HOW WILL COP26 IMPACT BUSINESS?

Insight

LEGISLATION

In recent years, there has been a focus on policies and legislation aiming to reduce emissions and accelerate the energy transition in many jurisdictions.

Governments across the globe have enshrined their emissions reduction targets and net-zero ambitions in national law. A recent focus has been placed on climate reporting to create more transparency in relation to emissions targets and business strategies regarding climate change.

Within the European Union (**EU**), corporate transparency is further addressed by the EU Taxonomy and proposed implementation of the Corporate Sustainability Reporting Directive ("**CSRD**"). COP26 will shed further light on this issue and governments may increasingly utilise legislation as a mechanism for achieving the aims of the Paris Agreement. As a result, businesses are likely to be subjected to increasingly onerous regulation linked to decarbonisation and ESG more widely.

LITIGATION

Climate change litigation has increased around the world, with the majority of cases being brought in the US. Claims have been started against both individual companies as well as against governments. Several European courts have also found both national governments and companies to be in breach of the aims of the Paris Agreement, and have imposed emissions reductions as well as modifications of their climate policy.

INVESTOR EXPECTATIONS AND REPUTATION

In recent years, shareholders have increasingly requisitioned climate-related resolutions and demanded climate action from their companies. While most climate-related requisition resolutions have not been successful, they often drive change as boards tend to offer alternative compromises. The discussions at COP26 are likely to bring climate-related business risks to the fore, increasing the pressure applied by shareholders on businesses to acknowledge and mitigate against these risks. A number of companies have already experienced climate-related shareholder activism, with shareholders seeking enhanced climate commitments. Although often unsuccessful, these resolutions may be a preview of resolutions to come and in some cases have put pressure on the board to propose an alternative resolution.

In the US, shareholders have asked for, and succeeded in obtaining, the removal of certain board members of a US oil company in a bid to force the company’s leadership to address shareholder concerns regarding failures by the board to adjust its business strategy to match global efforts to combat climate change. Such resolutions may prove to be increasingly successful as climate change action becomes a priority for investors.

CLIMATE DISCLOSURES

Recent regulatory and legislative developments, particularly in the EU and UK, have focused on increased and improved climate disclosures. To ensure the comparability of climate-related information, countries such as New Zealand and the UK have taken steps to enshrine compliance with the Task Force on Climate-Related Financial Disclosures (**TCFD**) Recommendations in their respective national laws for certain categories of large companies.

These disclosures enable market participants to make informed assessments of businesses and their exposure to climate-related risks, allowing them to gauge the long-term sustainability of the business and thereby encouraging sustainable investments. Following the endorsement of the TCFD Recommendations by the G7, COP26 may assist in providing more guidance on the possibility of standardised methodologies for climate-related reporting by the private sector.

FINANCING AND DEBT

COP26 may prompt a further rise in climate-conscious financing, such as sustainability linked loans (**SLLs**). Market participants are increasingly viewing 'Net Zero' and '1.5 degrees' as central business goals. COP26 is likely to reinforce this view through discussion of climate-related business risks.

[More on COP26]

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.

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