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Environmental, Social and Governance Update June 11, 2024

Gibson Dunn Environmental, Social and Governance (ESG) Update

We are pleased to provide you with Gibson Dunn's ESG update covering the following key developments during May 2024. Please click on the links below for further details.

I. GLOBAL

1. **Science-Based Targets Initiative (SBTi) releases new Corporate Net-Zero Standards**

On May 9, 2024, the SBTi released is Terms of Reference for its Corporate Net-Zero Standards (**Standards**), announcing that it would be making a comprehensive update to these Standards by the end of 2025. This major revision is premised on ensuring the Standards continue to be a credible standard for setting and delivering on ambitious, science-based corporate targets aimed at achieving net-zero consistent with 1.5°C at the global level by 2050. The objectives of the revised Standards will be to align with latest science and best practice, enhance the SBTi's approach to addressing value chain emissions, integrate continuous improvement and assessment of target achievement, and improve the structure and interoperability of the Standards with other SBTi standards as well as external frameworks. It is expected that the draft Standards will be released for public consultation in Q4 2024.

2. **International Financial Reporting Standards (IFRS) Foundation publishes its Inaugural Jurisdictional Guide for the adoption or other use of the International Sustainability Standards Board (ISSB) Standards**

On May 28, 2024, the IFRS Foundation released its Inaugural Jurisdictional Guide for the adoption or other use of ISSB Standards. As regulators around the world continue to press forward with adopting the ISSB Standards, the IFRS Foundation's Guide has been developed to promote globally consistent and comparable climate and other sustainability-related disclosures for capital markets. The Guide also seeks to provide transparency for market participants and regulators by showing them how different jurisdictions are progressing in this area, including describing the various jurisdictional approaches to the adoption or other use of ISSB Standards, such as full adoption, partial adoption and permission to use. There are now more than 20 jurisdictions that have taken steps to align themselves with the ISSB Standards, which represents close to 55% of global GDP.

In case you missed it…

3. **Responsible Contracting Project (RCP) and Interfaith Center on Corporate Responsibility (ICCR) release Investor Guidance on Responsible Contracting**

On April 11, 2024, the RCP and the ICCR released their joint Investor Guidance on Responsible Contracting (**Guidance**). The Guidance provides practical tools to investors on how to engage with their portfolio companies to support effective human rights and environmental (**HRE**) due diligence. This is becoming increasingly important as investors take into account a company's HRE performance when making investment decisions. The Guidance will assist investors in their discussions with companies on responsible purchasing and contracting issues. In particular, the Guidance builds on the RCP's toolkit to better assist investors in encouraging companies to draft the commitments they make in their sustainability reports using contractual language. The Guidance will also help companies to better align their strategies with the UN Guiding Principles for Business and Human Rights, and the Organisation for Economic Co-operation and Development's (OECD's) Guidelines for Multinational Enterprises on Responsible Business Conduct.

4. **International Capital Market Association (ICMA), Islamic Development Bank (IsDB) and London Stock Exchange Group (LSEG) publish Guidance on Green, Social and Sustainability Sukuk**

On April 29, 2024, the ICMA, the IsDB and the LSEG jointly published new guidance on the issuance of green, social, and sustainability sukuk (**Sukuk Guidance**). The Sukuk Guidance aims to develop the sustainable sukuk market by providing issuers and other key market participants with practical information on how sukuk can be (i) labelled as 'green', 'social' or 'sustainability', and (ii) aligned with the ICMA Principles, by using examples, case studies and best practices. The Sukuk Guidance also seeks to increase investors' awareness of sukuk as an asset class in global fixed income markets.

5. **International Sustainability Standards Board (ISSB) publishes its Digital Sustainability Taxonomy**

On April 30, 2024, the ISSB published the IFRS Sustainability Disclosure Taxonomy (**ISSB Taxonomy**) to assist investors and other capital providers with analyzing sustainability-related financial disclosures efficiently. For companies using the ISSB Taxonomy, investors will be able to search, extract and compare sustainability-related financial disclosures. The ISSB Taxonomy is in line with IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information (June 2023), IFRS S2 Climate-related Disclosures (June 2023), and accompanying guidance which enables consistency and clarity in reporting. It does not introduce any new requirements.

II. UNITED KINGDOM

1. **UK Government publishes new draft regulations for packaging and packaging waste**

On May 1, 2024, the UK Department for Environment, Food & Rural Affairs (**Defra**) published its updated draft Producer Responsibility Obligations (Packaging and Packaging Waste) regulations 2024 for packaging and packaging waste to extend producer responsibility. The regulations aim to place the responsibility on producers to pay the full costs of the collection, recycling and disposal of the packaging they supply and use once it becomes waste. The regulations also seek to encourage packaging design improvements to reduce waste and environmental impact, as well as introduce recycling target for 2025 – 2030. Originally, the regulations were intended to be in force by 1 January 2025. However, this timeline may be impacted as a result of the UK Parliament's dissolution on May 30, 2024 in light of the upcoming UK elections.

2. **UK Sustainability Disclosure Standards (SDRs) due in Q1 2025**

On May 16, 2024, the Department for Business & Trade published an update on the UK Government's framework for the creation of the UK Sustainability Reporting Standards (**UK SRS**) in the form of the Sustainability Disclosure Requirements (SDR): Implementation Update 2024 guidance document. The guidance document sets out the timeframes and milestone for each core element of the SDR. In particular, the UK Government is looking to make the UK SRS (UK-endorsed ISSB standards) available in Q1 2025. If endorsed by the Government, and subject to a consultation process, the Financial Conduct Authority (**FCA**) will be able to use the UK SRS to require UK-listed companies to report sustainability-related information. A decision on future requirements is also forecasted for Q2 2025. The guidance document also sets out its intentions for (i) the FCA to consult on strengthening its expectations for transition plan disclosures that will align UK rules with ISSB standards, and (ii) a proposed 'Green Taxonomy' with a voluntary testing period for a minimum of two years before potentially exploring mandatory disclosures.

3. **UK FCA anti-greenwashing rule comes into force**

On May 31, 2024, the FCA's anti-greenwashing rule (which is part of a package of measures finalized by the FCA on sustainability disclosure requirements and investment labels) for all FCA-authorized firms came into force after the FCA published its final guidance on this subject at the end of April 2024. The new rule is designed to protect consumers by requiring firms to accurately describe any sustainable products and services that they are selling. Firms have a responsibility to be fair, clear and not misleading. Specifically, they are required to ensure that sustainability references are: (i) correct and capable of being substantiated; (ii) clear and presented in a way that can be understood; and (iii) complete by not hiding or omitting important information and giving consideration to the full life cycle of the product or service. Additionally, comparisons to other products and services are to be fair and meaningful.

III. EUROPE

1. **European Council delays reporting requirements under the EU Corporate Sustainability Reporting Directive (CSRD)**

On April 29, 2024, the European Council approved the adoption of a directive to amend the CSRD to delay by two years the reporting obligations for certain sectors (oil and gas, mining, coal and quarrying, road transport, motor vehicles, textiles, agriculture and farming, food and beverage, real estate, power production and energy utilities, and capital markets, insurance and banking) and companies based outside of the EU. In recognition of the additional burden that the reporting requirements impose, the exempt companies will now have until June 30, 2026 to comply with the CSRD.

2. **European Financial Reporting Advisory Group (EFRAG) and IFRS Foundation publish Interoperability Guidance**

On May 2, 2024, the IFRS Foundation and EFRAG published their Interoperability Guidance. The Interoperability Guidance illustrates the significant alignment between the ISSB's IFRS Sustainability Disclosure Standards and the European Sustainability Reporting Standards and seeks to reduce complexity and duplication for companies applying both standards. The Interoperability Guidance provides practical support on how a company can apply and comply with both sets of standards and sets out detailed analysis of the alignment in climate-related disclosures.

3. **Spain withdraws from the Energy Charter Treaty (ECT)**

On May 14, 2024, Spain confirmed its withdrawal from the ECT via its official state gazette. Spain's decision, first initiated in October 2022, stems from its concerns that (i) the ECT has failed to sufficiently align with the Paris Agreement and the European Green Deal, and (ii) that a new modernized text of the ECT has flaws in its arbitral dispute resolution mechanism. Spain's withdrawal from the ECT will take effect on April 17, 2025, one year after the date of receipt of Spain's notification to the ECT's depository. Its withdrawal will not have retroactive effect and current investors will retain protection under the ECT's sunset clause until 2045. However, any new investments made on or after April 17, 2025 will not be entitled to protection.

4. **European Securities and Markets Authority (ESMA) publishes final report on Guidelines on funds' names using ESG or sustainability-related terms**

On May 14, 2023, the ESMA published its final report setting out guidelines on funds' names using ESG or sustainability-related terms (**ESMA Guidelines**). The report is a culmination of the ESMA's proposals first laid out in December 2023. The ESMA Guidelines have two main objectives: (i) to ensure that investors are protected against unsubstantiated or exaggerated sustainability claims used in fund names, and (ii) to provide asset managers with clear and measurable criteria to assess their ability to use ESG or sustainability-related terms in fund names. In terms of scope of application, the ESMA Guidelines should apply to the EU as well as non-EU fund managers marketing EU or non-EU funds in the European Economic Area, although the ESMA Guidelines are not mandatory. The ESMA Guidelines are due to be published on the ESMA's website and will be effective three months following publication.

5. **CSRD Essentials resource published by European joint working group**

On May 15, 2024, a joint working group consisting of the Global Reporting Initiative, Pascal Durand, Member of the European Parliament and CSRD Rapporteur, and the Lefebvre – Sarrut Group (amongst others), launched the CSRD Essentials resource to help explain the EU's mandatory sustainability reporting requirements to policy makers and sustainability reporters. The CSRD Essentials simplify key aspects of the CSRD in 11 core chapters using accessible language. The resource focuses on (i) scope, timing and interactions with existing standards, (ii) reporting format, (iii) legal interconnections, (iv) auditing rules and internal supervision, and (v) small and medium enterprises, implementation procedures and penalties.

6. **Institutional Investors Group on Climate Change (IIGCC) publishes report on EU regulatory barriers to net-zero**

On May 29, 2024, the IIGCC publicly announced its release of the 'Delivering 2030: Investor Expectations of EU Sustainable Finance' April 2024 report which was developed in consultation with its investor members. The report identifies and analyzes policy-related barriers to achieving net-zero resulting from the EU's existing sustainable finance policy framework and provides recommendations on how they can be overcome. In particular, it considers recommendations relating to EU regulation that include the EU taxonomy for sustainable activities, the Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CSDDD), and the Sustainable Finance Disclosure Regulation (SFDR).

7. **EU Corporate Sustainability and Due Diligence Directive (CSDDD) receives final approval from European Council**

On May 24, 2024, the European Council formally adopted the CSDDD[1] which will introduce obligations and liabilities for large companies regarding the adverse impact of their activities on human rights and the environment. The CSDDD will apply to both the companies' operations, the activities of their subsidiaries, and the activities of their business partners along the companies' chain of activities. Companies with more than 1000 employees and with a turnover greater than €450 million will fall within the directive's scope, and it will cover both upstream goods production and downstream distribution, transport or storage provision. The CSDDD will require such companies to implement a risk-based system to monitor, prevent or remedy human rights or environmental damages. Companies in breach of the CSDDD will be required to change business practices and may be held liable for damage caused and face financial penalties in the form of compensation. Once published in the Official Journal of the EU, the CSDDD will enter into force on the twentieth day following publication. Member states will then have a two-year period for implementation. The timeline for the CSDDD's application will be staggered depending on the size of the company, beginning with the largest companies within the scope of the CSDDD whom will be subject to its application from mid-2027 onwards.

8. **European Council formally adopts decision to withdraw the EU and Euratom from the ECT**

On May 30, 2024, further to the European Parliament's approval in April 2024, the European Council formally approved the EU's and Euratom's withdrawal from the ECT. This follows the EU's announcement that the ECT is no longer in line with the Paris Agreement and the EU's ambitions for energy transition. Member states who wish to remain party to the ECT will have an opportunity to cast their vote during the next Energy Charter Conference. The EU and Euratom withdrawal will be effective from one year after the ECT's depository receives the notification.

9. **Poland releases new proposals for Polish hydrogen regulatory framework**

On May 27, 2024, the Polish Ministry of Climate and Environment proposed a draft amendment to the existing Energy Law. The amendment to the legislation seeks to position hydrogen within the Polish energy law system, making hydrogen a separate type of fuel alongside solid, liquid and gaseous fuels and recognizing three types of hydrogen: (i) renewable hydrogen, (ii) low-emission hydrogen, and (iii) renewable hydrogen from a non-biological origin. The amendment also provides new rules for connecting hydrogen installation to gas and hydrogen networks, simplifies licensing requirements for hydrogen production and trading and provides new opportunities for investment in and the development of the Polish hydrogen sector. The draft is still in its early stages but is expected to be placed before the Polish Parliament later this year.

In case you missed it…

10. **Luxembourg commences implementation of Corporate Sustainability Reporting Directive (CSRD) into domestic law**

On March 29, 2024, Luxembourg initiated the process for the implementation of the CSRD into its domestic law by submitting the Bill of Law 8370 to the Luxembourg Chamber of Deputies. The new bill will expand obligations for corporate sustainability reporting on ESG matters in Luxembourg. It also seeks to promote sustainable corporate governance and a standardized reporting framework to ensure that businesses operating in Luxembourg disclose comprehensive and comparable data on ESG matters across jurisdictions. This will also help to promote corporate accountability, foster long-term value creation and align Luxembourg with the EU's broader sustainability goals. The legislative process for the bill's formal implementation is expected to be accelerated given the upcoming July 6, 2024 deadline for all EU member states to implement the CSRD.

11. **Nasdaq launches Nasdaq futures for Swedish ESG Index**

On April 10, 2024, Nasdaq launched Nasdaq futures on the OMX Sweden Small Cap 30 ESG Responsible Index in Sweden (**Index**). The Nasdaq futures solution aims to combine a diversified portfolio of small cap stocks into a single tradeable instrument, while providing investors with exposure to the Swedish small cap market. The Index tracks the performance of the 30 most liquid small cap securities listed on Nasdaq Stockholm whose issuers meet specific ESG screening criteria, as set out in the Index methodology. The ESG screening criteria also assists investors who wish to align their investments with positive societal and environmental outcomes.

12. **European Parliament gives final approval to regulation prohibiting products made using forced labor**

On April 23, 2024, the European Parliament announced its final approval to a new regulation enabling the EU to prohibit the sale, import, and export of goods made using forced labor. The regulation gives member state authorities and the European Commission the power to investigate suspicious goods, supply chains, and manufacturers. Should a product be deemed to have been made using forced labor (in whole or in part), it will not be authorized for sale within the EU or export from the EU. Once the regulation receives final formal approval from the European Council, member states must implement the legislation within three years from the date of its publishing in the Official Journal of the EU.

13. **European Parliament adopts new measures to reduce packaging waste in the EU**

On April 24, 2024, the European Parliament adopted new measures to make packaging more sustainable and reduce packaging waste in the EU. The regulation imposes packaging reduction targets (5% by 2030, 10% by 2035 and 15% by 2040) and focuses also on requiring EU countries to reduce the amount of plastic packaging waste generated. Certain single-use plastic packaging types will also be banned from January 1, 2030, including packaging for unprocessed fresh fruit and vegetables, foods and beverages filled and consumed in cafés and restaurants, individual portions such as condiments, and very lightweight plastic carrier bags (below 15 microns). The European Council has provisionally agreed to the measures but they will still require the European Council's formal approval before the measures can enter into force.

IV. NORTH AMERICA

1. **Biden Administration publishes Statement and Principles on Voluntary Carbon Markets**

As summarized in our alert, on May 28, 2024, the Biden Administration released a Voluntary Carbon Markets Joint Policy Statement and Principles that includes observations on current voluntary carbon markets, as well as voluntary principles for U.S. market participants to consider when engaging in such markets.

2. **Exxon Mobil Corporation ("Exxon") shareholder proposal litigation continues; director slate elected despite "Vote No" campaigns**

On May 22, 2024, a federal district court in Texas ruled that Exxon may continue to pursue its legal challenge regarding a climate-related shareholder proposal (described in our client alert) against U.S.-based Arjuna Capital, but could not do so against Follow This, an organization based in the Netherlands, due to a lack of jurisdiction. On May 27, 2024, Arjuna Capital filed a letter sent to Exxon indicating Arjuna Capital's unconditional and irrevocable covenant to refrain "from submitting any proposal for consideration by Exxon shareholders related to [greenhouse gases] or climate change" and requesting Exxon withdraw its lawsuit. Exxon responded on May 31, 2024 to affirm its intention to continue the lawsuit and critique the Arjuna Capital letter as an "empty promise" that could not moot the case and was insufficient to deprive Exxon of its requested relief. A hearing on the question of mootness is scheduled for June 17.

The litigation generated several "vote no" campaigns against Exxon's directors in connection with the company's annual shareholder meeting on May 29, 2024, including opposition from large pension funds such as the California Public Employees Retirement System (CalPERS). All directors were nonetheless re-elected at the meeting, with support ranging from 87% to 98% of votes cast.

3. **U.S. Securities and Exchange Commission ("SEC") Division of Corporation Finance Director provides insight on Form 8-K Cybersecurity Incident Disclosure**

As detailed in our blog post, on May 21, 2024, the Division of Corporation Finance Director Erik Gerding published a statement reflecting his views and concerns regarding the emerging practice of public companies voluntarily disclosing cyber incidents under Item 1.05 of Form 8-K, which requires disclosure of material cyber incidents.

4. **Briefing schedule set for litigation challenging SEC Climate Rules**

The U.S. Court of Appeals for the Eighth Circuit issued an order on May 20, 2024 setting a briefing schedule for June to September 2024 in the consolidated litigation challenging the SEC's final climate disclosure rules. A summary of the timeline and relevant considerations is available in our blog post.

On May 31, 2024, the Sierra Club and the Natural Resources Defense Council ("NRDC") filed unopposed motions to voluntarily dismiss themselves from the litigation, which the Eighth Circuit has since granted.

5. **U.S. Senators encourage SEC's Adoption of Anti-Greenwashing Rule**

More than 20 U.S. Senators sent a letter to SEC Chair Gary Gensler on May 13, 2024 urging the SEC to finalize the anti-greenwashing rule it proposed in May 2022, asserting it "is critical for addressing greenwashing and other exaggerated or unfounded ESG-related claims amongst funds and investment advisors." The Senators specified several aspects of the proposed rule that should be included in a final rule, such as requiring certain funds to disclose their engagement with issuers and proxy voting on ESG-related issues, as well as their greenhouse gas emissions.

6. **California Climate Legislation receives funding, but continues to face legal challenges**

California's latest state budget for 2024 to 2025, released on May 10, 2024, now includes funding for the implementation of Senate Bills ("SB") 253 and 261. The legislation, adopted in October and described in our client alert and blog post, will require annual greenhouse gas emissions disclosure and biennial climate risk disclosure beginning in 2026 by U.S. entities that do business in the state and exceed certain revenue thresholds. To execute the laws, the budget allocates funding to the California Air Resources Board.

Both SB 253 and 261 nonetheless continue to face legal challenges, as the U.S. Chamber of Commerce and other business and trade organizations have submitted a joint briefing schedule with the California Attorney General to address plaintiffs' First Amendment claim and the state's motion to dismiss the other claims. More background on the litigation is described in our client alert. A decision on these matters could be made by the end of 2024.

7. **Federal Reserve Board publishes banking-focused climate Scenario Analysis Exercise Results**

On May 9, 2024, the Federal Reserve Board released the results of its pilot climate scenario analysis exercise reviewing the climate-risk management practices and challenges of six large U.S. banking entities. The exercise asked the participating banks to examine how physical and transition climate risk could affect their organizations, produced several insights (including that the banks faced "significant data and modeling challenges in estimating climate-related financial risks") and reported "a lack of comprehensive and consistent data related to building characteristics, insurance coverage, and counterparties' plans to manage climate-related risks." The Federal Reserve Board noted that "[i]n many cases, participants relied on external vendors to fill data and modeling gaps," making it difficult for banks to assess how to best incorporate climate risks into their risk management frameworks.

8. **U.S. Environmental Protection Agency ("EPA") publishes Enhanced Methane Emissions Reporting Standards**

On May 6, 2024, the EPA updated its Greenhouse Gas Reporting Program requirements for reporting petroleum and natural gas system methane emissions. The final rules seek in part to close the gap between actual emissions and those historically reported by updating calculation methods, requiring direct emission source monitoring, and using satellite data to quantify "large emission events" and identify "super-emitters." The final rule supports the Biden Administration's U.S. Methane Emission Reduction Plan, which seeks to reduce emissions across U.S. economic sectors.

9. **Canadian Regulator opens investigation into Lululemon's environmental claims**

On May 6, 2024, the Competition Bureau of Canada announced it had initiated a formal investigation of alleged deceptive marketing practices by Lululemon in connection with the brand's environmental marketing claims. A non-profit, Stand.earth, had previously filed a complaint to the Competition Bureau in February 2024 accusing Lululemon of greenwashing in its 2020 Be Planet sustainability campaign. The complaint alleges that the company's recent 2022 impact report contradicted the company's prior claims that it sought to reduce its greenhouse gas emissions.

V. APAC

1. **Australia's Responsible Investment Association Australasia (RIAA) launches Sustainability Classifications system**

The RIAA launched its Sustainability Classifications during its conference held on May 1 – 2, 2024. This initiative seeks to help consumers and advisers of financial products understand the different levels of consideration given to sustainability factors for different investment products or services that are RIAA-certified so that they can make informed choices. The factors for consideration include responsible investment approaches, claims, processes, stewardship programs and disclosures. The Sustainability Classifications also focus on the approach by funds when considering ESG factors and the degree to which sustainability is addressed or targeted. The Sustainability Classifications cover three key levels: (i) 'Responsible', (ii) 'Sustainable', and (iii) 'Sustainable Plus', with the 'Sustainable Plus' classification requiring the highest number of factors to be met in order to obtain the classification.

2. **Hong Kong Monetary Authority (HKMA) issues Taxonomy for Sustainable Finance**

On May 3, 2024, HKMA published its Taxonomy for Sustainable Finance (**Taxonomy**) to enable investors to make informed decisions on green and sustainable finance in the interests of interoperability, comparability and inclusiveness with China's and the EU's green taxonomies. The taxonomy is a green classification framework which covers 12 economic activities under four sectors: (i) power generation, (ii) transportation, (iii) construction, and (iv) waste and water management. The HKMA also intends to expand the coverage of the taxonomy further to include more sectors and activities, including transition activities, in due course. Although use of the taxonomy is voluntary, the HKMA is encouraging banks to use it to assess the 'greenness' of projects and assets when labelling or identifying products, making disclosures and providing guidance for investment. The HKMA has also published Supplemental Guidance setting out more detailed information on the use and application of the Taxonomy.

3. **Hong Kong begins consultation on ESG code for ratings and data providers**

On May 17, 2024, Hong Kong's Voluntary Code of Conduct Working Group (**VCWG**), whose members encompass Hong Kong's ESG ratings and data products providers and is sponsored by the Hong Kong Securities and Futures Commission, announced the launch of its consultation on a voluntary code of conduct for ESG ratings and data products providers who deliver goods and/or services in Hong Kong. The current draft code aims to foster a trusted, efficient and transparent market, by introducing clear and globally consistent standards for ESG ratings and data products providers. It also seeks to clarify how such providers can interact with wider market participants. Accordingly, the current draft is based on the International Organization of Securities Commissions' report on Environmental, Social and Governance Ratings and Data Products Providers and existing industry standards. The VCWG is working with the Secretariat of the International Capital Market Association to develop the code of conduct and the consultation will end on June 17, 2024.

4. **Final Constitutional Court hearing of landmark South Korean climate litigation cases held in May 2024**

The final hearing of four consolidated landmark climate litigation cases (filed between 2020 and 2023)[2] took place before South Korea's Constitutional Court on May 21, 2024. The plaintiffs, more than 200 people including 62 children, are arguing that the South Korean government's current response to climate change is insufficient to ensure a healthy environment for future generations and, in breach of their fundamental constitutional rights, the government has failed to adequately protect the plaintiffs from climate change. In particular, the fundamental rights in question are: (i) right to life; (ii) right to pursue happiness; (iii) right to general freedom; (iv) right to property; and (v) right to a healthy environment. South Korea's next decade-long climate action plan is due to be revised in 2025 and the plaintiffs are calling for stronger policies and a more ambitious approach than that currently being taken. The case is the first of its kind in South Korea, and more widely, in East Asia.

5. **International Tribunal for the Law of the Sea (ITLOS) publishes advisory opinion in response to request by Commission of Small Island States on Climate Change and International Law (COSIS)**

On May 21, 2024, the ITLOS published its unanimous advisory opinion on the obligations of states to protect and preserve the world's oceans from climate change impacts including ocean warming, sea level rise and ocean acidification. The opinion was published following the request made by the COSIS (six Caribbean and Pacific states) to the ITLOS on December 12, 2022 to clarify the specific environmental obligations of state parties to the 1982 UN Convention on the Law of the Sea (**UNCLOS**) with respect to climate change impacts on oceans. The ITLOS found that anthropogenic greenhouse gas emissions are a form of marine pollution under the UNCLOS. Consequently, state parties are to take "*all necessary measures*" in line with the best available science to reduce their greenhouse gas emissions in accordance with international legal obligations. Although not legally binding, the opinion clarifies the extent of states parties' obligations under the UNCLOS. The ITLOS is the first international judicial body to give a climate-related advisory opinion. This is also the first time that an international court or tribunal has addressed the issue of climate change by applying the UNCLOS.

6. **China issues exposure draft of Chinese Sustainability Disclosure Standards for Business Enterprises**

On May 27, 2024, China's Ministry of Finance issued an exposure draft for the Chinese Sustainability Disclosure Standards for Business Enterprises – Basic Standard (**Basic Standards**). China is seeking public opinion on the draft Basic Standards which consist of 33 articles setting general requirements for corporate sustainability information disclosures and would apply to companies established in China. The Ministry of Finance is planning to issue the finalised Basic Standards and accompanying guidance by 2027. There will be a phased approach for application to companies, beginning first with listed companies and voluntary disclosures before expanding to non-listed companies and mandatory disclosures. The Basic Standards are ultimately aimed at unifying corporate sustainability disclosures in China with the intention to then establish a comprehensive nationwide standard by 2030 to help companies better engage in global trade and investment activities and enhance their international competitiveness. The consultation period will run until June 24, 2024.

Warmest regards,
Susy Bullock
Elizabeth Ising
Perlette M. Jura
Ronald Kirk
Michael K. Murphy
Selina S. Sagayam

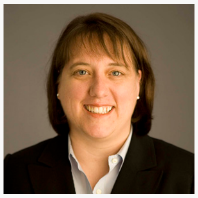
Chairs, Environmental, Social and Governance Practice Group, Gibson Dunn & Crutcher LLP

For further information about any of the topics discussed herein, please contact the ESG Practice Group Chairs or contributors, or the Gibson Dunn attorney with whom you regularly work.

The following Gibson Dunn lawyers prepared this update: Lauren Assaf-Holmes, Natalie Harris, Elizabeth Ising, Cynthia Mabry, and Selina S. Sagayam.

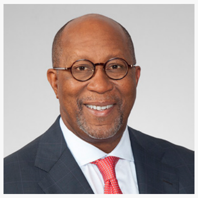
ESG Practice Group Leaders and Members

Susy Bullock
London
+44 20 7071 4283
sbullock@gibsondunn.com

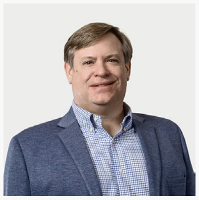


Elizabeth A. Ising
Washington, D.C.
+1 202.955.8287
eising@gibsondunn.com

Perlette Michèle Jura
Los Angeles
+1 213.229.7121
pjura@gibsondunn.com



Ronald Kirk
Dallas
+1 214.698.3295
rkirk@gibsondunn.com



Michael K. Murphy
Washington, D.C.
+1 202.955.8238
mmurphy@gibsondunn.com

Patricia Tan Openshaw
Hong Kong
+852 2214 3868
popenshaw@gibsondunn.com

Selina S. Sagayam
London
+44 20 7071 4263
ssagayam@gibsondunn.com