and China’s Green Bond Catalogue – see page 6)

Market based – sector specific and/or project specific methodology (e.g. the CBI Taxonomy and the IDF Common Principles – see page 7)

Success factors for green taxonomies

In order for a taxonomy to be successful it must:

- ✓ be targeted
- ✓ compliment existing international standards
- ✓ be capable of ‘use by all’
- ✓ be compatible with other frameworks
- ✓ provide pathways for effective transition
- ✓ be objective, transparent and measurable

The latest findings of the United Nation’s (**UN**) Intergovernmental Panel on Climate Change (**IPCC**) approved by 195 member states on 9 August 2021 (ahead of the UN’s climate talks in November 2021 (known as **COP26**)), have warned that limiting global warming to close to 1.5 degrees Celsius or even 2 degrees Celsius above pre-industrial levels “*will be beyond reach*” in the next two decades in the absence of immediate, rapid and large-scale reductions in GHG emissions.

With UN member states expected to be called upon to improve national GHG reduction targets at COP26 (and to be held accountable if targets are not met), the case for the development and implementation of transparent, consistent and comparable green taxonomies across different jurisdictions and different industry sectors has never been greater.

“*The alarm bells are deafening, and the evidence is irrefutable: greenhouse gas emissions from fossil fuel burning and deforestation are choking our planet and putting billions of people at immediate risk …*”
UN Secretary-General, António Guterres’, statement on the IPCC Working Group 1 Report on the Physical Science Basis of the Sixth Assessment, 9 August 2021

No single set of standards apply

There is no single set of green standards that can be applied in all circumstances.

In order to be effective, a green taxonomy must recognise and cater for different classes of commercial activity:

Zero carbon	Low carbon	Transitional	Enabling
activities that are carbon-neutral or carbon-negative and that do not contribute to own or third party GHG emissions	activities that avoid or reduce GHG emissions and provide viable, sustainable options for waste reduction / management	activities for which there is no viable low carbon alternative but which are capable of supporting the Paris Agreement objectives and do not restrict the development of sustainable alternatives (or sustain carbon intensive assets)	activities which enable another activity to make a substantial contribution to environmental objectives and do not undermine long-term environmental goals

Major private and public investment is required to transform the global economy in order to deliver green objectives. Sustainable finance hard-wires sustainability into corporate and investment policies, financial decision marking and corporate accountability. The financial markets therefore have the ability to integrate official and market based taxonomies for the achievement of green goals.

Tracking and reporting financial flows that support sustainability is necessary not only to build trust and accountability with regard to climate change mitigation but also to monitor trends, measure progress and stress-test economic resilience.

Transparent and consistent standards are necessary to mobilise financial resources at scale and to enable financiers, investors and other stakeholders to respond effectively to climate change risk.

Meaningful data collation and analysis (increasingly demanded by financiers, investors, regulators and other stakeholders such as customers) requires third party verification to an agreed set of principles on a layered basis i.e. general, sector and project specific principles, to enable investors to identify environmentally sustainable investment opportunities and to facilitate cross-border capital investment in environmentally sustainable projects.

Green taxonomy transition

Both the EU and China continue to take a leading role as regards green taxonomy.

With the coming into force of the EU Taxonomy Regulation 2020/852 ("**EU Regulation**") on 12 July 2020, the EU has set the benchmark for the classification of economic activity as environmentally sustainable.

Meanwhile, China continues to drive the expansion of the green bond market and, pursuant to the EU-China co-led International Platform on Sustainable Finance, the development of a common ground taxonomy) for the purpose of aligning sustainable finance regulation.

"*Humankind can no longer afford to ignore the repeated warnings of Nature and go down the beaten path of extracting resources without investing in conservation, pursuing development at the expense of protection, and exploiting resources without restoration...*" Statement by H.E. Xi Jinping President of the People's Republic of China At the General Debate of the 75th Session of The United Nations General Assembly, 22 September 2020

EU Regulation

The EU Regulation sets out **six core conditions** that an economic activity must satisfy in order for that activity to be environmentally sustainable and establishes six environmental objectives (**Objectives**):

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

phase 1

phase 2

The EU Regulation also sets out **four supplemental conditions** with which an economic activity has to be aligned:

- ❑ make a substantial contribution to an Objective
- ❑ do no significant harm to any Objective
- ❑ comply with minimum social safeguards
- ❑ comply with technical screening criteria

Supplemental legislation with respect to the technical screening criteria for phase 1 Objectives was published in April 2021 and will apply from 1 January 2022. For financial institutions, key performance indicators (**KPIs**) and corresponding disclosure requirements relate to:

On-balance sheet exposures	$\frac{A}{B}$	where	A = assets invested in taxonomy-aligned economic activities B = all on-balance sheet exposures (excl. sovereigns and trading portfolios)
Guarantees	$\frac{A}{B}$	where	A = guarantees supporting taxonomy-aligned economic activities B = all guarantees
Assets under management	$\frac{A}{B}$	where	A = assets under management supporting taxonomy-aligned economic activities B = all on-balance sheet exposures under management
Fees and commission	$\frac{A}{B}$	where	A = fees and commission derived from taxonomy-aligned economic activities (excl. lending) B = all fees and commissions (excl. lending)

At this stage, it is the disclosure methodology and the accompanying information that is key (enabling peer-to-peer comparisons to be made as regards the taxonomy-aligned (or non-aligned) economic activities that financial institutions undertake). In time, we expect regulators to prescribe minimum or maximum thresholds (as applicable) that financial institutions will be required to meet.

Whilst derivatives are excluded from the numerators of the above KPIs (on the basis that they are used to mitigate counterparty risk rather than to finance an asset or activity), derivative exposures are included in the corresponding denominators (on the basis that these relate to all of a financial institution's assets).

Supplemental legislation with respect to the technical screening criteria applicable to phase 2 Objectives, is expected to be published in 2022 and to apply from 1 January 2023.

Separate legislation is expected to apply to the following (in addition to the EU Regulation):

- ❑ Nuclear power
- ❑ Natural gas
- ❑ Agriculture
- ❑ Bioenergy and forestry
- ❑ Hydropower
- ❑ Hydrogen

"*The Taxonomy is an extraordinary intervention in the EU financial markets — a common language to describe investments that substantially contribute to achieving a sustainable Europe…*" Statement by Nathan Fabian, Chair of the Platform on Sustainable Finance, 21 April 2021

China's Green Bond Catalogue

In May 2021, the People's Bank of China, the China Securities & Regulatory Commission and the National Development & Reform Commission collectively announced an updated Green Bond Endorsed Project Catalogue (2021 Edition) (the "**Green Bond Catalogue**") for the purpose of, among other things, "*building a green finance system, further regulating the domestic market of green bond, giving full play to the role of green finance in promoting structural adjustment and transformation, accelerating the ecological civilization construction, facilitating the sustainable development of the economy*". The updated Green Bond Catalogue contains an exhaustive list of eligible projects (and associated eligibility criteria) for the issue of green bonds. Whilst 'clean' coal projects have been removed from the list of eligible projects that can be financed through the issue of green bonds, various oil and gas projects continue to feature in the Green Bond Catalogue.

Further legislation is anticipated regarding climate finance and harmonisation with international standards.

Common ground taxonomy

The EU and China are currently developing a common ground taxonomy for the purpose of aligning sustainable finance regulation. Further details are expected to be published by the EU-China co-led International Platform on Sustainable Finance (**IPSF**) shortly. The Hong Kong Monetary Authority and Securities and Futures Commission have now also joined the IPSF. The common ground taxonomy aims to create a common reference point for the definition of investments that are considered as environmentally sustainable across IPSF jurisdictions.

Further discussion on the development of a global green taxonomy is expected at the upcoming G20 summit in October 2021. The goal is ambitious and it remains to be seen if the targets set by China (peak emissions by 2030; carbon neutral by 2060) and the EU (50% reduction of emissions by 2030; carbon neutral by 2050) can be aligned.

Importantly however, there are significant incentives on both sides for greater alignment on green issues. Common (or at the least, comparable) standards and regulations are essential for the removal of investment barriers and the upscaling of green investment globally.

Approach to energy transition	Sustainability as precondition for trade and investment	Reduce emissions without "discriminatory and exclusionary standards, rules and systems"
Carbon neutral target	2050	2060
Emissions Trading System	Power; industry; aviation	Power (phase 1)
CO^2 emissions (average tonnes per capita)	6.8	7.2

"… [taxonomies] provide a common language to define what activities are green. Of particular interest to us in Hong Kong is the EU's and China's project to develop a common taxonomy under the International Platform on Sustainable Finance. As with much in the climate finance area, global consistency is vital to solve a problem which does not respect national borders." Statement by Ashley Alder, Chief Executive Officer – Hong Kong Securities and Futures Commission, 11 February 2021

Market based taxonomies

Market-based, green taxonomies (published by three international industry bodies) are designed to promote the development of consistent green standards across different jurisdictions and industry sectors. Some key principles under these market-based, green taxonomies are described below.

Climate Bonds Initiative Taxonomy (the "CBI Taxonomy")

- ❑ NGO formed in 2010 to promote the green bond market.
- ❑ Traffic light system relating to asset, project, and activity-based classifications (green = eligible; orange = screening required; red = not eligible).
- ❑ Benchmark is the Paris Agreement 2 degree Celsius target (for climate resilience principles) or the Paris Agreement 1.5 degree Celsius target (for climate transition principles).

Common Principles on Climate Mitigation Finance Tracking and the Common Principles on Climate Adaptation Finance Tracking (collectively the "IDF Common Principles")

- ❑ Multilateral development banks and members of the International Development Finance Club have developed the Common Principles on Climate Mitigation Finance Tracking and the Common Principles on Climate Adaptation Finance Tracking.
- ❑ Climate Mitigation – focuses on longer term efforts to reduce or limit GHG emissions or enhance GHG sequestration. Non-exhaustive sector and sub-sector categories. Project specific evidence of environmental impact is required.
- ❑ Climate Adaptation – focuses on "*activities that address current and expected effects of climate change where such effects are material for the context of those activities*". Process-based approach with three steps: (i) the context for the climate-related risks; (ii) the explicit intent to address such risks; and (iii) a direct link between such risks and the financed activity.

International Organization for Standardization (ISO)

- ❑ Global federation of national standards bodies.
- ❑ Developing standards on "environmental performance evaluation — green debt instruments".
- ❑ Specific guidance for green bonds (ISO 14030-1) and green loans (ISO 14030-2) among others.
- ❑ Focuses on activities with positive environmental benefits and lifecycle eligibility.

Mapping core principles

The Green Bond Principles (June 2021 edition) published by the International Capital Markets Association (**ICMA**) do not propose a green taxonomy but identify key objectives and project categories for the issuance of green bonds. The five key objectives under the Green Bond Principles comprise:

- ❑ climate change mitigation
- ❑ climate change adaption
- ❑ natural resource conservation
- ❑ biodiversity conservation
- ❑ pollution prevention and control

"*The business world is embracing sustainability with increasing enthusiasm as investors and companies alike learn how it can improve their businesses and profits. But before companies can make money from sustainability, they must first invest in their transition, and that's where capital markets have a role to play.*" Grace Hui, Head of Green & Sustainable Finance, HKEX

Equivalence of standards

The table below, published by ICMA in June 2021, identifies the general classification standards for green projects and activities cited under the 'core' official and market-based, green taxonomies and green principles that currently form the benchmark standard for the identification of sustainable economic activity in Europe and China as well as more broadly in the international capital markets and by multilateral development banks. Whilst the terminology differs between these standards, the project categories under them are broadly consistent.

GBP-project categories	China Green Bond Endorsed Project Catalogue 2020	CBI	MDB-IDFC (climate change mitigation only)	EU Taxonomy (economic activities below may contribute significantly to one or more of 6 EU environmental objectives)
Renewable energy	Clean energy	Energy generation, transmission and storage	Renewable energy	Energy
Energy efficiency	Energy efficiency improvement		Energy efficient transmission and distribution systems	Various activities, including information and communication and professional, scientific and technical activities
Pollution prevention and control	Pollution prevention and treatment Integrated utilisation of resources	Waste management	Waste	Water supply, sewerage, waste management and remediation
Environmentally sustainable management of living natural resources and land use	Green agriculture Ecological agriculture	Agriculture forestry land conservation and restoration	Agriculture, forestry and land use	Forestry
Terrestrial and aquatic biodiversity conservation	Ecological protection and construction		Afforestation and reforestation, and biosphere conservation	Environmental protection and restoration activities
Clean transportation	Green transportation	Land transport shipping	Transport	Transport
Sustainable water and wastewater management	Water saving and non-conventional water resources	Water infrastructure	Wastewater	Water supply, sewerage, waste management and remediation
Climate change adaptation	n/a	*Not an activity but one of the environmental objectives**	n/a	*Not an activity but one of the EU environmental objectives**
Circular economy adapted products, production technologies and processes and/ or certified eco-efficient products	Integrated utilisation of resources Services applicable to various categories: consultancy/operation management service/audit, inspection and evaluation of projects/monitoring and detection/promotion and certification of technical products	Industry and energy intensive commercial	Low carbon technologies, energy efficiency in industry	Manufacturing
Green buildings	Sustainable buildings	Buildings	Energy efficiency in buildings	Construction and real estate activities, professional services related to energy performance of buildings

*Under both the CBI and the EU Taxonomy various projects and activities in a diverse set of sectors are mapped to the objective of climate change adaptation. Source: ICMA Green Project Mapping

Additional questions arise where a project or activity does not clearly fit within a particular category.

The role of hydrogen, for example, is significantly more complex. Whilst existing infrastructure for the production and storage of 'grey' hydrogen (derived from natural gas which is bonded with carbon) and 'blue' hydrogen (where emissions generated from 'grey' hydrogen are captured and stored underground) is important in the context of energy transition and the storage of 'clean' hydrogen (produced using electricity generated from renewable sources), the generation of new 'grey' hydrogen or new 'blue' hydrogen is not itself classified as 'clean'.

Different shades of green are of course essential in the transition to clean energy. The emphasis must therefore be on the delivery of consistent, transparent and detailed disclosure and third-party verification of data.

What can we expect?

The case for consistent and transparent green taxonomies is clear and the financial markets have a significant role to play in both (i) mobilising and upscaling investment in green projects and (ii) enabling the transition away from GHG intense activities.

The challenge lies in the alignment of core, sustainability principles across different jurisdictions and sectors whilst recognising the need for flexibility in the application of those principles on a project by project basis.

According to the Sixth Assessment Report (Working Group I – The Physical Science Basis) published by the IPCC on 9 August 2021, our ability to limit global warming to close to 1.5 degrees Celsius (for event 2 degrees Celsius) will not be possible without significant reductions in emissions in the coming decades. UN member states will face heightened international pressure to improve national emissions reduction targets at COP26 in November 2021 and those commitments will be closely scrutinised.

Further reports are due to published by the IPCC in 2022 (including in relation to climate change impacts, adaption and vulnerability, and climate change mitigation) and with effect from 1 January 2022 businesses operating in the EU will be required to disclose the degree to which the economic activities they undertake comply with the conditions set out in the EU Regulation. The EU Regulation will indirectly affect investors outside the EU that carry on business with European counterparties.

With China's continuing efforts to step-up the decarbonisation of its economy pursuant to its Paris Agreement objectives, the headline targets set out in China's Five Year Plan, and China's lead role in the development of a common ground taxonomy, we expect sustainability benchmarks in Mainland China and Hong Kong SAR will develop to be broadly consistent with those set out in the EU Regulation (which already compliment existing market-based green taxonomies).

Tackling climate change and biodiversity loss will be key agenda items at the G20 summit in October 2021 and COP26 in November 2021. Central to both of these agenda items is the need for quality and comparable data and disclosure and reporting.

The transition to a low-GHG and circular economy means promoting sustainable investment at the same time as discouraging wasteful consumption – in each case monitoring and measuring progress against national Paris Agreement objectives. Accurate and meaningful measurement towards achieving national emissions reduction targets is only possible with regular and reliable information. This means that climate-related financial disclosure, emissions pricing mechanisms and emissions trading systems will be a key focus for legislators and regulators in the coming months. We expect 2021/2022 will mark the tipping point for ESG disclosure and green taxonomy.

Next steps …

King & Wood Mallesons has a long track record in advising on green loans, sustainability linked loans and green bonds. We help clients to develop and implement ESG policies and to launch successful ESG financial products, including private equity funds, green bonds and social impact bonds.

Please contact us if you have any questions.

We would be delighted to help.

Sources: Overview and Recommendations for Sustainable Finance Taxonomies ICMA May 2021; China Green Industry Guidance Catalogue (2019 Edition); China Green Bond Endorsed Project Catalogue (2021 Edition); EU Taxonomy Regulation 2020/852; Climate Bonds Initiative (CBI) Taxonomy; IDFC Common Principles on Climate Mitigation Finance Tracking and the IDFC Common Principles on Climate Adaptation Finance Tracking; International Organization for Standardization (green bonds (ISO 14030-1) and green loans (ISO 14030-2)); ICMA Green Bond Principles; https://productiongap.org/wp-content/uploads/2020/12/PGR2020_FullRprt_web.pdf; China's 14th Five-Year Plan (2021-2025); IPCC Sixth Assessment Report https://www.ipcc.ch/report/ar6/wg1/

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