FROM OPAQUE TO ACCOUNTABLE: REVOLUTIONIZING CLIMATE-RELATED FINANCIAL DISCLOSURES IN THE ESG ERA BY INTEGRATING SUSTAINABILITY AND TRANSPARENCY

- *Vidushi Jaiswal and Swadha Chandra*[*]

ABSTRACT

The remarkable words by the eminent financial advisor and investor Stuart Kirk, "In the finance industry, virtue signalling has no place. As a writer, researcher, and investor, I am also aware of the limitations of language and stock trading." have an impacting connotation which suggest that investing is hard and so is saving the planet. In February 2024, RBI came up with its draft disclosure norms that were an aftermath of many appalling attempts at by the market participants and the confusion over the existing climate change norms.

The lack of a comprehensive and clear regulatory compliance system for climate governance has led to a tussle between the Environment, Social and Governance ("ESG") enthusiasts and companies, when the priority of the discourse should lie in ensuring a sustainable future for this planet. Undertaking a methodological triangulation coupled with a reform-oriented approach towards research, this paper will discuss and analyse the nuances of climate disclosure norms in the context of Indian banking landscape along with a special reference to the technological aspects of climate related risk monitoring and opportunities. The authors try to trace the background of the climate disclosure norms by delving into the concept of sustainable finance and climate transparency, reiterating the importance of channelling funds towards sustainable projects. Further, authors attempt to decode the novel regulations laid down in the RBI and SEBI climate disclosure norms and BRS Reporting respectively. Analysing the best practices across jurisdictions, the authors attempt to derive a standardised methodology and working model especially suited for the Indian banking infrastructure and for the investors who perform a crucial function as far as ESG reporting standards are concerned. Subsequently, an overview of the investor's perspective on these disclosures has been provided with specific emphasis on the prevailing instances of Greenwashing. Therefore, the authors assess the climate disclosure norms suggesting key challenges and ultimately

[*] Vidushi Jaiswal and Swadha Chandra are fourth-year students at National Law Institute University, Bhopal. Views stated in this paper are personal.

endeavour to provide solutions through an open dialogue, responsible leadership, and decision-making.

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I. INTRODUCTION

The film "Who Killed the ESG Party," directed by Financial Times, was not the first one to address the elephant in the room—that is, the eddy of finance and ESG.[1] This film looked at the emergence and reappraisal of ESG investing, highlighting the factors that initially made it popular as well as the ones that are currently making many asset managers and banks covertly reevaluate their pledges. Exploring the intricate and dynamic realm of sustainable finance, where performance realities collide with idealism and have taken innumerable forms, academicians and regulators have given different definitions to sustainable finance.[2] "Sustainable finance," which refers to the practice of fairly taking environmental, social, and governance (ESG) aspects into account when making investment decisions in the financial industry, leads to increased longer-term investments in sustainable economic

[1] Financial Times, 'Who killed the ESG party? | FT Film' (*Financial Times*, 17 July 2024) <https://www.ft.com/video/1eeebd90-25d4-4421-a175-deedcdbf9c18> accessed 6 October 2024.
[2] Marco Migliorelli, 'What Do We Mean by Sustainable Finance? Assessing Existing Frameworks and Policy Risks' (2021) 13(2) Sustainability 975.

activities and projects.[3] As a matter of due diligence for banks, finance institutions and investors working towards sustainable finance it becomes important that a proper framework on sustainable finance is devised. This can be best explained by way of an example, the sustainable finance framework by the Deutsche bank entails four pillars where, policies and commitments are focused on along with good corporate governance.[4] The new wave of transparency and leadership in the financial sector, consequent to the DWS fiasco, allowed many regulatory bodies across jurisdictions to revamp their persisting climate change disclosure frameworks into a systematic and evolved framework that could accommodate the varied needs of its stakeholders.

The Indian regulatory agencies, the Securities and Exchange Board of India (SEBI) and the Reserve Bank of India (RBI), have taken one such step in this direction by putting in place frameworks meant to improve accountability and transparency in the financial sector, integrate climate-related financial risks, and bring India's regulatory regimes into compliance with international standards.[5] The RBI draft guidelines enlist four thematic pillars while the SEBI guidelines mention nine key performance indicators.[6] In terms of reporting and from the governance perspective under these

[3] 'Sustainable Finance' (*World Bank Group,* 5 August 2021) <https://www.worldbank.org/en/topic/financialsector/brief/sustainable-finance> accessed 6 October 2024.
[4] Deutsche Bank, 'Sustainable Finance Framework' (2024).
[5] Draft Disclosure framework on Climate-related Financial Risks, 2024, Reserve Bank of India, RBI/2023-24/ DOR.SFG.REC. / 30.01.021/2023-2024; Business Responsibility and Sustainability Reporting by Listed Entities, 2021, Securities and Exchange Board of India, SEBI/HO/CFD/CMD-2/P/CIR/2021/562.
[6] BRSR Core-Framework for Assurance and ESG Disclosures for Value chain: Annexure I - Format of BRSR Core, 2023, Securities and Exchange Board of India, SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122.

regimes, clear leadership is important which is aligned with robust sustainability strategies.

Here the relevance of frameworks like the Basel Committee on Banking Supervision ("BCBS"), Task Force on Climate Related Financial Disclosures ("TCFD"), Network for Greening the Financial System ("NGFS") and International Financial Reporting Standards ("IFRS") cannot be underestimated as these frameworks put in place the discourse for eradication of climate change related crises. A third of the European Union investments went specifically to green investments so that they were not contradicting their green objectives.[7] Climate change is not only experienced through gradually rising sea levels but also through significant economic disruptions. Thus, the recovery methods need to take into account to ensure resilience. These inquiries have been resolved in this paper categorically.

The central idea of the paper is introduced in Part I, where the authors discuss the execution of Sustainable Financing and its implications on the relevant decisions of the investors. Further, it gives an insight into the mining landscape delving into the prospective mining practices and investment in the domain, such as the deep seabed mining. There is a significant demand from international investors and asset managers for additional disclosures concerning sustainability and as a result, it is critical to evaluate how foreign banks will handle this situation and ensure that Indian banks are ready for such turbulent markets. Financial institutions around the world are being compelled to assess their investments in sectors of the economy that have the potential to exacerbate environmental degradation due to the growing focus on environmental, social, and governance (ESG) criteria. When making financing

[7] 'Public Statement: A Social and reen investment plan for a prosperous and just transition' (*Climate Action Network*, 15 May 2024) <https://caneurope.org/public-statement-a-social-and-green-investment-plan-for-a-prosperous-and-just-transition/> accessed 6 October 2024.

and investment decisions, banks need to weigh the potential for major ecological effect as well as the chances for resource extraction that come with deep seabed mining. For Indian banks, this entails creating strong risk assessment frameworks in addition to conforming with international sustainability norms in order to reduce potential financial and reputational risks related to financing ecologically sensitive businesses.

Part II is dedicated to the climate-related disclosure framework in the Indian context and the role of SEBI in providing standardised and quantifiable disclosures on ESG factors. It analyses the implications of the same in ensuring cross-industry and cross-sector comparisons of data and allowing investors to make better investment choices. The four thematic pillars, especially risk management and metrics and targets are the focus of the study and a nuanced observation has been made for the tools that may be employed by the RBI in the future as suggestions and recommendations. This involves both theoretical as well as empirical understanding of the scenario analysis and screen tests to be made by all the regulated entities to ensure adherence to responsible banking principles under other frameworks including and not limited to that of the BCBS, TCFD and NGFS.[8] The latter half of the same chapter gives an overview of ESG metrics by SEBI.

Further, Part III lays a thorough analysis of the reporting standards that need to be followed by companies and methods employed by them to mitigate climate crisis and combat climate related risks which are prevalent in different jurisdictions like that of the United States of America, European Union, United Kingdom, Singapore and New Zealand. The chapter's essence captures the increasing need for companies that are transitioning into low carbon

[8] Scale Based Regulation: A Revised Regulatory Framework for NBFCs, 2022, Reserve Bank of India, RBI/2021-22/112 DOR.CRE.REC.No.60/03.10.001/2021-22.

economies. The regulatory bodies will be required to assess these financial market players for better regulation.

Part IV covers the investor's perspective on ESG Disclosures and how greenwashing puts external pressure on sustainability reporting. The role of an investor becomes especially significant when the topic of sustainability is touched upon as the investor's practice of allocating the money to specific investments or divesting the money from specific investments will have an impact on the Banks' lending process etc. This makes an investor highly influential and the investing patterns of the stakeholders must be systematically tracked to ascertain how investors can affect corporate behaviour. Regardless of what form greenwashing takes, whether intentional or unintentional which might also include green hushing, it has a severe impact on all the stakeholders.

Lastly, Part V is dedicated to suggestions stating that a comprehensive and coordinated approach is necessary to achieve long-term environmental and economic sustainability in the ever-evolving field of sustainable finance. The significance of investors' decisions in shaping business conduct and the whole market's trajectory towards sustainability cannot be understated. It can be guaranteed that economic progress does not compromise the health of our planet by promoting a transparent, accountable, and robust financial disclosure system. This will pave the way for a future that is more egalitarian and sustainable.

II. EXPLORING SUSTAINABLE FINANCING: IMPLICATIONS AND CHALLENGES FOR THE FINANCIAL SECTOR

Despite the prevailing awareness surrounding sustainability in the past few decades, quantifiable outcomes are only possible if adequate funding and regulations are ensured, especially in the carbon-intensive sectors. The role of

the financial sector in the shift towards a green economy cannot be understated. The size and range of financial instruments that are being channelled towards green initiatives in recent years clearly encapsulate the shift towards a low-carbon and, resultantly efficient economy. Sustainable Finance is a concept defined as the '*integration of environmental, social, and governance issues into financial decisions.*[9] While sustainability was previously understood as an ancillary issue to the functioning of the businesses and undertaken voluntarily as part of the Corporate Social Responsibility (CSR) initiatives, they are now being mandated across jurisdictions. Ensuring compliance with the sustainability objectives allows the commercial entity to retain credibility and perception in an increasingly competitive financial market. It seeks to allocate capital towards investments that contribute to a sustainable future, while mitigating risks associated with climate change and social inequality.[10] Therefore, sustainable finance includes various initiatives such as prioritisation of the investments that would be capable of generating positive environmental and social outcomes, issuance of debt securities that raise funds to be channelled into ESG-compliant projects, and inclusion of ESG into both the process and end goals sought from investment decisions.

However, adequately mapping the potential risks associated with certain investment decisions requires a thorough understanding of the climate-related risks implied within those transactions as a prerequisite. Amidst several risks like that of market, operational, reputational, financial, and transitional, certain sectors such as deep seabed mining ("DSM") have often confused the

[9] Alex Edmans and Marcin Kacperczyk, 'Sustainable Finance' (2022) 26(6) Review of Finance 1309.
[10] Jean-Stéphane Mésonnier and Benoît Nguyen, 'Showing off Cleaner Hands: Mandatory Climate-Related Disclosure by Financial Institutions and the Financing of Fossil Energy' (2021) Banque De France Working Paper Series No. 800 <https://ssrn.com/abstract=3733781> accessed 6 October 2024.

academicians, regulators, as well as investors, with its scope and viability in the long run as far as financial players are concerned. Utilising massive gear, deep-sea mining is a contentious method of extracting minerals and metals from potato-sized nodules on the ocean floor, including cobalt, nickel, copper, and manganese. These minerals are used in many different applications, including as solar panels, wind turbines, and batteries for electric vehicles.[11] According to Alka Anbarasu, associate managing director at Moody's Investors Service, there is a substantial demand from global investors and asset managers for additional disclosures about sustainability and the route towards low-carbon economies.[12] Therefore, it is important to assess the trajectory of deep-seabed mining and its treatment as a sector by banks from other jurisdictions and prepare Indian banks for a volatile market.

Serious doubts and a great deal of risk surround the DSM landscape. These include uncertainties about market demand brought on by advancements in electric batteries, large cost increments since 2021 for the DSM process, competition from well-established terrestrial mining economics, price volatility for metals, and legal ramifications for both causing and repairing environmental damage to the seafloor.[13] Those who are interested in investing in DSM run the risk of tarnishing their reputations by funding an untested sector in spite of growing resistance from major financial institutions in the

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[11] Sam Meredith, 'Sustainable Future Norway defends deep-sea mining, says it may help to break China and Russia's rare earths stronghold' (*CNBC*, 29 January 2024) <https://www.cnbc.com/2024/01/29/norway-defends-deep-sea-mining-as-a-necessary-step-into-the-unknown.html> accessed 6 October 2024.

[12] Jaspreet Kalra and Siddhi Nayak, 'Indian banks assess carbon risk of loan book amid investor, central-bank push, sources say' (*Reuters*, 12 October 2023) <https://www.reuters.com/sustainability/sustainable-finance-reporting/indian-banks-assess-carbon-risk-loan-book-amid-investor-cenbank-push-sources-2023-10-12/> accessed 6 October 2024.

[13] Nicky Jenner and others, 'Update to an assessment of the risks and impacts of seabed mining on marine ecosystems' (Fauna & Flora 2023).

hope of making profits.[14] Although the international DSM regulatory framework is not yet complete, the draft regulations come with high costs and serious liability concerns.

Financial institutions are, often in such a scenario, advised to consult non-mining companies that might use DSM metals and persuade them not to support the industry by (i) endorsing proposals for an international moratorium on DSM activities; (ii) keeping an eye on and tracking the sources of minerals they use for their operations; and (iii) removing DSM-obtained minerals and metals from their supply chains.[15]

The financial institutions should further extend their ESG strategy to incorporate biodiversity concerns. As a result, Banks as well as the investors should carry out satisfactory due diligence in order to assess their own exposure (both direct and indirect) to the financing of DSM activities.[16] Given the significant uncertainty surrounding the economic results and feasibility of DSM activities, financial institutions should consider any connection with the DSM industry to be high risk.[17] Technically, since these climate disclosure norms will come into play in 2025 and 2026, it is significant for countries like India to devise methodologies that would provide solutions to such mineral-intensive activities. It would be necessary for the RBI to work on a climate risk assessment framework for assessing both operational and climate risks related to these mining activities and integrating its principles accordingly.

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[14] P A J Lusty and others, 'Deep-sea Mining Evidence Report' (British Geological Survey 2021).

[15] 'Business Statement Supporting a Moratorium on Deep Seabed Mining' (*Stop Deep Seabed Mining*, 29 June 2024) <https://www.stopdeepseabedmining.org/statement/> accessed 6 October 2024.

[16] Stefano Esposito and others, 'Deep Seabed Mining: WWF's guide for financial institutions' (World Wide Fund for Nature 2024).

[17] Nicky Jenner (n 13).

III. INDIAN REGULATION ON CLIMATE RELATED FINANCIAL DISCLOSURES (CFRD): A COMPREHENSIVE APPROACH TO ENVIRONMENTAL ACCOUNTABILITY AND FINANCIAL TRANSPARENCY

The Indian regulatory landscape governing sustainable and responsible business practices has significantly developed over the course of the last two decades. While mandating certain Corporate Social Responsibility (CSR) requirements was already in place to ensure corporate philanthropy for larger commercial entities, incorporating ESG requirements into this framework is a relatively new phenomenon. ESG considerations differed from the CSR initiatives in the involvement of environmental, social, and governance considerations in the value chain of the product itself as opposed to an ancillary function. It focuses largely on the impact of businesses and aims to streamline the same towards a low carbon economy.

A. The Reserve Bank of India Climate Disclosure Guidelines

The ongoing revision of the RBI's climate disclosure guidelines is substantial proof of the scope for assessment within the prevailing norms. This can be most suitably done by taking into consideration the relevant subsisting climate disclosure norms from other jurisdictions that could be used as a yardstick for their Indian counterparts.

The key components of the Basel Committee on Banking Supervision's ("BCBS") planned Pillar 3 climate risk disclosure framework are incorporated into the RBI's proposed framework.[18] Although the Draft Disclosure Framework ("DDF"), which tries to mirror the BCBS in terms of its adoption of certain metrics and targets concomitant with climate change risks, lacks

[18] Bank of International Settlements, 'Consultative Document: Disclosure of climate-related financial risks' (BIS 2023).

indication of the bank’s actual risk exposure.[19] While the DDF entails in its purpose and rationale that related entities should disclose information about their climate-related financial risks, they hardly provide an assessment or methodology which are best suited for them in light of fostering the market discipline. Since the BCBS is still considering to re propose the Pillar 3 disclosure norms, it means that details about the disclosure's purpose shall be provided in due time.

In 2021 Climate Bond Initiative had monitored and reported a robust framework and recommended certain suggestions that the RBI could incorporate for an improved system for monitoring climate related financial risks.[20] Many of those recommendations have not been applied in the DDF. For instance, the report clearly broke down the nitty-gritties of an efficient and prudential regulation, which would require the RBI to assess brown assets causing substantial harm in the near future along with other persisting thresholds. Nowhere in the DDF, there is a mention of the assessment for the kind of assets that might substantially harm the financial system.

The Climate scenario analysis and screen testing are the two postulates of an effective analysis of climate change risks on the economy and financial system. The act of determining and evaluating the possible effects of a variety of conceivable future situations in the face of ambiguity is known as scenario analysis.[21] Since they are speculative in nature, scenarios are not intended to

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[19] BL Mumbai Bureau, ‘Climate-related financial risk: RBI to release guidance notes on scenario analysis, stress testing’ (*The Hindu Business Line*, 25 July 2024) <https://www.thehindubusinessline.com/money-and-banking/climate-related-financial-risk-rbi-to-release-guidance-notes-on-scenario-analysis-stress-testing/article68445310.ece> accessed 6 October 2024.

[20] Prashant Vaze and others, Identifying, Managing and Disclosing Climate-related Financial Risks: Options for the Reserve Bank of India (ODI 2022).

[21] Lewis Holden and others, ‘Measuring climate-related financial risks using scenario analysis’ (*Bank of England*, 17 April 2024) <https://www.bankofengland.co.uk/quarterly-

produce exact results or projections. Alternatively, scenarios give organisations an opportunity to think about what the future might hold if specific conditions are met or particular trends persist. For instance, scenarios in the context of climate change enable an organisation to investigate and comprehend the potential long-term effects on its operations, plans, and financial performance of different combinations of climate-related hazards, including both physical and transitional threats.

India takes lessons from the NGFS guidelines as well as the Task Force on Climate related disclosures.[22] By 2100, there may be a 3°C or greater rise in temperature if no additional steps are taken. This would probably have irreversible effects like sea level rise and worsen living conditions in many places of the planet. Disruptions to supply chains, infrastructure, health, and ecosystems could pose physical hazards to the economy.[23] Conducting a scenario analysis is not bereft of challenges. This suggests that it is highly important that a common reference framework should be accordingly changed in the best interest of the Indian context.

Stress testing is an additional crucial factor that needs careful consideration.[24] To determine how resilient investment portfolios and institutions are to probable future financial losses, a simulation technique known as stress testing is employed. Banks accomplish this by applying specific harsh but realistic climatic scenarios to their balance sheets. Financial

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bulletin/2024/2024/measuring-climate-related-financial-risks-using-scenario-analysis> accessed 6 October 2024.

[22] Draft Disclosure framework on Climate-related Financial Risks, 2024, Reserve Bank of India, RBI/2023-24/ DOR.SFG.REC./30.01.021/2023-2024, at 9.

[23] Network for Greening the Financial System, 'NGFS Scenarios for Central Banks and Supervisors' (2022).

[24] Stefano Battiston and Irene Monasterolo, 'Enhanced Scenarios for climate stress tests' (2024) London School of Economics Policy Briefing Paper 16 <https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2024/04/INSPIRE-Sustainable-Central-Banking-Toolbox-Paper-16.pdf> accessed 6 October 2024.

institutions can prepare for long-term losses or capture the funding market by stress-testing scenarios because they are unable to raise money when they are all losing. Their main purpose is to prevent dangers from accumulating within the system by acting as an ex-ante front-stop mechanism. Prudent regulators are changing the stress scenarios to modify the minimum capital requirements for banks.[25] Stress testing might be the most effective prudential instrument available to us for preserving the resilience of the financial system, as Cecchetti observes.[26]

There are jurisdictions that have conducted several stress tests to derive their potential for assessing climate change risks.[27] India can take these tests into consideration to ascertain the appropriate stress testing tool for assessing both physical and transition risks. In the USA, certain banks and Systemically Important Non-Financial Institutions (SIFIs), as identified by the Financial Stability Oversight Council (FSOC), are subject to stress tests by the Federal Reserve Board.[28] Under the guidelines of the Comprehensive Capital Analysis and Review (CCAR) and the Dodd-Frank Act Stress Tests (DFAST), the Federal Reserve Board conducts these stress tests. Although since 2018, there has been a decrease in the number, range, and rigour of stress tests conducted at these institutions.[29] The FSOC states that various testing regimes are available for use. Scenario analysis may be done in a looser manner with no

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[25] Michel Aglietta and Étienne Espagne, 'Climate and Finance Systemic Risks, More than an Analogy? (2016) The Climate Fragility Hypothesis' Centre d'Etudes Prospectives et d'Informations Internationale Working Paper No. 10) <https://www.cepii.fr/PDF_PUB/wp/2016/wp2016-10.pdf> accessed 6 October 2024.

[26] Stephen G Cecchetti, 'On the Separation of Monetary and Prudential Policy: How much of the pre-crisis consensus remains?' (2016) 66(C) Journal of International Money and Finance 157.

[27] Stefano Battiston and others, 'The price of complexity in financial networks', (2016) 113(36) Proceedings of the National Academy of Science 10031.

[28] Dodd–Frank Wall Street Reform and Consumer Protection Act, 2010, 12 USC s 5301.

[29] The Economic Growth, Regulatory Relief and Consumer Protection Act, 2018, 15 USC s 1601.

regulatory ramifications, using exploratory frameworks rather than prescriptive ones. As an alternative, "traditional" stress tests could be employed; these are usually short-term and strongly connected to supervisory expectations and regulatory requirements in ways that directly influence decisions, like raising the amount of capital that can absorb losses or altering financial institutions' liquidity profiles.[30] Usually conducted over a longer time horizon, this type of scenario analysis provides information about how resistant the business models of financial institutions are to medium- and long-term material hazards.[31]

The EU has already looked into stress testing banks and other enterprises for climate-related risk. In 2021, the ECB centrally carried out stress tests for the entire economy using internal datasets and models.[32] In the UK, the Bank of England started the Climate Biennial Exploratory Scenario (CBES) exercise to assess how resilient major banks, insurers, and the wider financial system are to several climate scenarios.[33] By examining the amount of their financial exposures, barriers to the businesses' business models, and the quality of their risk management, banks and other financial institutions will be assessed for their climate resilience in the CBES.[34]

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[30] Stefano G Battiston, 'DebtRank: Too Central to Fail? Financial Networks, the FED and Systemic Risk' (2021) 541(2) Scientific Reports 1.

[31] 'Press Release: Financial Stability Oversight Council Releases Factsheet on Climate-Related Financial Risk Efforts' (*U.S. Department of the Treasury*, 28 July 2022) <https://home.treasury.gov/system/files/261/FSOC_20220728_Factsheet_Climate-Related_Financial_Risk.pdf> accessed 6 October 2024.

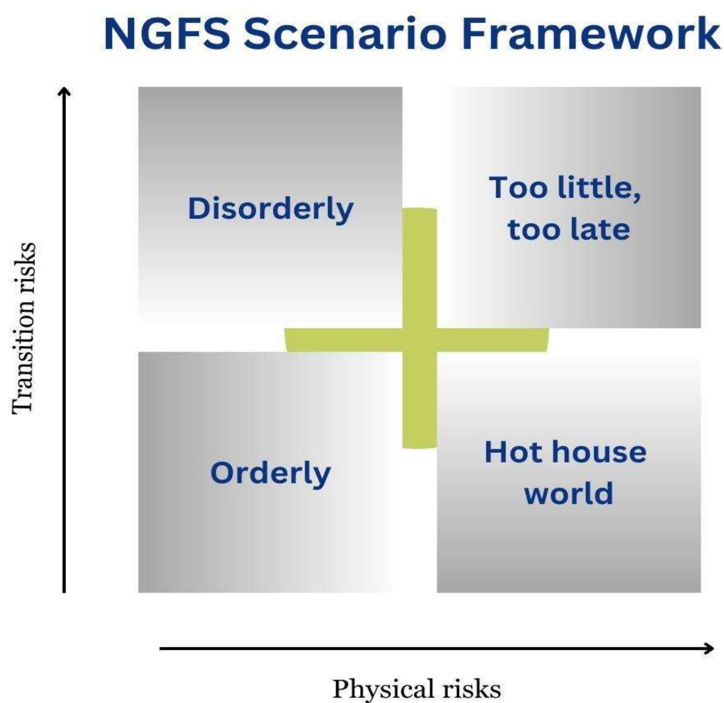
[32] Luis de Guindos, 'Shining a light on climate risks: the ECB's economy-wide climate stress test' (*The European Central Bank Blog*, 18 March 2021) <https://www.ecb.europa.eu/press/blog/date/2021/html/ecb.blog210318~3bbc68ffc5.en.html> accessed 6 October 2024.

[33] European Central Bank, 'Presentation: 2022 climate risk stress test' (2022), 4.

[34] S Alogoskoufis and others, 'ECB economy-wide climate stress test: Methodology and results' (2021) ECB Occasional Paper Series No. 281, <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op281~05a7735b1c.en.pdf> accessed 6 October 2023.

In order to perform stress testing and scenario analysis, the central banks attempt to present the idea that they can use certain instruments and designs. However, the real question is whether those tools can be used effectively themselves to answer the issues under consideration. Therefore, it must be emphasized how urgent it is to develop comprehensive frameworks to meet the changing problems brought on by financial risks associated with climate change in order to increase the resilience of the global financial system. In the light of this, it is important that India accommodates to its scenarios in accordance with the changes introduced by the NGFS system from Phase 3 to Phase 4. The changes introduced by the same are as follows. The post-covid economic recovery and the Russian war in Ukraine are two recent shocks that have altered the short-term macroeconomic outlook since Phase III was implemented. Because of this, the models' Phase IV calibration has been adjusted to take into account these shocks and their effects on energy and inflation. In these NGFS phase IV scenarios, there is a hot house world, orderly, disorderly and too little, too late.[35] These scenarios would have a significant impact on the Indian financial system as well.

[35] Livio Stracca and others, 'NGFS Climate Scenarios Technical Documentation' (Network for Greening Financial System 2023).



Network for Greening the Financial System, 'NGFS Scenarios for Central Banks and Supervisors' (2022). The figure illustrates the different scenarios from Phase IV of the network for greening the financial system.

The fourth pillar of the RBI Draft Disclosure Framework on Climate related Financial Risks, 2024 is the pillar of metrics and targets which puts forth the accounting for greenhouse gas emissions.[36] The Scope 3 emissions are the particular category of emissions that require more transparency with respect to the methodology to be employed. Regulations around the world are changing and calling for the disclosure of emissions more often. For instance, certain large corporations, including banks, are required to provide Scope 3 disclosures under the EU's new Corporate Sustainability Reporting Directive

[36] Draft Disclosure framework on Climate-related Financial Risks, 2024, Reserve Bank of India, RBI/2023-24/ DOR.SFG.REC./30.01.021/2023-2024.

(CSRD).[37] In Europe, banks are required by the European Banking Authority to provide information on financed scope 3 emissions. The Basel Committee on Banking Supervision (BCBS) is working to create a set of Scope 3 disclosure criteria that are unique to banks in order to support the efforts of the International Sustainability Standards Board (ISSB).[38] While financial institutions' Scope 3 reporting rates are among the highest across all industries, only a third disclose their financed emissions – often only covering parts of their portfolios.[39]

Guidance must be sought from the banks in South Asian countries where the banks have employed specific methodology to counter the challenges posed by such financed emissions. Banks in Hong Kong showcase that the scope 3 emissions, or the emissions produced throughout the supply chains of the businesses they invest in, are not well documented.[40] Until the banks in South Asia have fully developed their potential for calculating scope 3 emissions, regulators can take lessons from the existing accounting methods established by banks in the USA and UK.

As a result of growing awareness of net zero pledges and Scope 3 emissions, regulators are showing an increased interest in tracking these emissions through the implementation of mandatory disclosures and goal setting. It has already been urged by authorities in the US, EU, and New Zealand that listed corporations be required to disclose their Scope 3

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[37] Dr. Alexander Schmidt and Evan Farbstein, 'Corporate Sustainability Reporting Directive (CSRD), explained' (*Normative*, 19 August 2024) <https://normative.io/insight/csrd-explained/> accessed 7 October 2024.
[38] Bank of International Settlements, 'Discussion Paper: The role of climate scenario analysis in strengthening the management and supervision of climate related financial risks' (2024).
[39] Carbon Disclosure Project, 'CDP Financial Services Report 2023: Nature in Green Finance' (2023).
[40] Carbon Disclosure Project, 'CDP Financial Services Disclosure Report 2020: The Time to Green Finance' (2020).

emissions. Central banks are also considering more exposure to climate change.

B. The SEBI Business Responsibility and Sustainability Report (BRSR)

The Securities and Exchange Board of India (SEBI) introduced the ESG metrics known as the Business Responsibility and555 Sustainability Report (BRSR Core)[41] under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR Regulations).[42] While this reporting standard was previously introduced in 2021, the same was replaced with the Business Responsibility Report (BRR). The subsequent introduction of the BRSR Core in July, 2023 can be largely attributed to the growing demand for sustainability-centric disclosures for investors and other stakeholders. These guidelines elevate the Indian ESG reporting regime to match those practiced globally and cater to the growing demand for sustainability-centric financial products. Owing to the voluntary nature of the BRR Framework, there were concerns regarding data comparability and consistency. On a larger scale, it was also essential to ensure that the Indian reporting standards align with the international best practices.

The BRSR Core is based on Nine Principles, each of which has essential and leadership indicators, wherein the former are mandatory in nature and the latter are voluntary. Under the environmental aspect of this framework, the companies are required to disclose essential information such as the greenhouse gas emissions, water and energy footprints, while also detailing how they are incorporating more sustainable practices such as effective waste management and protection of biodiversity into their value chains. Further,

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[41] BRSR Core-Framework for Assurance and ESG Disclosures for Valuechain, 2023, Securities and Exchange Board of India, SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122.

[42] Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015, F No. SEBI/LAD-NRO/GN/2015-16/013.

within the social considerations, businesses must provide adequate information about employee welfare, initiatives to ensure health and safety, community development and general openness and transparency with regards to customers as well as suppliers. Lastly, under the governance practices, organisations must reveal relevant information such as board structures, executive compensation and initiatives to resolve conflicts of interest.

The recommendations by the Expert Committee that were subsequently adopted were recently brought forth for public consultation.[43] Amongst the key changes brought about by way of this recommendation is the redefining of upstream and downstream value chain partnerships with an entity to concisely demarcate the extent of compliance mandated. Further, they have introduced the Green Credits system in line with the suggestions of the MoEFCC, which shall assess the number of Green Credits by both the company as well as its value chain partners.[44] Lastly, they have incorporated the shift from a voluntary assurance to a mandatory assessment. This ensures uniformity in the data while also allowing for flexibility where the stakeholders demand specific assurance. With the exception of the inclusion of Scope 1, 2 and 3 emissions data, the BRSR mandate does not include certain key components of the TCFD recommendations, in its current. Alignment with the international standards is essential to ensure data comparability for the investors and other stakeholders. However, the gap is addressed by the RBI Climate Disclosure Framework which includes within its ambit the four thematic pillars of TCFD Recommendations. Therefore, proper execution and

[43] Securities and Exchange Board of India, Consultation Paper on the Recommendations of the Expert Committee for Facilitating Ease of Doing Business with Respect to Business Responsibility and Sustainability Report (BRSR) (2024) <https://www.sebi.gov.in/reports-and-statistics/reports/may-2024/consultation-paper-on-the-recommendations-of-the-expert-committee-for-facilitating-ease-of-doing-business-with-respect-to-business-responsibility-and-sustainability-report-brsr-_83551.html> accessed 6 October 2024.
[44] Ministry of Environment, Forest and Climate Change, 2024, S.O. 884(E).

harmonisation of the overall framework is essential to ensure that there are no regulatory lacuna within the ESG reporting system applicable in India.

IV. GLOBAL APPROACHES TO CLIMATE-RELATED FINANCIAL DISCLOSURE: JURISDICTIONAL DIFFERENCES AND COMMONALITIES

The recent expansion of the CFRD regimes across jurisdictions reflects the global trend shifting towards a mandated system for climate risk reporting to ensure risk mitigation. However, this proliferation of climate-related regulations across jurisdictions can have both positive and negative implications for businesses and investors. Financial institutions and listed entities operational in two or more countries must account for the possible repercussions adequately in such a scenario.

In the European Union, the Corporate Sustainability Reporting Directive (CSRD), 2023 is brought forth to update the longstanding Non-Financial Reporting Directive (NFRD), 2014.[45] Under the previous regime, the applicable entities were required to consider a 'double materiality perspective' wherein they would have to assess the impact of their initiatives on both the people and the environment. However, under the new framework, the reporting standards have been largely standardised by requiring compliance with the European Sustainability Reporting Standards (ESRS).[46] These standards are accordingly divided into environmental, social and governance standards. The reports must be publicly available and must include key information regarding the entity's business model, sustainability goals and

[45] Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting [2022] OJ L322.
[46] European Financial Reporting Advisory Group, 'Implementation Guidance on Materiality Assessment' (2023).

policies, due diligence and value chain components. The CSRD also retains the double materiality requirement as under the NFRD. Accordingly, the EU member states are required to enforce the Directive into their domestic laws with subsequent requirements for implementation. Member states within the EU have also undertaken stringent initiatives to combat.

Alternatively, the UK provides for a robust disclosure regime constituting various legislations and regulations within its ambit. The disclosure regime of the UK has been in effect since 2022 and stipulates certain parameters to be disclosed within the company's Non-Financial and Sustainability Information Reporting.[47] These parameters include, amongst others, governance arrangements and mechanisms for identifying and assessing climate related risks, the actual and potential impacts of the principal climate related risks and analysis of the business model's resilience against the same. Further, the greenhouse gas emissions of each listed company or LLP are required to be disclosed as part of their obligations under the Streamlined Energy and Carbon Reporting (SECR) regime.[48] However, it is important to note that the SECR regime requires disclosure of only Scope 1 and 2 emissions and provides for a caveat where the companies or LLPs can refrain from disclosure of certain information that they deem to be "*seriously prejudicial*" to their interests.

Lastly, the Sustainability Disclosure Requirements (SDR) in place since November 2023, requires key distributors of investment products to disclose sustainability related information for the purpose of the investors.[49] There are

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[47] Department for Business, Energy & Industrial Strategy, 'Mandatory climate-related financial disclosures by publicly quoted companies, large private companies and LLPs' (2022).
[48] HM Government, 'Environmental Reporting Guidelines: Including streamlined energy and carbon reporting guidance' (2019).
[49] UK Financial Conduct Authority, 'Sustainability Disclosure Requirements (SDR) and investment labels, Policy Statement PS23/16 (2023).

four key disclosures required to be made under the SDR, which are consumer-facing disclosures for the products with sustainability labels or terms, pre-contractual disclosure within the fund prospectus or prior documents, ongoing-product level disclosures which are annual disclosures of the firm's usage of sustainability labels and terms, and entry-level disclosures which are applicable on asset managers beyond certain thresholds of Assets under Management (AUM) regarding the assessment of potential sustainability risks. These multifaceted and layered application of disclosures allows for all the various stakeholders to be adequately accounted for while assessing ESG compliance. In addition to clear demarcation of the disclosures required, the FCA has also laid down four sustainability labels, namely 'Sustainable Focus', 'Sustainable Improvers', 'Sustainable Impact' and 'Sustainable Mixed Goals'. These ensure that the labels and terminology used for advertising certain products as sustainable have to undergo the relevant qualifiers and thereby curb chances of misleading claims and greenwashing.

In the United States, the US Securities and Exchange Commission (SEC) in March 2024, introduced the requirement for all domestic and foreign registered entities to disclose key climate-related information within their annual reports.[50] These disclosures, subject to materiality qualifiers, shall include climate related risks that are likely to impact business strategies or financial conditions, the role of management and board of directors in assessing and managing the same and climate related goals and targets if any. With regards to greenhouse gas emissions, Scope 1 and 2 emissions are required to be reported by the Large Accelerated Filers (LAFs) and Accelerated Fillers (AFs), to a 'minimum assurance standard'. The entities are

[50] 'Press Release: SEC Adopts Rules to Enhance and Standardize Climate-Related Disclosures for Investors' (US Securities and Exchange Commission, 6 March 2024) <https://www.sec.gov/newsroom/press-releases/2024-31> accessed 6 October 2024.

also expected to disclose any significant costs, expenditure and losses accrued due to the severe weather conditions or to curb such effects by means of carbon offsets, renewable energy credits or certifications.

Under the regime in Singapore in force since 2022, each company listed on the Singapore Exchange (SGX) is required to provide climate-related disclosures as part of its annual report. Such a report will have to comply with the overarching TCFD standards on a 'comply or explain' basis. Further, from the upcoming financial year, entities operating in five key industries, including energy, transportation, materials and construction, agriculture and financial sectors, will be required to a higher standard of disclosures. The SGX has also laid down 27 core ESG metrics for issuers to utilize as a starting point for sustainability reporting.[51] The regime provides for compliance with the reporting requirements under the International Accounting Standards Board (IASB) IFRS standards, which are meant to ensure uniformity and comparability between financial data across jurisdictions.[52] The relevant companies are also expected to conduct external verification by a registered auditor, on their emissions reporting, albeit only up to scope 1 and 2 emissions. Implementation of the regulation by the listed companies is ensured by the SGX Regulation (RegCo), which holds numerous executive and administrative powers. Therefore, the regime ensures compliance by intricately weaving the reporting requirements into the SGX Listing Rules, thereby mandating the same.

[51] 'Sustainability Reporting' (SGX) <https://www.sgx.com/sustainable-finance/sustainability-reporting> accessed 6 October 2024.

[52] 'Supporting materials for IFRS Accounting Standards' (IFRS) <https://www.ifrs.org/supporting-implementation/supporting-materials-by-ifrs-standards/> accessed 8 October 2024.

In New Zealand, the Financial Markets Conduct Act of 2013 was amended in 2023 to include their scope of application to certain key registered banking institutions, managers of investment schemes, licensed insurers and crown financial institutions beyond a certain threshold. The External Reporting Board (XRB) issued the Aotearoa New Zealand Climate standards, encompassing the four pillars of the TCFD, namely governance, strategy, risk management, metrics and targets. The standards also contain a materiality threshold that requires disclosure of information which could materially affect or influence the decisions of the primary users if the same is omitted, misstated or obscured.[53] The regulator also laid down guidelines on the independent assurance of greenhouse gas emissions with a specified standard for scope 1-3 emissions. The Financial Markets Authority (FMA) is responsible for the implementation of this regime and imposes hefty penalties in cases of non-compliance with the same.

V. NAVIGATING THE INVESTOR'S PERSPECTIVE ON ESG DISCLOSURES AND GREENWASHING

With the demand for sustainable financial products on the rise, ensuring compliance for the same by means of proper disclosure and reporting is of paramount importance.[54] The number of exchange traded funds (ETFs) that bear ESG labels and claims have nearly doubled in the past two years to nearly 1,300.[55] Disclosure of ESG related information has significant implications on

[53] 'What is ESG in New Zealand' (*ESG Impact*) <https://www.esgimpact.com.au/esg-in-new-zealand#:~:text=In%20conclusion%2C%20ESG%20considerations%20are,greater%20ESG%20disclosure%20and%20reporting> accessed 6 October 2024.

[54] 'Press Release: FCA acts to help investors make more informed ESG investment decisions' (*UK Financial Conduct Authority*, 3 November 2021) <https://www.fca.org.uk/news/press-releases/fca-acts-help-investors-make-more-informed-esg-investment-decisions> accessed 6 October 2024.

[55] Chris Flood, 'Investors warned of 'greenwashing' risk as ESG-labelled funds double' (*Financial Times*, 24 April 2024) <https://www.ft.com/content/79772342-d260-4dd5-b943-5e75bc27878c> accessed 6 October 2024.

the decision making on the part of the investors - both retail and institutional. It allows them to make adequate comparisons when considering the sustainability practices of various entities and ensure that their financial contributions are in line with their larger ethos. It has also been found in a study by the Singapore Exchange that the sustainability reporting of a company is positively related to the firm's market value.[56] On a larger scale, ESG disclosures serve the purpose of channelling funds towards more sustainable-compliant projects and fostering a sustainable economy.

However, persistent concerns such as the lack of uniform methodologies of reporting, vague or exaggerated claims and false branding continue to hinder genuine progress in the right direction. Sustainability is increasingly becoming a dogma for both businesses and financial actors, with instances of fraudulent and misleading claims in the garb of compliance becoming common.[57] Claims and disclosures of such information have more often been found to be a facade, with numerous instances of greenwashing being discovered. Greenwashing refers to "*a practice where sustainability-related statements, declarations, actions, or communications do not clearly and fairly reflect the underlying sustainability profile of an entity, a financial product, or financial services.*"[58] Within the context of asset management, this takes the form of marketing and advertising funds as ESG compliant without the

[56] 'Investor Guide to Reading Sustainability Reports' (*SGX*) <https://api2.sgx.com/sites/default/files/2022-04/Investor%20Guide%20to%20Reading%20Sustainability%20Reports_1.pdf> accessed 6 October 2024.

[57] Chiara Cremasco and Leonardo Boni, 'Is the European Union (EU) Sustainable Finance Disclosure Regulation (SFDR) effective in shaping sustainability objectives? An analysis of investment funds' behaviour' (2021) *Journal of Sustainable Finance and Investment 1.*

[58] 'Press Release: ESAs put forward common understanding of greenwashing and warn on risks' (European Securities and Markets Authority, 1 June 2023) <https://www.esma.europa.eu/press-news/esma-news/esas-put-forward-common-understanding-greenwashing-and-warn-risks> accessed 6 October 2024.

required initiatives. Not only does this disrupt the flow of capital to sustainable businesses, but it also erodes the trust in genuine businesses that are making efforts towards a low carbon economy. The European Supervisory Authorities in June 2023, released a report highlighting the risks that firms might face in instances of greenwashing and the need to ensure regulatory compliance.[59] Amongst others, these risks included litigation risks due to misleading ESG claims and product claims by insurers and so on.

The Coordinating Body of Indigenous Organisations of the Amazon Basin (COICA) and the watchdog group Stand Earth collaborated to develop the report. The organisations charted the scope of five major fossil fuel operators' funders' environmental and social governance (ESG) commitments in the South American biome.[60] According to the report, the risk management strategies of the five banks including JP Morgan Chase concerning climate change, biodiversity, forest cover, and the rights of indigenous peoples and local communities, on average, do not adequately preserve 71% of the Amazon.[61] The report further states that JPMC is excluded from project finance and other asset-specific funding within UNESCO World Heritage Sites, which make up only 2% of the Amazon and are often off-limits to development, according to the research.[62]

Adverse effects in the Amazon have ripples in neighbouring ecosystems. These effects work together to start a cascade of changes that affect the planet, so if the Amazon tips, it might trigger a severe chain of events that affects the

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[59] Mark Segal, 'EU Regulators Find Growing Greenwashing Risk for Banks, Asset Managers', (*ESG Today*, 5 June 2023) <https://www.esgtoday.com/eu-regulators-find-growing-greenwashing-risk-for-banks-asset-managers/> accessed 6 October 2024.
[60] Angeline Robertson and others, 'Banking on Amazon Destruction' (Stand.earth 2021).
[61] Angeline Robertson and others, 'Greenwashing the Amazon: How Banks Are Destroying the Amazon Rainforest While Pretending to be Green' (Stand.earth 2024).
[62] JPMorgan Chase, '2022 Environmental Social Governance Report' (2022).

entire world.[63] This case indicates that major private banks like JP Morgan Chase, CitiBank and Goldman Sachs are also inept at maintaining their ESG standards and risk management tools let alone small banks or public banks that do not have the capacity to incorporate adequate metrics and climate risk tools. It is of the utmost importance that such banks do not encourage lending in activities or promote investors that do not invest in assets that adhere to ESG standards.[64] Globally, governments have enacted ESG regulatory frameworks, as well as unique and advantageous reporting and compliance requirements, that complement their overall regulatory environment. As a result of regional differences in economic, social, and political environments, each bank within various jurisdictions has created its own unique set of ESG rules and standards.[65]

The notion of greenwashing traces its origin from the DWS Bank fiasco where Deutsche Bank (DB) and its asset management division (DWS) were raided by the German police.[66] The US Securities and Exchange Commission (SEC) and the Swiss Financial Supervisory Authority (BaFin) were notified of the same. Another such instance recently emerged in the context of the asset manager Blackrock misleading investors within the garb of their climate

[63] Yvette Sierra Praeli, 'In the western Amazon, oil blocks eat away at Indigenous lands, protected areas' (*Mongabay*, 24 October 2022) <https://news.mongabay.com/2022/10/in-the-western-amazon-oil-blocks-eat-away-at-indigenous-lands-protected-areas> accessed 6 October 2024.

[64] Kenza Bryan and Emma Dunkley, 'HSBC to stop new oil and gas project funding after backlash' (*Financial Times*, 14 December 2022) <https://www.ft.com/content/5ba4b75f-bbd8-4b3d-b962-60126754e2fa> accessed 6 October 2024; Iain Withers and Simon Jessop, 'UK's Lloyds ditches project finance for new oil and gas fields' (*Reuters*, 20 October 2022) <https://www.reuters.com/business/finance/uks-lloyds-ditches-project-finance-new-oil-gas-fields-2022-10-20/> accessed 6 October 2024.

[65] Ramya Suresh and Amitabh Abhijit, 'ESG Reporting in India: Balancing Profit, People and Planet' (2024) 2(2) *The Indian Business Law Review* 1.

[66] Ines Gendre, 'Lessons Learned From the "Deutsche Bank" Affair' (*Greenly Institute*, 15 March 2024) <https://greenly.earth/en-us/blog/ecology-news/greenwashing-what-mistake-did-deutsche-bank-make> accessed 6 October 2024.

policies.[67] The firm is a signatory to the Net Zero Asset Managers (NZAM) initiative, under which the firm is expected to adopt ESG considerations in all their funds. However, the information provided by them does not substantiate these claims. There have also been findings that the firm includes ESG considerations into non-ESG funds, thereby misleading the investors. In addition, they have also portrayed their ESG funds as financially beneficial while it has been found to be admitted that these funds do not perform better than other alternatives.

Misleading claims and portrayals often constitute a majority of the instances of greenwashing in cases where the practices of the firms are not consistent with their claims. The German competition regulator Wettbewerbszentrale ("BGH") recently took action against the misleading claims of a German sweets manufacturer. They had advertised their products to have been produced in a 'climate neutral' manner, despite the fact that the process employed for production was compliant. They undertook services of a third party that reduced their carbon footprint by indulging in climate protection projects. The BGH not only classified this as a misleading advertisement but also set substantiation standards for claims such as 'climate neutral' to ensure that vague terminology is not employed to exploit the investors. The German Federal Court of Justice (FCJ) went on to opine those vague terminologies such as 'climate neutral' can only be permissible to the extent that the exact intended meaning is clarified in the advertisement itself.[68]

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[67] Lamar Johnson, 'Mississippi hits BlackRock with cease-and-desist order over ESG investments' (*ESG Dive*, 28 March 2024) <https://www.esgdive.com/news/mississippi-hits-blackrock-with-cease-desist-over-esg-investments-larry-fink/711653/> accessed 6 October 2024.

[68] Sarah Jolly, 'German greenwashing case rules against corporates in 'climate neutral' claim' (*Commercial Risk*, 28 July 2024) <https://www.commercialriskonline.com/german-greenwashing-case-rules-against-corporates-in-climate-neutral-claim/> accessed 6 October 2024.

Subsequent to this ruling, the EU Directive regulates claims such as 'climate neutral', 'CO2 neutral certified', 'carbon positive' and so on. The Directive requires such claims to be substantiated with quantifiable impacts within the lifecycle of the products in question and not outside of their value chain. Similarly, the Green Claims Directive under the European Commission prescribes for certain disclosures to be explicitly made in case of environmental claims being made.

Regulators across jurisdictions are taking note of the increasing instances of greenwashing and aiming to combat the same with stringent legislation. The US SEC has drafted their new climate disclosure rules requiring verifiable and comparable data to be disclosed by public companies.[69] Similarly, the EU Taxonomy Regulation, which has been in force since 2021, provides for six environmental objectives, of which at least one would have to be satisfied for the product to be considered 'sustainable' or 'taxonomy aligned'.[70] The attempt at carving out clear definitions and degrees of compliance with the taxonomy ensures that the burgeoning landscape ESG financing is easier for the asset managers as well as investors to navigate. Further, specific regions such as the United Kingdom, have enforced separate requirements to combat greenwashing within the financial markets. The Sustainability Disclosure Requirements (SDR) enforced by the Financial Conduct Authority (FCA) attempts to tackle such instances by requiring all sustainability-related claims to be 'clear, fair and not misleading'.[71] Under this regime, internal taxonomies

[69] Kathrine Hafner and Dr. Frederik Winter, 'Germany: BaFin aims to tackle greenwashing with its new Sustainable Finance Strategy' (*Linklaters*, 7 July 2023) <https://sustainablefutures.linklaters.com/post/102iiul/germany-bafin-aims-to-tackle-greenwashing-with-its-new-sustainable-finance-strat> accessed 6 October 2024.

[70] 'EU taxonomy for sustainable activities' (*European Commission*) <https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en> accessed 6 October 2024.

[71] HM Government, *Environmental Reporting Guidelines: Including streamlined energy and carbon reporting guidance* (2019).

and concise definitions for any claims are encouraged to ensure both compliance and comprehension at the external level.

The field of sustainable investing is growing rapidly, but also faces challenges from greenwashing. Recent legal actions and hefty fines show the serious consequences of misleading investors. As ESG factors become more important in investment decisions, transparency, honesty, and careful investigation are essential. Investors and asset managers need to be vigilant to distinguish genuine sustainability from false claims. To combat greenwashing, financial institutions need to follow stricter standards. They should disclose information transparently, set realistic goals, and ensure accountability. This helps protect investors and promotes genuine sustainable practices.

VI. CONCLUSION AND SUGGESTIONS

As investors increasingly prioritize sustainability and ethical considerations, climate disclosures by various stakeholders across industries, provide valuable insights into a company's performance and long-term prospects. However, the effectiveness of ESG disclosures depends on their accuracy, consistency, and comparability across industries and sectors. With each jurisdiction coming up with their own regulations, it is essential to ensure that it is facilitated by means of clear and concise thresholds. The harmonisation of various reporting requirements within jurisdictions is of paramount importance as the lack of clarity on this issue causes regulatory loopholes. This lacuna not only has implications on the credibility lent by investors but also makes compliance within the jurisdiction more burdensome.

This is exemplified by the Climate Disclosure mandate under French law that was adopted in 2015, in the run up to the Paris Agreement.[72] Under Article

[72] *The Energy Transition for Green Growth Act,* 2015 (992 of 2015).

173, the legislation requires companies to disclose three key pieces of information, that is the entity's carbon footprint and emission, their identification and assessment of the climate-related risks and the initiatives undertaken to combat the same. The legislation being adopted on a 'comply or explain' basis is not mandating such disclosures. However, after an analysis of the effectiveness of the legislation after two years, it was found that the voluntary nature of the disclosures posed a significant hurdle in ensuring incentivisation and uniformity within such disclosures.[73] The adoption of a comply or explain approach may therefore, be supplemented with the delegation of monitoring and verification authorities to ensure compliance. Lack of clarity on the quantifiable information needed to be provided within each indicator must also be considered.

Within the context of India, in order to align with the proposed frameworks, the RBI must incorporate the principles and standards laid down in the aforementioned frameworks. As far as the BCBS is concerned the RBI should evaluate the comments on the consultation paper released by the BCBS on the disclosure of climate related financial risks to be able to match with the changes introduced.[74] It is unclear whether the disclosures put forth by the RBI are meant to (1) comply with Pillar 3 prudential disclosure requirements by incorporating the International Sustainability Standards Board (ISSB) corporate disclosure standard,[75] or (2) promote market discipline by disclosing publicly the information about banks' capital structure, capital adequacy, and

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[73] Julie Evain and others, 'Article 173: Overview of climate-related financial disclosure after two years of implementation' (2018) Institute for Climate Economics Climate Brief No. 59 <https://www.i4ce.org/wp-content/uploads/1210-I4CE2949-PC59-Article173-nov18-VA.pdf> accessed 6 October 2024.
[74] Nicky Jenner (n 13).
[75] Alan Reinstein and others, 'The ISSB's New Sustainability Disclosure Standard' (*The CPA Journal*, April 2024) <https://www.cpajournal.com/2024/04/03/the-issbs-new-sustainability-disclosure-standards/> accessed 6 October 2024.

risk management. It is a matter of concern that the proposed disclosure does not adhere to Pillar 3 prudential disclosure guidelines or corporate disclosure goals. It must be ascertained that these disclosures support the proposed objective. Similarly, in order to identify assets subject to climate hazards, the Climate Bond Initiative had proposed that the RBI must ask banks to tag assets and project finance loans (often known as "brown assets"). The potential of climate change should be emphasised, as demonstrated by the Green Loan Principles that ensure traceability within the relevant Indian taxonomy.[76]

With regards to scenario analysis, India should rely on the analysis framework proposed by the Network for Greening the Financial System (NGFS). Due to their distinctive qualities, the NGFS scenarios are especially well-suited for a variety of applications.[77] They blend physical and transition hazards with macro-financial changes, yield internally consistent results, are globally applicable, and are publicly available. They thus supplement current scenarios, like those found in the IPCC database.[78] Similarly, any stress-testing regime must include input stressors that go beyond the "transition risks" that are the focus of the majority of discussions on environment-related stress testing at the moment. Stress tests are especially helpful in situations where there is a large degree of uncertainty surrounding the physical dangers associated with climate change, as well as the possibility of fat-tailed scenarios involving quick losses.[79] It may therefore, be reasonable to stress test the banking system in light of adverse climate scenarios and to include regulatory

[76] 'What you need to know about Green Loans' (*World Bank Group*, 4 October 2024), <https://www.worldbank.org/en/news/feature/2021/10/04/what-you-need-to-know-about-green-loans> accessed 6 October 2024.
[77] S Alogoskoufis (n 34).
[78] Reserve Bank of India, Draft Disclosure Framework on Climate-related Financial Risks 2024, RBI/2023-24/DOR.SFG.REC./30.01.021/2023-2024.
[79] Hugh Miller and Simon Dikau, 'Preventing a 'climate Minsky moment': environmental financial risks and prudential exposure limits' (London School of Economics and Political Science 2022).

risk in addition to the minimum amount of capital that banks must maintain.[80] To determine their capacity for evaluating the hazards associated with climate change, certain jurisdictions have carried out multiple stress tests. Such methods can help India determine thPe best stress-testing instrument for evaluating transition and physical hazards.

Therefore, the authors believe that the climate-related financial disclosures have emerged as a critical tool for investors, regulators, and society at large to assess and manage climate-related risks and opportunities. While significant progress has been made in recent years, there is still room for improvement in the quality, consistency, and comparability of disclosures. There is a long way to be made in measures such as ensuring compliance with international standards, enhancing the quality of data that is utilised and fostering climate-related technologies. By addressing these areas, we can unlock the full potential of climate-related financial disclosures and drive sustainable economic growth.

[80] Charles AE Goodhart, 'In praise of stress tests' in Ronald W. Anderson (ed), *Stress Testing and Macroprudential Regulation: A Transatlantic Assessment* (Centre for Economic Policy Research 2016).